

Introduction

This chapter contains information relating to the Victorian criminal justice system. 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. Private companies are also involved with the provision of correctional services.

In Victoria, two systems of criminal justice exist: the Federal criminal justice system, based on offences against Commonwealth laws; and the State system, based on offences against Victorian laws. It is the statute and common law of the State that primarily governs the day-to-day lives of most Victorians.

The data in this chapter are sourced from the national Crime and Safety Survey conducted by the Australian Bureau of Statistics (ABS) and from administrative by-product collections covering crimes recorded by police, case flow information for criminal courts and information on prisoners dealt with by the corrections agencies. Data are also presented from reports compiled by the Australian Bureau of Criminal Intelligence and the Legal Aid Commission of Victoria.

Crime and safety

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

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 whom 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. Information was also collected for households that had experienced a break-in, those that had found signs of an attempted break-in, and those that had any motor vehicles stolen in the 12 months prior to the survey.

Crime reported to the police

Many factors influence whether or not a crime is reported to police. Rates of reporting to the police vary depending on the type of offence. Over 97% of households that were a victim of motor vehicle theft reported the most recent theft (table 10.1). Some 83% of households that were a victim of break-ins reported the most recent incident to the police. Less than half (46%) of the victims of robbery and about one in five victims of assault reported the most recent incident to the police.

Common reasons for not reporting the most recent incident to police were that it was felt that there was nothing the police could do, or that the victim considered the incident was too trivial.

10.1 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	83.1
Attempted break-in(b)	13.7	22.6	36.3	37.7
Motor vehicle theft(b)	26.5	**	27.3	97.1
Robbery(c)	4.4	5.2	9.6	45.8
Assault(c)	32.5	107.4	139.9	23.2
Sexual assault(d)	*2.5	9.2	11.6	*21.5

(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)*.

Victims of crime

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, and a further 36,300 households where signs of an attempted break-in were found (table 10.2). Victoria has a victimisation rate for these offences which was well below the national rate. About 27,300 households experienced at least one motor vehicle theft in the 12 months prior to the survey.

An estimated 139,900 persons aged 15 years and over were victims of assault in the 12 months prior to the survey and an estimated 9,600 persons aged 15 years and over were victims of robbery. An estimated 11,600 females aged 18 years and over were victims of sexual assault during the same period. Sexual assault was one offence where the victimisation rate was higher for Victoria than the national rate.

10.2 VICTIMS OF CRIME — 12 Months Prior to April 1998

	Victims	Relevant populations	Victimisation prevalence rates	
			Victoria	Australia
			%	%
Break-in(a)	61.7	1 734.1	3.6	5.0
Attempted break-in(a)	36.3	1 734.1	2.1	3.2
Motor vehicle theft(a)	27.3	1 734.1	1.6	1.7
Robbery(b)	9.6	3 635.7	0.3	0.5
Assault(b)	139.9	3 635.7	3.8	4.3
Sexual assault(c)	11.6	1 755.3	0.7	0.4

(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)*.

Police recorded crime statistics

Crimes recorded by police relate to offences that have become known to, and are recorded by, police. These offences may have been reported by a victim, a 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 these crime 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 specific criminal behaviour.

When compared with 1998 figures, Victorian recorded crime statistics reflected an increase in the victimisation rates for most categories of offence in 1999 (table 10.3). However, despite these increases, victimisation rates for Victoria in 1999 for most offence categories were below the national rate. The victimisation rate for blackmail/extortion is above that of Australia, even though the Victorian rate for that offence has decreased for the past three years.

Property crimes make up the greatest proportion of crimes recorded by police. These include the offences of unlawful entry with intent, motor vehicle theft and other theft. In Victoria during 1999, police recorded 76,275 victims of unlawful entry with intent, 32,075 victims of motor vehicle theft and 133,609 victims of 'other' theft (in total, 91% of all crimes recorded).

In terms of crime against the person, the most commonly recorded offence was assault, with 16,850 cases recorded by police in 1999. More than half (55%) of all victims of robbery were victims of armed robbery.

10.3 VICTIMS(a) OF CRIME RECORDED BY POLICE

	Victoria		Australia	
	1998 r rate(b)	1999 rate(b)	1999 no.	1999 o. rate(b)
Homicide				
Murder	1.01	1.32	62	342 1.52
Attempted murder	1.16	1.21	57	358 2.07
Manslaughter	0.02	0.08	4	39 0.25
Driving causing death	1.03	0.89	42	206 1.47
Assault	383.31	357.58	16 850	133 602 699.00
Sexual assault	64.19	59.19	2 789	14 074 76.55
Kidnapping/abduction	2.49	2.55	120	763 3.76
Robbery				
Armed robbery	33.43	39.90	1 880	9 439 49.77
Unarmed robbery	30.91	32.34	1 524	13 151 69.35
Blackmail/extortion	2.04	1.66	72	256 1.45
Unlawful entry with intent	1 517.66	1 618.68	76 275	415 600 2 319.49
Motor vehicle theft	635.48	680.68	32 075	129 865 702.65
Other theft	2 703.86	2 835.40	133 609	610 276 3 008.90

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

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

Victims of crime recorded by the police were mostly in the younger age groups (table 10.4). Two-thirds of all victims were aged less than 35 years, compared to 2% of victims being aged 65 years and over.

In 1999, 65% of all assault victims were male. The highest number of assaults against males was for those aged 15–24 years while for females those aged 25–34 years were the largest group. Females represented 84% of victims of sexual assault and 64% of these female victims were aged under 25 years.

10.4 VICTIMS OF CRIME RECORDED BY POLICE(a), By Sex and Age Group of Victim — 1999

	Age group (years)								Total no.
	0–14 no.	15–24 no.	25–34 no.	35–44 no.	45–54 no.	55–64 no.	65 and over no.	Not stated no.	
MALES									
Homicide									
Murder	3	3	9	8	7	6	1	—	37
Attempted murder	3	8	12	8	5	—	—	1	37
Manslaughter	—	1	1	1	—	—	—	—	3
Driving causing death	1	8	3	5	3	3	2	—	25
Assault	800	3 069	2 954	1 741	876	316	153	723	10 632
Sexual assault	163	124	75	50	15	8	3	12	450
Kidnapping/abduction	16	8	4	—	1	1	—	—	30
Robbery	128	740	354	181	123	77	41	39	1 683
Blackmail/extortion	1	11	14	3	12	4	—	3	48
FEMALES									
Homicide									
Murder	—	7	3	6	3	1	5	—	25
Attempted murder	2	4	5	5	—	1	—	3	20
Manslaughter	—	—	1	—	—	—	—	—	1
Driving causing death	5	3	4	1	2	—	1	—	16
Assault	468	1 581	1 647	995	438	126	73	346	5 674
Sexual assault	523	954	415	240	90	15	12	58	2 307
Kidnapping/abduction	32	33	13	10	—	—	1	1	90
Robbery	27	284	245	185	134	101	125	43	1 144
Blackmail/extortion	—	7	8	2	2	3	1	1	24
PERSONS									
Homicide									
Murder	3	10	12	14	10	7	6	—	62
Attempted murder	5	12	17	13	5	1	—	4	57
Manslaughter	—	1	2	1	—	—	—	—	4
Driving causing death	6	11	7	6	5	3	3	1	42
Assault(b)	1 279	4 714	4 637	2 775	1 336	450	229	1 430	16 850
Sexual assault(b)	690	1 084	494	292	105	23	15	86	2 789
Kidnapping/abduction	48	41	17	10	1	1	1	1	120
Robbery(b)	157	1 032	610	371	262	178	170	94	2 874
Blackmail/extortion	1	18	22	5	14	7	1	4	72

(a) For offences (e.g. robbery and blackmail/extortion) where the victim may be a person or organisation, only person victims are included. (b) Includes those victims for whom sex was not stated.

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

The relationship of the offender to the victim is known in almost one-quarter of recorded crimes (table 10.5). More offenders for the offences of murder, attempted murder, sexual assault and blackmail/extortion, were known than not known by the victim. However, care should be taken when examining the 'relationship of offender to victim' statistics as for more than half of some categories of recorded crime that relationship is not stated.

10.5 VICTIMS OF CRIME RECORDED BY POLICE(a), By Relationship of Offender to Victim — 1999

	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	13	14	—	5	1 133	444	3	2
Non-family member	22	19	2	11	1 919	888	25	45
Total	35	33	2	16	3 052	1 332	28	47
Unknown to victim	27	24	2	26	4 374	554	92	25
Not stated	—	—	—	—	9 424	903	—	—
Total	62	57	4	42	16 850	2 789	120	72

(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.

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

During 1999, a weapon was used in the majority (74%) of murders and attempted murders (67%) that were committed in Victoria (table 10.6). However, firearms were less likely to be used than other weapons for these offences. In almost all (98%) incidents of sexual assault recorded, no weapon was used.

10.6 VICTIMS OF CRIME RECORDED BY POLICE, By Weapon Use — 1999

	Weapons used				No weapons used	Total
	Firearm	Other weapon	Weapon n.f.d.	Total		
	%	%	%	%	%	%
Homicide						
Murder	21.0	53.2	—	74.2	25.8	100.0
Attempted murder	24.6	42.1	—	66.7	33.3	100.0
Manslaughter	25.0	—	—	25.0	75.0	100.0
Assault	0.9	13.5	—	14.5	85.5	100.0
Sexual assault	0.3	1.9	—	2.1	97.9	100.0
Kidnapping/abduction	4.2	7.5	—	11.7	88.3	100.0
Robbery(a)	6.8	44.1	4.3	55.2	44.8	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 (Cat. no. 4510.0)*.

Illicit drug offences

In general, the traffic in, and abuse of illicit drugs results in significant cost to individuals and the community. In Victoria during the financial year 1998–99, a total of 19,392 arrests for illicit drug-related offences were made (table 10.7). Cannabis (48%) remains the most prevalent category of drug for which arrests were made. However, between 1996–97 and 1998–99 the number of arrests for heroin and cocaine related offences have more than doubled.

10.7 DRUG ARRESTS

Type of drug	1996-97		1997-98		1998-99	
	no.	Proportion	no.	Proportion	no.	Proportion
Cannabis	9 121	65.4	9 034	55.8	9 286	47.9
Cocaine	29	0.2	32	0.2	70	0.4
Heroin etc.	3 396	24.4	5 544	34.3	8 153	42.0
Amphetamine	639	4.6	744	4.6	1 028	5.3
Other drugs	756	5.4	821	5.1	855	4.4
Total	13 941	100.0	16 175	100.0	19 392	100.0

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

Court system

With respect to the law, the States and Territories have powers to enact their own criminal law. The Commonwealth has similar 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 cases involving less serious offences are heard by the Magistrates' Court. The County Court hears more serious criminal and civil cases involving larger claims and cases on appeal from the Magistrates' Court. The Supreme Court of Victoria hears the most serious criminal and civil cases, as well as appeals from the County and Magistrates' Courts. A Federal Family Court of Australia 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 in Australia.

The Supreme and County Courts in Victoria are also known as the higher courts, and statistics from these courts (only) are dealt with below.

Higher criminal courts

At the start of 1998-99, there were 1,301 defendants involved in cases before these courts which were still being processed (i.e. pending at the start), and a further 2,082 defendants who had cases initiated (table 10.8). Summing these groups represent a total caseload of 3,383 defendants before the higher courts in 1998-99. More than half (56%) had all their charges finalised during that year while the remaining defendants (1,490) had at least one charge not finalised (i.e. pending at the end) by the end of the financial year.

10.8 DEFENDANTS INITIATED(a) — 1998-99

Status	Supreme court	County court	Total higher courts
	no.	no.	no.
Active workload during year			
Pending at start	91	1 210	1 301
Initiated	88	1 994	2 082
Status at year's end			
Finalised	95	1 798	1 893
Pending at end	82	1 408	1 490

(a) Data exclude defendants in appeal cases.

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

During 1998–99, almost all (94%) of the 1,893 defendants finalised by the higher criminal courts were finalised as a result of their charges being adjudicated i.e. guilty plea, guilty verdict, or acquittal (table 10.9). Of the 1,777 adjudicated defendants, nearly 90% were proven guilty. Most defendants who were proven guilty by the courts had pleaded guilty, with only 12% going through to trial and a guilty verdict was returned. Of those cases adjudicated, almost the same number of defendants was proven guilty via a guilty verdict (195) as were acquitted (197).

10.9 DEFENDANTS FINALISED(a) — 1998–99

Method of finalisation	Supreme court no.	County court no.	Total higher courts no.
Adjudicated			
Acquitted	16	181	197
Proven guilty			
Guilty verdict	38	157	195
Guilty plea	40	1 345	1 385
Total proven guilty	78	1 502	1 580
Total adjudicated	94	1 683	1 777
Non-adjudicated			
Bench warrant issued	—	23	23
Withdrawn	1	90	91
Other finalisation(b)	—	2	2
Total non-adjudicated	1	115	116
Total defendants finalised	95	1 798	1 893

(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 1998–99, the median duration from initiation to finalisation of proceedings for defendants in the County Court was 22.3 weeks, and overall, the median duration in the Supreme Court was almost twice as long (40.1 weeks) (table 10.10). The same trend applies to the median duration of those cases finalised with a guilty plea for both courts.

10.10 MEDIAN DURATION FOR DEFENDANTS(a) — 1998–99

Method of finalisation	Supreme court weeks	County court weeks	Total higher courts weeks
Acquitted	43.0	38.1	38.4
Guilty verdict	47.6	46.3	46.3
Guilty plea	35.1	17.7	18.0
Other finalisation(b)	53.6	30.1	30.2
All defendants finalised	40.1	22.3	23.3

(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 the courts, there are a number of other agencies involved in the judicial process. These include legal representatives for the prosecution and the defence. For the defendant, legal aid may be available to conduct their defence. The objective of legal aid is to maximise access to justice by all community members. Legal aid services and advice are provided directly by lawyers employed by the legal aid service 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 by the Victorian Legal Aid Commission, of which 40,706 were assessed (table 10.11). Legal aid applications have declined from a peak of more than 48,600 in 1994–95. Approval rates have remained relatively constant since 1993–94, with the highest approval rating (85%) being in 1998–99.

10.11 LEGAL AID APPLICATIONS AND THEIR OUTCOMES

	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
1997–98 r	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. Number approved and number refused do not necessarily equal total assessed as some applications were still pending at the end of June 1999. (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

Corrective services are responsible for administering the penalties and orders handed down by the criminal courts, which require some form of supervision or custody of the offender. Most persons for whom corrective services have responsibility have received a sentence from a criminal court, others are persons given orders pending judgement or sentencing (i.e. unsentenced prisoners).

All the States and Territories operate prisons and other types of corrective services. The Commonwealth does not operate any prisons, and federal offenders are supervised by State agencies. In Victoria, a number of privately operated (commercial business ventures) prison facilities have been established. These prisons operate in conjunction with State operated prisons and are monitored by the Corrective Service authority.

Prisoner population

There were 2,744 male prisoners in Victorian prisons on 30 June 1999, comprising 94% of the total prisoner population (table 10.12). The average age of prisoners was 34.7 years for males and 32.0 years for females.

From 1994 to 1999, the net Victorian prisoner population increased by 16% to 2,923 prisoners. The component of sentenced prisoners in the prisoner population increased by 15% and the unsentenced component increased by 25% over that period.

10.12 PRISON POPULATION

30 June	Sentenced			Unsentenced			Prisoners		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
1994	2 070	119	2 189	319	14	333	2 389	133	2 522
1995	2 022	96	2 118	329	20	349	2 351	116	2 467
1996	1 958	100	2 058	355	27	382	2 313	127	2 440
1997	2 103	123	2 226	387	30	417	2 490	153	2 643
1998	2 303	119	2 422	402	34	436	2 705	153	2 858
1999	2 362	144	2 506	382	35	417	2 744	179	2 923

Source: *Prisoners in Australia*.

Of all sentenced prisoners, 43% were convicted of offences involving violence or the threat of violence such as sex offences (15%), robbery (10%) or murder and homicide (12%). A higher proportion of female prisoners were convicted of petty theft (including theft of motor vehicle parts or contents) than male prisoners (8%).

10.13 SENTENCED PRISONERS, By Most Serious Offence(a) — 1999

	Males		Females		Persons	
	no.	%	no.	%	no.	%
Homicide						
Murder	217	9.2	11	7.6	228	9.1
Other homicide	68	2.9	6	4.2	74	3.0
Assault	125	5.3	6	4.2	131	5.2
Sex offences	371	15.7	2	1.4	373	14.9
Other offences against the person	27	1.1	1	0.7	28	1.1
Robbery	228	9.7	11	7.6	239	9.5
Extortion	1	—	—	—	1	—
Break and enter	292	12.4	18	12.5	310	12.4
Fraud and misappropriation	82	3.5	4	2.8	86	3.4
Receiving	15	0.6	3	2.1	18	0.7
Other theft	192	8.1	27	18.8	219	8.7
Property damage(b)	19	0.8	1	0.7	20	0.8
Government security(c)	292	12.4	19	13.2	311	12.4
Other offences against good order	20	0.8	1	0.7	21	0.8
Possession/use drugs	17	0.7	2	1.4	19	0.8
Deal/traffic drugs	241	10.2	21	14.6	262	10.5
Manufacture/grow drugs	10	0.4	1	0.7	11	0.4
Driving offences	6	0.3	1	0.7	7	0.3
Licence/registration offences	69	2.9	1	0.7	70	2.8
Other traffic offences	1	—	1	0.7	2	0.1
Other offences	69	2.9	7	4.9	76	3.0
Total	2 362	100.0	144	100.0	2506	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 States' ageing prisons with three facilities developed, owned and operated by the private sector: the Metropolitan Women's Correctional Centre (operated by Corrections Corporation of Australia) located at Deer Park and opened in August 1996; Fulham Correctional Centre (operated by Australasian Correctional Management) located near Sale and opened in April 1997; and Port Phillip Correctional Centre (operated by Group 4 Corrections Services) located at Laverton North and opened in September 1997.

During 1998–99, 45% of the 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 required, Port Phillip Correctional Centre had the largest prisoner population (592).

Five public prisons were subsequently closed: Fairlea, Morwell River, Sale, Metropolitan Reception and Pentridge. CORE, the public correctional enterprise, which is a State Government services agency, operates the remaining ten public prisons in Victoria.

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