

Sentencing Snapshot

Sentencing trends
in the higher courts
of Victoria
2003–04 to 2007–08

June 2009
No. 79

Arson

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 2003–04 and 2007–08.³

A person who intentionally and without lawful excuse destroys or damages any property belonging to another by setting it on fire is guilty of arson.⁴ 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 property.⁵

Arson carries a maximum penalty of 15 years' imprisonment⁶ and/or a fine of 1800 penalty units.⁷ It is an indictable offence that is triable summarily in the Magistrates' Court if the property is below a certain value,⁸ the Magistrates' Court considers it appropriate and the defendant consents.

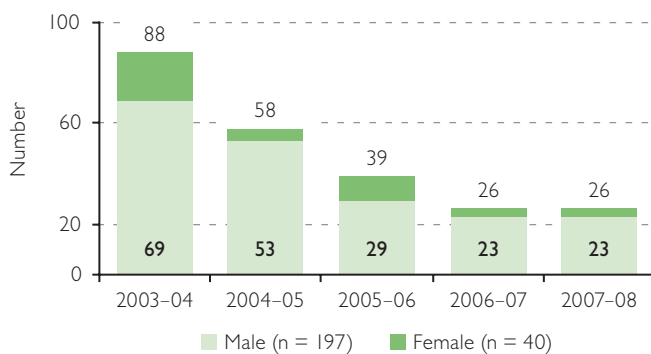
Arson was the principal offence in 2.2% of cases sentenced in the higher courts between 2003–04 and 2007–08.

People sentenced

Figure 1 shows the number of people sentenced for the principal proven offence of arson for the period 2003–04 to 2007–08. As shown, 237 people were sentenced for arson over the five-year period. There were 26 people sentenced for this offence in 2007–08, remaining stable with the previous year.

Over the five years depicted, the majority of those sentenced were men (83.1% or 197 of the 237 people), including 23 of the 26 people sentenced in 2007–08.

Figure 1: The number of people sentenced for arson by gender, 2003–04 to 2007–08



Sentence types and trends

Figure 2 shows the total number of people sentenced for arson and the number who received an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate (as opposed to wholly suspended) imprisonment or detention.⁹ Over the five-year period, 39% of people were given an immediate custodial sentence. This peaked at 54% (14 of 26) in 2006–07 after a low of 35% (31 of 88) in 2003–04. In 2007–08, 38% of people sentenced (10 of 26) were given an immediate custodial sentence.

Figure 2: The number of people sentenced for arson and the number who received an immediate custodial sentence, 2003–04 to 2007–08

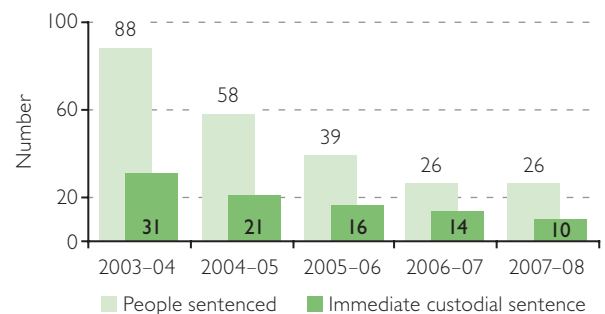


Table 1 shows the number of people sentenced for arson from 2003–04 to 2007–08 by the types of sentences imposed.

Over the five-year period, around one third of the people sentenced for arson received a period of imprisonment (30% or 72 of 237 people), while 27% received a wholly suspended sentence of imprisonment and 21% received a community-based order.

While the number of people who were imprisoned decreased each year over the five-year period from 24 people in 2003–04 to 9 people in 2007–08, the percentage of people who were imprisoned increased from 27% in 2003–04 to 35% in 2007–08.

Age and gender of people sentenced

Figure 3 shows the gender of people sentenced for arson grouped by their age¹⁰ between 2003–04 and 2007–08. The average age of people sentenced for arson was thirty years and ten months. Women sentenced over this period were much older than men (an average age of thirty-two years and ten months for women compared to thirty years and five months for men). One male juvenile was sentenced over this period.

Figure 3: The number of people sentenced for arson by gender and age, 2003–04 to 2007–08

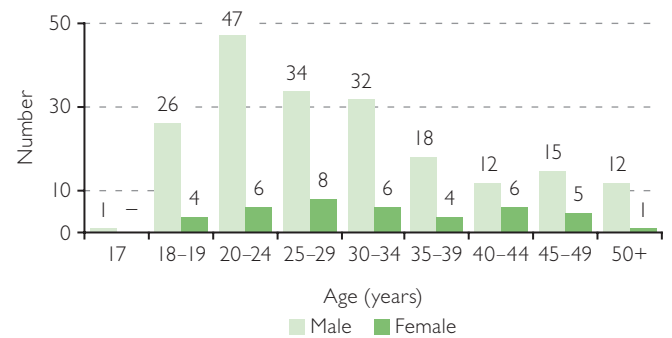


Table 1: The number and percentage of people sentenced for arson by sentence type, 2003–04 to 2007–08

Sentence type	2003–04	2004–05	2005–06	2006–07	2007–08
Imprisonment	24 (27%)	17 (29%)	12 (31%)	10 (38%)	9 (36%)
Wholly suspended sentence	28 (32%)	13 (22%)	12 (31%)	3 (12%)	7 (28%)
Community-based order	18 (20%)	16 (28%)	6 (15%)	5 (19%)	4 (16%)
Intensive correction order	6 (7%)	4 (7%)	1 (3%)	1 (4%)	1 (4%)
Partially suspended sentence	2 (2%)	2 (3%)	2 (5%)	3 (12%)	1 (4%)
Youth training centre order	3 (3%)	2 (3%)	1 (3%)	1 (4%)	0 (–)
Adjourned undertaking with conviction	4 (5%)	1 (2%)	0 (–)	0 (–)	1 (4%)
Non-custodial supervision order	0 (–)	1 (2%)	2 (5%)	0 (–)	0 (–)
Fine	1 (1%)	0 (–)	0 (–)	2 (8%)	0 (–)
Adjourned undertaking without conviction	0 (–)	1 (2%)	1 (3%)	0 (–)	1 (4%)
Hospital security order	2 (2%)	0 (–)	0 (–)	0 (–)	0 (–)
Restricted involuntary treatment order (hospital order)	0 (–)	1 (2%)	0 (–)	0 (–)	0 (–)
Mix (wholly suspended sentence and fine)	0 (–)	0 (–)	1 (3%)	0 (–)	0 (–)
Good behaviour bond	0 (–)	0 (–)	0 (–)	0 (–)	1 (4%)
Combined custody and treatment order	0 (–)	0 (–)	1 (3%)	0 (–)	0 (–)
Aggregate intensive correction order	0 (–)	0 (–)	0 (–)	1 (4%)	0 (–)
People sentenced	88	58	39	26	25

Sentence types by gender

Figure 4 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 (35.0% compared to 7.5% of women) and a youth training centre order (3.6% compared to no women). Conversely, a higher percentage of women received a wholly suspended sentence of imprisonment (47.5% compared to 22.3% of men) and an intensive correction order (12.5% compared to 4.1%).

Figure 4: The percentage of people sentenced for arson by sentence type and gender, 2003–04 to 2007–08

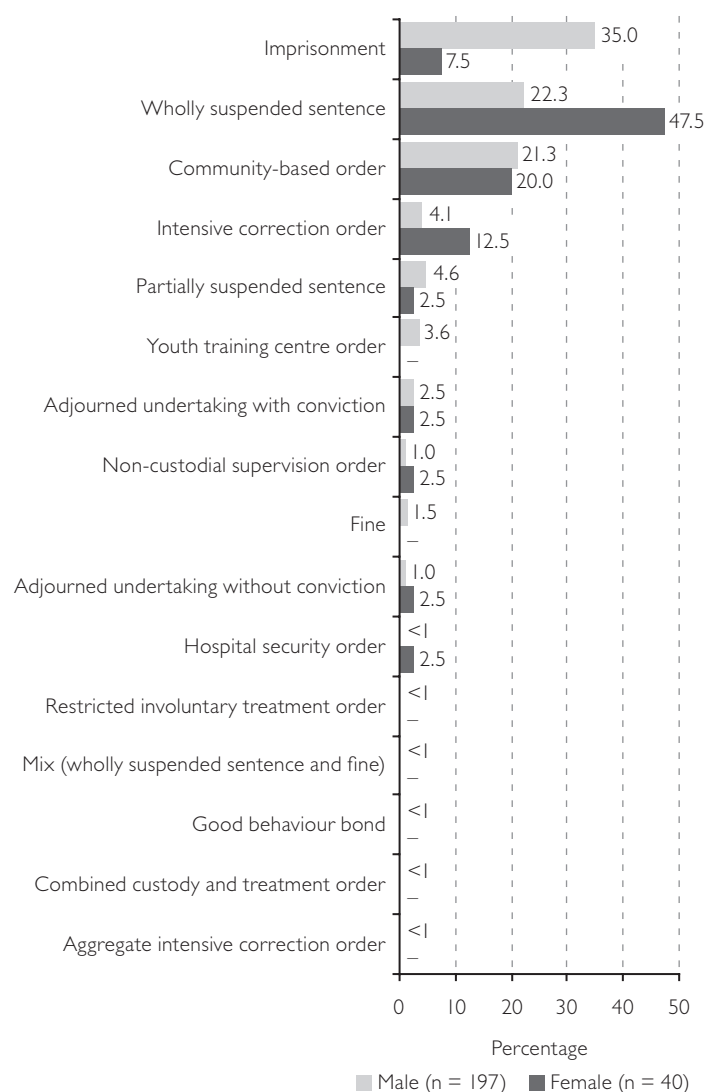


Table 2: The number and percentage breakdown of people sentenced for arson by gender, 2003–04 to 2007–08

Sentence type	Male	Female	Total
Imprisonment	69 (35%)	3 (8%)	72 (31%)
Wholly suspended sentence	44 (22%)	19 (48%)	63 (27%)
Community-based order	41 (21%)	8 (20%)	49 (21%)
Intensive correction order	8 (4%)	5 (13%)	13 (6%)
Partially suspended sentence	9 (5%)	1 (3%)	10 (4%)
Youth training centre order	7 (4%)	0 (—)	7 (3%)
Adjourned undertaking with conviction	5 (3%)	1 (3%)	6 (3%)
Non-custodial supervision order	2 (1%)	1 (3%)	3 (1%)
Fine	3 (2%)	0 (—)	3 (1%)
Adjourned undertaking without conviction	2 (1%)	1 (3%)	3 (1%)
Hospital security order	1 (<1%)	1 (3%)	2 (<1%)
Restricted involuntary treatment order (hospital order)	1 (<1%)	0 (—)	1 (<1%)
Mix (wholly suspended sentence and fine)	1 (<1%)	0 (—)	1 (<1%)
Good behaviour bond	1 (<1%)	0 (—)	1 (<1%)
Combined custody and treatment order	1 (<1%)	0 (—)	1 (<1%)
Aggregate intensive correction order	1 (<1%)	0 (—)	1 (<1%)
People sentenced	196	40	236

Sentence types by age

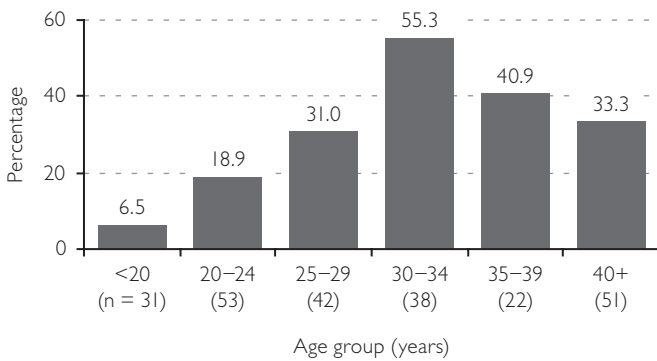
As shown in Table 2, the three most common sentence types were imprisonment, wholly suspended sentences of imprisonment and community-based orders. The following analysis examines these sentence types by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 30–34 years old (55% or 21 of the 38 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (6% or two of the 31 people in this age group).

Figure 5: The percentage of people who received a period of imprisonment for arson by age group, 2003–04 to 2007–08

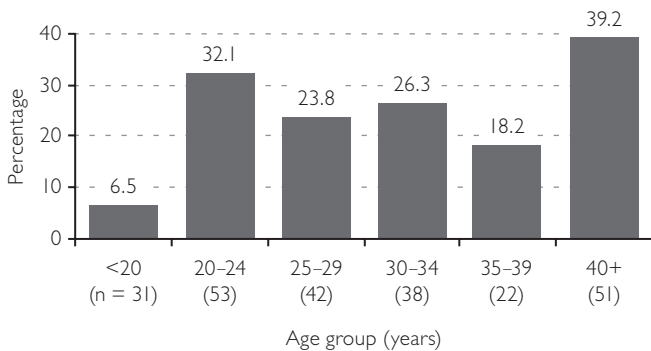


Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 40 years and older (39% or 20 of the 51 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (6% or two of the 31 people in this age group).

Figure 6: The percentage of people who received a wholly suspended sentence of imprisonment for arson by age group, 2003–04 to 2007–08

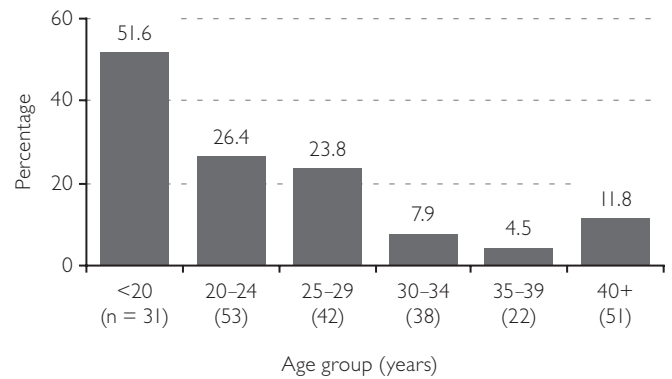


Community-based orders

Community-based orders were most likely to be given to people aged under 20 years (52% or 16 of the 31 people in this age group).

Conversely, community-based orders were least common for those aged 35–39 years old (5% or one of the 22 people in this age group).

Figure 7: The percentage of people who received a community-based order for arson by age group, 2003–04 to 2007–08



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.

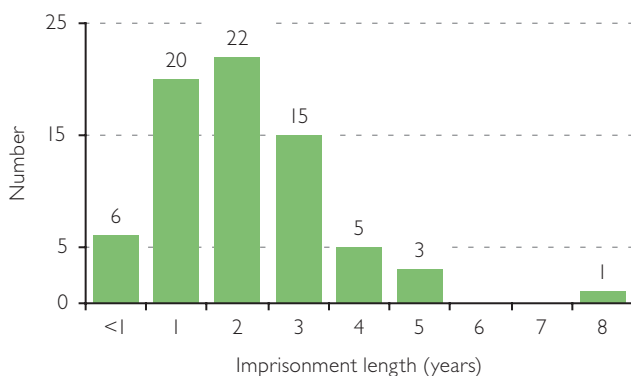
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for arson must be considered in this broader context. The following sections analyse the use of imprisonment for arson over 2003–04 to 2007–08.

Principal sentence of imprisonment

Figure 8 shows the number of people sentenced to imprisonment for arson between 2003–04 and 2007–08 by the length of the imprisonment term. Imprisonment terms ranged from three months to eight years, while the median length of imprisonment was two years (meaning that half of the imprisonment terms were shorter than two years and half were longer).

The most common length of imprisonment imposed was two years (22 people).

Figure 8: The number of people sentenced to imprisonment for arson by length of imprisonment term, 2003–04 to 2007–08



As shown in Figure 9, 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 9: The average length of imprisonment term imposed on people sentenced for arson, 2003–04 to 2007–08

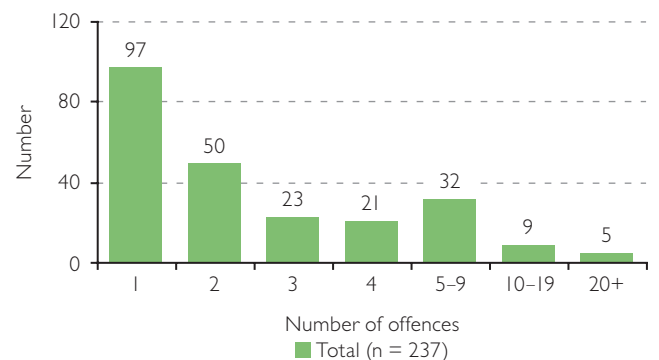


Other offences finalised at the same hearing

Often people prosecuted for arson face multiple charges, which are finalised at the same hearing. This section looks at the range of offences for which offenders have been sentenced at the same time as being sentenced for the principal offence of arson.

Figure 10 shows the number of people sentenced for the principal offence of arson by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 31, while the median was 2 offences. There were 97 people (40.9%) sentenced for the single offence of arson alone. The average number of offences per person sentenced for arson was 3.47.

Figure 10: The number of people sentenced for the principal offence of arson by the number of sentenced offences per person, 2003–04 to 2007–08



While Figure 10 presents the number of sentenced offences for those sentenced for arson, Table 3 shows what the accompanying offences were. It shows the number and percentage of people sentenced for the ten most common offences. The last column sets out the average number of offences sentenced per person. For example, 53 of the total 237 people (22.4%) also received sentences for theft. On average, they were sentenced for 3.02 counts of theft.

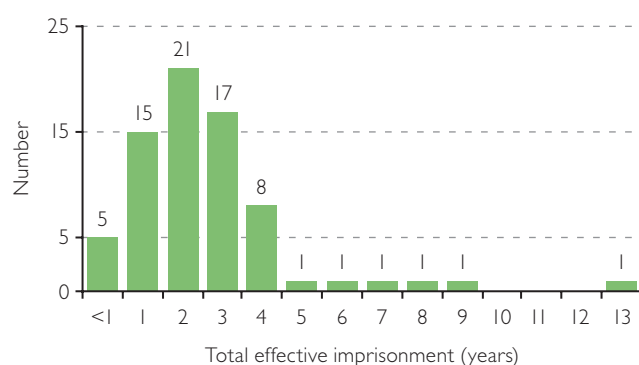
Table 3: The number and percentage of people sentenced for the principal offence of arson by the most common offences that were sentenced and the average number of those offences that were sentenced, 2003–04 to 2007–08

Offence	No.	%	Avg.
1 arson	237	100.0	1.47
2 theft	53	22.4	3.02
3 burglary	33	14.0	1.52
4 intentionally destroy/damage property (criminal damage)	26	11.0	1.92
5 conduct endangering persons	11	4.7	1.45
6 handling stolen goods	11	4.7	1.27
7 causing injury	10	4.2	1.10
8 attempt to obtain property by deception	7	3.0	1.00
9 making a threat to kill	5	2.1	2.20
10 obtaining property by deception	5	2.1	1.20
People sentenced	237	100.0	3.47

Total effective sentence of imprisonment

There were 72 people given a total effective sentence of imprisonment.¹¹ Figure 11 shows the number of people sentenced to imprisonment for arson between 2003–04 and 2007–08 by the length of their total effective sentence. The length of total effective sentences ranged from three months to thirteen years and six months,¹² 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).

Figure 11: The number of people sentenced to imprisonment for arson by total effective length of imprisonment term, 2003–04 to 2007–08



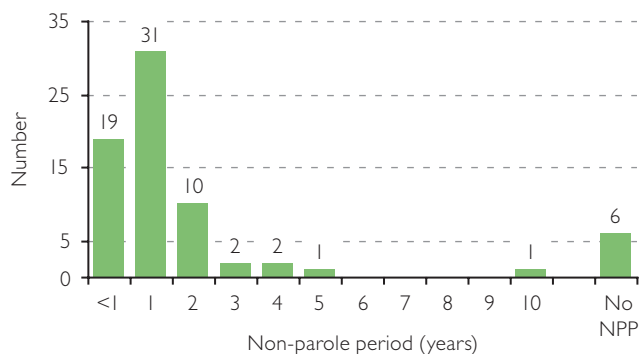
Non-parole period

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 section 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 many cases, the non-parole period will be longer than the individual principal sentence for arson. Sentences and non-parole periods must be considered in this broader context.

Of the 72 people who were sentenced to imprisonment for arson, 67 were eligible to have a non-parole period fixed.¹³ Of these people, 66 were given a non-parole period (99%). Figure 12 shows the number of people sentenced to imprisonment for arson between 2003–04 and 2007–08 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).

Figure 12: The number of people sentenced to imprisonment for arson by length of non-parole period, 2003–04 to 2007–08



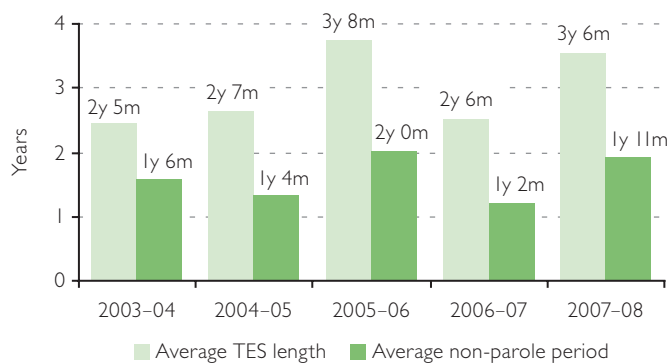
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

Total effective sentences of imprisonment and non-parole periods

Figure 13 presents the average length of total effective sentences of imprisonment compared to the average length of non-parole periods for all people from 2003–04 to 2007–08.¹⁴

From 2003–04 to 2007–08, the average length of total effective sentences 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 periods ranged from one year and two months in 2006–07 to two years and eleven months in 2005–06.

Figure 13: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for arson, 2003–04 to 2007–08

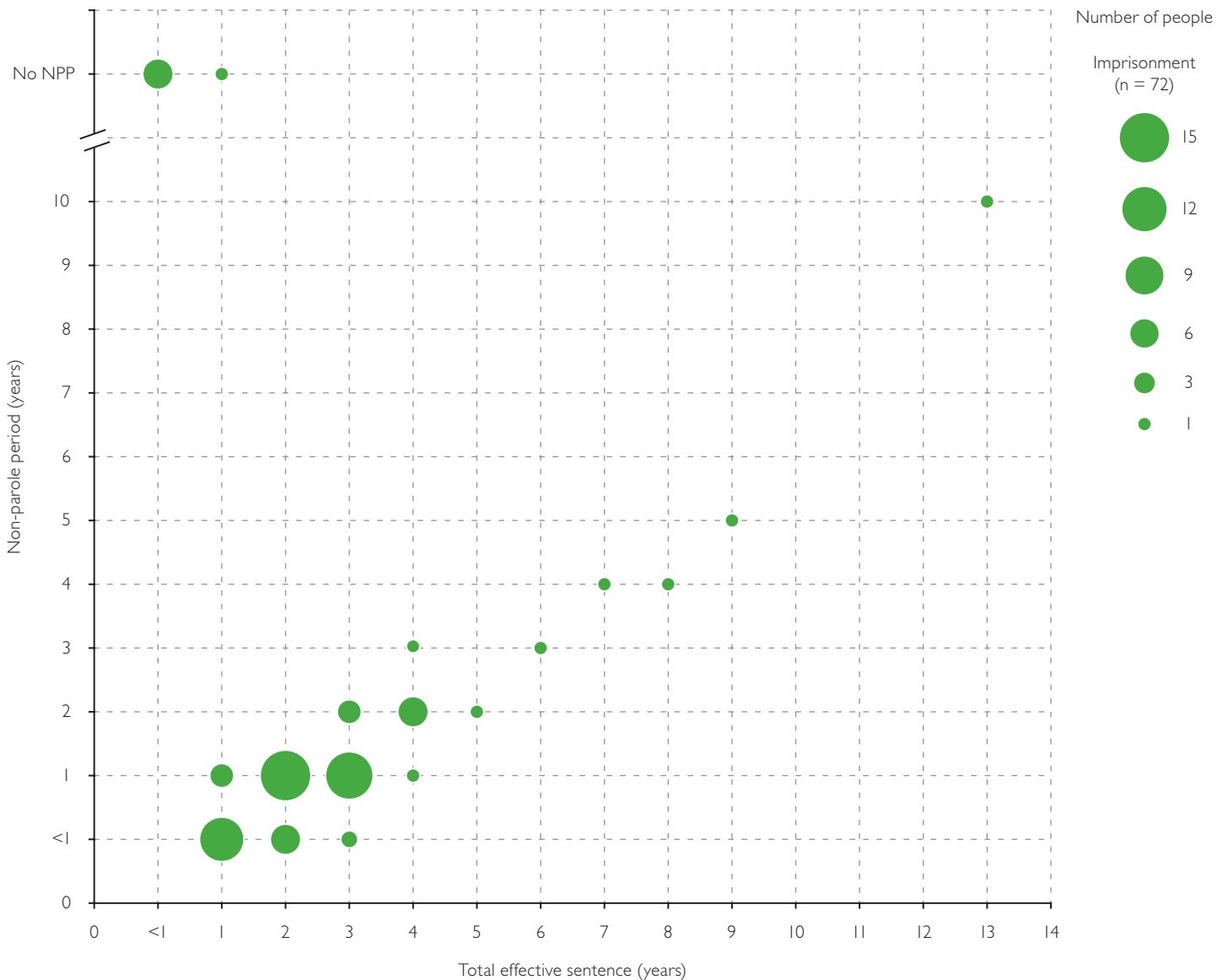


Total effective sentence of imprisonment by non-parole period

While Figures 11 and 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 combination.¹⁵ 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 (15 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.¹⁶

Figure 14: The number of people sentenced to imprisonment for arson by the total effective sentence and the non-parole period imposed, 2003–04 to 2007–08¹⁷



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

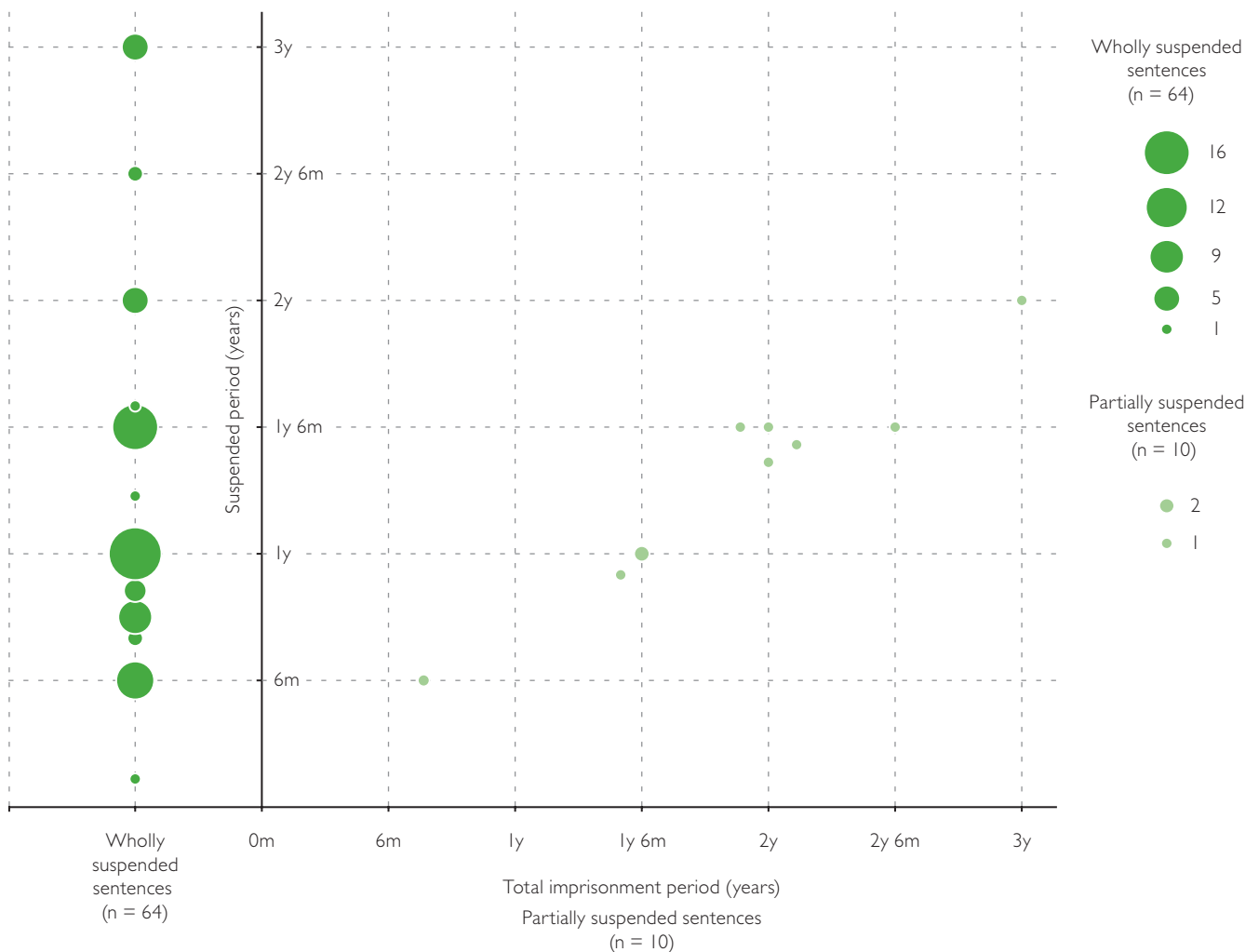
Suspended sentences of imprisonment

There were 74 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 64 people had their prison sentence wholly suspended and 10 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 dark green 'bubbles' to the left of the vertical axis show the lengths of the wholly suspended sentences, while the light green '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 one year (16 people – as represented by the largest dark green 'bubble' on the chart).

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

Figure 15: The number of people given a wholly or partially suspended sentence of imprisonment for arson by sentence type and length, 2003–04 to 2007–08

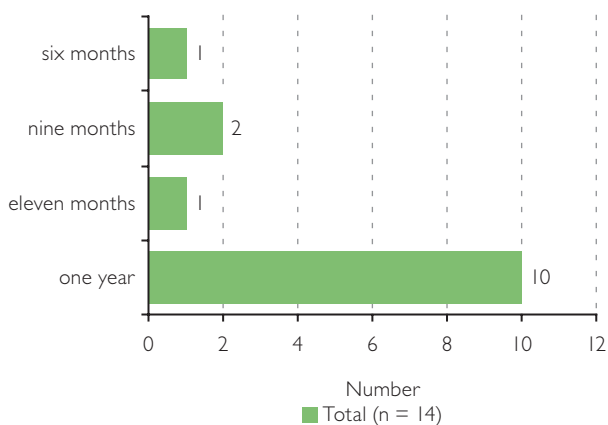


Intensive correction orders

There were 14 people given an intensive correction order as their total effective sentence.

The length of intensive correction orders for arson ranged from six months to one year, while the most common length of intensive correction order was one year (10 people).

Figure 16: The number of people sentenced to an intensive correction order for arson by length of order imposed, 2003–04 to 2007–08

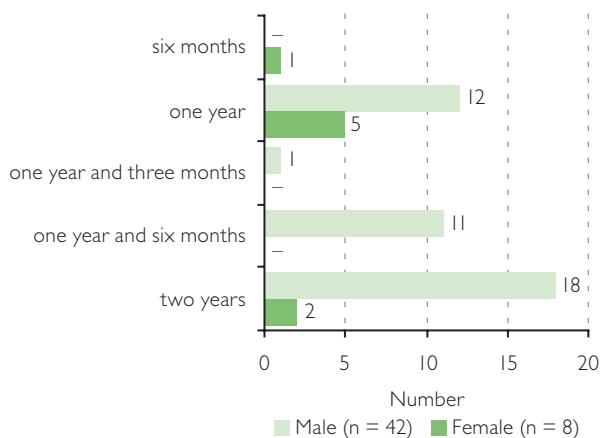


Community-based orders

There were 50 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 most common length was two years (20 people).

Figure 17: The number of people sentenced to a community-based order for arson by length of order imposed, 2003–04 to 2007–08

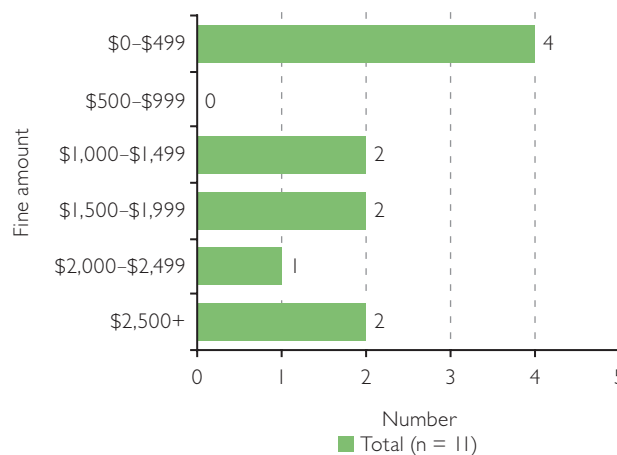


Fines

This analysis includes all fines that were imposed for cases where arson was the principal offence. Fines were imposed on 11 people.

The fine amount imposed ranged from \$100 to \$5,000, with a median of \$1,400 (meaning that half of the values fell below \$1,400 and half of the values were above \$1,400). The average fine amount was \$1,500.

Figure 18: The number of people who received a fine for arson by fine amount, 2003–04 to 2007–08



Summary

Between 2003–04 and 2007–08, 237 people were sentenced for the principal proven offence of arson in the higher courts. Over this period, the majority of those sentenced were men (83%), while 35% were between the age of 18 and 25 years.

Around one third of the people sentenced for arson received a period of imprisonment (30%), while 27% received a wholly suspended sentence of imprisonment and 21% received a community-based order.

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 or given an intensive correction order.

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

Each of the 237 people was sentenced for an average of 3.47 offences, including 1.48 offences of arson. The most common offence finalised in conjunction with arson was theft (22.4% of all cases). The number and range of offences for which people with a principal offence of arson were sentenced help explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was two years and six months, while the median principal imprisonment length was two years.

Total effective 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 one year. The most common length of community-based order was two years.

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. There were 276 people sentenced from 2003–04 to 2007–08 for 398 offences of arson. Arson was the principal proven offence for 237 of these people.

This series of reports includes custodial and non-custodial supervision orders imposed under Part 5 of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (Vic)* as sentencing orders and in the count of people sentenced. These orders are not sentencing orders, as they are imposed in cases where the defendant is not guilty because of mental impairment. However, they are included in this series as they are an important form of disposition of criminal charges.

This Sentencing Snapshot is an update of Sentencing Snapshot No. 20, which described sentencing trends for arson between 2001–02 and 2005–06.

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). While every effort is made to ensure that the data analysed in this report are accurate, the data are subject to revision.
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. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette and on the Office of the Chief Parliamentary Counsel website <www.ocpc.vic.gov.au>.
8. From 1 July 2007, the value increased from \$25,000 to \$100,000.
9. Immediate custodial sentence includes imprisonment, partially suspended sentence, youth training centre order, hospital security order and combined custody and treatment order.
10. Age is as at the time of sentencing.
11. All of the 72 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
12. In 2005–06, a man aged 63 years was sentenced for 5 offences, including two counts of arson, two counts of stalking and one count of conduct endangering life. He received a total effective sentence of 13 years with a non-parole period of ten years.
13. Five people were not eligible for parole because they were given a total effective sentence length of less than one year.
14. Due to the low number of women (2) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
15. Sentence lengths that are longer than one year are rounded down to the nearest year of imprisonment, while sentence lengths of less than one year are grouped into the '<1 year' category.
16. Refer to note 12.
17. This graph includes the 72 people who were given a total effective sentence and a non-parole period that related to this case only.

Sentencing Snapshots is a series presenting summary information on sentencing trends in Victoria

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- 37 Burglary
- 36 Attempted armed robbery
- 35 Armed robbery
- 34 Robbery

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