

No. 29: Sentencing trends for culpable driving causing death in the higher courts of Victoria, 2001-02 to 2005-06

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of culpable driving causing death 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.

This offence covers homicides caused by the culpable driving of a motor vehicle. This offence is committed where a person drives a motor vehicle negligently, recklessly or whilst under the influence of drugs or alcohol and causes the death of another person⁴. Culpable driving causing death is an indictable offence which carries a maximum penalty of 20 years' imprisonment and/or a fine of 1800 penalty units⁵.

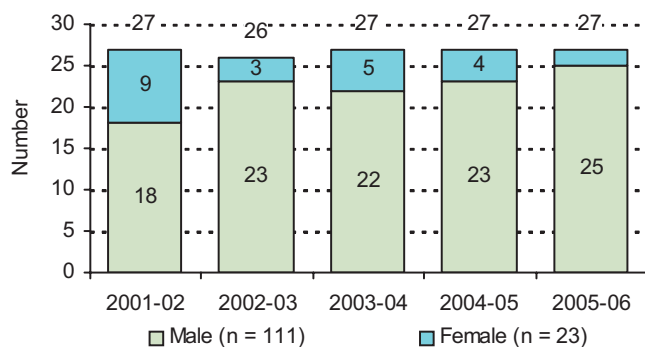
All culpable driving causing death offences were heard in the County or Supreme Court. Culpable driving causing death was the principal offence in 1.3% of cases sentenced in the higher courts between 2001-02 and 2005-06.

People sentenced

Figure 1 shows the number of people sentenced for culpable driving causing death for the period 2001-02 to 2005-06. As shown, 134 people were sentenced for culpable driving causing death over the five year period. There were 27 people sentenced for this offence in 2005-06, remaining stable with the previous year.

Over the five years depicted, the majority of those sentenced were men (82.8% or 111 of the 134 people), including 25 of the 27 people sentenced in 2005-06.

Figure 1: The number of people sentenced for culpable driving causing death by gender, 2001-02 to 2005-06



Sentence types and trends

Figure 2 shows the total number of people sentenced for culpable driving causing death and the number who received a custodial sentence. Custodial refers to sentences that involve at least some aspect of immediate imprisonment or detention⁶. Over the five year period, 94% of people were given a custodial sentence. This peaked at 100% (26 of 26) in 2002-03 before decreasing to 85% (23 of 27) in 2003-04. In 2005-06, 96% of people sentenced (26 of 27) were given a custodial sentence.

Figure 2: The number of people sentenced for culpable driving causing death 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 culpable driving causing death from 2001-02 to 2005-06 by the types of sentences imposed.

Over the five year period, the majority of those sentenced for culpable driving causing death received a period of imprisonment (81% or 109 of 134 people), while 11% received a youth training centre order and 5% received a wholly suspended sentence of imprisonment.

The number of people sentenced to imprisonment remained relatively stable over the five year period, ranging from 21 to 23 people.

Figure 3: The number of people sentenced for culpable driving causing death by sentence type, 2001-02 to 2005-06



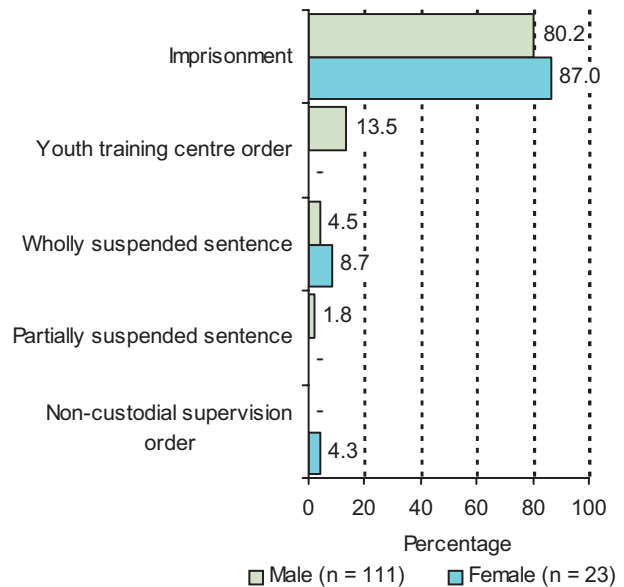
Table 1: The number and percentage of people sentenced for culpable driving causing death by sentence type, 2001-02 to 2005-06

Sentence type	01-02	02-03	03-04	04-05	05-06
Imprisonment	22	22	21	23	21
Youth training centre order	1	4	2	3	5
Wholly suspended sentence	1	0	4	1	1
Partially suspended sentence	2	0	0	0	0
Non-custodial supervision order	1	0	0	0	0
People sentenced	27	26	27	27	27

Sentence types by gender

Figure 5 and Table 2 show the types of sentence imposed for culpable driving causing death grouped by gender. As shown, a higher percentage of men received a youth training centre order (13.5% compared to no women) and a partially suspended sentence of imprisonment (1.8% compared to no women). Conversely, a higher percentage of women received a period of imprisonment (87.0% compared to 80.2% of men), a non-custodial supervision order (4.3% compared to no men) and a wholly suspended sentence of imprisonment (8.7% compared to 4.5%).

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



Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for culpable driving causing death grouped by their age⁷ between 2001-02 and 2005-06. The average age of people sentenced for culpable driving causing death was twenty-seven years and eleven months. Women sentenced over this period were much older than men (an average age of thirty-two years and eight months for women compared to twenty-six years and eleven months for men). Four male juveniles were sentenced over this period.

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

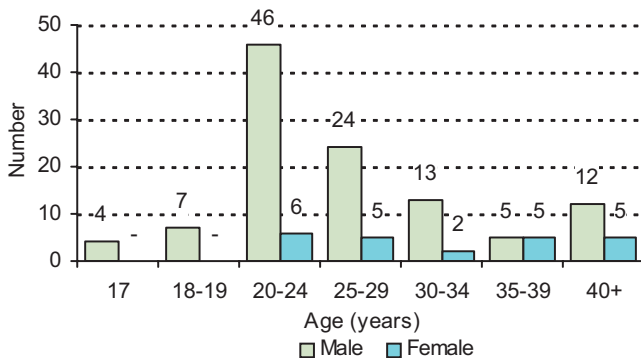


Table 2: The number and percentage breakdown of people sentenced for culpable driving causing death by gender, 2001-02 to 2005-06

Sentence type	Male	Female	Total
Imprisonment	89	20	109
	80%	87%	81%
Youth training centre order	15	0	15
	14%	-	11%
Wholly suspended sentence	5	2	7
	5%	9%	5%
Partially suspended sentence	2	0	2
	2%	-	1%
Non-custodial supervision order	0	1	1
	-	4%	<1%
People sentenced	111	23	134

Sentence types by age

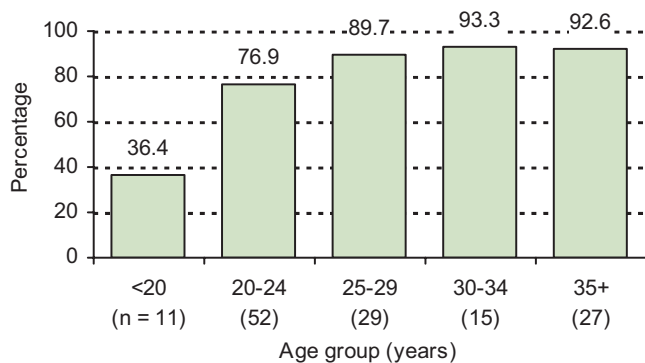
As shown in the table above, the most common sentence type was imprisonment. The following analysis examines this sentence type by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 30-34 years old (93% or 14 of the 15 people in this age group) followed by people aged 35 years and older (93% or 25 of the 27 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (36% or four of the 11 people in this age group).

Figure 6: The percentage of people who received a period of imprisonment for culpable driving causing death 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 culpable driving causing death must be considered in this broader context. The following

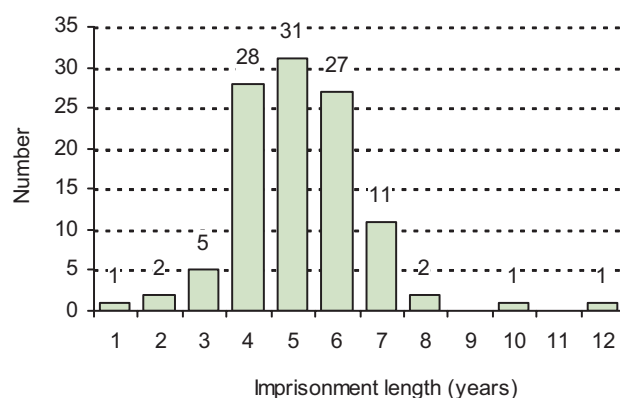
sections analyse the use of imprisonment for culpable driving causing death over 2001-02 to 2005-06.

Principal sentence of imprisonment

Figure 7 shows the number of people sentenced to imprisonment for culpable driving causing death between 2001-02 and 2005-06 by the length of the imprisonment term. Imprisonment terms ranged from 1 year to twelve years and three months, while the median length of imprisonment was five years (meaning that half of the imprisonment terms were shorter than five years and half were longer).

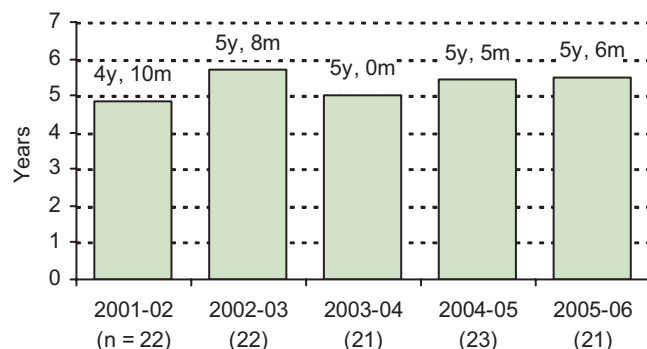
The most common length of imprisonment imposed was 5 years (31 people).

Figure 7: The number of people sentenced to imprisonment for culpable driving causing death by length of imprisonment term, 2001-02 to 2005-06



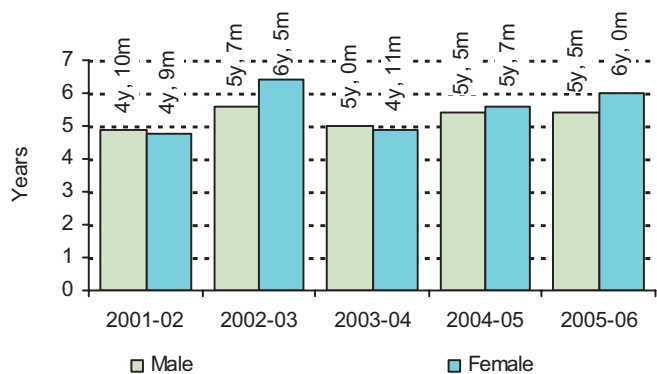
As shown in Figure 8, the average length of imprisonment term imposed on people sentenced for culpable driving causing death ranged from four years and ten months in 2001-02 to five years and eight months in 2002-03.

Figure 8: The average length of imprisonment term imposed on people sentenced for culpable driving causing death, 2001-02 to 2005-06



From 2001-02 to 2005-06, the majority of those people who received a term of imprisonment for culpable driving causing death were men (89 people or 81.7%). Figure 9 shows that over the five year period, men, however, received a similar average term of imprisonment (five years and three months compared to five years and four months for women).

Figure 9: The average period of imprisonment imposed on people sentenced for culpable driving causing death by gender, 2001-02 to 2005-06

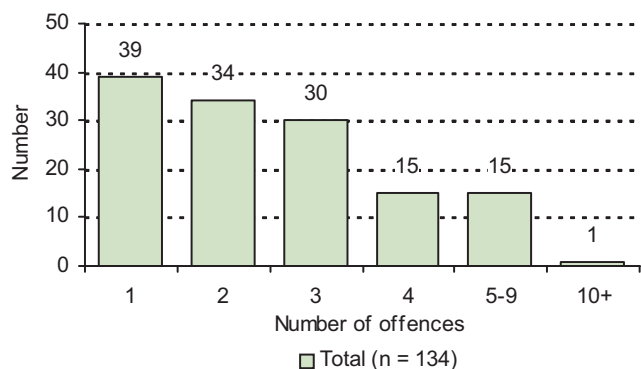


Other offences finalised at the same hearing

Often people prosecuted for culpable driving causing death 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 culpable driving causing death.

Figure 10 shows the number of people sentenced for the principal offence of culpable driving causing death by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 12, while the median was 2 offences. There were 39 people (29.1%) sentenced for the single offence of culpable driving causing death alone. The average number of offences per person sentenced for culpable driving causing death was 2.66.

Figure 10: The number of people sentenced for the principal offence of culpable driving causing death by the number of sentenced offences per person, 2001-02 to 2005-06



While Figure 10 presents the number of sentenced offences for those sentenced for culpable driving causing death, Figure 11 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, 54 of the total 134 people (40.3%) also received sentences for negligently causing serious injury. On average, they were sentenced for 1.52 counts of negligently causing serious injury.

Figure 11: The number and percentage of people sentenced for the principal offence of culpable driving causing death by the most common offences that were sentenced and the average number of those offences that were sentenced, 2001-02 to 2005-06

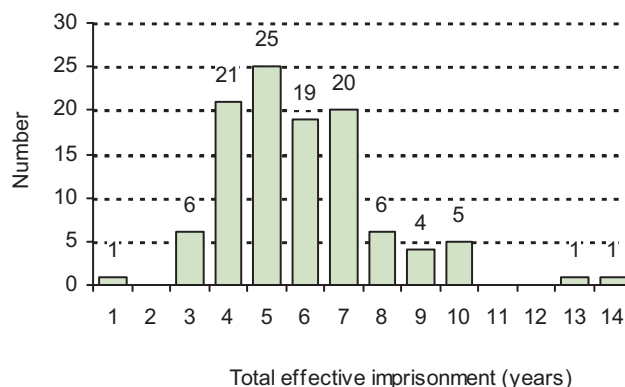
Offence	No.	%	Avg.
1 culpable driving causing death	134	100.0	1.16
2 negligently causing serious injury	54	40.3	1.52
3 exceed blood alcohol limit	26	19.4	1.00
4 theft	9	6.7	1.33
5 conduct endangering life	8	6.0	1.38
6 drive whilst authorisation suspended	7	5.2	1.00
7 unlicensed driving	7	5.2	1.00
8 fail to stop after a motor vehicle accident - person killed	7	5.2	1.00
9 fail to render assistance after accident - person injured/property is damaged or destroyed	6	4.5	1.00
10 use an unregistered vehicle	3	2.2	1.00
People sentenced	134	100.0	2.66

Total effective sentence of imprisonment

There were 109 people given a total effective sentence of imprisonment. Figure 12 shows the number of people sentenced to imprisonment for culpable driving causing death between 2001-02 and 2005-06 by the length of their total effective sentence. The length of total effective sentences ranged from one year to fourteen years, while the median total effective length of imprisonment was six years (meaning that half of the total effective sentence lengths were below six years and half were above).

The most common total effective imprisonment length was 5 years (25 people).

Figure 12: The number of people sentenced to imprisonment for culpable driving causing death by total effective length of imprisonment term, 2001-02 to 2005-06



Non-parole period

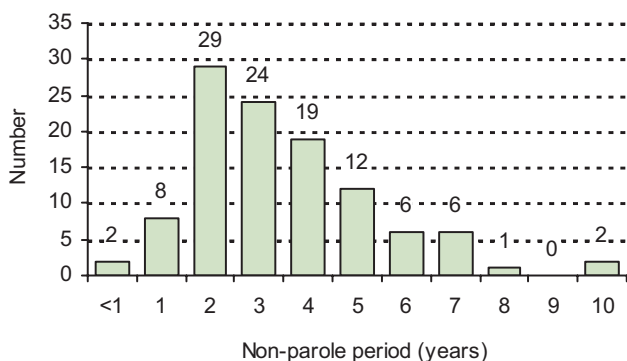
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person 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 many cases, the non-parole period will be lengthier than the individual principal sentence for culpable driving causing death. Sentences and non-parole periods must be considered in this broader context.

Of the 109 people who were sentenced to imprisonment for culpable driving causing death, all were given a non-parole period. Figure 13 shows the number of people sentenced to imprisonment for culpable driving causing death between 2001-02 and 2005-06 by the length of their non-parole period. Non-parole periods ranged from six months to ten years and three months, while the median length of the non-parole period was three years and six months (meaning that half of the non-parole periods were below three years and six months and half were above).

The most common non-parole period imposed was 2 years (29 people).

Figure 13: The number of people sentenced to imprisonment for culpable driving causing death by length of non-parole period, 2001-02 to 2005-06



Total effective sentences of imprisonment and non-parole periods

Figure 14 to Figure 16 present the average length of total effective sentence of imprisonment compared to the average length of non-parole period for all people (Figure 14), for men (Figure 15) and for women (Figure 16) from 2001-02 to 2005-06.

From 2001-02 to 2005-06, the average length of total effective sentence for all people ranged from five years and one month in 2001-02 to six years and nine months in 2002-03. Over the same period, the average length of non-parole period ranged from two years and ten months in 2001-02 to four years and three months in 2002-03.

Figure 14: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for culpable driving causing death, 2001-02 to 2005-06

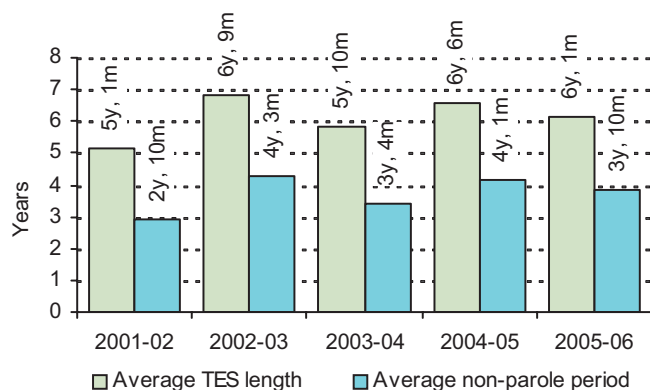
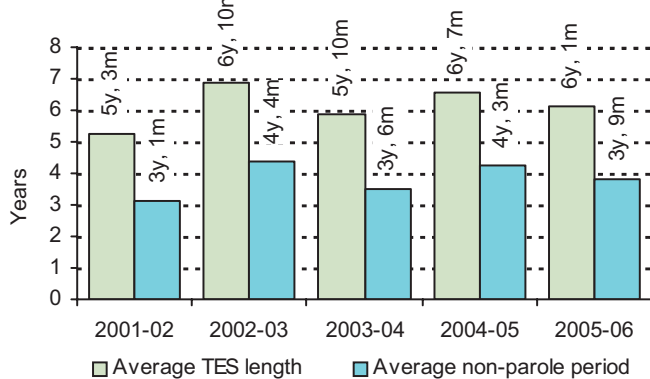


Figure 15 and Figure 16 show the average lengths of total effective sentences of imprisonment compared to the average length of non-parole periods imposed on men and women for culpable driving causing death between 2001-02 and 2005-06.

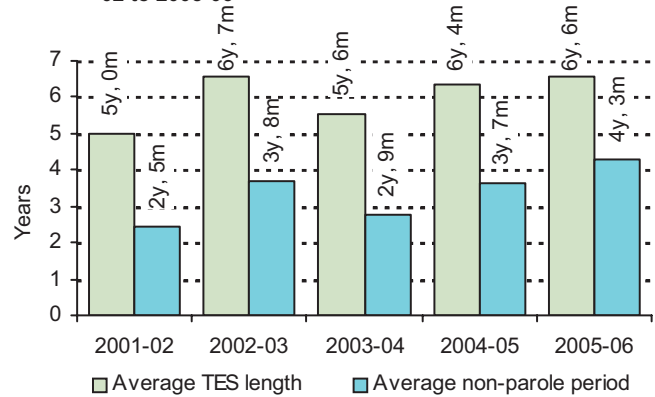
From 2001-02 to 2005-06, the average length of total effective sentence for men ranged from five years and three months in 2001-02 to six years and ten months in 2002-03. Over the same period, the average length of non-parole period for men ranged from three years and one month in 2001-02 to four years and four months in 2002-03.

Figure 15: The average total effective sentence and the average non-parole period imposed on men sentenced to imprisonment for culpable driving causing death, 2001-02 to 2005-06



The average length of total effective sentence for women ranged from five years in 2001-02 to six years and seven months in 2002-03. Over the same period, the average length of non-parole period for women ranged from two years and five months in 2001-02 to four years and three months in 2005-06.

Figure 16: The average total effective sentence and the average non-parole period imposed on women sentenced to imprisonment for culpable driving causing death, 2001-02 to 2005-06

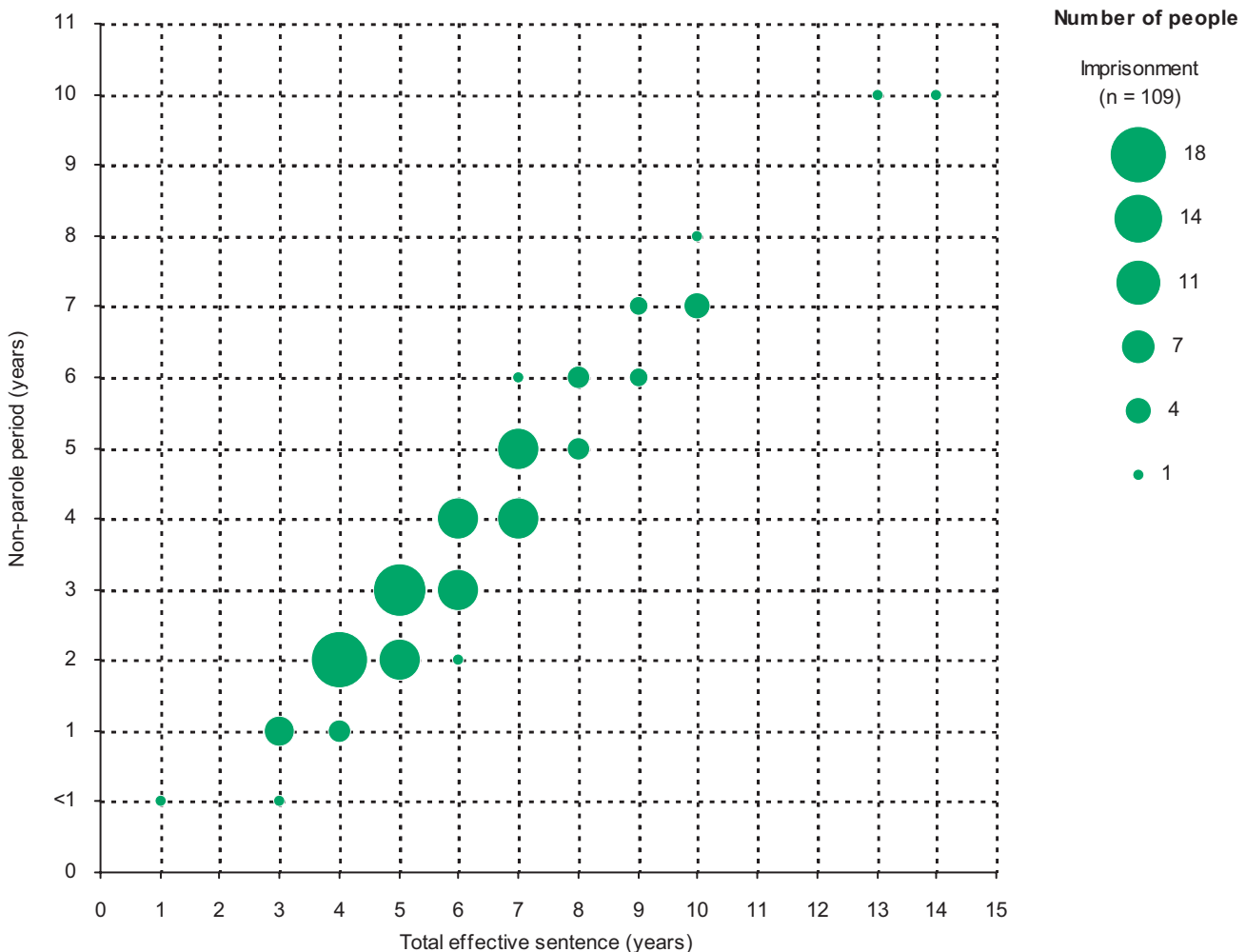


Total effective sentence of imprisonment by non-parole period

While Figure 12 and Figure 13 present the lengths of the total effective sentences and non-parole periods separately, Figure 17 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for culpable driving causing death 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 combination⁸. As shown, the most common combination of imprisonment length and non-parole period imposed was four years with a non-parole period of two years (18 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from one year with a non-parole period of six months to fourteen years with a non-parole period of ten years and three months.

Figure 17: The number of people sentenced to imprisonment for culpable driving causing death by the total effective sentence and the non-parole period imposed, 2001-02 to 2005-06⁹



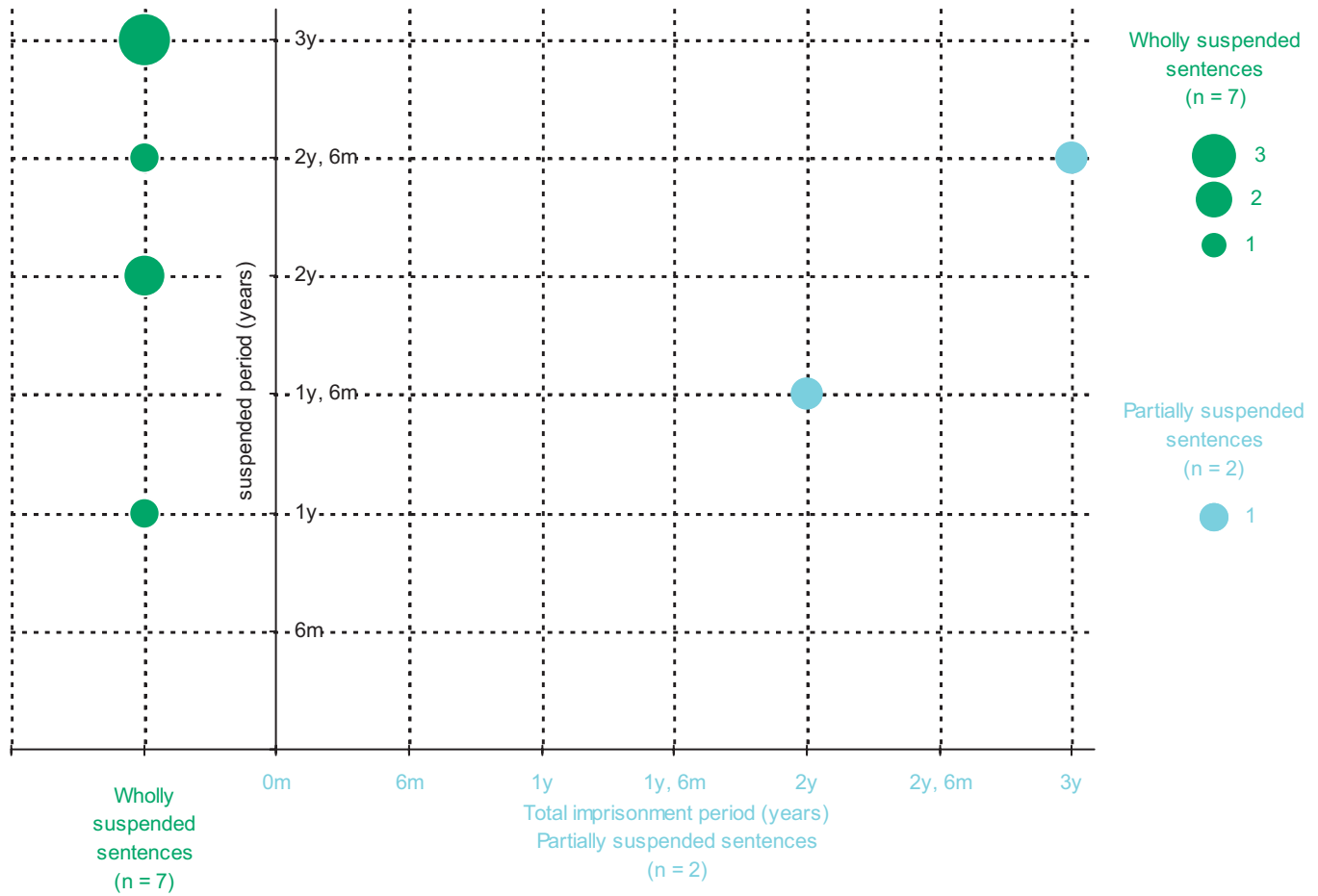
Suspended sentences of imprisonment

There were 9 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 7 people had their prison sentence wholly suspended and 2 received a partially suspended sentence of imprisonment. Figure 18 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 one year to three years. The most common wholly suspended sentence length was three years (3 people - as represented by the largest green 'bubble' on the chart).

The two partially suspended sentences were imposed for two years with one year and six months suspended and three years with two years and six months suspended (1 person each).

Figure 18: The number of people given a wholly or partially suspended sentence of imprisonment for culpable driving causing death by sentence type and length, 2001-02 to 2005-06



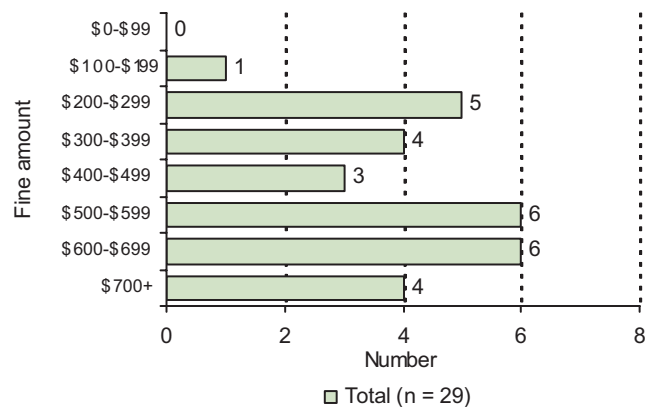
Fines

This analysis includes all fines that were imposed for cases where culpable driving causing death was the principal offence. Fines were imposed on 29 people.

The fine amount imposed ranged from \$100 to \$1,048, with a median of \$500 (meaning that half of the values fell below \$500 and half of the values were above \$500).

The average fine amount was \$474. The average fine amount imposed against the 22 males was \$497, higher than the average fine for the 7 females (\$400).

Figure 19: The number of people who received a fine for culpable driving causing death by fine amount, 2001-02 to 2005-06



Summary

Between 2001-02 and 2005-06, 134 people were sentenced for culpable driving causing death in the higher courts. Over this period, the majority of those sentenced were men (83%), while 60% were between the age of 20 and 29 years.

The majority of the people sentenced for culpable driving causing death received a period of imprisonment (81%), while 11% received a youth training centre order.

Men were more likely than women to be sentenced to a youth training centre order. Conversely, women were more likely to be sentenced to a period of imprisonment.

Imprisonment was most common for those aged older than 25 years of age.

Each of the 134 people was sentenced for an average of 2.66 offences, including 1.16 offences of culpable driving causing death. The most common offence finalised in conjunction with culpable driving causing death was negligently causing serious injury (40.3% of all cases).

The number and range of offences for which people with a principal offence of culpable driving causing death were sentenced helps explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was six years, while the median principal imprisonment length was five years.

Total effective imprisonment lengths ranged from one year with a non-parole period of six months to fourteen years with a non-parole period of ten years and three months. The most common sentence of imprisonment was four years with a two year non-parole period.

3 The statistical information presented here was provided by Court Services, Department of Justice (Vic). This report describes sentencing trends for culpable driving causing death since 2001-02. Court Services advises that sentencing data from the higher courts prior to 2000-01 may be unreliable due to changed data collection processes and counting rules.

4 *Crimes Act 1958* (Vic) s.318.

5 Culpable driving causing death carries a maximum fine of 1800 penalty units. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette.

6 Custodial sentence includes imprisonment, youth training centre order and partially suspended sentence.

7 Age is as at the time of sentencing.

8 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.

9 This graph includes the 109 people who were given a total effective sentence and a non-parole period that related to this case only.

This "Sentencing Snapshot" is part of a series presenting summary information on sentencing trends in Victoria.

Copies of all the Sentencing Snapshots can be downloaded from our website at

www.sentencingcouncil.vic.gov.au

Authored by Nick Turner, Senior Data Analyst, Sentencing Advisory Council

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The Sentencing Advisory Council draws data for the Sentencing Snapshots from a variety of sources. All original data sources are noted. The Sentencing Advisory Council makes every effort to ensure that data used in the Sentencing Snapshots are accurate at the time of publishing.

1 This report presents sentencing outcomes for people sentenced for the principal offence of culpable driving causing death 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 culpable driving causing death who received a more serious sentence for another offence forming part of the same presentment. There were 134 people sentenced from 2001-02 to 2005-06 for 156 offences of culpable driving causing death. Culpable driving causing death was the principal proven offences for all of these people.

This Sentencing Snapshot is an update of Sentencing Snapshot No. 6, which described the sentencing trends for culpable driving in Victoria between 1998-99 and 2003-04. This report is available for download from the Sentencing Advisory Council website www.sentencingcouncil.vic.gov.au

2 The information source for sentencing outcomes for culpable driving causing death only contains information on age and gender characteristics. No other demographic analysis is possible.