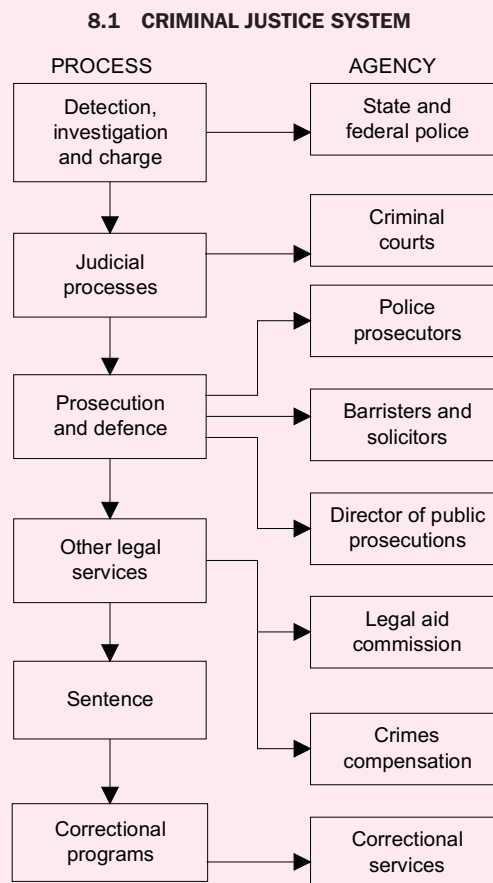


Overview

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.



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. When compared with 1997 figures, 1998 Victorian recorded crime statistics reflected an increase in the victimisation rates of attempted murder, driving causing death, assault, kidnapping/abduction, robbery and other theft (table 8.2). However, victimisation rates in Victoria for all offence categories, except blackmail/extortion, were below the Australian average.

Property crimes make up the greatest proportion of crimes recorded by police. Property crimes include the offences of unlawful entry with intent, motor vehicle theft and other theft. In Victoria during 1998 police recorded 70,589 victims of unlawful entry with intent, 29,563 victims of motor vehicle theft and 125,569 victims of other theft (in total, 90% of all crimes recorded by police). In terms of crimes against the person, the most commonly recorded offence was assault, with 17,571 cases recorded by police in 1998. This was followed by 2,996 victims of robbery and 2,967 victims of sexual assault.

8.2 VICTIMS OF CRIME RECORDED BY POLICE(a)

	Victoria			Australia	
	1996 rate(b)	1997 rate(b)	1998 rate(b)	1998 no.	1998 no.
Homicide					
Murder	1.14	1.37	1.01	47	284
Attempted murder	0.75	0.96	1.12	52	382
Manslaughter	0.07	0.04	0.04	2	49
Driving causing death	0.48	0.54	0.94	44	262
Assault	359.74	371.06	376.99	17 571	132 967
Sexual assault	61.36	64.12	63.66	2 967	14 568
Kidnapping/abduction	2.08	2.04	2.47	115	662
Robbery					
Armed robbery	18.60	25.97	33.36	1 555	10 850
Unarmed robbery	23.40	28.08	30.92	1 441	12 928
Blackmail/extortion	1.78	2.76	1.95	91	298
Unlawful entry with intent	1 551.51	1 610.09	1 514.50	70 589	435 670
Motor vehicle theft	630.76	661.27	634.28	29 563	131 572
Other theft	2 622.08	2 602.86	2 694.10	125 569	565 214

(a) The type of victim depends on the type of crime committed. Victims can be people (homicide, assault, kidnapping/abduction, other theft); properties (unlawful entry with intent); motor vehicles (motor vehicle theft); or both people or organisations (robbery, blackmail/extortion). (b) Reported incidents per 100,000 population.

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

Table 8.3 provides data on victims of recorded crime by age. Victims were characterised by a tendency toward younger age groups—76% of victims were aged under 35 years, compared to just 1.5% for persons aged 65 years and over. For victims of assault, the most recorded crime, 65% were aged under 35 years. Furthermore, 27% of assault victims were aged 25–34 years.

8.3 VICTIMS OF CRIME RECORDED BY POLICE(a), By Age—1998

	Age group (years)										Total
	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.	no.
Homicide											
Murder	3	1	—	4	12	10	10	1	4	2	47
Attempted murder	2	—	2	6	18	12	6	2	2	2	52
Manslaughter	—	—	—	1	—	—	1	—	—	—	2
Driving causing death	4	4	9	9	12	2	1	1	2	—	44
Assault	604	1 042	2 422	2 634	4 734	2 612	1 281	446	178	1 618	17 571
Sexual assault	331	390	695	416	591	283	103	27	20	111	2 967
Kidnapping/abduction	28	28	23	13	11	6	4	—	—	2	115
Robbery											
Armed robbery	2	44	196	219	259	200	125	56	30	45	1 176
Unarmed robbery	5	116	341	206	261	117	92	66	124	48	1 376
Blackmail/extortion	—	3	11	13	9	15	15	6	—	5	77

(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 (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, sexual assault and blackmail/extortion, more offenders were known to the victim than were unknown (table 8.4). In contrast, for driving causing death, assault and kidnapping/abduction, more offenders were unknown to victims than known.

8.4 VICTIMS OF CRIME(a), By Relationship of Offender to Victim(b)—1998

Offence category	Murder	Attempted murder	Manslaughter	Driving causing death	Assault	Sexual Assault	Kidnapping/abduction	Blackmail/extortion
	no.	no.	no.	no.	no.	no.	no.	no.
Known to victim								
Family member	12	4	1	2	1 195	480	5	1
Non-family member	11	14	1	5	1 957	844	11	13
Total	23	18	2	7	3 152	1 324	16	14
Unknown to victim	20	15	—	37	4 408	521	60	8
Not stated	4	19	—	—	10 011	1 122	39	55
Total	47	52	2	44	17 571	2 967	115	77

(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, only person victims are included. (b) Includes those persons for whom sex was not stated, but relationship was recorded.

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

In Victoria in 1998, a weapon was used in 79% of murders and 65% of attempted murders (table 8.5). Firearms were used in 36% of murders, 33% of attempted murders and 15% of armed robberies. Weapons were far less likely to be used in assault, sexual assault and kidnapping/abduction offences.

8.5 VICTIMS, By Offence—1998

	Weapons used				No weapons used %	Total %
	Firearm	Other weapon	Weapon n.f.d.	Total		
	%	%	%	%		
Homicide						
Murder	36.2	42.6	—	78.7	21.3	100.0
Attempted murder	32.7	32.7	—	65.4	34.6	100.0
Manslaughter	—	—	—	—	100.0	100.0
Assault	0.9	11.9	—	12.7	87.3	100.0
Sexual assault	0.3	1.8	—	2.1	97.9	100.0
Kidnapping/abduction	4.3	10.4	—	14.8	85.2	100.0
Robbery(a)	15.4	76.1	8.5	100.0	—	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 (Cat. no. 4510.0)*.

In Victoria during the financial year 1997–98, a total of 16,175 arrests for drug-related offences were made (table 8.6). The largest category was cannabis with 9,034 arrests (56%). The fastest growing category was heroin related arrests, increasing from 3,396 in 1996–97 to 5,544 in 1997–98, a change of 63%. The Australia figure for heroin related offences increased by 45% over the same period, from 7,140 in 1996–97 to 10,366 in 1997–98.

8.6 DRUG ARRESTS—1997–98

Type of drug	Number		Proportion	
	Victoria	Australia	Victoria	Australia
Cannabis	9 034	64 659	55.9	76.9
Cocaine	32	460	0.2	0.5
Heroin etc.	5 544	10 366	34.3	12.3
Amphetamine	744	4 766	4.6	5.7
Hallucinogens	2	524	0.0	0.6
Steroids	0	71	0.0	0.1
Other drugs	819	3 276	5.1	3.9
Total	16 175	84 122	100.0	100.0

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

Crime and safety

The Crime and Safety Survey was conducted nationally in April 1998, and aimed to obtain information on the level of victimisation in the community for selected offences. Information was collected from individuals and households about their experience of selected crimes, whether these crimes were reported to police and crime related risk factors. The characteristics of offences refer to the most recent incident experienced by the victim.

For household crimes, information was collected on households that had experienced a break-in to their dwelling, that had found signs of an attempted break-in, and that had any motor vehicles stolen in the 12 months prior to the survey.

For personal crimes, information was collected on individuals who had experienced being physically attacked or threatened with violence when someone stole or tried to steal property from them (robbery), and on individuals who had force or violence used, attempted, or threatened against them (assault) in the 12 months prior to the survey. For females aged 18 years and over, information was also collected on sexual assaults experienced in the 12 months prior to the survey.

The level of victimisation can be measured in more than one way. The most common measure derived from crime victims surveys is prevalence, that is, the number of the relevant population that have been victims of a given offence at least once in the reference period.

Rates of prevalence are often used, and these are generally expressed as a percentage of the total relevant population. Prevalence rates are also given as a rate per 1,000 households or persons (as relevant).

How many victims of crime are there?

Households and individuals in Victoria experience a diverse range of crimes, only a few of which were covered by the Crime and Safety Survey.

In the 12 months prior to the 1998 Crime and Safety Survey, there were an estimated 61,700 households in Victoria which had at least one break-in to their home, garage or shed (table 8.7).

About 36,300 households found signs of at least one attempted break-in, and a total of 92,700 households were victims of either a break-in or an attempted break-in in the 12 months prior to the survey.

About 27,300 households experienced at least one motor vehicle theft in the 12 months prior to the survey.

An estimated 9,600 persons aged 15 years and over were victims of robbery and 139,900 persons aged 15 years and over were victims of assault in the 12 months prior to the survey. An estimated 11,600 females aged 18 years and over were victims of sexual assault in the same time period.

8.7 VICTIMS OF CRIME—12 months prior to April 1998

	Victims	Relevant populations	Victimisation prevalence rates
	'000	'000	%
Break-in(a)	61.7	1 734.1	3.6
Attempted break-in(a)	36.3	1 734.1	2.1
Break-in/attempted break-in(a)	92.7	1 734.1	5.3
Motor vehicle theft(a)	27.3	1 734.1	1.6
Robbery(b)	9.6	3 635.7	0.3
Assault(b)	139.9	3 635.7	3.8
Sexual assault(c)	11.6	1 755.3	0.7

(a) Households. (b) Persons aged 15 years and over. (c) Females aged 18 years and over.

Source: *Crime and Safety, Australia (Cat. no. 4509.0)*.

How much of this crime is reported to the police?

Crime is not always reported to the police, and many factors influence whether or not a crime is reported. In particular, rates of reporting to the police vary depending on the type of offence.

Most motor vehicle thefts are reported to the police, with over 97% of household victims of motor vehicle theft reporting the most recent theft.

About 83% of household victims of break-ins reported the most recent incident to the police. Common reasons for not reporting the most recent incident were a feeling that there was nothing the police could do, and that the incident was too trivial.

Less than half (46%) of the victims of robbery reported the most recent incident to the police. Once again, the most common reasons for not reporting also being a feeling that there was nothing the police could do, and that the incident was too trivial.

Only 23% of assault victims and 21% of sexual assault victims reported the most recent incident to the police. Common reasons for not telling police about the most recent assault were that the incident was too trivial and that it was a personal matter.

8.8 REPORTING RATES TO POLICE FOR THE MOST RECENT INCIDENT—12 Months Prior to April 1998

	Told police	Did not tell police	Total victims	Reporting rates(a)
	'000	'000	'000	%
Break-in(b)	51.3	10.4	61.7	83.2
Attempted break-in(b)	13.7	22.6	36.3	37.6
Motor vehicle theft(b)	26.5	**0.8	27.3	97.1
Robbery(c)	4.4	5.2	9.6	46.0
Assault(c)	32.5	107.4	139.9	23.2
Sexual assault(d)	*2.5	9.2	11.6	*21.4

(a) The number of victims who told police about the most recent incident as a percentage of the total number of victims for each offence. (b) Households. (c) Persons aged 15 years and over. (d) Females aged 18 years and over.

Source: *Crime and Safety, Australia (Cat. no. 4509.0)*.

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 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 of Australia 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 courts within Australia.

Victorian higher criminal courts

At the start of 1997–98, there were 1,049 defendants involved in cases which were still being processed (i.e. pending at the start), and a further 1,989 defendants who had cases initiated in the Higher Criminal Courts (table 8.9). Both groups represent a total workload of 3,038 defendants before the higher courts during 1997–98. Of this total workload, 1,747 defendants had all their charges finalised during 1997–98, while 1,291 defendants had at least one unfinalised charge at the end of the financial year (pending at the end).

8.9 DEFENDANTS INITIATED—1997–98

Status	Supreme court	County court	Total higher courts
	no.	no.	no.
Active workload during year			
Pending at start	65	984	1 049
Initiated	100	1 889	1 989
Status at year's end(b)			
Finalised	78	1 669	1 747
Pending at end	88	1 203	1 291

(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 3 cases transferred in and 2 out, and County court had 2 transferred in and 3 out.

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

During 1997–98, 94% of the 1,747 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 8.10). Of these adjudicated defendants, 24% went through trial (of which 52% were found guilty) and 76% pleaded guilty.

8.10 DEFENDANTS FINALISED(a)—1997–98

Method of finalisation	Supreme court	County court	Total higher courts
	no.	no.	no.
Adjudicated			
Acquitted	16	169	185
Proven guilty			
Guilty verdict	29	171	200
Guilty plea	29	1 220	1 249
Total proven guilty	58	1 391	1 449
Total adjudicated	74	1 560	1 634
Non-adjudicated			
Bench warrant issued	—	23	23
Withdrawn	4	85	89
Other finalisation(b)	—	1	1
Total non-adjudicated	4	109	113
Total defendants finalised	78	1 669	1 747

(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* (Cat. no. 4513.0).

During 1997–98, the median duration from initiation to finalisation for defendants in the County Court was 20.4 weeks, and in the Supreme Court 41.8 weeks (table 8.11). Higher Court defendants finalised by a trial outcome of guilty verdict (44.7 weeks) or acquittal (40.0 weeks) had the longest median duration times, while defendants finalised by a guilty plea (16.6 weeks) had the shortest duration.

8.11 MEDIAN DURATION FOR DEFENDANTS(a)—1997–98

Method of finalisation	Supreme court	County court	Total higher courts
	weeks	weeks	weeks
Acquitted	47.6	37.6	40.0
Guilty verdict	45.1	44.1	44.7
Guilty plea	31.6	16.4	16.6
Other finalisation(b)	25.8	25.3	25.3
All defendants finalised	41.8	20.4	21.4

(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* (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 1998–99, there were 41,114 applications received for legal aid, of which 84.6% were approved (table 8.12). Legal aid applications have declined from a peak of 48,669 in 1994–95, although approval rates have remained relatively steady in the period between 1993–94 and 1998–99.

8.12 LEGAL AID APPLICATIONS AND THEIR OUTCOMES

Year	Total applications received	Total assessed(a)	Number approved	Number refused	Approval rate(b) %
1993–94	42 969	41 955	33 565	8 390	80.0
1994–95	48 669	46 998	39 094	7 904	83.2
1995–96	47 759	46 453	38 361	8 092	82.6
1996–97	39 940	39 586	32 279	7 307	81.5
1997–98r	41 245	40 778	33 934	6 845	82.7
1998–99	41 114	40 706	34 743	5 603	84.6

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

(b) Approved applications as a percentage of assessed applications, but does not take into account pending or withdrawn applications.

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

Corrective services

Victorian prisoner population

The annual Prisoner Census on 30 June 1998 recorded 2,858 prisoners in Victoria (table 8.13), of whom 2,705 were male and 153 female. Some 2,422 were sentenced and 436 were unsentenced. The average age of prisoners was 34.5 years for males and 33.6 years for females, and there were 126 Indigenous prisoners (4.4% of the total).

From 1994 to 1998, the Victorian prisoner population increased by 13% from 2,522 to 2,858 prisoners. The sentenced prisoner population increased by 11% and the unsentenced population by 31% over this period.

8.13 PRISON POPULATION

30 June	Prisoners		Sentenced		Unsentenced	
	no.	rate(a)	no.	rate(a)	no.	rate(a)
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
1998	2 858	79.7	2 422	67.5	436	12.2

(a) Rate per 100,000 of estimated mid-year population aged 17 years and over.

Source: *Prisoners in Australia*.

On 30 June 1998 in Victoria, violent and sexual offences accounted for 44% of offences for which sentenced prisoners were in prison (table 8.14). A further 27% of sentenced prisoners were convicted of property offences, including break and enter, fraud, misappropriation, receiving and other theft; while 12% were convicted of drug offences.

8.14 SENTENCED PRISONERS, By Most Serious Offence(a)—1998

Offence	no.	%
Homicide		
Murder	213	8.8
Other homicide	54	2.2
Assault	138	5.7
Sex offences	405	16.7
Other offences against the person	31	1.3
Robbery	224	9.2
Extortion	3	0.1
Break and enter	276	11.4
Fraud and misappropriation	77	3.2
Receiving	25	1.0
Other theft	257	10.6
Property damage(b)	23	0.9
Government security(c)	198	8.2
Possession of weapon	1	0.0
Other against good order	29	1.2
Possession/use drugs	27	1.1
Deal/traffic drugs	254	10.5
Manufacture/grow drugs	12	0.5
Driving offences	29	1.2
Licence/registration offences	74	3.1
Other traffic offences	5	0.2
Other offences	67	2.8
Offences in custody	—	—
Total	2 422	100.0

(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*.

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. Five public prisons were closed: Fairlea, Morwell River, Sale, Metropolitan Reception and Pentridge, and were replaced by three privately operated prisons. The Metropolitan Women's Correctional Centre (operated by Corrections Corporation of Australia) at Deer Park opened in August 1996, Fulham Correctional Centre (operated by Australasian Correctional Management) near Sale opened in April 1997, and Port Phillip Prison (operated by Group 4 Corrections Services) at Laverton North opened in September 1997. The remaining ten public prisons in Victoria are operated by CORE, the Public Correctional Enterprise.

During 1997–98, 46% of the average prisoner population were accommodated in private prisons, with the remainder managed through the public prison system. While each prison differs in terms of treatment and supervision needs, Fulham Correctional Centre had the highest average prisoner population (554) during 1997–98.

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