

Sentencing Snapshot

No. 20: Sentencing trends for arson in the higher courts of Victoria, 2001-02 to 2005-06

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of arson and details the age and gender² of people sentenced for this offence in the County and Supreme Courts of Victoria between 2001-02 and 2005-06³.

A person who intentionally and without lawful excuse destroys or damages any property belonging to another by setting it on fire is guilty of arson⁴. A person will be deemed to have destroyed or damaged the property intentionally if it was their purpose to do so or if they were aware that their conduct was more likely than not to result in the damage or destruction of the property⁵.

Arson is an indictable offence which carries a maximum penalty of 15 years' imprisonment⁶ and/or fine of 1800 penalty units⁷. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

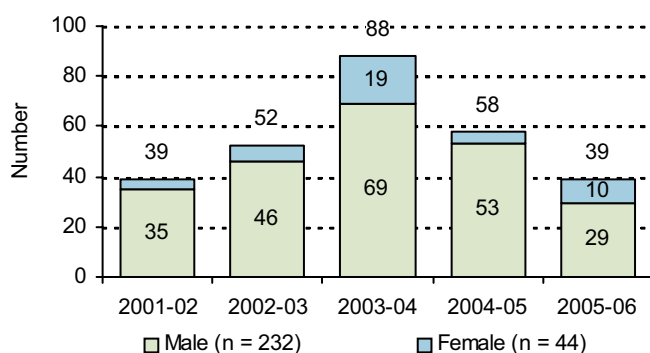
Of all people sentenced for the principal offence of arson, 99.3% were heard in the higher courts⁸. The remaining cases were heard in the Magistrates' Court⁹. The information presented in this report relates only to those sentencing outcomes handed down in the County and Supreme Courts for arson.

People sentenced

Figure 1 shows the number of people sentenced for arson for the period 2001-02 to 2005-06. As shown, 276 people were sentenced for arson over the five year period. There were 39 people sentenced for this offence in 2005-06, down by 19 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (84.1% or 232 of 276 people), including 29 of the 39 people sentenced in 2005-06.

Figure 1: The number of people sentenced for arson by gender, 2001-02 to 2005-06



Sentence types and trends

Figure 2 shows the total number of people sentenced for arson and the number who received a custodial sentence¹⁰. Over the five year period, 40% of people were given a custodial sentence. This peaked at 48% (25 of 52) in 2002-03 before decreasing to 35% (31 of 88) in 2003-04. In 2005-06, 41% of people sentenced (16 of 39) were given a custodial sentence.

Figure 2: The number of people sentenced for arson and the number who received a custodial sentence, 2001-02 to 2005-06

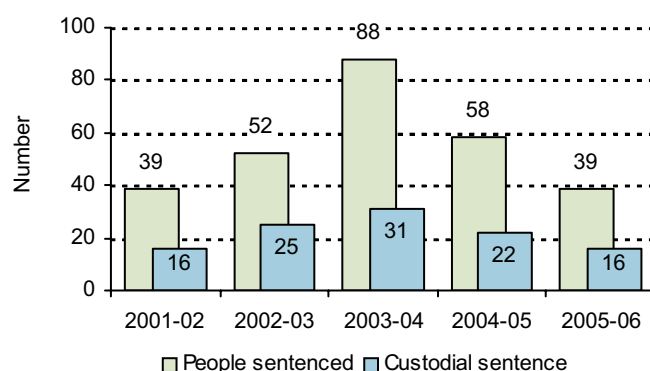
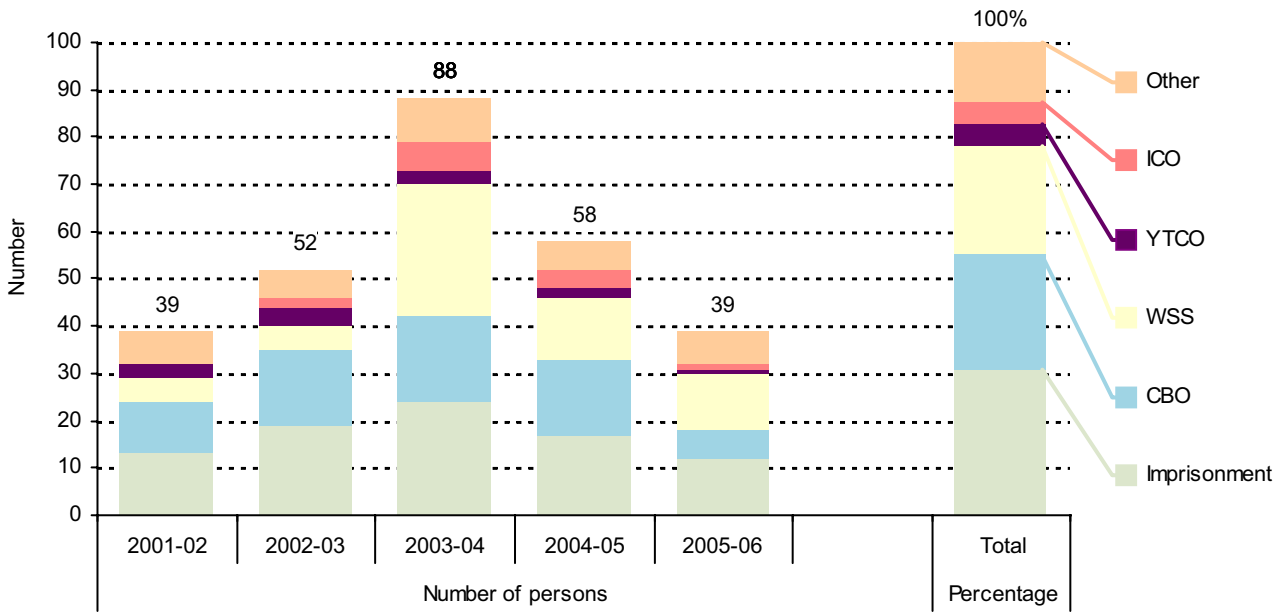


Figure 3 and Table 1 show the number of people sentenced for arson from 2001-02 to 2005-06 by the types of sentences imposed.

Over the five year period, around one third of the people sentenced for arson received a period of imprisonment (31% or 85 of 276 people), while 24% received a community based order and 23% received a wholly suspended sentence of imprisonment.

While the number of people who were imprisoned increased over the first half and decreased over the second half of the five year period, the percentage who were imprisoned remained relatively stable.

Figure 3: The number of people sentenced for arson by sentence type, 2001-02 to 2005-06



Note: CBO refers to community based order, WSS refers to wholly suspended sentence of imprisonment, YTCO refers to youth training centre order and ICO refers to intensive correction order. Other includes partially suspended sentence, adjourned undertaking with conviction, adjourned undertaking without conviction, fine, non-custodial supervision order, mix (wholly suspended sentence & fine), hospital security order, hospital order and combined custody and treatment order.

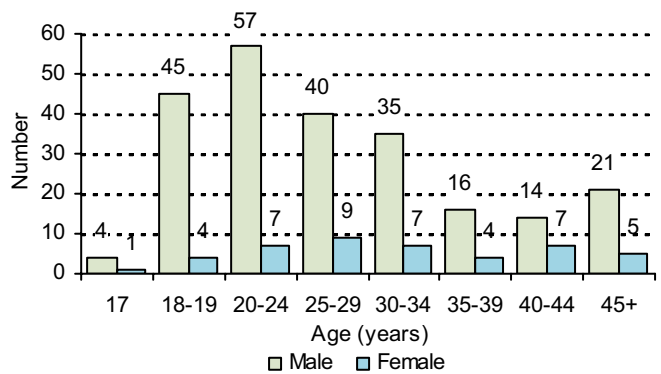
Table 1: The number and percentage of people sentenced for arson by sentence type, 2001-02 to 2005-06

Sentence type	01-02	02-03	03-04	04-05	05-06
Imprisonment	13 33%	19 37%	24 27%	17 29%	12 31%
Community based order	11 28%	16 31%	18 20%	16 28%	6 15%
Wholly suspended sentence	5 13%	5 10%	28 32%	13 22%	12 31%
Youth training centre order	3 8%	4 8%	3 3%	2 3%	1 3%
Intensive correction order	0	2 4%	6 7%	4 7%	1 3%
Partially suspended sentence	0	2 4%	2 2%	2 3%	2 5%
Adjourned undertaking with conviction	2 5%	1 2%	4 5%	1 2%	0
Adjourned undertaking without conviction	4 10%	0	0	1 2%	1 3%
Fine	1 3%	2 4%	1 1%	0	0
Non-custodial supervision order	0	0	0	1 2%	2 5%
Mix (wholly suspended sentence & fine)	0	1 2%	0	0	1 3%
Hospital security order	0	0	2 2%	0	0
Hospital order	0	0	0	1 2%	0
Combined custody and treatment order	0	0	0	0	1 3%
People sentenced	39	52	88	58	39

Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for arson grouped by their age¹¹ between 2001-02 and 2005-06. The average age of people sentenced for arson was twenty-eight years and nine months. Women sentenced over this period were much older than men (an average age of thirty-one years and eleven months for women compared to twenty-eight years and two months for men). Four male and one female juvenile were sentenced over this period.

Figure 4: The number of people sentenced for arson by gender and age, 2001-02 to 2005-06



Sentence types by gender

Figure 5 and Table 2 show the types of sentence imposed for arson grouped by gender. As shown, a higher percentage of men received a period of imprisonment (34.5% compared to 11.4% of women) and a youth training centre order (5.2% compared to 2.3%).

Conversely, a higher percentage of women received a wholly suspended sentence of imprisonment (36.4% compared to 20.3% of men), a community based order (27.3% compared to 23.7%), and an intensive correction order (6.8% compared to 4.3%).

Figure 5: The percentage of people sentenced for arson by sentence type and gender, 2001-02 to 2005-06

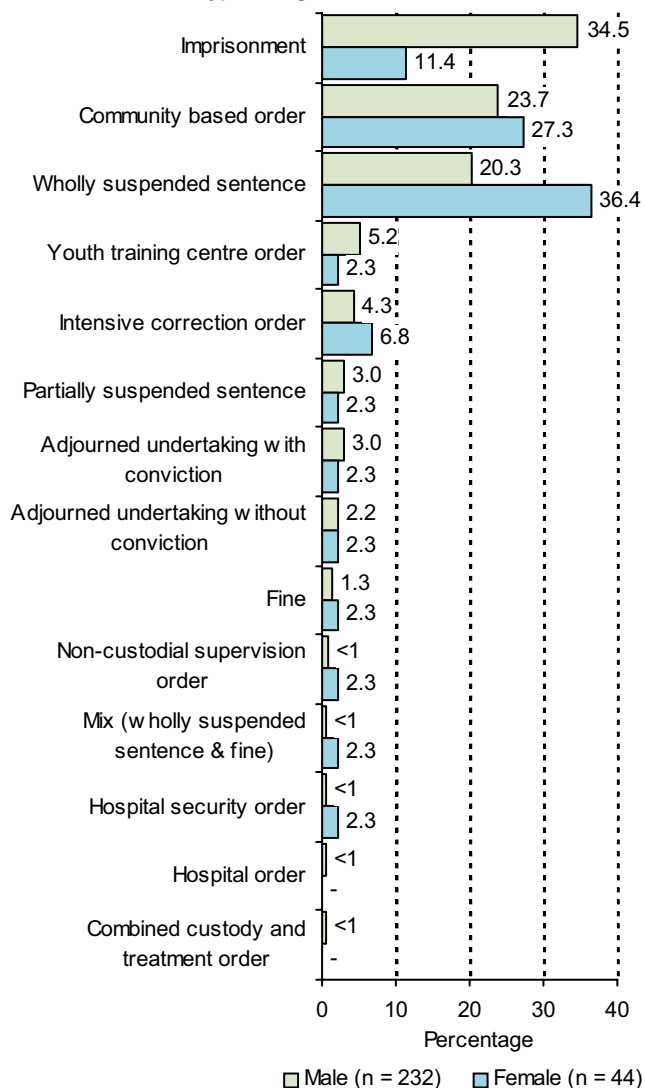


Table 2: The number and percentage breakdown of people sentenced for arson by gender, 2001-02 to 2005-06

Sentence type	Male	Female	Total
Imprisonment	80	5	85
Community based order	55	12	67
Wholly suspended sentence	47	16	63
Youth training centre order	12	1	13
Intensive correction order	10	3	13
Partially suspended sentence	7	1	8
Adjourned undertaking with conviction	7	1	8
Adjourned undertaking without conviction	5	1	6
Fine	3	1	4
Non-custodial supervision order	2	1	3
Mix (wholly suspended sentence & fine)	1	1	2
Hospital security order	1	1	2
Hospital order	1	0	1
Combined custody and treatment order	1	0	1
People sentenced	232	44	276

Sentence types by age

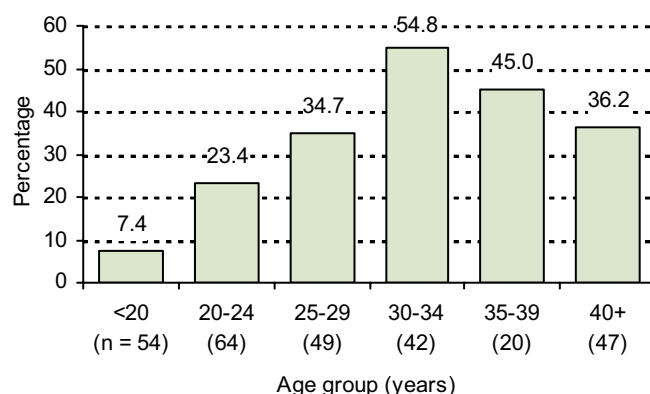
As shown in the table above, the three most common sentence types were imprisonment, community based orders and wholly suspended sentences of imprisonment. The following analysis examines these sentence types by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 30-34 years old (55% or 23 of the 42 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (7% or four of the 54 people in this age group).

Figure 6: The percentage of people who were sentenced to a period of imprisonment for arson by age group, 2001-02 to 2005-06

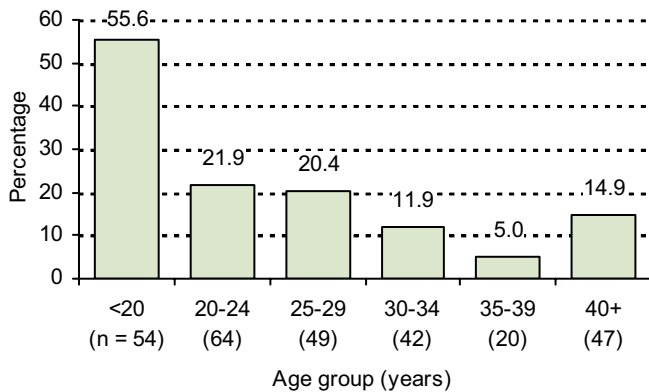


Community based orders

Community based orders were most likely to be given to people aged under 20 years (56% or 30 of the 54 people in this age group).

Conversely, community based orders were least common for those aged 35-39 years old (5% or one of the 20 people in this age group).

Figure 7: The percentage of people who were sentenced to a community based order for arson by age group, 2001-02 to 2005-06

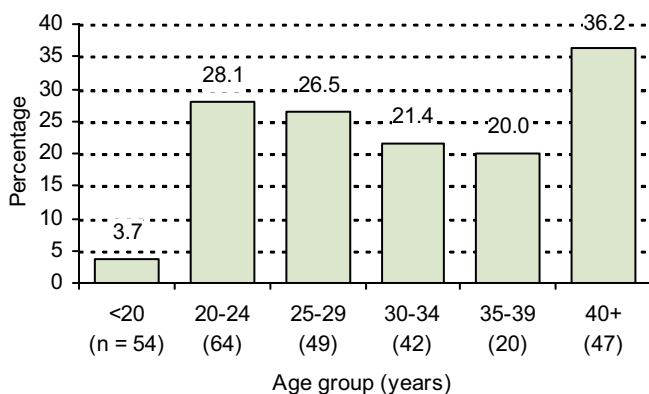


Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 40 years and older (36% or 17 of the 47 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (4% or two of the 54 people in this age group).

Figure 8: The percentage of people who were sentenced to a wholly suspended sentence of imprisonment for arson by age group, 2001-02 to 2005-06



Principal and total effective sentences

There are two methods for describing sentence types and lengths - the principal sentence and the total effective sentence.

The *principal sentence* is the individual sentence imposed for a single charge. When imposing a sentence for multiple charges, the court imposes a 'total effective sentence'. The *total effective sentence* aggregates the principal sentence handed down for each charge, and takes into account whether sentences are ordered by the court to be served concurrently (at the same time) or cumulatively.

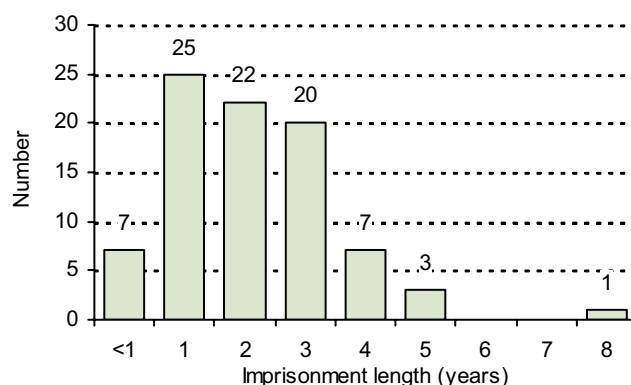
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for arson must be considered in this broader context. The following sections analyse the use of imprisonment for arson over 2001-02 to 2005-06.

Principal sentence of imprisonment

Figure 9 shows the number of people sentenced to imprisonment for arson between 2001-02 and 2005-06 by the length of the imprisonment term. Imprisonment terms ranged from 3 months to eight years¹², while the median length of imprisonment was 2 years (meaning that half of the imprisonment terms were shorter than 2 years and half were longer).

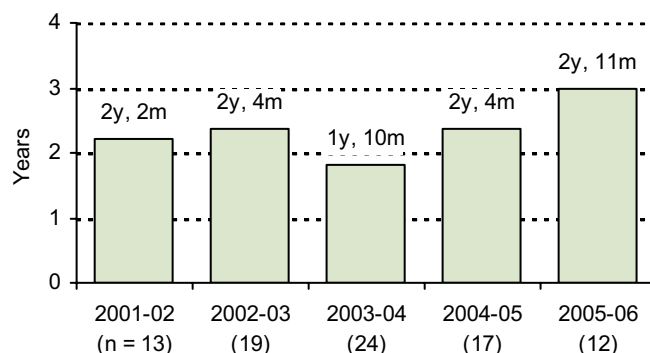
The most common length of imprisonment imposed was 1 year (25 people).

Figure 9: The number of people sentenced to imprisonment for arson by length of imprisonment term, 2001-02 to 2005-06



As shown in Figure 10, the average length of imprisonment term imposed on people sentenced for arson ranged from one year and ten months in 2003-04 to two years and eleven months in 2005-06.

Figure 10: The average length of imprisonment term imposed on people sentenced for arson, 2001-02 to 2005-06



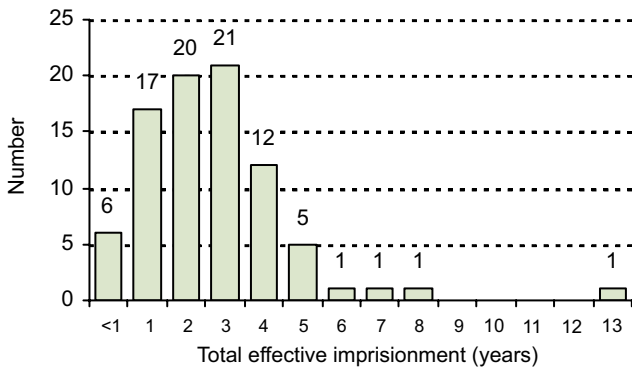
From 2001-02 to 2005-06, the majority of the people who received a term of imprisonment for arson were men (80 people or 94.1%).

Total effective sentence of imprisonment

There were 85 people given a total effective sentence of imprisonment. Figure 11 shows the number of people sentenced to imprisonment for arson between 2001-02 and 2005-06 by the length of their total effective sentence. The length of total effective sentences ranged from three months to thirteen years and six months¹³, while the median total effective length of imprisonment was two years and six months (meaning that half of the total effective sentence lengths were below two years and six months and half were above).

The most common total effective imprisonment length was 3 years (21 people).

Figure 11: The number of people sentenced to imprisonment for arson by total effective length of imprisonment term, 2001-02 to 2005-06



Non-parole period

When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person must serve the entirety of the imprisonment term.

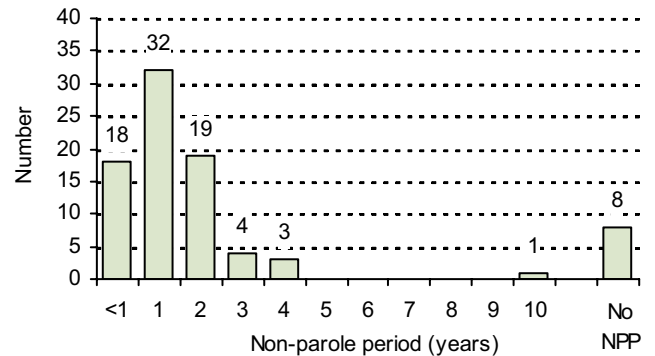
Under s.11(4) of the *Sentencing Act 1991* (Vic), if a court sentences an offender to imprisonment in respect of more than one offence, the non-parole period set by the court must be in respect of the total effective sentence of imprisonment that the offender is liable to serve under all the sentences imposed. In some cases, the non-parole period will be lengthier than the individual principal sentence for arson. Sentences and non-parole periods must be considered in this broader context.

Of the 85 people who were sentenced to imprisonment for arson, 79 were eligible for parole¹⁴. Of these people, 77 were given a non-parole period (97%). Figure 12 shows the number of people sentenced to imprisonment for arson between 2001-02 and 2005-06 by the length of their non-parole period. Non-parole periods ranged from four months to ten years, while the median length of the non-parole

period was one year and three months (meaning that half of the non-parole periods were below one year and three months and half were above).

The most common non-parole period imposed was 1 year (32 people).

Figure 12: The number of people sentenced to imprisonment for arson by length of non-parole period, 2001-02 to 2005-06



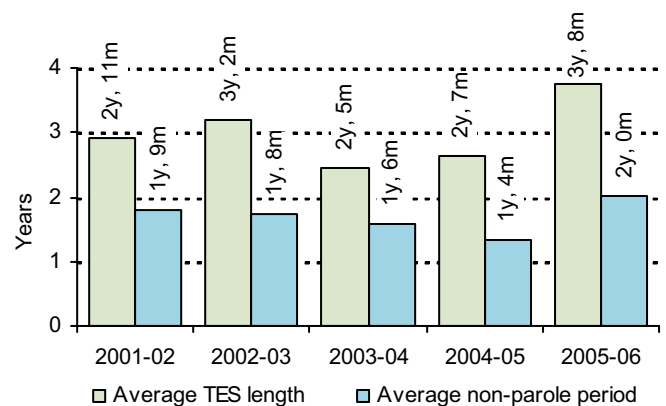
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

Total effective sentences of imprisonment and non-parole periods

Figure 13 presents the average length of total effective sentence of imprisonment compared to the average length of non-parole period for all people from 2001-02 to 2005-06¹⁵.

From 2001-02 to 2005-06, the average length of total effective sentence for all people ranged from two years and five months in 2003-04 to three years and eight months in 2005-06. Over the same period, the average length of non-parole period ranged from one year and four months in 2004-05 to two years in 2005-06.

Figure 13: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for arson, 2001-02 to 2005-06

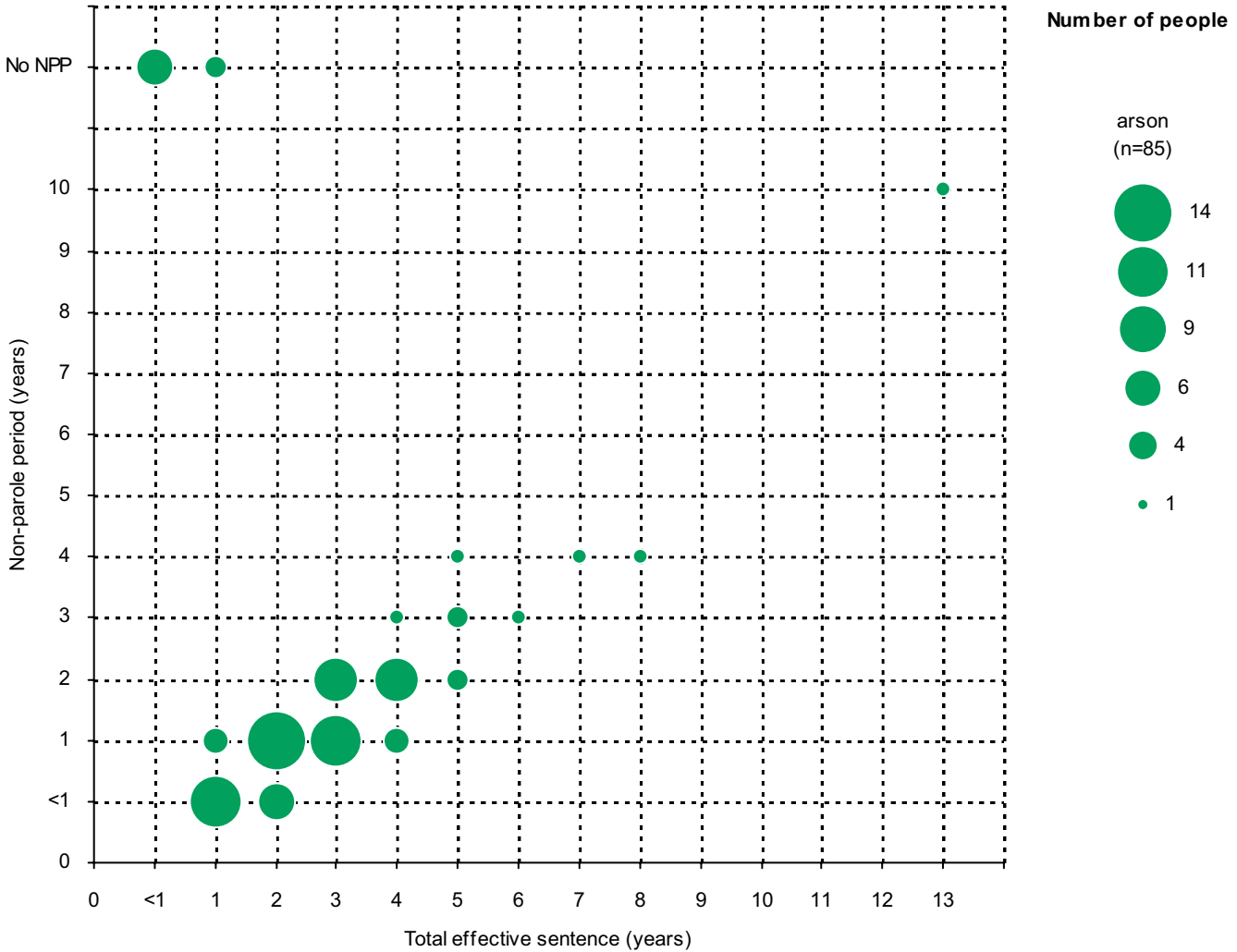


Total effective sentence of imprisonment by non-parole period

While Figure 11 and Figure 12 present the lengths of the total effective sentences and non-parole periods separately, Figure 14 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for arson for each individual person.

The centre of each 'bubble' on the chart represents a combination of imprisonment length and non-parole period, while the size of the bubble reflects the number of people who received that particular combination¹⁶. As shown, the most common combination of imprisonment length and non-parole period imposed was two years with a non-parole period of one year (14 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from three months with no non-parole period to thirteen years and six months with a non-parole period of ten years.

Figure 14: The number of people sentenced to imprisonment for arson by the total effective sentence and the non-parole period imposed, 2001-02 to 2005-06¹⁷



Note: No NPP refers to no non-parole period.

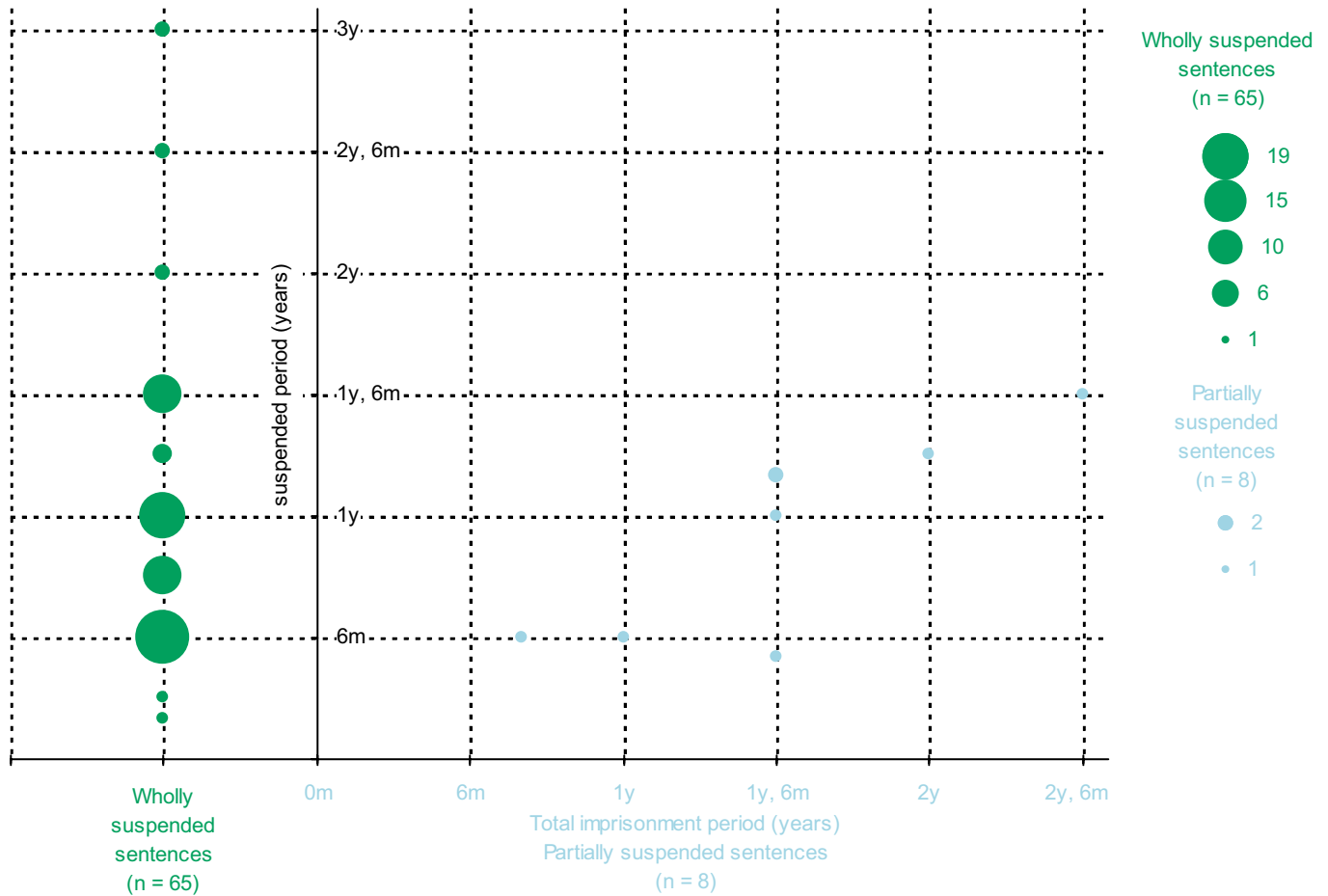
Suspended sentences of imprisonment

There were 73 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 65 people had their prison sentence wholly suspended and 8 received a partially suspended sentence of imprisonment. Figure 15 shows the number of people with a suspended sentence of imprisonment as their total effective sentence by the suspended sentence type and length of sentence. The green 'bubbles' to the left of the vertical axis show the lengths of the wholly suspended sentences, while the blue 'bubbles' to the right of the vertical axis show the combination of total imprisonment length and the suspended period for those sentenced to a partially suspended sentence. The size of the bubble reflects the number of people who received either the wholly or partially suspended prison term.

Wholly suspended sentence lengths ranged from two months to three years. The most common wholly suspended sentence length was six months (19 people - as represented by the largest green 'bubble' on the chart).

The most common partially suspended sentence combination was one year and six months with one year and two months suspended (2 people - as represented by the largest blue 'bubble' on the chart).

Figure 15: The number of people given a wholly or partially suspended sentence of imprisonment by sentence type and length, 2001-02 to 2005-06

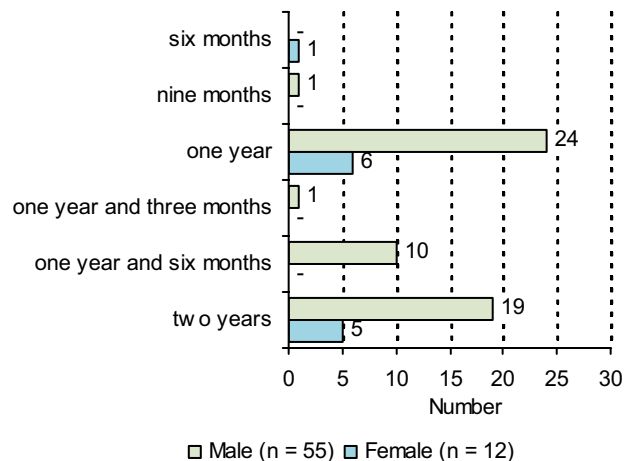


Community based orders

There were 67 people given a community based order as their total effective sentence.

The length of community based orders for arson ranged from six months to two years, while the median length was one year and six months (meaning that half of the lengths were shorter than or equal to one year and six months and half were longer than or equal to one year and six months). The most common length of community based order was one year (30 people).

Figure 16: The number of people sentenced to a community based order for arson by length of order imposed, 2001-02 to 2005-06



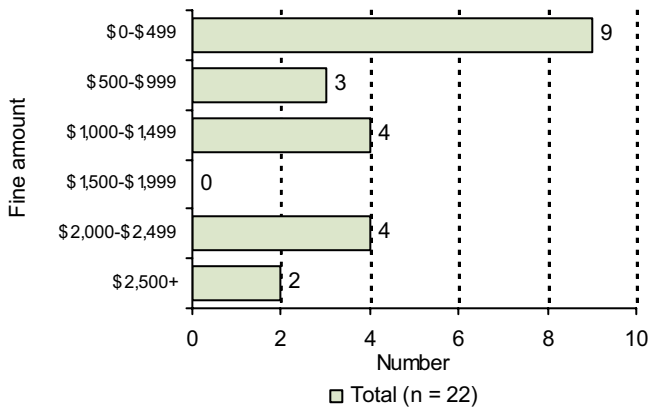
Fines

This analysis includes all fines that were imposed for cases where arson was the principal offence. Fines were imposed on 22 people.

The fine amount imposed ranged from \$100 to \$5,000, with a median of \$700 (meaning that half of the values fell below \$700 and half of the values were above \$700).

The average fine amount was \$1,136. The average fine amount imposed against the 19 males was \$1,147, higher than the average fine for the 3 females (\$1,067).

Figure 17: The number of people who received a fine for arson by fine amount, 2001-02 to 2005-06



Summary

Between 2001-02 and 2005-06, 276 people were sentenced for arson in the higher courts. Over this period, the majority of those sentenced were men (84%), while 41% were between the age of 18 and 25 years.

Around one third of the people sentenced for arson received a period of imprisonment (31%), while 24% received a community based order and 23% received a wholly suspended sentence of imprisonment.

Men were more likely than women to be sentenced to a period of imprisonment. Conversely, women were more likely to be sentenced to a wholly suspended sentence of imprisonment.

Imprisonment was more common for those aged between 30 and 35 years of age, community based orders were more common for those younger than 20 years of age and wholly suspended sentences of imprisonment were more common for those aged older than 40 years of age.

Imprisonment lengths ranged from three months with no non-parole period to thirteen years and six months with a non-parole period of ten years. The most common sentence of imprisonment was two years with a one year non-parole period.

The most common wholly suspended sentence length was six months. The most common length of community based order was one year.

- 1 This report presents sentencing outcomes for people sentenced for the principal offence of arson in the County and Supreme Courts of Victoria. The principal offence describes the offence proven that attracted the most serious sentence according to the sentencing hierarchy. The analysis will therefore exclude people sentenced for arson who received a more serious sentence for another offence forming part of the same presentment. For example, in 2005-06, 49 people were sentenced for arson. Arson was the principal offence for 39 of the 49 people.
- 2 The information source for sentencing outcomes for arson only contains information on age and gender characteristics. No other demographic analysis is possible.
- 3 The statistical information presented here was provided by Court Services, Department of Justice (Vic). This report describes sentencing trends for arson since 2001-02. Court Services advises that sentencing data from the higher courts prior to this 2000-01 may be unreliable due to changed data collection processes and counting rules.
- 4 *Crimes Act 1958* (Vic) s. 197(1) & (6).
- 5 *Crimes Act 1958* (Vic) s. 197 (4).
- 6 *Crimes Act 1958* (Vic) s. 197(7).
- 7 Theft carries a maximum fine of 1200 penalty units and each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.
- 8 Arson was the 11th most common principal offence that resulted in a person being sentenced in the higher courts over 2001-02 to 2005-06.
- 9 Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.
- 10 Custodial sentence includes imprisonment, youth training centre order, partially suspended sentence, hospital security order, hospital order and combined custody and treatment order.
- 11 Age is as at the time of sentencing.
- 12 In 2005-06, a man aged 63 years was given a principal sentence of eight years' imprisonment for the offence of arson. The case also involved two counts of stalking, an additional count of arson and one count of reckless endangerment. The targets of these offences were the offender's wife and children and his elderly parents-in-law. The offender had also been using drugs immediately prior to the arson offence, and he showed no remorse upon arrest. He was given a total effective sentence of 13 years and six months' imprisonment with a non-parole period of 10 years.
The judge commented that the offender had a number of disturbing prior convictions and had previously been imprisoned. He was regarded as a serious arson offender and therefore public protection became the primary sentencing principle applied. The judge noted that his prospects for re-offending must be regarded as significant and an ongoing continuing threat to his family.
- 13 Refer fn. 12
- 14 Six people were not eligible for parole because they were given a total effective sentence length of less than one year.
- 15 Due to the low number of women (3) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
- 16 Sentence lengths that are longer than one year are rounded to the nearest year of imprisonment, while sentence lengths of less than one year are grouped into the '<1 year' category.
- 17 This graph includes the 85 people who were given a total effective sentence and a non-parole period that related to this case only.

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Published by the Sentencing Advisory Council, Melbourne Victoria Australia, January, 2007.

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ISSN 1832-6153

Authorised by Sentencing Advisory Council, 4/436 Lonsdale Street, Melbourne. Printed by Bigprint, 50 Lonsdale Street, Melbourne.

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