

## Chapter 8

# Crime and Justice

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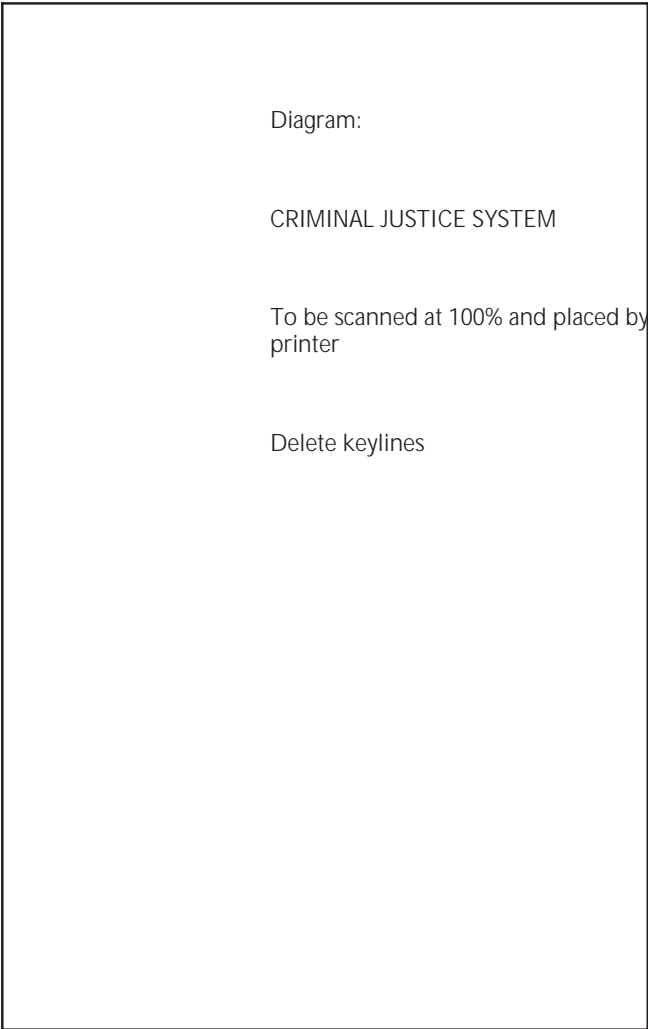
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OVERVIEW

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

The various agencies that 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. The diagram below indicates these broad stages and the points at which the different justice agencies make their contribution.



RECORDED CRIME  
STATISTICS

Crimes recorded by police relate to offences that have become known to and have been recorded by police. These offences may have been reported by a victim, witness or other person, or they 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 the police. In addition care should be taken in interpreting police statistics as fluctuations in reported crime may be a reflection of changes in community attitudes to reporting crime, changes in police procedures or changes in crime recording systems rather than a change in the incidence of criminal behaviour.

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In 1996 the number of crimes in Victoria increased for other theft, robbery, assault and blackmail/extortion compared with 1995. The numbers for other crime categories either stayed about the same or decreased. However, the victimisation rates for all offence categories in Victoria were generally well below the Australian average.

## 8.1 VICTIMS OF CRIME RECORDED BY POLICE

	Victoria			Australia		
	Rate(a)			Number 1996	Rate 1996	Number 1996
	1994	1995	1996			
Homicide						
Murder	1.25	1.37	1.16	53	1.70	311
Attempted murder etc.	1.30	1.02	0.75	34	1.81	331
Manslaughter	0.11	0.11	0.04	2	0.20	37
Driving causing death	0.36	0.49	0.48	22	1.85	339
Assault(b)	n.a.	350.01	355.64	16 220	620.12	113 535
Sexual assault	63.30	61.98	60.67	2 767	78.62	14 394
Kidnapping/abduction	2.17	2.10	2.08	95	2.62	479
Robbery						
Armed robbery	17.27	16.76	18.59	848	33.96	6 217
Unarmed robbery	18.95	20.99	23.31	1 063	55.32	10 129
Blackmail/extortion	1.63	1.24	1.73	79	1.41	258
Unlawful entry with intent	1 600.11	1 570.43	1 549.44	70 667	2 183.33	399 735
Motor vehicle theft	612.45	647.88	630.08	28 737	671.44	122 931
Other theft(c)	n.a.	2 473.10	2 615.28	119 278	2 844.56	520 795

(a) Reported incidents per 100,000 population. (b) Assault data was not collected in 1994. (c) Other Theft data was not collected in 1994.

Source: *Recorded Crime, Australia, 1996 (Cat. no. 4510.0)*.

### Assault

Table 8.1 shows that the most common category of offences recorded against the person was assault with 16,220 cases recorded in Victoria in 1996, a rate of 355 per 100,000 population. Males comprised over half of all assault victims, with the highest victimisation rate of assault being for males aged between 20–34 years (see Table 8.2).

Table 8.3 indicates that female victims were more likely to have been assaulted by someone known to them, whereas the offender was more likely to be unknown to male victims of assault. The most frequent locations of assault offences were private dwellings and streets and footpaths. A weapon was used in 7% of assaults.

### Murder

There were 53 recorded cases of murder in Victoria, a rate of 1.16 victims per 100,000. The most likely murder victims in 1996 were males aged 20–44 years. Most murders were committed with some type of weapon (62%), with a firearm used in about 13% of cases. The majority of murders were committed by someone known to the victim and the most common site for the murder was a private dwelling.

## 8.2 VICTIMS OF CRIME RECORDED BY POLICE(a), BY AGE AND SEX, VICTORIA, 1996

	Number of person victims									
	0-9	10-19	20-24	25-34	35-44	45-54	55-64	65 and over	Not stated	Total
MALES										
Homicide										
Murder	5	4	6	6	6	5	1	3	—	36
Attempted murder etc.	1	2	3	7	2	2	1	1	3	22
Manslaughter	1	—	—	—	—	—	—	—	—	1
Driving causing death	—	—	8	3	3	—	1	1	—	16
Assault	695	1 482	1 896	3 046	1 442	712	243	127	943	10 586
Sexual assault	152	97	61	89	44	12	—	1	37	493
Kidnapping/abduction	12	—	1	2	—	—	—	—	2	17
Robbery										
Armed robbery	18	69	94	93	65	59	24	15	18	455
Unarmed robbery	67	192	113	116	61	45	19	10	18	641
Blackmail/extortion	—	13	3	5	9	12	2	1	6	51
FEMALES										
Homicide										
Murder	2	—	2	3	5	2	—	2	1	17
Attempted murder etc.	1	—	—	2	3	3	—	—	2	11
Manslaughter	—	—	—	1	—	—	—	—	—	1
Driving causing death	—	1	1	3	1	—	—	—	—	6
Assault	380	739	909	1 399	732	357	83	77	396	5 072
Sexual assault	517	556	341	408	225	67	17	9	92	2 232
Kidnapping/abduction	19	20	9	11	7	1	—	3	7	77
Robbery										
Armed robbery	4	21	29	47	42	27	12	4	23	209
Unarmed robbery	18	49	50	66	50	53	17	58	20	381
Blackmail/extortion	—	1	3	6	5	1	—	1	3	20
NOT STATED										
Homicide										
Murder	—	—	—	—	—	—	—	—	—	—
Attempted murder etc.	—	—	—	1	—	—	—	—	—	1
Manslaughter	—	—	—	—	—	—	—	—	—	—
Driving causing death	—	—	—	—	—	—	—	—	—	—
Assault	9	20	20	51	22	23	7	5	405	562
Sexual assault	7	6	3	4	1	2	—	3	16	42
Kidnapping/abduction	—	—	—	—	—	—	—	—	1	1
Robbery										
Armed robbery	—	—	1	1	—	1	—	—	3	6
Unarmed robbery	—	3	—	1	—	4	1	—	2	11
Blackmail/extortion	—	—	—	—	—	1	—	—	—	1
TOTAL PERSONS										
Homicide										
Murder	7	4	8	9	11	7	1	5	1	53
Attempted murder etc.	2	2	3	10	5	5	1	1	5	34
Manslaughter	1	—	—	1	—	—	—	—	—	2
Driving causing death	—	1	9	6	4	—	1	1	—	22
Assault	1 084	2 241	2 825	4 496	2 196	1 092	333	209	1 744	16 220
Sexual assault	676	659	405	501	270	81	17	13	145	2 767
Kidnapping/abduction	31	20	10	13	7	1	—	3	10	95
Robbery										
Armed robbery	22	90	124	141	107	87	36	19	44	670
Unarmed robbery	85	244	163	183	111	102	37	68	40	1 033
Blackmail/extortion	—	14	6	11	14	14	2	2	9	72

For footnotes see end of table.

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## 8.2 VICTIMS OF CRIME RECORDED BY POLICE(a), BY AGE AND SEX, VICTORIA, 1996 — *continued*

	Proportion of person victims (%)									
	0-9	10-19	20-24	25-34	35-44	45-54	55-64	65 and over	Not stated	Total
MALES										
Homicide										
Murder	9.4	7.5	11.3	11.3	11.3	9.4	1.9	5.7	—	67.9
Attempted murder etc.	2.9	5.9	8.8	20.6	5.9	5.9	2.9	2.9	8.8	64.7
Manslaughter	50.0	—	—	—	—	—	—	—	—	50.0
Driving causing death	—	—	36.4	13.6	13.6	—	4.5	4.5	—	72.7
Assault	4.3	9.1	11.7	18.8	8.9	4.4	1.5	0.8	5.8	65.3
Sexual assault	5.5	3.5	2.2	3.2	1.6	0.4	—	0.0	1.3	17.8
Kidnapping/abduction	12.6	—	1.1	2.1	—	—	—	—	2.1	17.9
Robbery										
Armed robbery	2.7	10.3	14.0	13.9	9.7	8.8	3.6	2.2	2.7	67.9
Unarmed robbery	6.5	18.6	10.9	11.2	5.9	4.4	1.8	1.0	1.7	62.1
Blackmail/extortion	—	18.1	4.2	6.9	12.5	16.7	2.8	1.4	8.3	70.8
FEMALES										
Homicide										
Murder	3.8	—	3.8	5.7	9.4	3.8	—	3.8	1.9	32.1
Attempted murder etc.	2.9	—	—	5.9	8.8	8.8	—	—	5.9	32.4
Manslaughter	—	—	—	50.0	—	—	—	—	—	50.0
Driving causing death	—	4.5	4.5	13.6	4.5	—	—	—	—	27.3
Assault	2.3	4.6	5.6	8.6	4.5	2.2	0.5	0.5	2.4	31.3
Sexual assault	18.7	20.1	12.3	14.7	8.1	2.4	0.6	0.3	3.3	80.7
Kidnapping/abduction	20.0	21.1	9.5	11.6	7.4	1.1	—	3.2	7.4	81.1
Robbery										
Armed robbery	0.6	3.1	4.3	7.0	6.3	4.0	1.8	0.6	3.4	31.2
Unarmed robbery	1.7	4.7	4.8	6.4	4.8	5.1	1.6	5.6	1.9	36.9
Blackmail/extortion	—	1.4	4.2	8.3	6.9	1.4	—	1.4	4.2	27.8
NOT STATED										
Homicide										
Murder	—	—	—	—	—	—	—	—	—	—
Attempted murder etc.	—	—	—	2.9	—	—	—	—	—	2.9
Manslaughter	—	—	—	—	—	—	—	—	—	—
Driving causing death	—	—	—	—	—	—	—	—	—	—
Assault	0.1	0.1	0.1	0.3	0.1	0.1	0.0	0.0	2.5	3.5
Sexual assault	0.3	0.2	0.1	0.1	0.0	0.1	—	0.1	0.6	1.5
Kidnapping/abduction	—	—	—	—	—	—	—	—	1.1	1.1
Robbery										
Armed robbery	—	—	0.1	0.1	—	0.1	—	—	0.4	0.9
Unarmed robbery	—	0.3	—	0.1	—	0.4	0.1	—	0.2	1.1
Blackmail/extortion	—	—	—	—	—	1.4	—	—	—	1.4
TOTAL PERSONS										
Homicide										
Murder	13.2	7.5	15.1	17.0	20.8	13.2	1.9	9.4	1.9	100.0
Attempted murder etc.	5.9	5.9	8.8	29.4	14.7	14.7	2.9	2.9	14.7	100.0
Manslaughter	50.0	—	—	50.0	—	—	—	—	—	100.0
Driving causing death	—	4.5	40.9	27.3	18.2	—	4.5	4.5	—	100.0
Assault	6.7	13.8	17.4	27.7	13.5	6.7	2.1	1.3	10.8	100.0
Sexual assault	24.4	23.8	14.6	18.1	9.8	2.9	0.6	0.5	5.2	100.0
Kidnapping/abduction	32.6	21.1	10.5	13.7	7.4	1.1	—	3.2	10.5	100.0
Robbery										
Armed robbery	3.3	13.4	18.5	21.0	16.0	13.0	5.4	2.8	6.6	100.0
Unarmed robbery	8.2	23.6	15.8	17.7	10.7	9.9	3.6	6.6	3.9	100.0
Blackmail/extortion	—	19.4	8.3	15.3	19.4	19.4	2.8	2.8	12.5	100.0

(a) Refers to person victims only. For offences where the victim may be a person or an organisation, such as Armed Robbery, Unarmed Robbery and Blackmail/Extortion, person victims only are included.

Source: Recorded Crime, Australia, 1996 (Cat. no. 4510.0).

**Sexual assault**

Police recorded 2,767 victims of sexual assault in Victoria, a rate of 60.67 victims per 100,000 population. In 1996, 80% of victims for sexual assault were female and females aged under 20 years comprised almost 40% of total victims. In most cases the offender was known to the victim (see Table 8.3) and the most common locations for sexual assault were private dwellings.

**Robbery**

A total of 1,911 cases of robbery were recorded in 1996. Armed robbery accounted for 44% of these. Organisations were the victims in about a quarter of the cases of armed robbery in 1996 and, for the other three-quarters of cases, males were twice as likely to be victims as females. Organisations were much less likely to be victims of unarmed robberies, but again males were more likely to be victims than females. The most common location for armed robberies was retail locations, while most unarmed robberies occurred on streets and footpaths.

**8.3 VICTIMS OF CRIME(a), BY SEX OF VICTIM AND RELATIONSHIP OF OFFENDER TO VICTIM, VICTORIA, 1996**

Offence category	Murder	Attempted murder	Manslaughter	DCD (c)	Assault	Sexual assault	Kidnapping/ abduction	Blackmail/ extortion
NUMBER								
<b>Males</b>								
Known to victim								
Family member	6	3	1	2	209	63	1	—
Non-family member	7	5	—	5	636	121	4	8
Total	13	8	1	7	845	184	5	8
Unknown to victim	6	2	—	5	1 147	30	1	9
Not stated	17	12	—	4	8 594	279	11	34
Total	36	22	1	16	10 586	493	17	51
<b>Females</b>								
Known to victim								
Family member	12	4	—	—	370	309	5	—
Non-family member	4	4	1	3	437	485	8	—
Total	16	8	1	3	807	794	13	—
Unknown to victim	—	—	—	2	274	187	11	1
Not stated	1	3	—	1	3 991	1 251	53	19
Total	17	11	1	6	5 072	2 232	77	20
<b>Sex not stated</b>								
Total	—	1	—	—	562	42	1	1
<b>Persons(b)</b>								
Known to victim								
Family member	18	7	1	2	586	375	6	—
Non-family member	11	10	1	8	1 094	617	13	8
Total	29	17	2	10	1 680	992	19	8
Unknown to victim	6	2	—	7	1 463	217	12	10
Not stated	18	15	—	5	13 077	1 558	64	54
<b>Total</b>	<b>53</b>	<b>34</b>	<b>2</b>	<b>22</b>	<b>16 220</b>	<b>2 767</b>	<b>95</b>	<b>72</b>

For footnotes see end of table.

...continued

### 8.3 VICTIMS OF CRIME(a), BY SEX OF VICTIM AND RELATIONSHIP OF OFFENDER TO VICTIM, VICTORIA, 1996 — *continued*

Offence category	Murder	Attempted murder	Manslaughter	DCD (c)	Assault	Sexual assault	Kidnapping/abduction	Blackmail/extortion
PROPORTION (%)								
<b>Males</b>								
Known to victim								
Family member	16.7	13.6	100.0	12.5	2.0	12.8	5.9	—
Non-family member	19.4	22.7	—	31.3	6.0	24.5	23.5	15.7
Total	36.1	36.4	100.0	43.8	8.0	37.3	29.4	15.7
Unknown to victim	16.7	9.1	—	31.3	10.8	6.1	5.9	17.6
Not stated	47.2	54.5	—	25.0	81.2	56.6	64.7	66.7
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
<b>Females</b>								
Known to victim								
Family member	70.6	36.4	—	—	7.3	13.8	6.5	—
Non-family member	23.5	36.4	100.0	50.0	8.6	21.7	10.4	—
Total	94.1	72.7	100.0	50.0	15.9	35.6	16.9	—
Unknown to victim	—	—	—	33.3	5.4	8.4	14.3	5.0
Not stated	5.9	27.3	—	16.7	78.7	56.0	68.8	95.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
<b>Persons(b)</b>								
Known to victim								
Family member	34.0	20.6	50.0	9.1	3.6	13.6	6.3	—
Non-family member	20.8	29.4	50.0	36.4	6.7	22.3	13.7	11.1
Total	54.7	50.0	100.0	45.5	10.4	35.9	20.0	11.1
Unknown to victim	11.3	5.9	—	31.8	9.0	7.8	12.6	13.9
Not stated	34.0	44.1	—	22.7	80.6	56.3	67.4	75.0
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

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

Source: Recorded Crime, Australia, 1996 (Cat. no. 4510.0).

#### Weapon use

A weapon was used in 44% of robberies, 62% of murders and 53% of attempted murders. Table 8.4 provides a breakdown of the use of firearms, which were used in 8% of robberies, 13% of murders and 18% of attempted murders. Weapons were far less likely to be used in the commission of assault, sexual assault and kidnapping and abduction offences.

### 8.4 VICTIMS BY OFFENCE, BY WEAPON USED, VICTORIA, 1996

	Weapons used			Total %	No weapons used %	Total %
	Firearm %	Other weapon %	Weapon n.f.d. %			
Homicide						
Murder	13.2	49.1	—	62.3	37.7	100.0
Attempted murder	17.6	35.3	—	52.9	47.1	100.0
Manslaughter	—	—	—	—	100.0	100.0
Assault	0.5	6.4	—	6.9	93.1	100.0
Sexual assault	0.2	1.8	—	2.0	98.0	100.0
Kidnapping/abduction	3.2	6.3	—	9.5	90.5	100.0
Robbery(a)	8.2	25.6	10.6	44.4	55.6	100.0

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

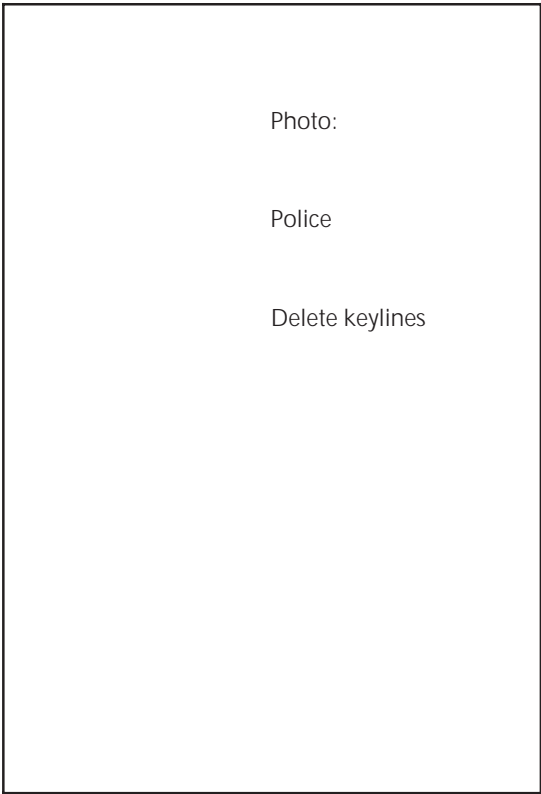
Source: Recorded Crime, Australia, 1996 (Cat. no. 4510.0).

- Firearm reform

Australia's gun buy back scheme and amnesty concluded on 30 September 1997. The nationally funded compensation program resulted in the surrendering of newly prohibited firearms and both registered and unregistered firearms.

As at 25 September 1997, in Victoria, 199,279 newly prohibited firearms were surrendered for a total value of \$97,925,853. A total of 14,053 non-prohibited firearms were also surrendered without compensation.
- Drug offences

A total of 25,496 arrests were made for drug related offences in Victoria during the period 1 July 1995 to 30 June 1996. The largest category of drug arrests were for cannabis with 19,120 arrests (75% of the Victorian total).



8.5 TOTAL ARRESTS BY DRUG TYPE, 1 JULY 1995 TO 30 JUNE 1996

Type of drug	Number		Percentage	
	Victoria	Australia	Victoria	Australia
Cannabis	19 120	78 948	75.0	79.9
Cocaine	36	330	0.1	0.3
Heroin etc.	3 811	7 105	14.9	7.2
Amphetamine	1 633	4 214	6.4	4.3
Hallucinogens	2	398	0.0	0.4
Steroids	0	70	0.0	0.1
Other Drugs	894	7 729	3.5	7.8
Total	25 496	98 794	100.0	100.0

Source: Australian Illicit Drug Report, 1995–96—Australian Bureau of Criminal Intelligence.



### Outcome of Investigations

Outcome of investigations statistics show the status of the police investigation processes that are initiated following the reporting or detection of an offence. The status of investigations includes:

- investigations that were not finalised i.e. were still continuing, were pending, or suspended;
- investigations that were finalised without an offender being proceeded against because the reported offences was not verified, the complaint was withdrawn, or the alleged offender could not be proceeded against because of some statutory or procedural bar; and
- investigations that were finalised and an offender was proceeded against by initiating court action or some other form of formal proceeding (e.g. a diversionary conference or a caution).

Table 8.6 shows that in 1996, in Victoria, a higher proportion of offences against the person (homicide, assault and sexual assault offences) reached a finalised investigative status within 90 days compared with offences against property (unlawful entry with intent and motor vehicle theft offences). Similarly the proportion of offenders proceeded against was higher for offences against the person than for property offences. In the majority of investigations, where a finalised outcome was reached, this outcome was reached within 30 days.

### 8.6 OUTCOME OF INVESTIGATION STATUS, VICTORIA, 1 JULY TO 31 OCTOBER 1996(a)

Offence category	Murder	Attempted murder	Assault	Sexual assault	UEWI theft	Motor vehicle theft
NUMBER						
30 day status						
Investigation not finalised	5	2	2 379	477	16 844	8 688
Investigation finalised						
No offender proceeded against	1	—	302	159	129	217
Offender proceeded against	7	11	2 557	314	1 371	712
Total	13	13	5 238	950	18 344	9 617
90 day status						
Investigation not finalised	4	1	1 968	393	16 374	8 514
Investigation finalised						
No offender proceeded against	1	—	376	184	161	239
Offender proceeded against	8	12	2 894	373	1 809	864
Total	13	13	5 238	950	18 344	9 617
PROPORTION (%)						
30 day status						
Investigation not finalised	38.5	15.4	45.4	50.2	91.8	90.3
Investigation finalised						
No offender proceeded against	7.7	—	5.8	16.7	0.7	2.3
Offender proceeded against	53.8	84.6	48.8	33.1	7.5	7.4
Total	100.0	100.0	100.0	100.0	100.0	100.0
90 day status						
Investigation not finalised	30.8	7.7	37.6	41.4	89.3	88.5
Investigation finalised						
No offender proceeded against	7.7	—	7.2	19.4	0.9	2.5
Offender proceeded against	61.5	92.3	55.3	39.3	9.9	9.0
Total	100.0	100.0	100.0	100.0	100.0	100.0

(a) For a selection of offences only. Driving Causing Death, Manslaughter, Blackmail/Extortion and Kidnapping/Abduction, and Other Theft are excluded.

Source: Recorded Crime, Australia, 1996 (Cat. no. 4510.0).

## CRIME STOPPERS

Crime Stoppers has become an extremely successful community based crime solving initiative throughout Australia and other countries around the world since it was introduced in New Mexico in 1976.

It is based on the premise that, for the majority of crimes committed, some person other than the offender or victim has the ability to provide information that will solve that crime, or assist to solve it.

Crime Stoppers was first introduced into Australia by the Victoria Police in November 1987. The program relies on the co-operation between police, the general community and the media to provide a flow of information about crime and criminals as a result of publicity and information.

The program operates through a weekly crime segment shown on the 9, 7 and WIN television networks. Weekly target crimes are featured, complimented by daily newspaper and radio station coverage. The crime is shown at the scene and police request information on a crime that has proven to be difficult to solve through traditional methods.

These weekly target crimes also act as a promotional avenue for the Crime Stoppers program in that it encourages members of the public to provide information about other crimes.

Personnel receiving the information evaluate it, make initial inquiries and then pass it on to the relevant investigating agencies.

### 8.7 CRIME STOPPERS, RESULTS TO 30 JUNE 1997

Particulars	Unit	
Property recovered	\$	7 056 989
Drugs seized	\$	30 808 660
Arrests	no.	3 262
Charges	no.	14 648

The Crime Stoppers telephone line guarantees the anonymity of the caller who is given a code number at the time of calling.

Callers may be entitled to reward of up to \$1,000 for information that results in an arrest.

Crime Stoppers aims to make Victoria a safer and more secure place by actively involving the community in the fight against crime.

July 1997 saw Victoria Police Crime Stoppers achieve its highest number of monthly arrests since inception, with 62 people arrested for 207 criminal offences. In addition, over \$75,000 in property and over \$290,000 in drugs was seized during this period.

Source: Victorian Crime Stoppers Ltd.

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## COMMUNITY SATISFACTION WITH POLICE SERVICES

The National Survey of Community Satisfaction with Police Services was included in the Population Survey Monitor (PSM) during 1996. The PSM is a household survey conducted by the ABS every quarter which collects information from about 3,000 households Australia wide. One person aged 18 years or over was asked to respond to the survey from each of the selected households.

The Survey of Community Satisfaction with Police Services provides information on attitudes towards services provided by the police and perceptions on fear of crime and problems in the neighbourhood area. It also provides information on the most recent contact with the police, who initiated the contact and reasons for contact.

### Services provided by the police

About three quarters of Victorians aged 18 years and over were generally satisfied/very satisfied with services provided by police (76%) and the job that police were doing in supporting community programs (76%). However, only 63% of the population had similar satisfaction levels towards police in dealing with public order problems.

In general, females were more satisfied with services provided by police than males. Males aged 18 to 24 had the lowest level of satisfaction compared with males in other age groups. The level of satisfaction increased with age.

### Fear of crime and personal safety

The majority of Victorians felt safe/very safe staying at home alone. The level of fear was greater after dark (80% felt safe/very safe) than during the day (93% felt safe/very safe), especially for females and older people.

The level of personal safety during such activities as walking or jogging locally and travelling on public transport was found to be significantly different during the day compared with after dark. 89% of people felt safe/very safe walking or jogging during the day, and 78% felt safe/very safe using public transport. In contrast, only one quarter of the population felt safe/very safe to travel on public transport after dark and 39% felt safe/very safe walking or jogging locally after dark.

### Safe driving

The majority of Victorians aged 18 years and over (86%) had driven a motor vehicle in the previous 12 months. Of these people, 11% believed that they had always/most of the time driven 10 kilometres per hour or more over the speed limit and 9% believed that they had sometimes been over the 0.05 alcohol limit when they drove a car. Victorians felt that wearing a seat belt was one of the most important safety protections, with 93% of people indicating that they always wore a seat belt when travelling by car.

## 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 system, based on offences against State/Territory laws. It is the statute law and the common law of the States and Territories that primarily governs the day-to-day lives of most Australians.

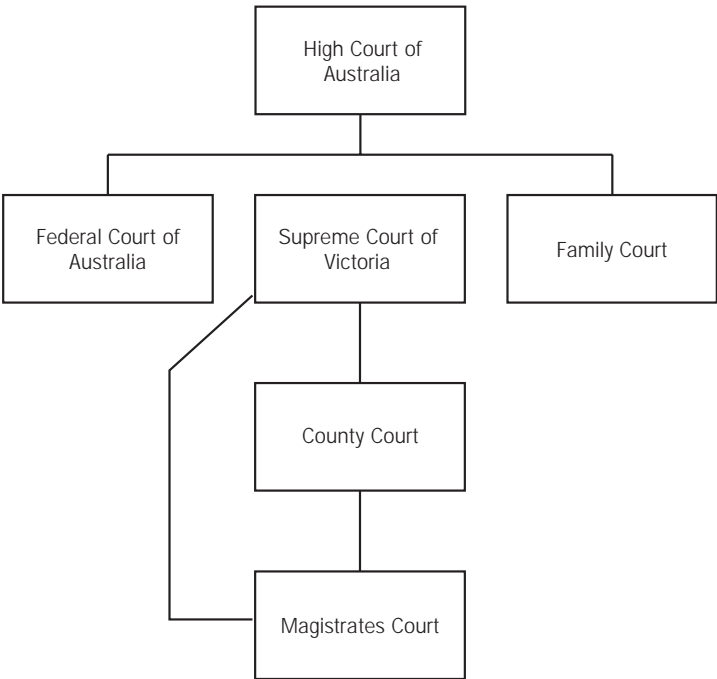
With respect to the criminal law, the States and Territories have powers to enact their own criminal law, while the Commonwealth has powers to enact laws including sanctions for criminal offences in relation to its responsibilities under the constitution. Thus, in effect, there are nine different systems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

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The diagram below illustrates the basic structure of the court system. 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 cases 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 the County and Magistrates' Court. The High Court of Australia hears cases on appeal from the Federal Court of Australia, the Supreme Court of Victoria, and the Family Court.

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. Finally, 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.

STRUCTURE OF THE COURT SYSTEM



Source: Department of Justice, Victoria, Annual Report 1995–96.

**Higher Criminal Courts**

At the start of 1995 there were 1,169 defendants who had cases outstanding in the Supreme and County courts that were still pending (see Table 8.8 below). During 1995 there were a further 1,578 defendants who had cases initiated in the higher criminal courts. These defendants together with those pending at the start of the year represent a total workload of 2,747 defendants before the higher courts. Of this total workload, some 1,700 defendants were finalised during 1995.

The defendants pending at the start of 1995 together with those initiated during 1995 less those finalised during the year, gives some 1,047 defendants with cases unfinalised at the end of the year. This represents a 10% decline in the number of defendants pending compared to the start of 1995.

### 8.8 DEFENDANTS INITIATED, FINALISED AND PENDING, VICTORIA, 1995

Status	Supreme Court no.	County Court no.	Total Higher Courts no.
Pending at start	52	1 117	1 169
Initiated	112	1 466	1 578
Finalised	100	1 600	1 700
Pending at end	64	983	1 047

Source: *Australian Criminal Courts, 1995 (Cat. no. 4513.0)*.

Table 8.9 shows that of the 1,700 defendants finalised in the higher criminal courts during 1995 some 1,545 defendants were finalised as a result of their charges being adjudicated (e.g. guilty verdict, proven not guilty or pleaded guilty). For these adjudicated defendants 26% went through trial (with 47% found guilty) and 74% pleaded guilty.

### 8.9 DEFENDANTS FINALISED, BY METHOD OF FINALISATION, VICTORIA, 1995

Method of finalisation	Supreme Court no.	County Court no.	Total Higher Courts no.
Proven not guilty	17	194	211
Proven guilty			
Guilty verdict	25	162	187
Guilty plea	41	1 106	1 147
Total proven guilty	66	1 268	1 334
Transfer between court levels	9	6	15
Non-adjudicated			
Bench warrant issued	—	19	19
Withdrawn(a)	8	113	121
Total non-adjudicated	8	132	140
<b>Total defendants finalised</b>	<b>100</b>	<b>1 600</b>	<b>1 700</b>

(a) Withdrawn includes defendants who were withdrawn by the prosecution, died, were unfit to plead or were finalised by some other non-adjudicated method.

Source: *Australian Criminal Courts, 1995 (Cat. no. 4513.0)*.

In 1995 the median duration from initiation to finalisation for defendants in the higher criminal courts was 22.8 weeks, see Table 8.10 below. The median duration time in the Supreme court was a month longer than in the County court. The median duration varied according to the methods by which defendants were finalised. For example, in the County court the median duration of cases for defendants finalised by pleading guilty, was half that of those defendants who went to trial and were proven not guilty or guilty.

### 8.10 MEDIAN DURATION TO FINALISATION FOR DEFENDANTS, VICTORIA, 1995

Method of finalisation	Supreme Court weeks	County Court weeks	Total Higher Courts weeks
Proven not guilty	26.0	36.9	35.2
Guilty verdict	35.8	38.9	38.0
Guilty plea	20.3	17.1	17.3
Other finalisation(a)	17.0	36.3	35.7
<b>Total defendants finalised</b>	<b>26.4</b>	<b>22.4</b>	<b>22.8</b>

(a) Defendants who were transferred to another level of court or where the charge/s are unadjudicated (e.g. the charge/s are withdrawn by the prosecution, the defendant dies, a bench warrant is issued, the defendant is deemed unfit to plead).

Source: *Australian Criminal Courts, 1995 (Cat. no. 4513.0)*.

## Legal services

In addition to the 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, whilst Crown Prosecutors normally handle prosecution of the more serious matters dealt with in the County or Supreme Courts.

For the defendant, legal aid may be available to handle their defence. The objective of the Commonwealth's legal aid scheme is to maximise access to justice by all members of the community. 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.

### 8.11 LEGAL AID APPLICATIONS AND THEIR OUTCOMES, VICTORIA

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

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

Source: *Legal Aid Commission of Victoria, Annual Report, 1996-97*.

Table 8.11 above shows that in 1996-97, 39,940 applications for legal aid were received, an average of 153 per workday, representing a decrease of 16% from the previous twelve months. Of these 39,586 were assessed with a refusal rate of 18%. Of the applications assessed criminal cases accounted for 61%, family cases for 26% and civil cases for 13%.

## Sentencing by criminal courts

In 1996 the Magistrates' Court handed down 82,452 sentences as shown in Table 8.12 below. Of these 78,169 or 95% were in the form of a non-custodial or other type of order. The most common non-custodial sentence handed down by the Magistrates' Court was a fine (accounting for 48% of non-custodial sentences) followed by suspension or cancellation of licence (21%) and bonds (18%).

Generally the percentage of custodial sentences delivered is greater in the Higher Courts, reflecting the more serious nature of cases heard before the County and Supreme Courts. In Victoria in 1996, 47% of sentences handed down in the Higher Courts were custodial. The most common form of non-custodial sentence in the higher courts was a suspended sentence of imprisonment.

**8.12 SENTENCES IMPOSED BY CRIMINAL COURTS, VICTORIA, 1996**

Penalties	Magistrates court no.	Higher courts no.
Custodial		
Imprisonment	3 992	539
Youth training centre	291	28
Non-custodial		
Suspended sentence of imprisonment	4 340	360
Intensive correction order	991	37
Community based order	5 043	87
Licence cancelled or suspended	15 499	..
Fine	36 254	43
Adjourned undertakings/Commonwealth Bonds	13 293	74
S28(a)	145	..
Other		
Convicted and discharged	2 417	..
Drug and alcohol test	187	9
Other	..	28
<b>Total</b>	<b>82 452</b>	<b>1 205</b>

(a) Suspended sentences under S28 of the Alcohol and Drug Dependant Persons Act.

Source: Department of Justice, *Caseflow Analysis Section—Sentencing Statistics, Magistrates' Courts Victoria, 1996*, and Department of Justice, *Caseflow Analysis Section—Sentencing Statistics, Higher Criminal Courts Victoria, 1996*.

**CORRECTIVE SERVICES****Victorian Prisoner  
Population**

The average daily number of prisoners in Victoria for March 1997 was 2,310, with about 85% of these being sentenced prisoners.

At the time of the most recently published Prison Census on 30 June 1995, there were 2,467 prisoners in Victoria. Sentenced prisoners represented 85.9% of all Victorian prisoners, with the remaining 14.1% of prisoners in gaol either awaiting the outcome of their court hearing or awaiting deportation.

The Victorian prison population increased by 40.7% over the 13 years from 1982 to 1995. The sentenced prisoner population increased by 34.3% and the remand population nearly doubled in size (98.3%) over the same period. The most significant increase in both the total and sentenced prisoner populations was recorded in 1983 when, compared with 1982, these populations increased by 13.9% and 15.8% respectively. The most significant increase in the remand population was recorded in 1987 when this population rose by 21.8%, compared with 1986.

**8.13 PRISON POPULATION, VICTORIA, 1982-95**

At 30 June	Prisoners		Sentenced		Remandees	
	no.	rate(a)	no.	rate(a)	no.	rate(a)
1982	1 753	66.1	1 577	61.0	176	6.8
1983	1 996	73.4	1 826	73.5	170	6.8
1984	1 845	67.5	1 665	62.5	180	6.8
1985	1 879	69.6	1 654	61.2	225	8.3
1986	1 955	71.3	1 749	63.8	206	7.5
1987	1 956	62.5	1 705	54.5	251	8.0
1988	2 071	66.2	1 811	57.9	260	8.3
1989	2 256	69.4	1 956	60.2	300	9.2
1990	2 316	69.9	1 954	59.0	362	10.9
1991	2 310	69.8	1 925	58.1	385	11.6
1992	2 277	67.4	1 913	56.6	364	10.8
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

(a) Rate per 100,000 adult population.

Source: *Australian Prisoners Results of the National Prison Census, Australian Institute of Criminology, 1982 to 1993; Prisoners in Australia, 1994 and 1995—Results of the National Prison Census—Report by the ABS to the Corrective Services Ministers' Council.*

Sentenced prisoners include those prisoners who were under sentence, awaiting appeal or unfit to plead at the time of the census and have been classified according to their most serious offence. The number of sentenced prisoners in Victoria on 30 June 1995 was 2,118, representing 13.7% of all sentenced prisoners in Australia at the time.

Violent and sexual offences accounted for 49.5% of offences for which sentenced prisoners were in gaol in Victoria on 30 June 1995. This is slightly higher than the Australian figure (48.2%) for the same offences. One quarter (25.5%) of sentenced prisoners in Victoria were convicted of property offences, including, break and enter, fraud and misappropriation, receiving and other theft. Victorian prisoners convicted of drug offences accounted for 9.6% of all sentenced prisoners in Victoria on 30 June 1995. This is slightly lower than the corresponding Australian figure (11.1%) for drug offences.



### 8.14 SENTENCED PRISONERS BY MOST SERIOUS OFFENCE(a), VICTORIA AND AUSTRALIA, 1995

	Victoria		Australia	
	no.	%	no.	%
Homicide				
Murder	206	9.7	995	6.4
Other homicide	63	3.0	453	2.9
Assault	154	7.3	1 775	11.5
Sex offences	353	16.7	2 090	13.5
Other against person	54	2.5	167	1.1
Robbery	211	10.0	1933	12.5
Extortion	7	0.3	40	0.3
Break and enter	221	10.4	2 032	13.2
Fraud & misappropriation	94	4.4	700	4.5
Receiving	16	0.8	280	1.8
Other theft	209	9.9	1 035	6.7
Property damage(b)	21	1.0	227	1.5
Government security(c)	168	7.9	942	6.1
Possession of weapon	—	—	32	0.2
Other against good order	20	0.9	67	0.4
Possession/use of drugs	15	0.7	149	1.0
Deal/traffic drugs	187	8.8	1 351	8.8
Manufacture/grow drugs	2	0.1	194	1.3
Driving offences	18	0.8	591	3.8
Licence/registration offences	91	4.3	296	1.9
Other traffic offences	5	0.2	8	0.1
Other offences	3	0.1	70	0.5
Offences in custody	—	—	2	—
<b>Total</b>	<b>2 118</b>	<b>100.0</b>	<b>15 429</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 (ANCO) code. (b) Property damage also includes environmental offences. (c) Government security also includes justice procedures.

Source: *Australian Prisoners Results of the National Prison Census, Australian Institute of Criminology, 1982 to 1993. Prisoners in Australia, 1994 and 1995—Results of the National Prison Census—Report by the ABS to the Corrective Services Ministers' Council.*

#### Private prisons

The New Prisons Project (NPP) is a major government infrastructure project involving the replacement of the State's ageing prisons with new facilities developed, owned and operated by the private sector.

In 1996 the Metropolitan Women's Correctional Centre at Deer Park was opened. A further two private prisons, Fulham Correctional Centre and Port Phillip Prison were opened in 1997.

When all three new private prisons are commissioned approximately 45% of Victoria's prisoners will be accommodated in private prisons with the remainder in the ongoing public prison system.

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