

# Victoria's Prison Population 2002 to 2012



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# Executive summary

In 2007, the Sentencing Advisory Council published *Victoria's Prison Population: 2001 to 2006*. That paper examined the trends between 2001 and 2006 in Victoria's prison population, including prisoner receptions and sentence lengths, crime rates and offending patterns, court flow and custody rates. The paper concluded that the increase in Victoria's prison population between 2001 and 2006 was due to a combination of increased lengths of imprisonment sentences and increases in the occurrence of offences against the person, motor vehicle offences and good order offences.

This paper represents a continuation of that analysis, examining data on Victoria's prison population for the ten-year period from 2002 to 2012. Trends in these data demonstrate that Victoria's prison population and imprisonment rate have continued to increase. While the overall crime rate has decreased, offences against the person, offences against good order and drug offences have all increased. The prevalence of these offences is also observed in court data on the principal proven offence of offenders sentenced to prison and in prisoner data on the most serious offence of prisoners.

There has been a significant increase in the number of prisoners held on remand and a corresponding increase in the proportion of the overall prison population that these prisoners represent. In the higher courts, the custody rate (being the proportion of all sentences that receive a sentence of imprisonment) has increased. Average sentence lengths imposed in both the higher courts and the Magistrates' Court have also increased, and the proportion of offenders receiving a sentence length of 12 months or less has decreased.

The increases in Victoria's prison population between 2002 and 2012 are due to a combination of increased lengths of imprisonment sentences, an increased custody rate in the higher courts and increases in the occurrence of offences against the person, drug offences and offences against good order.



# Introduction

When the Sentencing Advisory Council last examined in detail the trends in Victoria's prison population, the total number of prisoners, as at April 2007, was 4,100. Since that time, the population has continued to increase: on 30 September 2012, the number of prisoners in Victoria was 5,024 (Victorian Auditor-General, 2012).

As the general population increases over time, it is expected that the number of persons in prison will also increase. However, the imprisonment rate, which describes the number of prisoners per 100,000 adults and so accounts for changes in the general population, has also continued to increase. Victoria's imprisonment rate has risen from 94.2 prisoners per 100,000 adults in 2002 to 111.7 prisoners per 100,000 adults in 2012, with 47.4% of that increase occurring within the last four years.

Compared with imprisonment rates in other Australian jurisdictions, Victoria's imprisonment rate in 2012 was the second lowest of any state or territory, the lowest being in the Australian Capital Territory (106.9 prisoners per 100,000 adults). The change in Victoria's imprisonment rate from 2010–11 to 2011–12, however, was the fourth highest (after the Northern Territory, Western Australia and South Australia) and took place in a period in which two jurisdictions (New South Wales and Tasmania) recorded a decrease in their imprisonment rates.

The total recurrent cost per Victorian prisoner in 2011–12 was over \$97,000 – approximately \$267 per day (Steering Committee for the Review of Government Service Provision, 2013). Between 2002–03 and 2011–12, the real recurrent cost (in 2011–12 dollars) of prisons in Victoria grew from \$56.47 per year for every Victorian resident to \$83.95. This means that, even when the effects of inflation and population growth are taken into account, recurrent spending on prisons increased by 49% over that period.<sup>1</sup>

Alongside the costs of managing an increasing prison population, concerns have also been raised regarding Victoria's prison capacity. A recent report by the Victorian Auditor-General states that the Victorian prison system currently has a total funded capacity of 5,318 beds, based on the premise that it will operate at between 90 and 95 percent utilisation of operational capacity (Victorian Auditor-General, 2012, p. 1).

After examining the recent trends in imprisonment, the Auditor-General concluded that prison infrastructure has not kept pace with the increases in prisoner numbers over the past 10 years. The Auditor-General found that, in the near future, the prison system in Victoria will face increasing pressure to house male prisoners (Victorian Auditor-General, 2012, p. 1).

An increasing prison population also has flow-on effects for the workload of the parole system. In Victoria, if a court sentences an adult offender to more than two years' imprisonment, it must fix a non-parole period, during which time the offender is ineligible for parole.<sup>2</sup> The non-parole period must be at least six months less than the total sentence imposed.<sup>3</sup> As a result, every offender who receives a sentence with a non-parole period will be subject to supervision by the parole system for a minimum of six months (and for many offenders, a much longer period).

<sup>1</sup> These figures have been derived by the Council from the 2004 and 2013 *Report on Government Services* (Steering Committee for the Review of Government Service Provision 2004, 2013) and from the estimated residential population of Victoria and the gross domestic product index, both published by the Australian Bureau of Statistics (2012b, 2012c).

<sup>2</sup> *Sentencing Act 1991* (Vic) s 11(1). This is the case unless the court considers that the 'nature of the offence or the past history of the offender make the fixing of such a period inappropriate': *Sentencing Act 1991* (Vic) s 11(4).

<sup>3</sup> *Sentencing Act 1991* (Vic) s 11(3).

## Previous research

While there has been a considerable volume of research into drivers of past change in prison populations, the findings of this research vary widely. Some studies have examined criminal justice system factors such as prisoner receptions and sentence length, crime rates, court flow and custody rates, and offending patterns. These may be described as the 'proximal' factors that influence the prison population and are the focus of this report.

Another body of research, not discussed here, has examined the effects of changes and differences in factors external to the criminal justice system, such as demographics, social welfare and poverty, sentencing policy, public opinion and the media and consumer confidence (for example, see Freiberg and Ross, 1999; Greenberg and West, 2001; Bartlett, 2005; Doob and Webster, 2006; Rosenfeld and Messner, 2009; Tonry, 2009; Knepper, 2012). These may be described as the 'distal' factors that influence the prison population.

The current study examines a number of proximal factors, being those within the criminal justice system. Even these proximal factors are numerous and wide ranging. Changes over time, at each stage of the criminal justice process, may have an effect on the imprisonment rate and the prison population. Each factor – such as the frequency and type of offending in the community, the policies of enforcement (including detection and prosecution), the granting of bail or detention on remand, sentencing practices in the courts and the rate of imposition of sentences of imprisonment (and their length) and parole policies and procedures – represents just one potential driver of the prison population.

This study therefore provides only a partial explanation for what is a very complex phenomenon.

## Crime rates

Studies have analysed the role played by crime rates, but conclusions vary according to the offence type for which prisoners are convicted and according to the jurisdiction. In their cross-jurisdictional analysis, Freiberg and Ross (1999) correlated crime and imprisonment rates for particular offence types, and found relationships between the crime rates and the imprisonment rates for some offences (assault, robbery and break and enter), but not for murder or theft. They suggested that the lack of relationship between murder rates was due to the already long prison sentences for that offence, and that the lack of relationship between theft rates was due to the use of police cautions and non-custodial sentences, which did not result in entry into prison.

Other studies have looked at the influence of general crime rates, rather than rates for specific offence types. Biles (1983) examined the crime–imprisonment relationship in England and Wales and in Australia between 1960 and 1980. For England and Wales, there was a strong positive relationship between crime rates and imprisonment rates, both of which had generally increased throughout the period. In Australia, however, the opposite was found: increases in crime rates were associated with decreases in the imprisonment rate. Tonry (1999) found similarly conflicting evidence of a crime–imprisonment link for another set of countries. Between 1960 and the early 1990s, the violent crime rates in the United States, Germany and Finland grew steadily, but while the United States' imprisonment rate increased, Germany's and Finland's imprisonment rates generally decreased.



## Offending patterns

Changing offending patterns have also been suggested as an influence on changing prison populations. If more serious offending is prevalent, the consequence is likely to be an increase in the number of offenders sentenced to prison, and similarly, increases in the length of such sentences.

Fitzgerald and Corben (2012) examined offending patterns in New South Wales as part of their investigation into the decline in that state's imprisonment rate. The researchers found that, in 2011, fewer offenders were serving prison sentences for the offences of assault, break and enter, theft and traffic offences. This appears to be due to both a reduction in the number of offenders in court and changes in the sentencing practices for particular offences. The study did not determine whether the changes in sentencing practices suggested more lenient sentences were being imposed, or whether they may have resulted from changes in the severity of the offences themselves. The researchers did conclude, however, that a reduction in the number of offenders for some offences appears to be due, at least in part, to a reduction in the volume of crime (Fitzgerald and Corben, 2012).

Gelb (2003) examined the increasing female prison population in Australia between 1995 and 2002. Using the representation of different offence types in the female prison population, Gelb found that violent offences, in particular robbery, became more prevalent among female prisoners over this period and concluded that the changing nature of female offending towards more violent offending was a key factor in the rising female prison population. This suggests that it is important to consider the type of offending as a factor in an increasing prison population.

## Bail and remand

Changes in the type of offending may result in changes to the number of prisoners detained on remand, if, for example, more serious offending is prevalent or there are changes to the way in which bail is granted or refused.

The granting or refusal of bail may also have an effect on the ultimate sentence imposed. A recent study from the United States on the influence of remand on sentence found that pre-trial detention did not influence the decision to imprison; however, it did significantly and negatively affect the length of the sentence in cases that resulted in a sentence of imprisonment (Sacks and Ackerman, 2012).

## Court flow and custody rates

With mixed evidence of a link between crime and imprisonment, some studies have examined stages of the criminal justice system between the occurrence of crime and the admission to prison. Suhling (2003) considered arrest and court flow data in his attempt to explain the increase in Germany's imprisonment rate between 1990 and 1998. He found that the increasing numbers of offenders apprehended for violent offences were partially contributing to the imprisonment rate. However, the numbers of people accused, convicted and sentenced to imprisonment for violent offences were seen as more important factors in explaining the increasing imprisonment rate.

Another aspect of the criminal justice system relevant to the prison population is the 'custody rate', which is the proportion of all convicted offenders who receive a custodial sentence. The custody rate has been a key factor for predicting future prisoner populations in the successful projection models used by the Home Office (2002) (United Kingdom).

Weatherburn, Grech and Holmes (2010) compared the New South Wales imprisonment rate to Victoria's imprisonment rate and noted a significant difference in custody rates. The overall custody rate (the percentage of all convicted offenders who received a term of imprisonment) was significantly higher in New South Wales (7.5%) than in Victoria (5.4%). The custody rate of the higher courts in New South Wales was 25% greater than that of the higher courts in Victoria. The mean expected time to serve among prisoners sentenced by Victorian courts, however, was slightly longer than the mean expected time to serve among prisoners sentenced by New South Wales' courts.

Few studies, however, have examined the custody rate in relation to drivers of past changes in the prison population. In attempting to explain why New South Wales' imprisonment rate is higher than Victoria's, Babb (1992) suggested that there was little difference in the jurisdictions' relative willingness to use imprisonment sentences. However, more recently, Indyk and Donnelly (2007) have found that in New South Wales the proportion of offenders sentenced to full-time imprisonment is higher than other Australian jurisdictions for sexual assault (96%), robbery (83%) and more serious robberies (86%), and higher than both Australian and international jurisdictions for break and enter/burglary offences (78%).

## Prisoner receptions and sentence length

A number of studies have focused on the relative importance of two factors: the number of people received into prison (receptions) and the length of time they remain in prison. As part of Freiberg and Ross' examination of long-term trends in Victoria's prison population, the relative importance of receptions versus sentence length was considered. They found evidence that changes in the imprisonment rate between 1871 and 1999 were related to changes in the reception rate rather than to sentence length (Freiberg and Ross, 1999). Another study, which attempted to explain higher imprisonment rates in New South Wales compared with Victoria in the years 1980 and 1990, attributed the differential imprisonment rates mainly to reception rates, and to a lesser extent the length of stay (Gallagher, 1995).

A study that focused on the length of stay for Australian prisoners between 1982 and 1998 concluded that this factor was influential in the rise in Australia's imprisonment rates. Carcach and Chisholm (2000) compared length of stay data for prisoners convicted of different offence types in each Australian state and territory. Increases were found in the expected time to serve for most offence types in most jurisdictions, leading the researchers to conclude that 'the length of sentences imposed is a major determinant of the increase in Australian prison populations' (Carcach and Chisholm, 2000, p. 6). However, in Victoria, the expected time to serve decreased for most offences, despite Victoria's increased prison population. This supports the conclusions of Freiberg and Ross (1999) that sentence length played a limited role in influencing the size of Victoria's prison population during that period.

## Focus of this paper

This paper examines trends in most of the factors discussed above. Its purpose is not to measure causal connections between the factors and the prison population – as to do so would require multivariate time series modelling, as well as more complete data. Establishing a link between various components of the criminal justice system is extremely difficult, not only because of different counting rules used in data collection and extraction, but also because of time lags and issues concerning the reliability of data.

The purpose of this paper is to provide indicative evidence for the factors considered important in driving changes in the prison population between 2002 and 2012.

After a brief discussion of the data used, the paper examines general changes in the composition of the prison population, including the number of prisoners on remand. The paper then considers trends in various potentially important factors, by examining data obtained from three stages of the criminal process: first, data on crime rates and the types of recorded offending; second, court data on sentences imposed, including custody rates and sentence lengths; and third, prisoner data, including prisoner receptions, prisoners' most serious offences, aggregate sentence lengths and expected time to serve.

## Data and data sources

Prisoner data were obtained from the Australian Bureau of Statistics (2011, 2012a) and Corrections Victoria (2006a, 2006b, 2007). Two major types of prisoner data were examined: the number in prison at a given point in time (sometimes referred to as the 'stock') and the number received into prison (sometimes referred to as the 'flow'). For the number in prison, the census count was used. This is the count taken on 30 June each year.

The census count was also considered in respect of the prisoner's legal status. The legal status represents whether a prisoner has received a sentence (sentenced) or is on remand awaiting trial or sentence (on remand). The two categories are affected by different processes; however, both are counted in the prison population. The remand prisoner population reflects the seriousness of charges and the willingness of police and judiciary to grant bail, and can also be affected by the capacity to house remand prisoners. The sentenced prisoner population is a result of actual sentences.

For sentenced prisoners in the census count, three aspects were examined: aggregate sentence length, expected time to serve and most serious offence. An aggregate sentence is the longest period that the convicted prisoner may be detained for the current sentenced offences in the current episode, whereas expected time to serve generally refers to the time between the date of reception for this episode and the earliest date of release (Australian Bureau of Statistics, 2012a). The most serious offence is the offence deemed most serious where a prisoner is in prison for multiple offences. It is important to note that often prisoners are serving sentences for multiple offences, and therefore many offences are not counted because they are masked by more serious offences. Six offence types were examined: offences against the person, robbery, property offences, motor vehicle offences, drug offences and public order offences. These broad offence groupings represent the vast majority of offences. For prisoners on remand, data were examined by most serious offence.

Prisoner receptions data were examined at the total level and disaggregated according to legal status, expected time to serve and most serious offence.

Court data were obtained from unpublished Sentencing Advisory Council databases. Magistrates' Court data were extracted from the Magistrates' CourtLink database. Higher courts (Supreme and County Courts) sentencing data were extracted from the higher courts sentencing database. Court data were used to calculate custody rates, imprisonment sentence lengths and principal proven offences.

Custody rates were calculated by obtaining the total number of offenders who received a custodial sentence (defined here as imprisonment, partially suspended sentences and combined custody and treatment orders) and dividing it by the total number of offenders proven guilty (offenders who either pleaded guilty or were found guilty after trial). It should be noted that not all offenders who receive a custodial sentence will subsequently enter the prisoner population. For instance, some offenders who receive a custodial sentence have already served their entire sentence while on remand, in advance of their sentence date.

For imprisonment sentence lengths, the total effective sentence was used. The total effective sentence is imposed by the court in cases where there are multiple proven charges, and it takes into account sentences attached to all charges. In cases where there are multiple sentences, it is a more accurate representation of the true sentence length than, for example, the length attached to an individual charge. However, it is also possible that offenders are released before the end of their total effective sentence, if a non-parole period is set.

A further reason for a discrepancy between the imprisonment sentence length handed down in court and the actual time served in prison as a sentenced prisoner is that, after a sentence is handed down, magistrates and judges will credit against the sentence the time, if any, that the offender has already been held in custody. Consequently, the time served as a sentenced prisoner may be less than the length of the imprisonment sentence. Additionally, offenders who have served their entire imprisonment sentence while on remand may not spend any time as a 'sentenced' prisoner (when given credit for pre-sentence detention), despite having received an imprisonment sentence.

Police data were obtained from annual crime statistics publications (Victoria Police, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010b, 2011, 2012b). The total number of offences recorded by Victoria Police was examined, as was the total number of offenders processed. The offender population was also disaggregated by offence type. Although the offence categories are the same as those used for the prison population, the counting rules are different. Offenders are counted against each offence category for which they are processed by police, whereas prisoners are only counted against a single offence category. Therefore fewer offences are likely to be 'masked' for the offender population than for the prison population.

## Prison population in Victoria

This section presents trends in the prison population and the imprisonment rate in Victoria, and then examines changes in the composition of the prison population according to legal status.

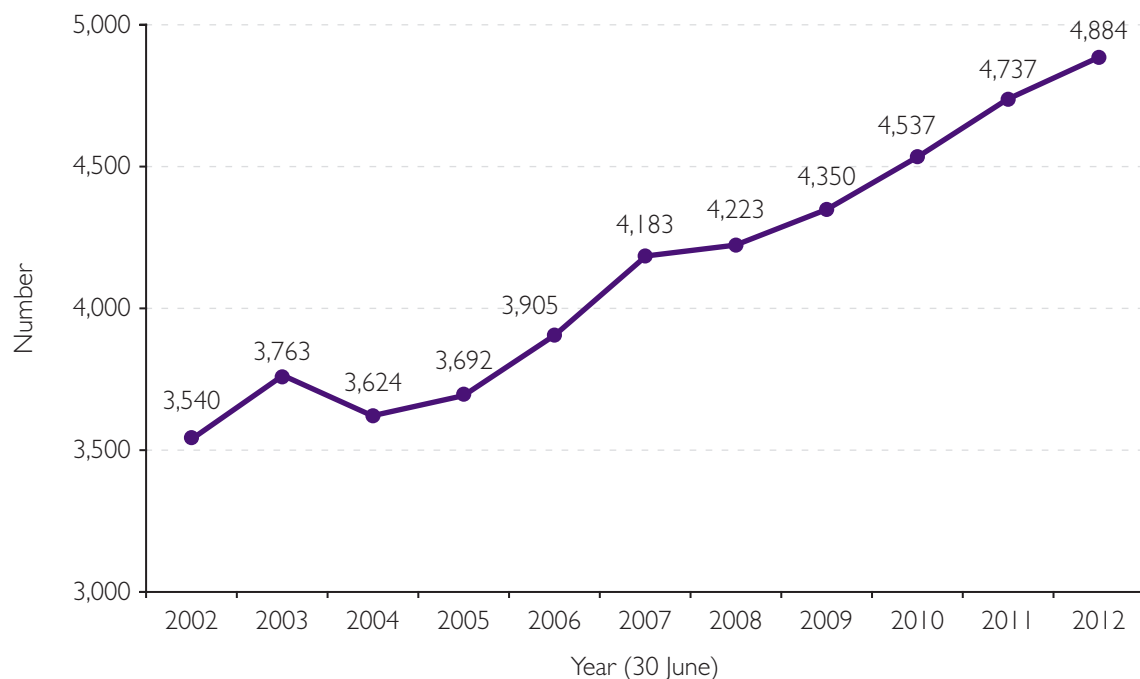
Figure 1 presents the number of Victorian prisoners on 30 June of each year between 2002 and 2012. As is evident, the trend was an increasing one with the only decline occurring in 2004. Between 2002 and 2003, the prison population increased from 3,540 to 3,763, a rise of 6.3%. Between 2004 and 2012, it increased from 3,624 to 4,884, or 34.8%. The overall rise between 2002 and 2012 was 38.0%, or 1,344 prisoners.

Changes in the underlying general population can potentially influence the prison population. Such changes can be accounted for by examining imprisonment rates, represented in Figure 2 as the number of prisoners per 100,000 adults. The general population figures used to calculate rates are the estimated resident population of Victoria in the June quarter of each year (Australian Bureau of Statistics, 2012b).

As shown in Figure 2, Victorian imprisonment rates between 2002 and 2012 followed a very similar trend to the prison population itself, with an overall increasing trend interrupted by two decreases, one in 2004 and one in 2008. The overall increase was 18.6%, from 94.2 to 111.7 prisoners per 100,000 persons. This shows that the prison population increased at a greater rate than the increase in the general population (15.6%), and so the increase in the imprisonment rate cannot be explained by changes in the background population.

Figure 3 presents the imprisonment rate separated into males and females. This shows a stark difference between the two rates, with the imprisonment rate for males (212.4 per 100,000 adults) being almost 14 times greater than that for females (15.2 per 100,000 adults).<sup>4</sup> Between 2002 and 2012, the rate of imprisonment for males increased by 19.1%, while the rate of imprisonment for females increased by 16.9%. The majority of the increase in the prison population can therefore be attributed to an increase in the number of male prisoners.

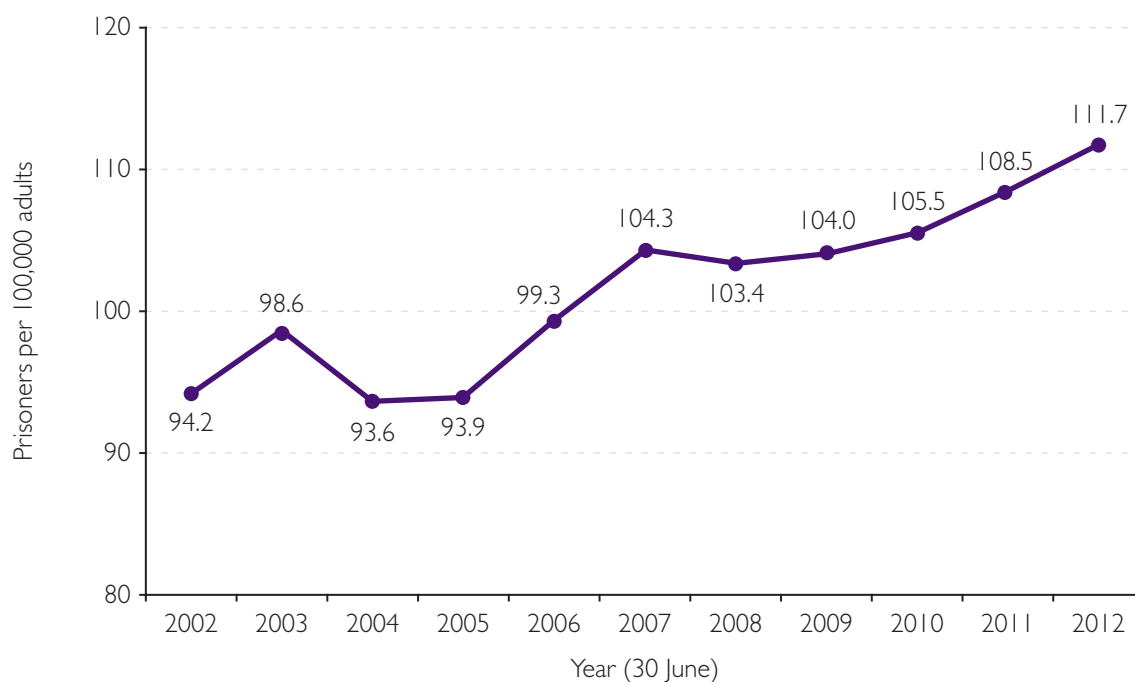
**Figure 1: Prisoners on 30 June, 2002 to 2012**



Source: Australian Bureau of Statistics

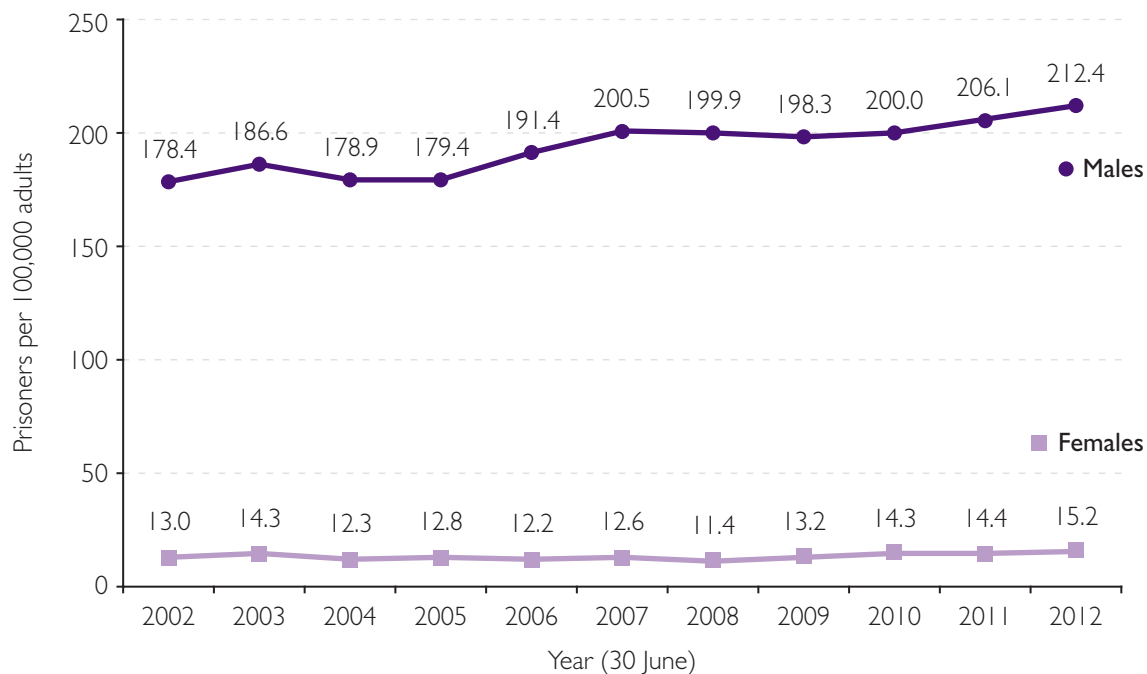
<sup>4</sup> For a detailed analysis of the different drivers of imprisonment for males and females see Gelb (2010).

Figure 2: Imprisonment rates (prisoners per 100,000 adults), 2002 to 2012



Source: Australian Bureau of Statistics

Figure 3: Imprisonment rates by gender (prisoners per 100,000 adults), 2002 to 2012



Source: Australian Bureau of Statistics

## Legal status

The prison population includes both those offenders serving a sentence of imprisonment and those persons charged with a criminal offence who have not been granted bail and are being held on remand while awaiting trial or awaiting sentencing.

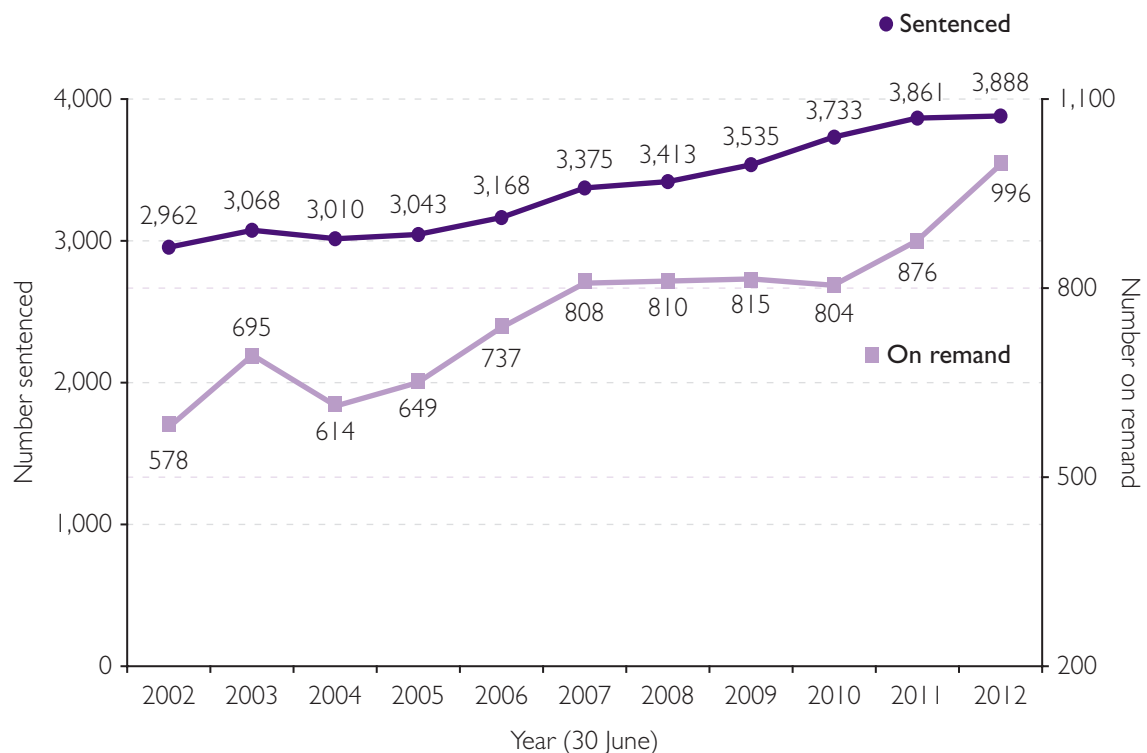
Figure 4 presents the population of sentenced prisoners compared with the population of prisoners on remand. This figure uses two vertical axes, each with a different scale, to demonstrate more clearly the movement within each category according to legal status.

Consistent with the trend throughout the reference period, the majority of the prison population in 2012 was composed of sentenced prisoners, representing 3,888 prisoners or 79.6% of the total prison population.

The number of prisoners on remand has increased as a proportion of the overall prison population, from 16.3% in 2002 to 20.4% in 2012.

The number of sentenced prisoners has increased by 926, while the number of prisoners on remand has increased by 418. As a proportion of the total in 2002 for each category, sentenced prisoners have increased by 31.3%, while the number of prisoners on remand has increased by 72.3%. Therefore the percentage increase in prisoners on remand is more than double that for sentenced prisoners – a marked difference.

Figure 4: Prisoners by legal status, 30 June 2002 to 30 June 2012



Source: Australian Bureau of Statistics



The considerable increase in the number of prisoners on remand (and the increased proportion of the prison population this represents) may be a result of a number of influences, including more serious offending, stricter bail conditions or changes to presumptions around the granting or refusal of bail (or a combination of these factors).

The *Bail Act 1977* (Vic) creates a general presumption in favour of bail being granted to persons in custody. However, if a defendant is charged with certain serious offences,<sup>5</sup> the court must be satisfied that there are 'exceptional circumstances' that justify the granting of bail. The onus is also reversed for other listed offences that require defendants to 'show cause' why their detention in custody is not justified.

It is also possible that changes in risk perception influence the number of prisoners on remand. While traditionally the decision to grant bail was based primarily on assessing the risk regarding the defendant's attendance at court (or 'flight risk'), there may have been a shift to broader considerations of risk to the community, and it is possible that decision-making around bail is more risk-averse or more reliant on actuarial risk assessment tools.<sup>6</sup> Other factors have been suggested as contributing to more defendants being held on remand, including homelessness (The Salvation Army, 2012, p. 23).

## Most serious offence (charge) by prisoners on remand

In order to determine whether more serious offending contributes to the number of prisoners on remand, data on the most serious offence of prisoners on remand and trends in the type of offences over time have been examined.

Figures 5 and 6 (page 12) provide a breakdown of the categories of the most serious offence for prisoners held on remand.

The number of people on remand for acts intended to cause injury<sup>7</sup> has increased markedly, from 18 prisoners in 2002 to 254 in 2012, an increase of 1,311%. Drug offences also show a substantial increase, from 99 in 2002 to 215 in 2012, an increase of 117.2%.

Drug offending may range in seriousness from possession of a prohibited drug to more serious offending, such as drug trafficking and manufacturing. A more detailed examination of the data reveals that, in 2012, of the 215 prisoners on remand for drug offences, 208 (or 96.7%) related to the serious offences of importation (a Commonwealth offence), drug trafficking and drug manufacturing or cultivation; only seven offenders were on remand for offences related to drug possession.

Importantly, in 2005 the *Bail Act 1977* (Vic) was amended, creating a presumption against bail for Commonwealth offences of drug importation unless the court is satisfied that there are exceptional circumstances justifying the grant of bail.<sup>8</sup> Alongside an increase in the amount of drug offending, this change to the law may partly explain the marked increase in the number of prisoners on remand for drug offences after 2005.

Increases in the number of prisoners on remand are also observed for sexual offences (up by 146.4%). For theft and burglary offences, the numbers from year to year are extremely variable, and despite slight declines for each offence over the period, no clear pattern is evident. The number of prisoners on remand for homicide related offences has declined from 99 to 73 (a reduction of 26.3%).

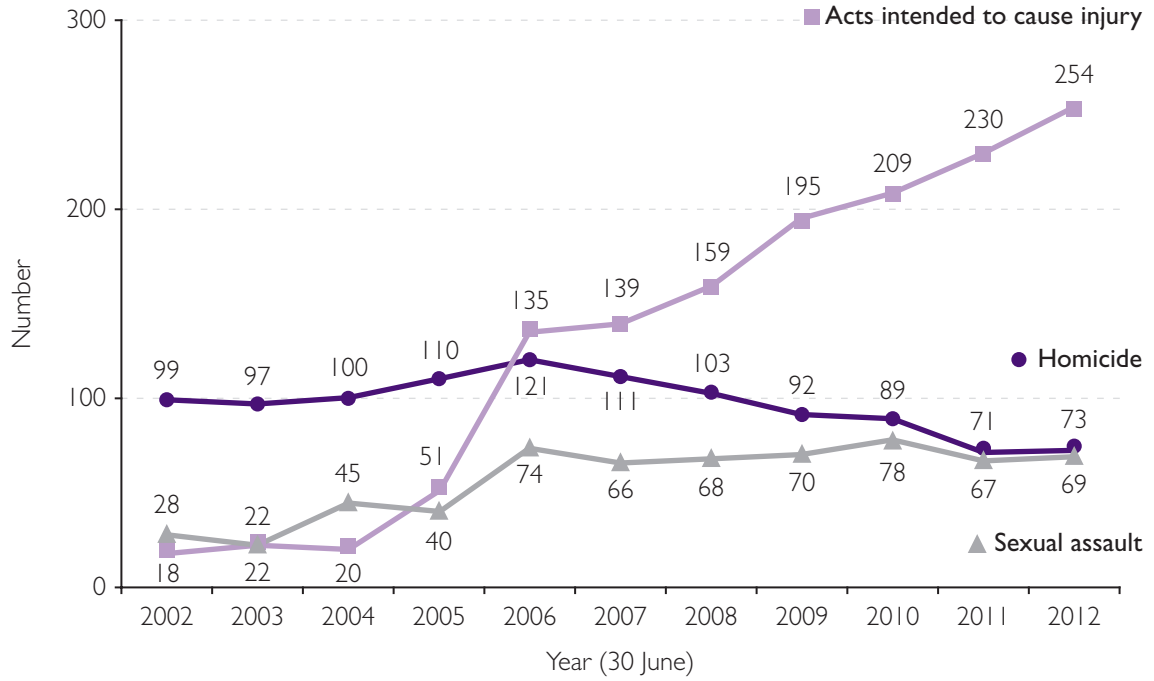
<sup>5</sup> Such offences include murder or drug-related offences: *Bail Act 1977* (Vic) s 4.

<sup>6</sup> An approach to setting bail based solely on risk was recommended by the Victorian Law Reform Commission (2007).

<sup>7</sup> The category of 'acts intended to cause injury' is a broad one, covering offences ranging from serious assaults that result in injury (such as intentionally causing serious injury) to less serious common assaults. Other acts intending to cause injury, such as stalking, are also included.

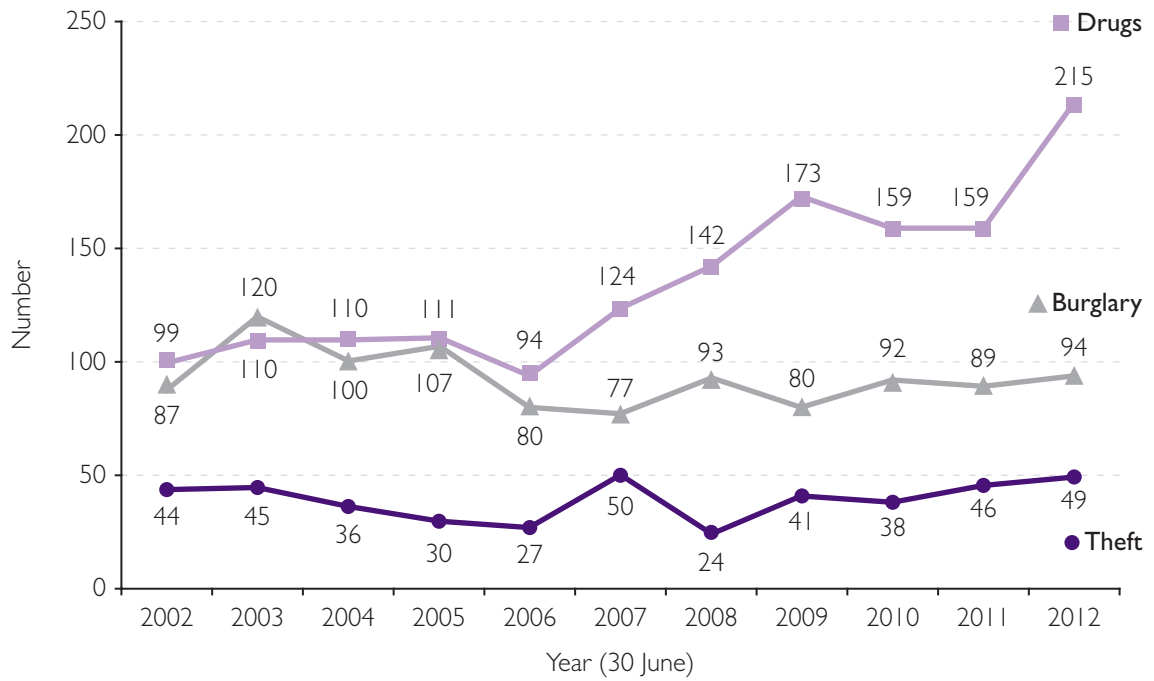
<sup>8</sup> *Bail Act 1977* (Vic) s 4(2)(aa)(iii), inserted by the *Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Act 2005* (Vic) s 13(2).

Figure 5: Most serious offence of prisoners on remand, 2002 to 2012 – acts intended to cause injury, homicide and sexual assault



Source: Australian Bureau of Statistics

Figure 6: Most serious offence of prisoners on remand, 2002 to 2012 – drugs, burglary and theft



Source: Australian Bureau of Statistics

# Offences in Victoria

## Crime rates

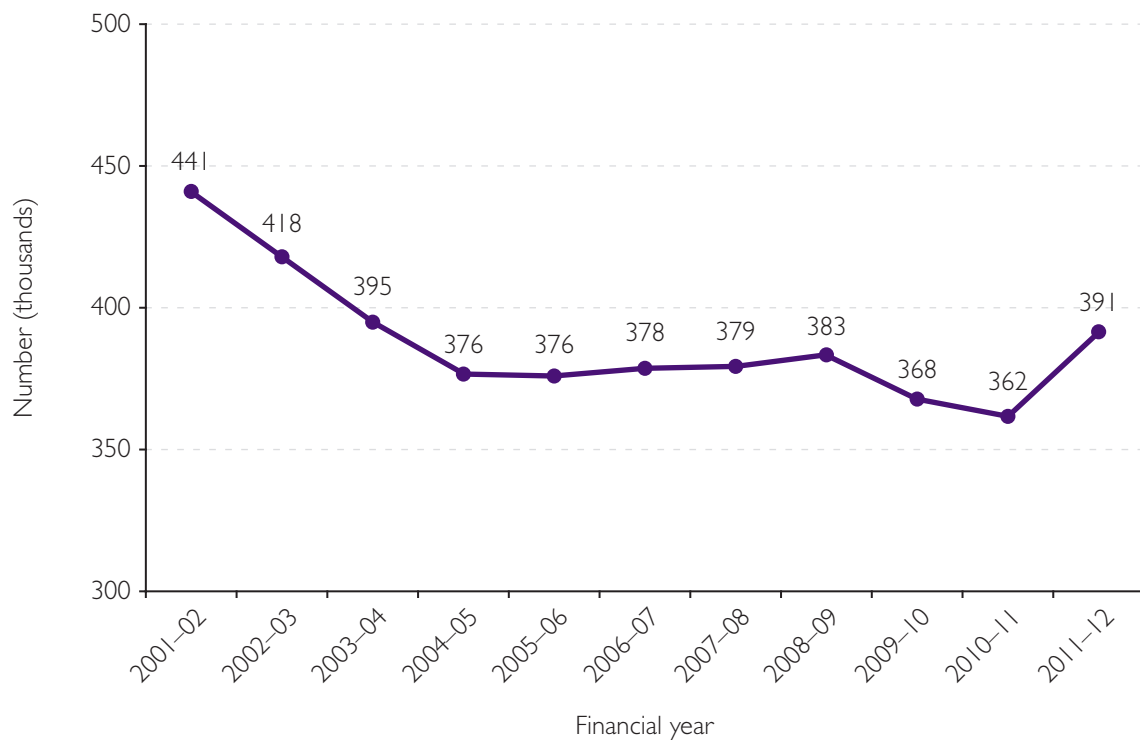
Increases in the prison population and the imprisonment rate may be influenced by an increase in the amount of crime.

Figure 7 shows the number (in thousands) of offences recorded by police. Figure 8 (page 14) shows the rate of offences per 100,000 adults. Victoria's estimated resident population in the June quarter of each year has been used to calculate this crime rate (Australian Bureau of Statistics, 2012b).

It is important to note that the number of recorded offences does not include the total amount of crime, as it does not include those offences that have not been reported to, or detected by, police. Further, the relationship between the number of recorded offences and the prison population (and the imprisonment rate) must be considered in light of the fact that the number of recorded offences also includes offences for which an offender may not have been identified, prosecuted or sentenced. Similarly, a single offender may be imprisoned for multiple offences.

The number of recorded offences in Victoria declined 14.6% between 2001–02 and 2004–05, before remaining relatively constant until 2008–09. After a smaller decline of 5.6% between 2008–09 and 2010–11, the number of recorded offences increased by 8% in the most recent year of data, and is now higher than at any time in the last seven years.

**Figure 7: Offences recorded by police (thousands), 2001–02 to 2011–12**

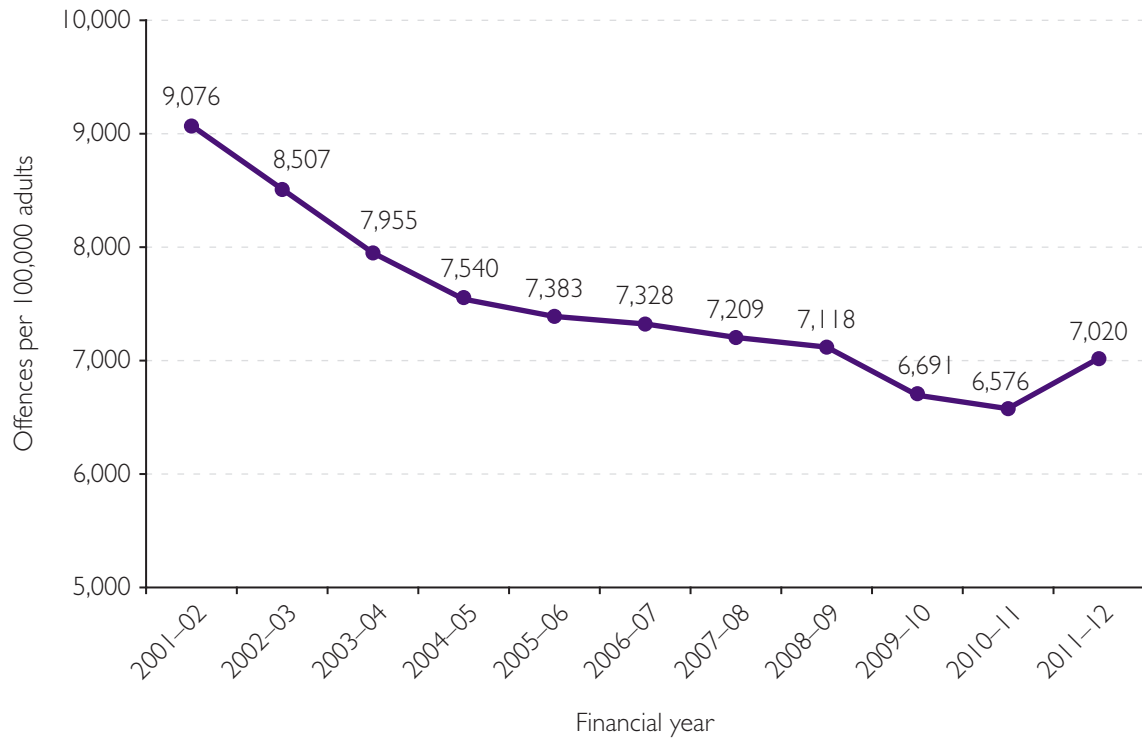


Source: Victoria Police

In order to account for changes in the general population, the crime rate can be calculated as the number of recorded offences per 100,000 adults. Using that measure, the overall crime rate decreased 22.7% from 9,076 offences in 2001–02 to 7,020 offences in 2011–12.

In the last year of data, however, the consistent trend of a decreasing crime rate was reversed, and the crime rate increased 6.7% between 2010–11 and 2011–12.

**Figure 8:** Offences recorded by police per 100,000 adults, 2001–02 to 2011–12



Source: Victoria Police

## Recorded crimes by category of offending

Victoria Police have identified possible drivers for the recent increase in recorded offences. These include the increasing rate of family violence-related crime, and also increasing drug possession and use of drugs across Victoria, which may, in turn, contribute to crimes against the person and property crime (Victoria Police, 2012a; Victoria Police, 2012b, pp. 3–4).

As Figures 7 and 8 above represent aggregates of overall offending, the trends for different categories of offending are obscured. In order to examine these trends, and test the proposed drivers, the offences have been organised into six categories that collectively represent the majority of offending. These are described in Table 1 below.

**Table 1: Offence categories and examples of their constituent offences**

Offence category	Types of offences
Person	Homicide (including murder, manslaughter, driving causing death), assault, sexual assault
Property	Burglary, obtaining financial advantage/property by deception, theft, property damage
Good order	Offences against government security, offences against justice procedures (including breaches of orders, such as family violence intervention orders), unlawful possession of weapons
Robbery	Robbery, extortion
Drugs	Possession, importing or exporting, trafficking, manufacture or cultivation of drugs
Motor vehicle	Driving under the influence of alcohol/drugs, dangerous, reckless or negligent driving, driving licence offences

Source: Corrections Victoria (2007) (modified from Appendix 1)

Figures 9 and 10 (page 16) provide a breakdown of these categories of offending to show trends that are not apparent when viewing the overall number of recorded offences. Several of the offence categories show an increasing trend over the ten-year period, including good order offences (a 92.5% increase), person offences (a 57.9% increase), drug offences (a 42.8% increase) and robbery (a 9.4% increase), while property offences decreased (by 13.8%).

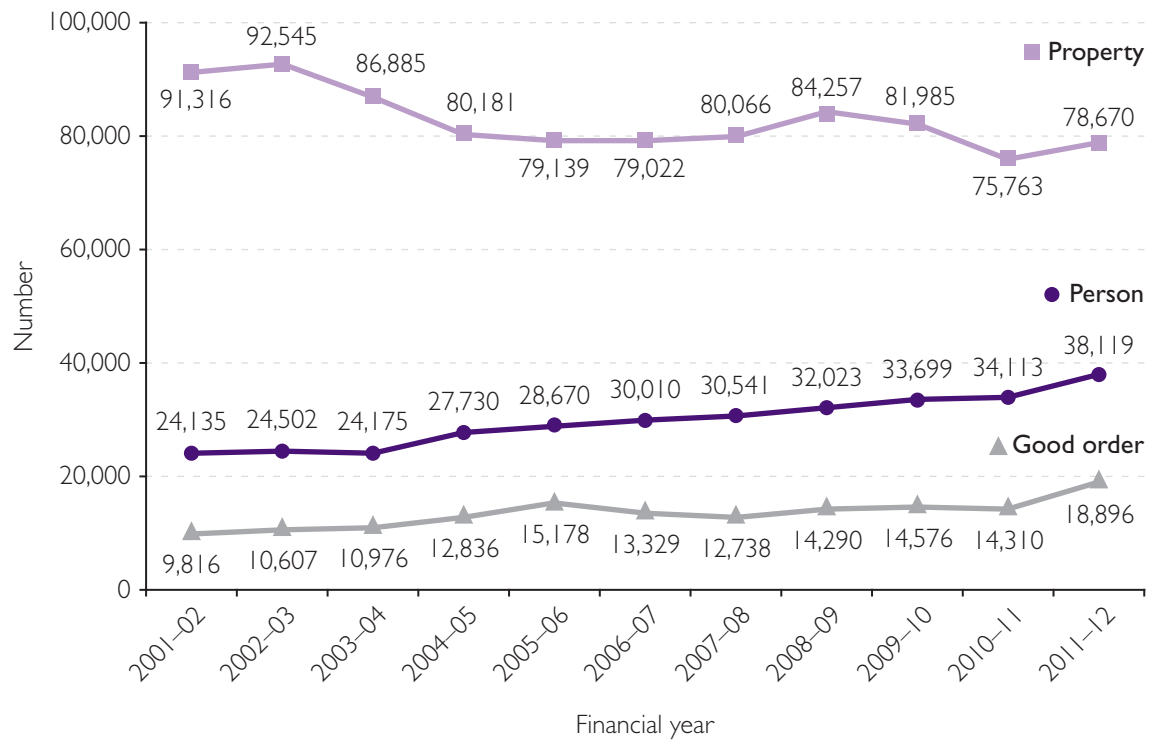
The increase in 'person' offences is of particular note, as offences against the person (particularly when sentenced in the higher courts) are more likely to result in a custodial sentence than a non-custodial sentence when compared with other offence categories.

The significant increase (32%) in good order offences between 2010–11 and 2011–12 may reflect the recent focus of police and prosecutors on family violence. In particular, there have been concerted efforts to detect and prosecute offences that result from the breach of an order made in response to, or as a means of preventing, family violence (Victoria Police, 2010a, as amended).

Determining whether more offending is being detected and reported, or more offending is occurring over and above increased levels of reporting and detection, requires more detailed analysis of the kind recently conducted in relation to drug offending.

An analysis of the recent increase in drug offending reported by Victoria Police was conducted by Watkins and Darragh (2013). The researchers determined that, after accounting for increased police capacity (including around 600 additional frontline staff), the increase in offending during 2011–12 was a result of a real increase in the levels of illegal drug activity in the community, and not simply a result of an increase in the detection of drug offences.

Figure 9: Offenders processed by police for property, person and good order offences, 2001-02 to 2011-12



Source: Victoria Police

Figure 10: Offenders processed by police for drug and robbery offences, 2001-02 to 2011-12



Source: Victoria Police

# Sentences of imprisonment in Victoria

While changes in the number of recorded offences and patterns of offending are significant drivers of the imprisonment rate and prison population, these represent drivers at only the initial stage of the criminal justice process. Other important factors are the frequency with which courts impose sentences of imprisonment and the length of those sentences.

This section examines court data on the custody rate, the imprisonment lengths and the principal proven offences for those offenders who receive a sentence of imprisonment.

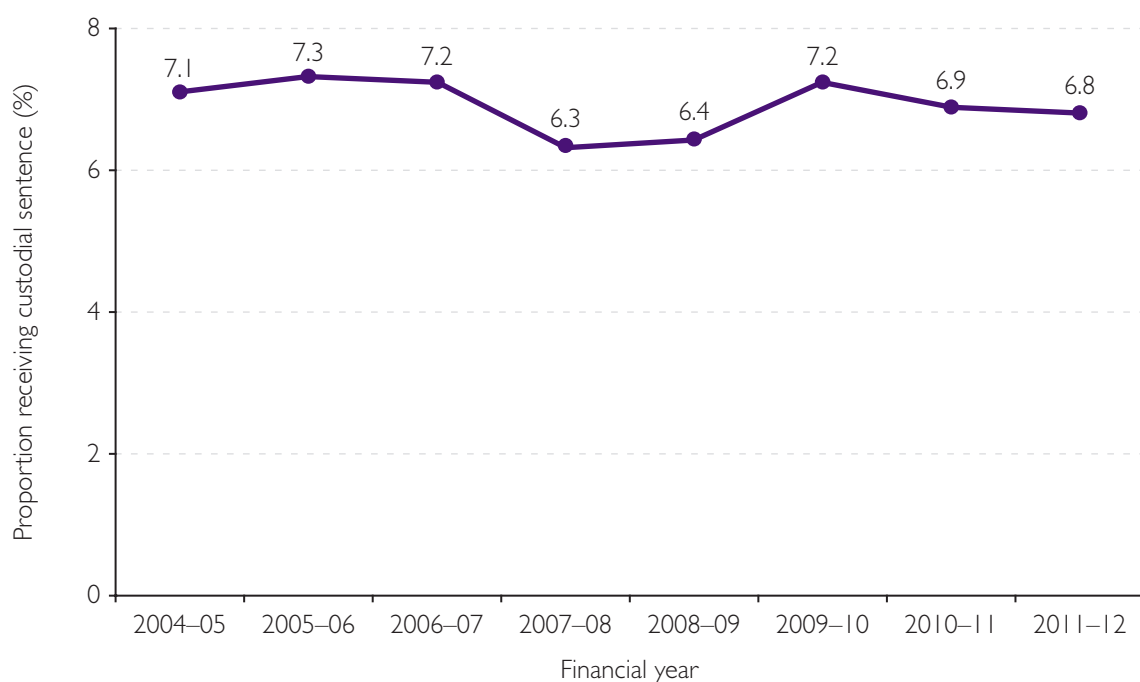
## Custody rates

Another explanation for the increased imprisonment population and imprisonment rate is that, independent of increases in the number of offences or rates of offending, offenders may be more likely to receive a sentence of imprisonment. This may be reflected in the custody rate, calculated as the proportion of all sentences that are custodial sentences.

Changes in the custody rate could, on the one hand, suggest that the type of offending before the court is more serious, being either different offences or more serious examples of the same offences, and therefore custodial sentences are more likely to be imposed. On the other hand, it could indicate that sentencing practices have changed, such that offending of the same level of seriousness is more likely to result in a custodial sentence than in the past, perhaps as a consequence of legislative reforms (such as changes to the law affecting the imposition of suspended sentences).

Figure 11 details the overall custody rate, combining data from both the higher courts and the Magistrates' Court. This rate has remained relatively stable, varying by one percentage point over the period examined, and has declined 0.3 of a percentage point between 2004–05 and 2011–12.

Figure 11: Custody rate, 2004–05 to 2011–12



Source: Sentencing Advisory Council and Department of Justice

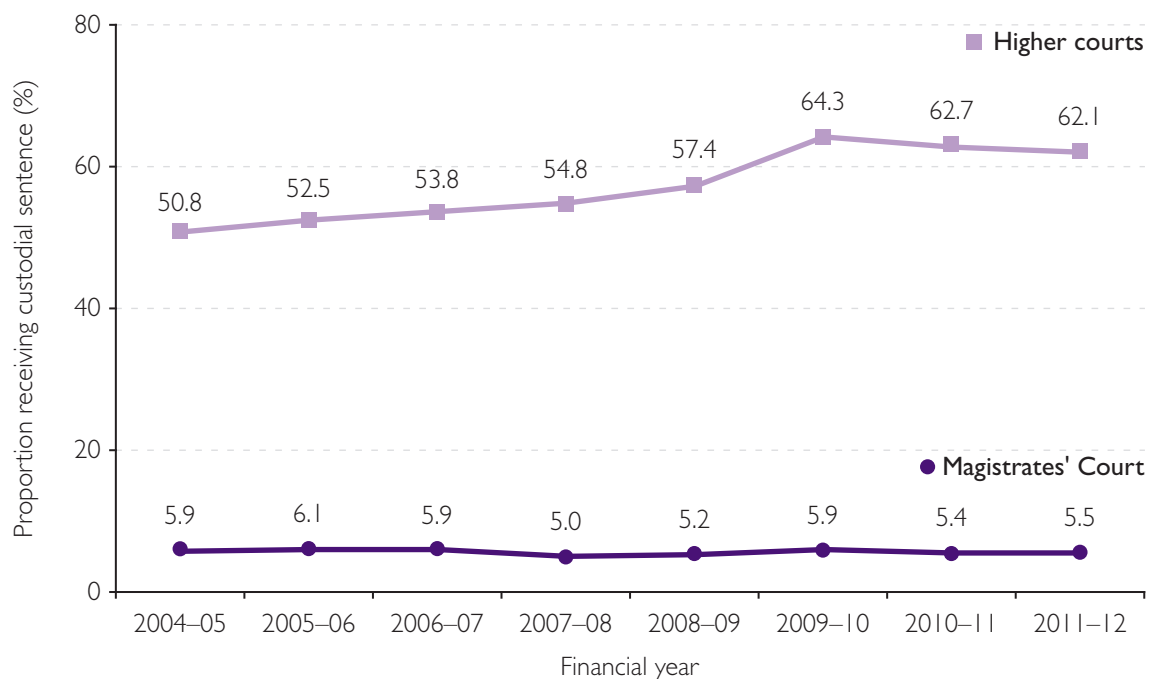
When the data are separated into higher courts and the Magistrates' Court, however, a different trend is observed for the two court levels. Figure 12 shows that the custody rate has increased for the higher courts, from 50.8% to 62.1% over the period examined, but has remained relatively stable for the Magistrates' Court, decreasing slightly, from 5.9% to 5.5%.

One suggestion for the increase in the custody rate in the higher courts is that it is a consequence of legislative reforms aimed at limiting the imposition of suspended sentences for serious offending. The *Sentencing (Suspended Sentences) Act 2006* (Vic) required that the higher courts could not impose a suspended sentence for a serious offence – as defined by the *Crimes Act 1958* (Vic) – committed after 1 November 2006,<sup>9</sup> unless there were 'exceptional circumstances' and that it was in the interests of justice to do so.<sup>10</sup>

The Council's 2010 monitoring report on suspended sentences in Victoria (Sentencing Advisory Council, 2010), however, found no statistical difference in the rate of imposition of suspended sentences in the higher courts prior to and after the introduction of those reforms.<sup>11</sup> It is therefore unlikely that the increase in the higher courts' custody rate observed in 2009–10 is related to that change in the law.

Similarly, the later abolition of suspended sentences for serious and significant offences when determined on indictment in the higher courts<sup>12</sup> applies to those offences committed after 1 May 2011,<sup>13</sup> and so the impact of this reform is not yet reflected in the sentencing data for the period examined.

Figure 12: Custody rates by court level, 2004–05 to 2011–12



Source: Sentencing Advisory Council and Department of Justice

<sup>9</sup> The commencement date of the *Sentencing (Suspended Sentences) Act 2006* (Vic) is shown in Figure 13.

<sup>10</sup> *Sentencing (Suspended Sentences) Act 2006* (Vic) s 4(2).

<sup>11</sup> The Council was able to examine four offences for which sufficient data were available (Sentencing Advisory Council, 2010).

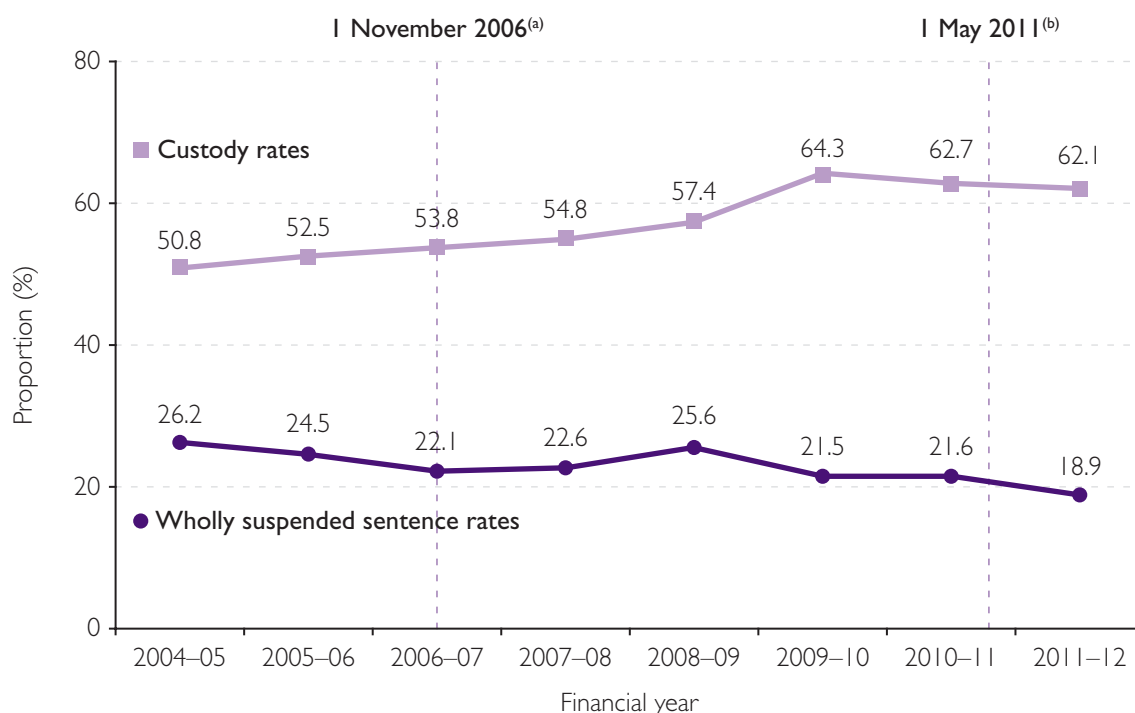
<sup>12</sup> *Sentencing Amendment Act 2010* (Vic) s 27; *Sentencing Further Amendment Act 2011* (Vic) s 4.

<sup>13</sup> The commencement date of the abolition of suspended sentences in the higher courts by the *Sentencing Amendment Act 2010* (Vic) s 27 and *Sentencing Further Amendment Act 2011* (Vic) s 4 is shown in Figure 13.



Figure 13 below compares the custody rate in the higher courts with the rate of imposition of wholly suspended sentences. Suspended sentences, as a proportion of all sentences imposed for proven offences in the higher courts, show a relatively steady decline over the seven-year period, beginning prior to the introduction of legislative reforms to suspended sentences, and decreasing by 7.3 percentage points (from 26.2% to 18.9% of all higher court sentences). Over the same period, the custody rate increased 11.3 percentage points (from 50.8% to 62.1%). Therefore the increase in the custody rate cannot be solely attributed to the decline in suspended sentences.

**Figure 13:** Custody and wholly suspended sentence rates – higher courts, 2004–05 to 2011–12



<sup>(a)</sup> Commencement date of the *Sentencing (Suspended Sentences) Act 2006* (Vic).

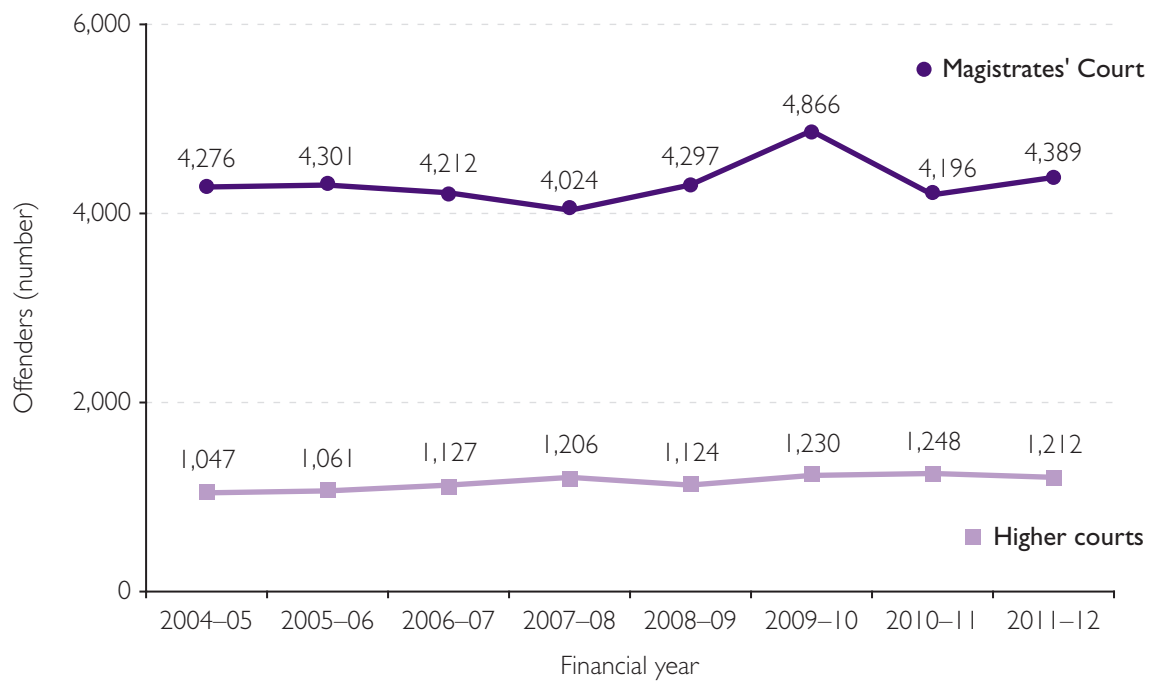
<sup>(b)</sup> Commencement date of the abolition of suspended sentences for serious and significant offences in the higher courts by the *Sentencing Amendment Act 2010* (Vic) s 27 and the *Sentencing Further Amendment Act 2011* (Vic) s 4. The abolition applies to offences committed after this date.

Source: Sentencing Advisory Council and Department of Justice

Figure 14 shows the outcome of the different custody rates in the higher courts and the Magistrates' Court, represented by the number of offenders sentenced to prison from each court level. The number of people sentenced to prison each year by the higher courts showed a steady increase of 15.8%, from 1,047 in 2004–05 to 1,212 in 2011–12. The number of people sentenced to prison each year by the Magistrates' Court was relatively stable, increasing very slightly from 4,276 in 2004–05 to 4,389 in 2011–12, an increase of 2.6%.

As sentences of imprisonment handed down in the higher courts are, on average, significantly longer than sentences of imprisonment handed down in the Magistrates' Court, more prisoners being sentenced in the higher courts will result in longer average sentences within the prison population. Further, the aggregate effect of a greater proportion of prisoners receiving longer sentences will increase the prison population over time.

Figure 14: Imprisonment sentences by court level, 2004–05 to 2011–12



Source: Sentencing Advisory Council and Department of Justice

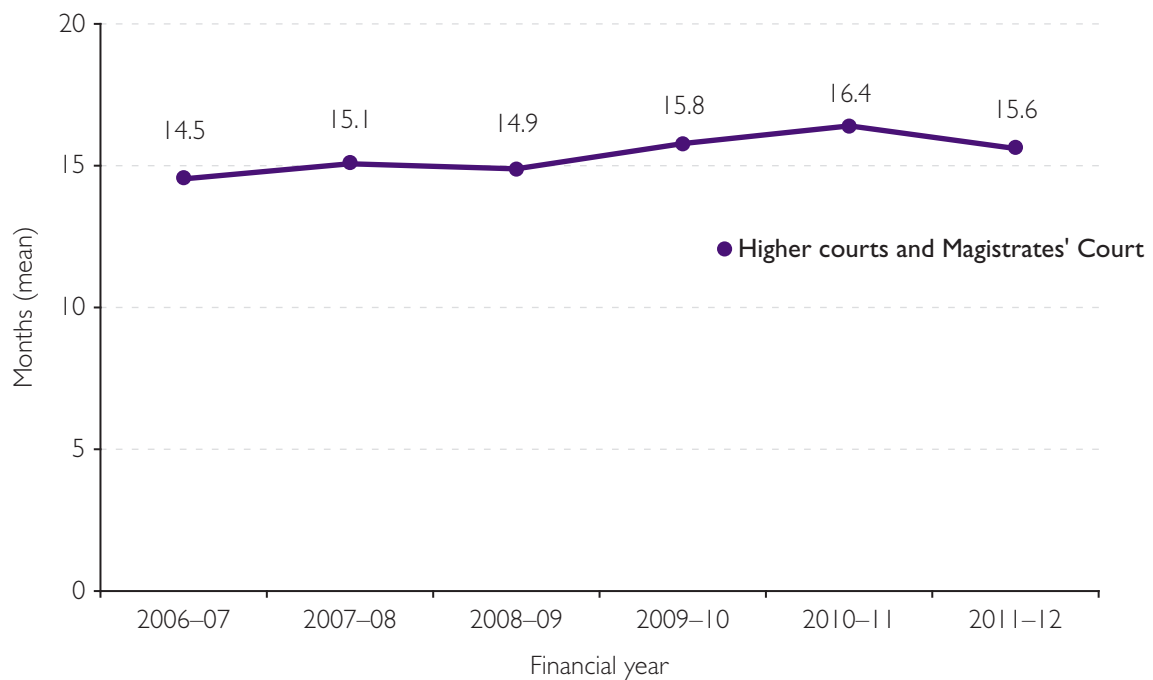
## Imprisonment length by court level

One explanation for the increase in the prison population may be that offenders are receiving longer sentences, and, over time, the prison population is increasing as a result of the cumulative effect of more prisoners remaining in prison for longer.

Figure 15 shows the mean imprisonment length for all offenders, aggregating data from both the higher courts and the Magistrates' Court. The mean imprisonment length increased from 14.5 months to 15.6 months between 2006–07 and 2011–12, an increase of 1.1 month or 7.6%.

While this may appear to be a relatively small increase, it is important to note that this is the average increase across *all* sentences of imprisonment, and a small increase applied to every sentence becomes significant as that effect accumulates within the prison population.

Figure 15: Mean imprisonment sentence length for offenders, 2006–07 to 2011–12



Source: Sentencing Advisory Council and Department of Justice

Figure 16 separates out the data into higher courts and the Magistrates' Court, revealing that the mean sentence of imprisonment imposed in the higher courts has increased from 48.3 months to 50.3 months, an increase of 2.6 months or 5.3%.

In the Magistrates' Court, the mean sentence of imprisonment has increased from 5.2 months to 5.7 months, representing an increase of 9.3%.

**Figure 16:** Mean imprisonment sentence length by court level, 2006–07 to 2011–12



Source: Sentencing Advisory Council and Department of Justice

## Principal proven offence in the higher courts

If a person is sentenced for a case with a single charge, the offence for that charge is the principal proven offence. If an offender is sentenced for more than one charge in a single case, the principal proven offence is the offence for the charge that attracted the most serious sentence according to the sentencing hierarchy.

Given the change over time in custody rates in the higher courts, examining trends in the type of offending that constitutes the principal proven offence for those offenders who receive a custodial sentence in the higher courts may reveal possible drivers of the increase in the imprisonment rate and the prison population.

A 'custodial sentence' for the purposes of this section refers to a sentence that results in an offender being counted in the sentenced prisoner population – imprisonment, partially suspended sentence,<sup>14</sup> combined custody and treatment order<sup>15</sup> and custodial supervision order.<sup>16</sup>

Figure 17 below shows the number of offenders sentenced in the higher courts to a custodial sentence according to whether their principal proven offence was against the person, a property offence or a good order offence.

The number of offenders receiving a custodial sentence for offences against the person has increased very slightly, from 487 offenders in 2006–07 to 496 offenders in 2011–12 (1.8%). The number of property offenders has decreased by 10.8% and the number of good order offenders has decreased by 49.1%.

**Figure 17:** Offenders with a custodial sentence in the higher courts by principal proven offence of person, property and good order offences, 2006–07 to 2011–12



Source: Sentencing Advisory Council and Department of Justice

<sup>14</sup> Partially suspended sentences were abolished as a sentence for 'serious' and 'significant' offences (defined by the *Crimes Act 1958* (Vic) s 3), committed after 1 May 2011, when determined on indictment in the higher courts: *Sentencing Amendment Act 2010* (Vic) s 27; *Sentencing Further Amendment Act 2011* (Vic) s 4.

<sup>15</sup> Combined custody and treatment orders were abolished by the *Sentencing Amendment (Community Correction Reform) Act 2011* (Vic).

<sup>16</sup> Custodial supervision orders describe orders made in respect of mentally ill persons under Part 5 of the *Sentencing Act 1991* (Vic).

Figure 18 shows that, at the same time, the mean sentence length imposed in the higher courts for each of the offence categories of person, property and good order has increased. For person offences, the mean sentence length has increased by 2.3%, for property offences it has increased by 26.3% and for good order offences it has more than doubled, increasing by 101.8%.

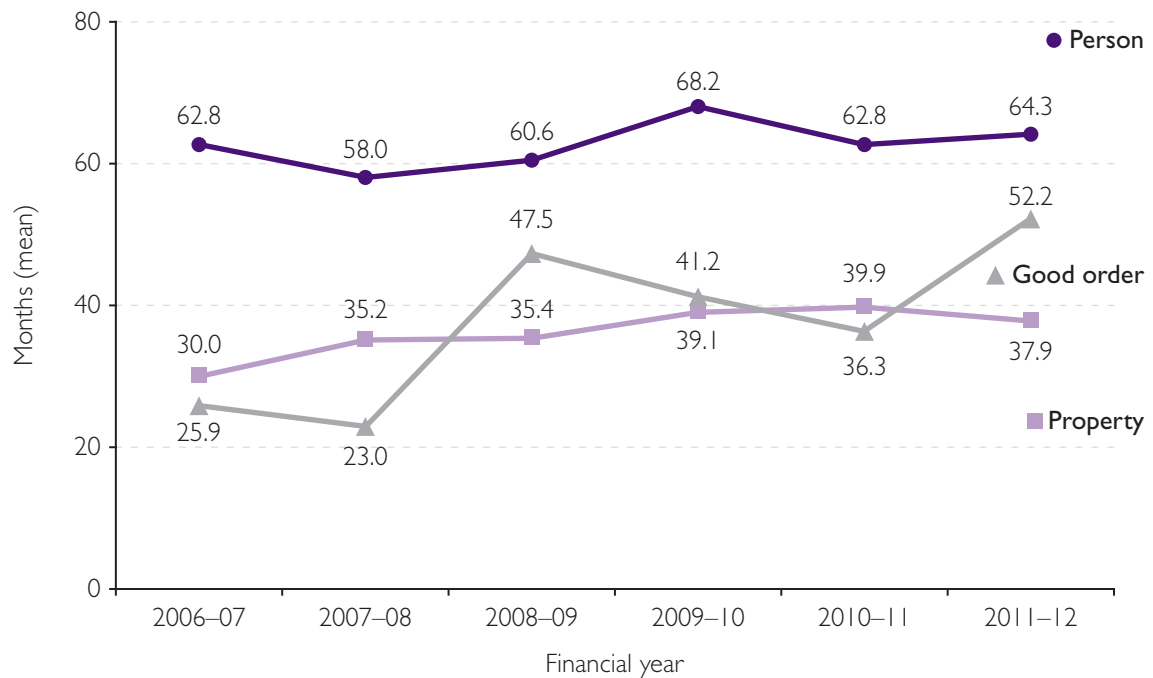
Although the number of offenders has remained relatively stable, or even decreased (as seen in Figure 17), the mean sentence lengths have increased substantially, thereby increasing the prison population over time.

Figure 19 (page 25) shows the number of offenders sentenced in the higher courts to a custodial sentence according to whether their principal proven offence was a robbery offence or a drug offence.

The number of offenders receiving a custodial sentence for robbery offences has increased 25.3%, from 154 offenders in 2006–07 to 193 offenders in 2011–12. The number of drug offenders has increased 64.3% (99 offenders).

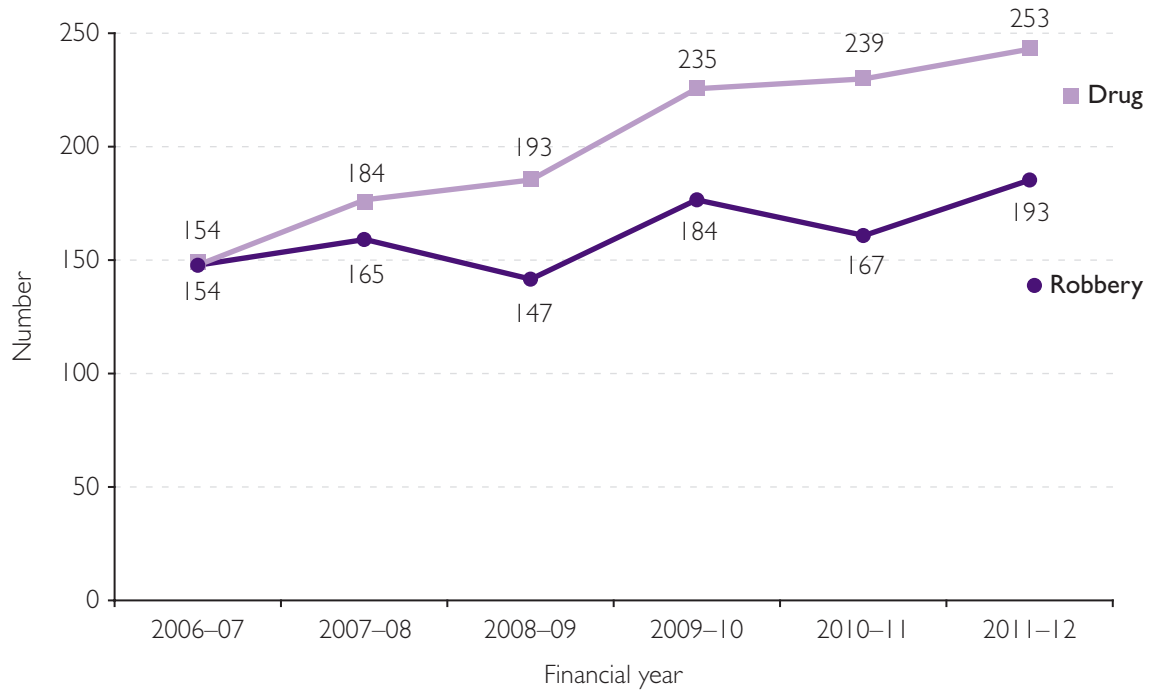
Figure 20 (page 25) shows that the mean sentence length imposed in the higher courts for each of these offence categories has decreased. For robbery offences, the mean sentence length has decreased very slightly, by 1.6% (0.7 months). For drug offences, the mean sentence length has decreased by 7.1% (3.3 months).

**Figure 18:** Offenders with a custodial sentence in the higher courts by mean sentence length and principal proven offence of person, property and good order offences, 2006–07 to 2011–12



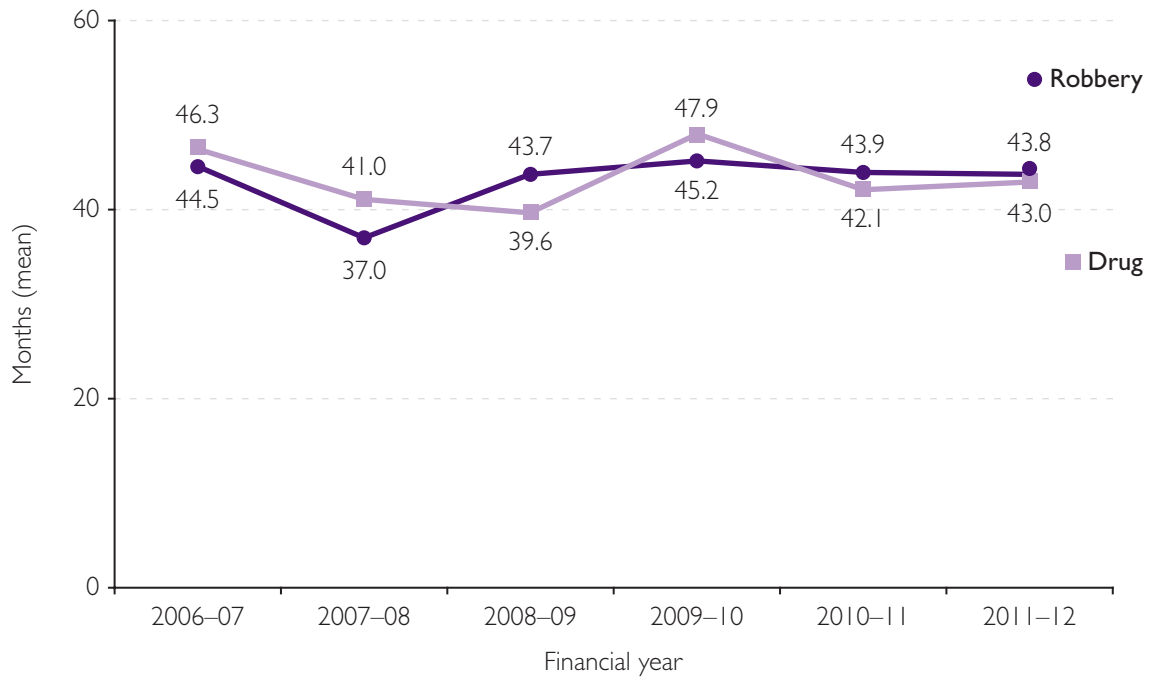
Source: Sentencing Advisory Council and Department of Justice

Figure 19: Offenders with a custodial sentence by principal proven offence of robbery and drug offences, 2006–07 to 2011–12



Source: Sentencing Advisory Council and Department of Justice

Figure 20: Offenders with a custodial sentence in the higher courts by mean sentence length and principal proven offence of robbery and drug offences, 2006–07 to 2011–12



Source: Sentencing Advisory Council and Department of Justice

# Prisoners in Victoria

## Prisoner receptions

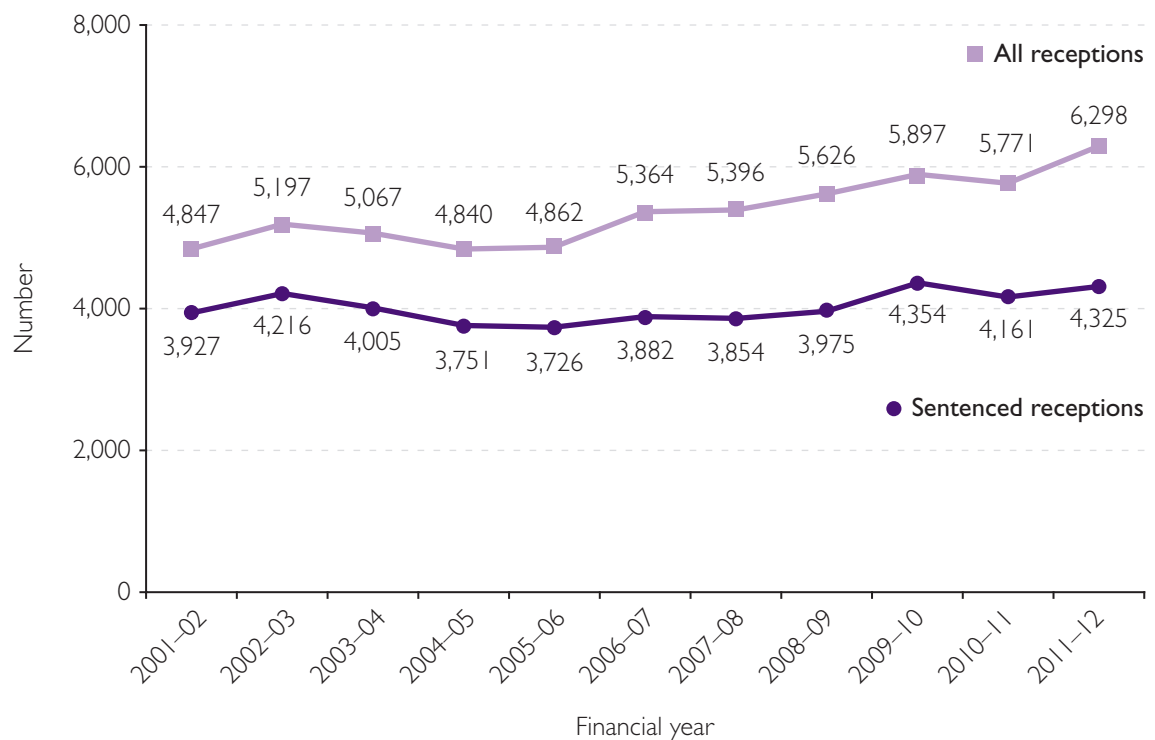
The prison population varies continuously over time, as different prisoners enter or leave each day. As a result, a measure of the population at a specific census date will not capture the total number of prisoners entering prison throughout a given year. An important measure is therefore the flow of offenders (and those persons on remand) into prison, reflected in the number of prisoner receptions.

Figure 21 details the annual number (by financial year) of all prisoner receptions, alongside the annual number of sentenced prisoner receptions.<sup>17</sup>

The total number of prisoner receptions has increased by 30%, from 4,847 prisoners in 2002 to 6,298 prisoners in 2012. The number of sentenced prisoner receptions each year has fluctuated, from a high of 4,354 in 2009–10, to a low of 3,723 in 2005–06. Overall, the number of sentenced prisoner receptions has increased by 10.1%, from 3,927 prisoners in 2001–02 to 4,325 prisoners in 2011–12.

As demonstrated by the data, a large proportion of the rise in prison receptions is due to the marked increase in the numbers of prisoners on remand.

**Figure 21:** Prisoner sentenced receptions, 2001–02 to 2010–12



Source: Australian Bureau of Statistics and Corrections Victoria (reference periods for 2010–11 and 2011–12 are unpublished)

<sup>17</sup> The data for sentenced receptions and for all receptions were obtained from different sources.



## Offences

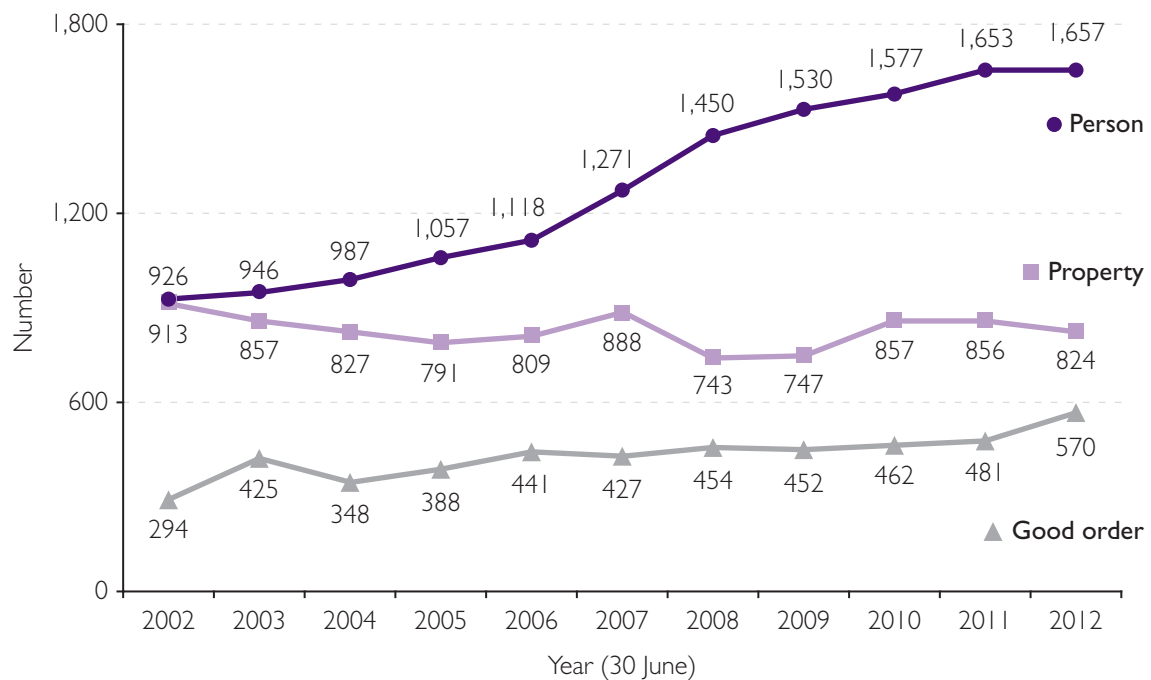
One reason for the increase in the imprisonment rate and prison population may be changes in the type of offending being sentenced by the courts. Sentencing data has been examined on the type of offending for which custodial sentences are imposed. An examination can also be made using corrections data that presents the most serious offence committed by sentenced prisoners.

Figure 22 below and Figure 23 (page 28) present the number of prisoners categorised by their most serious offence, using the same categories described in Table 1 above (see page 15). Figure 24 (page 28) details the percentage changes in the number of prisoners according to the most serious charge.

These data show marked increases in the number of prisoners with a most serious offence of being against good order (93.9%) and against the person (78.9%). Motor vehicle offences have also increased (64.4%) along with drug offences (31%).

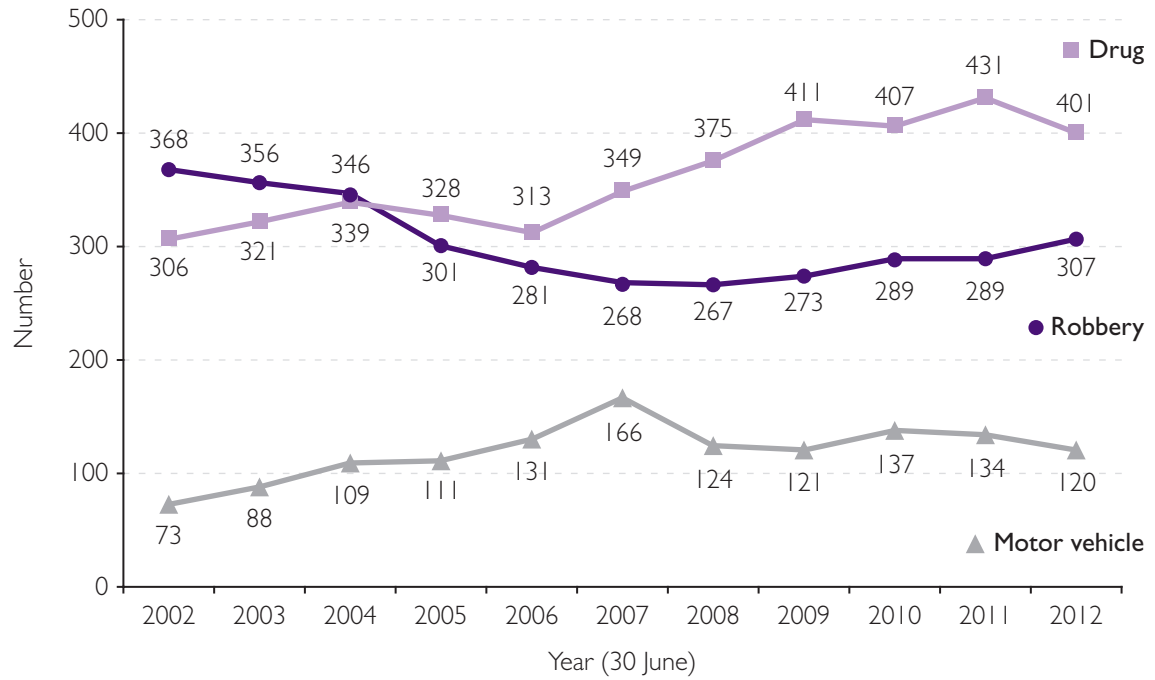
The number of prisoners has decreased for the categories of robbery (16.6%) and property (9.7%).

**Figure 22: Sentenced prisoners by most serious offences of person, property and good order offences, 30 June 2002 to 30 June 2012**



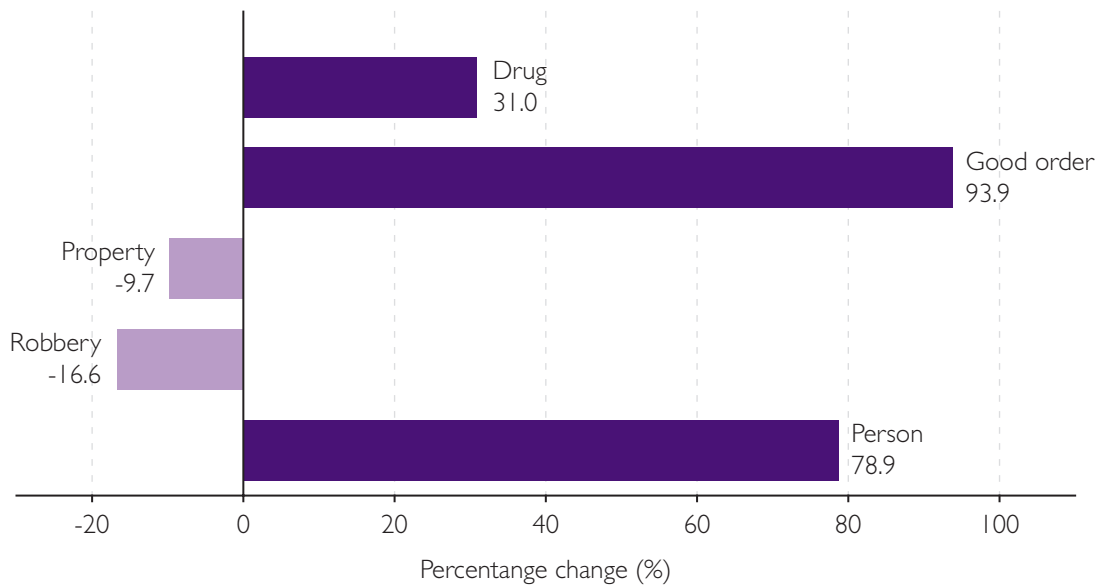
Source: Australian Bureau of Statistics and Corrections Victoria

Figure 23: Sentenced prisoners by most serious offences of robbery, drug and motor vehicle offences, 30 June 2002 to 30 June 2012



Source: Australian Bureau of Statistics and Corrections Victoria

Figure 24: Sentenced prisoners by most serious offence – percentage change, 30 June 2002 to 30 June 2012



Source: Australian Bureau of Statistics and Corrections Victoria

## Sentence lengths

In addition to sentencing data, prison census data also provide a valuable measurement of sentence lengths, including those prisoners sentenced in the last 12 months, average aggregate sentence lengths and the average expected time to serve.

### Prisoners sentenced within the preceding 12 months

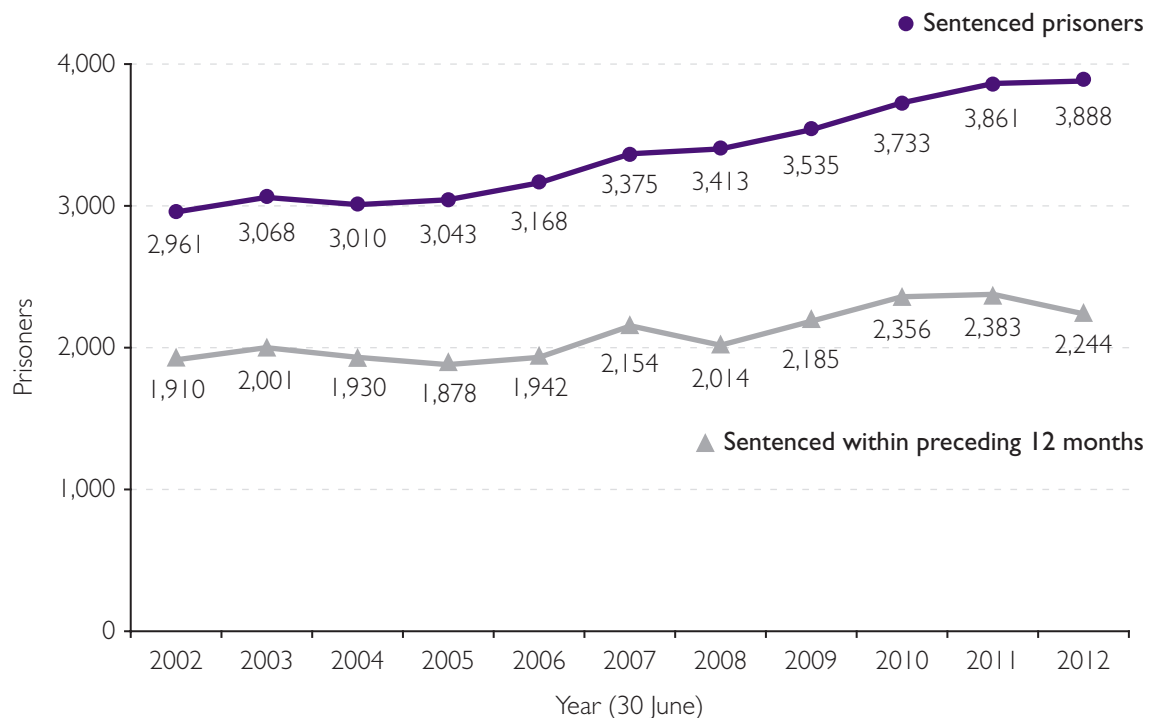
A broad measure of the length of sentences imposed on prisoners is the proportion of sentenced prisoners who were sentenced within the preceding 12 months. Figure 25 below shows the number of prisoners sentenced within the preceding 12 months compared with all sentenced prisoners.

From 2002 to 2011, the number of prisoners sentenced within the preceding 12 months has increased 24.8%, from 1,910 to 2,383. This group has also been a relatively constant proportion of all prisoners, ranging from a low of 59% in 2008 to a high of 65.2% in 2003.

In 2012, however, the number of prisoners sentenced within the preceding 12 months declined by 5.8%, and the 57.7% proportion of all sentenced prisoners this number represents was the lowest for any time within the last 10 years.

This indicates that more prisoners are receiving sentences longer than 12 months.

**Figure 25:** Sentenced prisoners by whether sentenced in the preceding 12 months, 30 June 2002 to 30 June 2012



Source: Australian Bureau of Statistics

## Aggregate sentence length

In light of the broad indication of increased sentence lengths described above, data on the aggregate sentence length for prisoners at the census date can provide a more detailed picture of emerging trends.

Figure 26 presents four categories of aggregate sentence lengths for both the higher courts and the Magistrates' Court. The largest proportion of prisoners (43.5%) received a sentence between one and five years in length. The proportion of prisoners in this category remained relatively stable between 2002 and 2012, increasing by 1.4%.

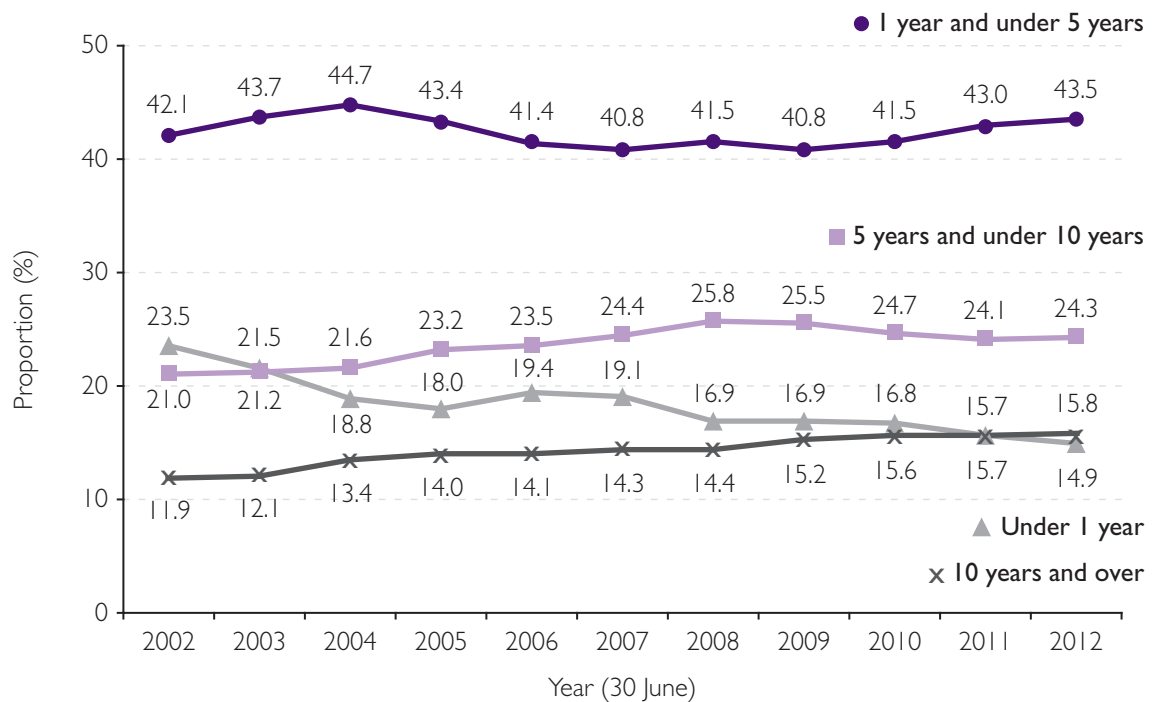
The second highest proportion of prisoners received a sentence between five and 10 years in length. The proportion of prisoners in this category increased 3.3% between 2002 and 2012.

The third largest proportion of prisoners received a sentence of 10 years and over, a marked increase from 11.9% to 15.8%. Finally, sentences under one year have declined markedly as a proportion of all custodial sentences, decreasing 8.6% over the reference period.

The decline in prisoners receiving a sentence length of less than one year accords with the finding that the proportion of prisoners within the prison population sentenced within the last 12 months is declining.

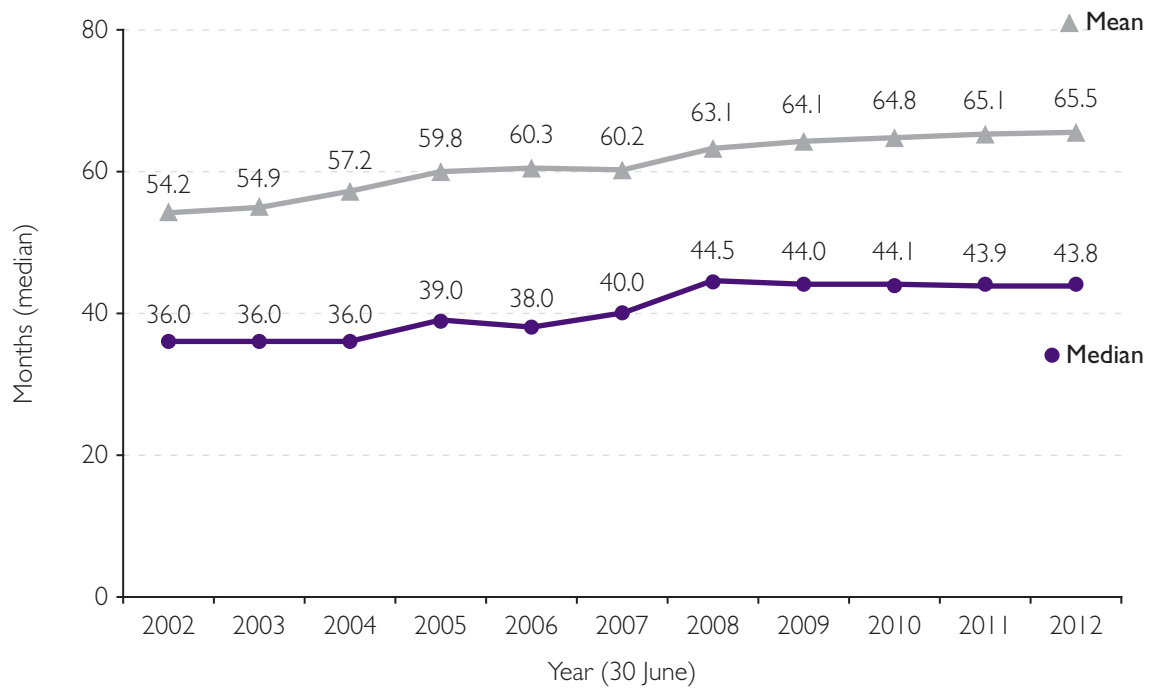
Figure 27 (page 31) presents the mean and the median aggregate sentence lengths, both of which increased between 2002 and 2012. The mean aggregate sentence length has increased by 20.8% (11.3 months) while the median aggregate sentence length has increased by 21.7% (7.8 months).

**Figure 26:** Prisoners by aggregate sentence length, 30 June 2002 to 30 June 2012



Source: Australian Bureau of Statistics

Figure 27: Aggregate sentence length for offenders, 30 June 2002 to 30 June 2012



Source: Australian Bureau of Statistics

## Expected time to serve

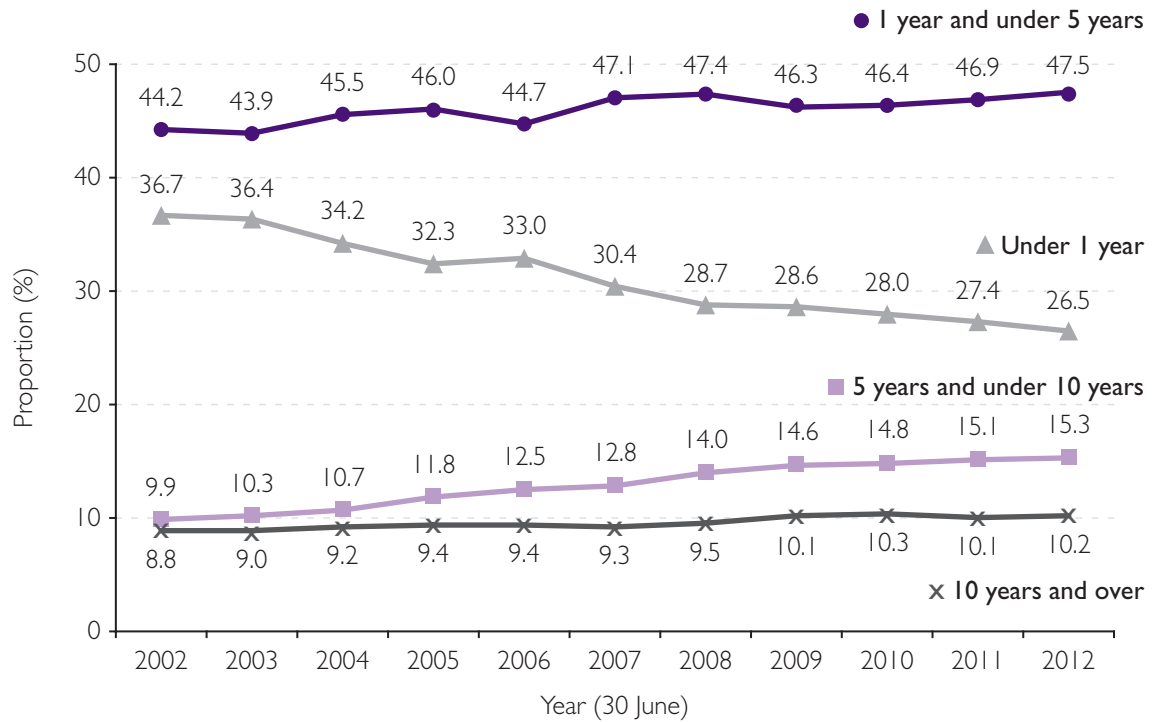
In examining the numbers of prisoners according to their expected time to serve, similar trends to those for aggregate sentence lengths are observed, magnified to account for the greater proportion of a sentence that the expected time to serve represents.

Figure 28 (page 32) presents the proportion of sentenced prisoners, categorised into four groups by their expected time to serve. The proportion of prisoners with an expected time to serve of five to 10 years has increased by 5.4%. For the category of 10 years and over, the increase was 1.4%, while for between one and five years it was 3.3%.

A substantial decrease (as with aggregate sentence length) is observed for those prisoners with an expected time to serve of less than one year. The proportion of such prisoners has decreased by 10.1%.

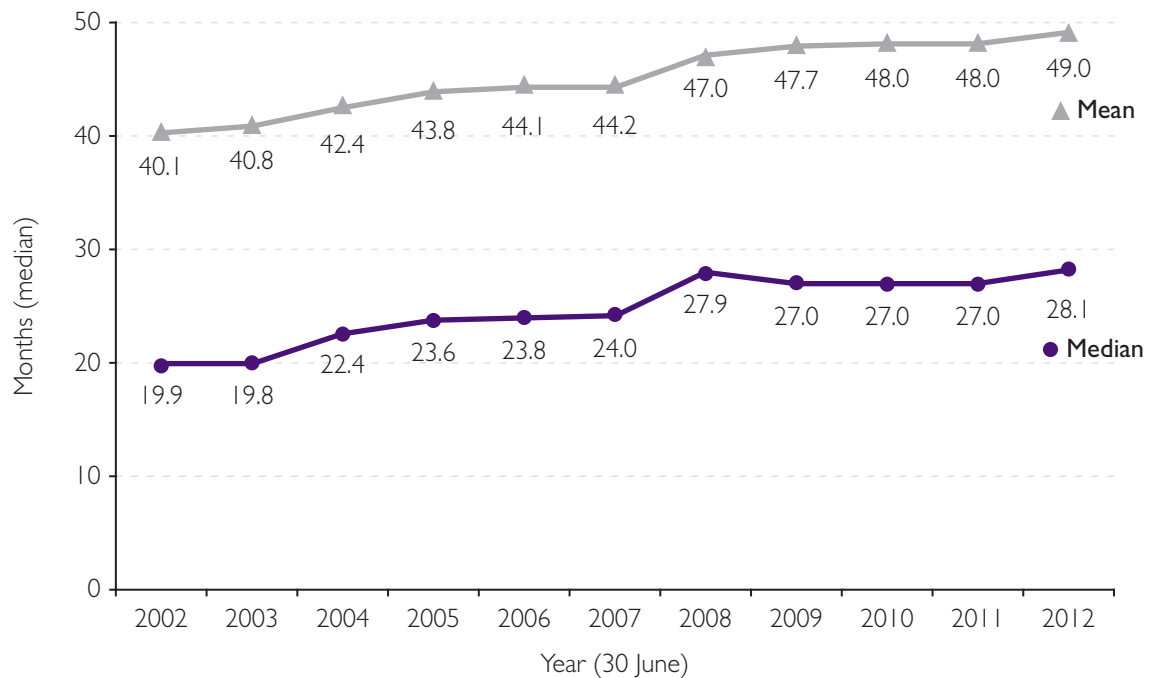
Figure 29 (page 32) shows data on the mean and the median expected time to serve across all sentences. Both measures have increased in the last 10 years. The mean expected time to serve has increased by 22.2% (8.9 months), while the median expected time to serve has increased by 41.2% (8.2 months).

Figure 28: Prisoners by expected time to serve, 30 June 2002 to 30 June 2012



Source: Australian Bureau of Statistics

Figure 29: Expected time to serve, sentenced prisoners, 30 June 2002 to 30 June 2012



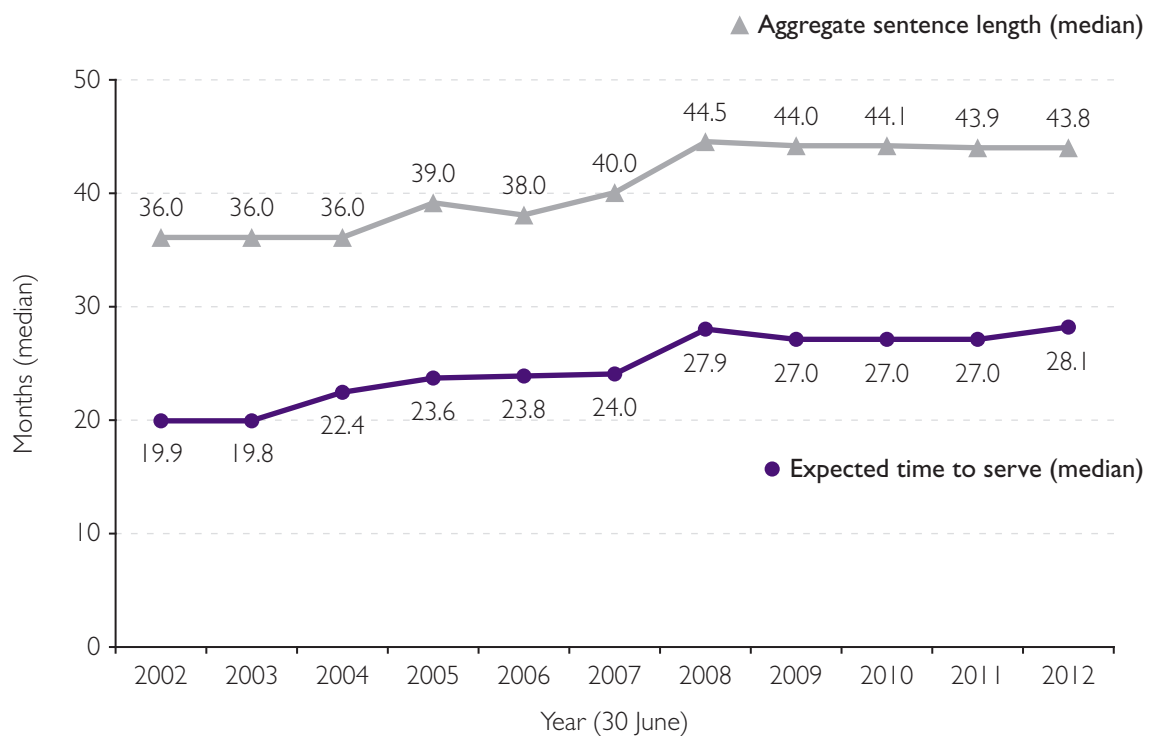
Source: Australian Bureau of Statistics

## Aggregate sentence length compared with expected time to serve

Figure 30 below shows that, across all sentence lengths, the median aggregate sentence length increased by approximately 21.7%, while the median expected time to serve increased by 41.2%,

The median expected time to serve, as a proportion of the median aggregate sentence length, has also increased, from 55.0% in 2003 to 64.2% in 2012. This increase suggests that non-parole periods (represented by the expected time to serve) have very recently increased as a proportion of sentences imposed. Caution must be exercised, however, as this change is only observed for the most recent year of data and does not yet evidence a trend.

**Figure 30:** Median aggregate sentence length and expected time to serve for offenders, 30 June 2002 to 30 June 2012



Source: Australian Bureau of Statistics

## Discussion

The potential 'proximal' drivers of imprisonment that this paper explores represent only a selection of the different factors that can influence the imprisonment rate and the prison population.

There are many possible drivers of imprisonment, occurring at different stages of the criminal justice system. The dedication of policing resources to the enforcement of particular kinds of offending, for example, or the employment of new means of detection may uncover offending that was previously unreported. These changes may flow through the system ultimately resulting in increases to the imprisonment rate and the prison population.

Similarly, changes in the nature and frequency of offending within the community may result in the observed increases, particularly if more serious offending is prevalent. Detailed analysis is required to separate out the effects of greater levels of enforcement from a 'real' increase in offending. In Victoria, this form of analysis has been used to explore the increase in drug offending. Watkins and Darragh (2013) concluded that there has been an increase in drug offending even after accounting for changes in enforcement and the allocation of police resources.

Further along in the criminal justice system, practices surrounding the granting or refusal of bail will affect the number of people on remand, and so the overall prison population. An increase in the number of people on remand for drug importation offences was observed after a change in the law in 2005 that introduced a presumption against bail for those offences. Analysis of the type of offending that received bail prior to the change in the law, however, is required in order to conclude that the resulting increase in drug offenders on remand is due to changes in the granting of bail, rather than the occurrence of more serious drug offending.

The number and type of offences sentenced in the courts will also have an effect on the imprisonment rate and the prison population, and an analysis of sentencing practices in the aggregate reveals that longer sentences are being imposed. Without detailed analysis of the type of offending being sentenced, however, it is not possible to conclude whether any changes in sentencing are due to more serious examples of offending coming before the courts or more severe sentences being imposed for the same kind of offending.

Changes to the parole system, which have not been examined in this paper, may also increase the prison population, if parole is granted less often (or later in an offender's sentence) or if offenders are more frequently returned to prison after a breach of their parole.

Despite these qualifications, a number of trends can be observed over the last 10 years that provide – at least in part – an explanation for the increasing imprisonment rate and the increase in the prison population in Victoria between 2002 and 2012.

### Prison population in Victoria

The prison population in Victoria has increased by more than a third over the last 10 years. The rise in the number of prisoners has outpaced the background growth of the adult population of Victoria, resulting in an increase in the imprisonment rate.

A marked increase in the number of prisoners held on remand was observed. Analysis of the most serious offence for remand prisoners shows that the number of prisoners on remand for acts intended to cause injury, sexual assault and drug offences increased significantly. Further, the percentage increase in the number of prisoners on remand is greater than the percentage increase in the sentenced prison population, and this can only be partly explained by changes to the law for the granting or refusal of bail to offenders charged with Commonwealth drug offences.



## Offending in Victoria

While the crime rate in Victoria shows a decreasing trend over nine of the last 10 years, that trend was reversed from 2010–11 to 2011–12. Further, while an examination of the aggregate trend shows the overall crime rate in Victoria declined between 2002 and 2012, closer examination of particular categories of offences reveals a different pattern. The number of recorded offences against the person, offences against good order and drug offences all increased between 2002 and 2012.

While the crime rate has an effect on the imprisonment rate, the reverse is also true: the imprisonment rate may influence the crime rate. If offenders are imprisoned, they are incapacitated from committing crime. Prison may therefore exert an incapacitation effect on the number of offences committed in the community, if those offences are not subject to the 'replacement effect', whereby other individuals commit the crimes that would have been committed by the sentenced prisoners (Ritchie, 2012).

Offences against the person are not typically 'replaced', while property offences, as well as drug importation, manufacture and trafficking offences – which feed demand in markets for stolen goods and drugs – are more likely to be replaced.

Trends in recorded offending in Victoria suggest this replacement effect may be occurring for drugs, as there is a continued increase in recorded drug offences despite a similar increase in the number of drug offenders sentenced to imprisonment.

At the same time, the number of offences and the number of offenders imprisoned for property offences have continually decreased, while offences against the person have increased.

The increase in the number of good order offences has been attributed to the increased policing of breaches of orders made in relation to family violence, such as family violence intervention orders<sup>18</sup> or family violence safety notices<sup>19</sup> (Victoria Police, 2012b). Again, in the absence of analysis that separates enforcement effects from underlying offending patterns, it is not possible to conclude whether the increase in such offences is due to increased detection and reporting or changes in levels of offending in the community.

## Sentencing in Victoria

Sentencing data suggests that the key drivers of the increased imprisonment rate and the increased prison population in Victoria are increased custody rates in the higher courts and increased sentence lengths across all court levels. Alongside increases in the mean and the median imprisonment sentence lengths, the proportion of sentenced offenders receiving a sentence of one year or less has declined.

The questions of why more custodial sentences are being imposed in the higher courts as a proportion of all sentences and why imprisonment sentences are increasing cannot be conclusively answered from the data. On the one hand, it may reflect more punitive sentencing practices; on the other, it may reflect the fact that more serious examples of offending are coming before the courts. Alternatively, both influences may affect the number of custodial sentences imposed.

An increase in the number of offences against the person suggests that there is a greater volume of relatively serious offending that, generally speaking, is more likely to receive a sentence of imprisonment than other types of offending. However, firm conclusions cannot be drawn without an examination of historical sentencing practices according to offence type.

<sup>18</sup> *Family Violence Protection Act 2008* (Vic) ss 123(1)–(2).

<sup>19</sup> *Family Violence Protection Act 2008* (Vic) ss 37(1)–(2).

Another factor influencing an increasing prison population is an increase in sentence lengths. Even small increases in the length across all imprisonment sentences will accumulate over time and, depending on the volume of offenders, result in a significant increase in the total prison population.

## Prisoners in Victoria

Changes in the pattern of offending observed in recorded crime data and sentencing data for principal proven offence were also observed in data on the most serious offence of prisoners. That data showed increases in the proportion of prisoners whose most serious offence was against the person, against good order or a drug offence.

Similarly, the observed trend of courts imposing increased imprisonment sentence lengths is also reflected in data measured within the prison system. These data showed a decrease in the number of prisoners sentenced within the preceding 12 months, and also increases in the mean and the median aggregate sentence lengths and expected time to serve.

## Conclusion

In 2007, the Council found that the increases in Victoria's prison population between 2001 and 2006 were due to a combination of increased lengths of imprisonment sentences and increases in the occurrence of offences against the person, motor vehicle offences and good order offences.

This paper suggests that the increases in Victoria's prison population between 2002 and 2012 are similarly due to a combination of increased lengths of imprisonment sentences and increases in the occurrence of particular offences, being offences against the person, drug offences and offences against good order. Further, this study has found that an increased custody rate in the higher courts is a contributing factor to the increase in Victoria's prison population.

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## Legislation

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