

No. 30: Sentencing trends for making a threat to kill in the higher courts of Victoria, 2001-02 to 2005-06

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of making a threat to kill 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, without lawful excuse, threatens to kill another person is guilty of the offence of making a threat to kill. The person must intend or be reckless as to whether the other person would fear the threat would be carried out⁴. Making a threat to kill is an indictable offence that carries a maximum penalty of 10 years' imprisonment⁵ and/or a fine of 1200 penalty units⁶.

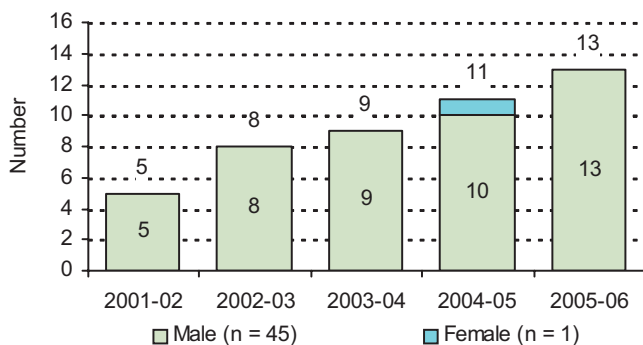
Of all people sentenced for the principal offence of making a threat to kill, 3.4% had their cases heard in the higher courts. The remaining cases were heard in the Children's and Magistrates' Court⁷. Making a threat to kill was the principal offence in 0.5% of cases sentenced in the higher courts between 2001-02 and 2005-06.

People sentenced

Figure 1 shows the number of people sentenced for making a threat to kill for the period 2001-02 to 2005-06. As shown, 46 people were sentenced for making a threat to kill over the five year period. There were 13 people sentenced for this offence in 2005-06, up by 2 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (97.8% or 45 of 46 people), including all of the 13 people sentenced in 2005-06.

Figure 1: The number of people sentenced for making a threat to kill by gender, 2001-02 to 2005-06



Sentence types and trends

Figure 2 shows the total number of people sentenced for making a threat to kill and the number who received a custodial sentence. Custodial refers to sentences that involve at least some aspect of immediate imprisonment or detention⁸. Over the five year period, 50% of people were given a custodial sentence. This peaked at 67% (6 of 9) in 2003-04 after a low of 20% (1 of 5) in 2001-02. In 2005-06, 38% of people sentenced (5 of 13) were given a custodial sentence.

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

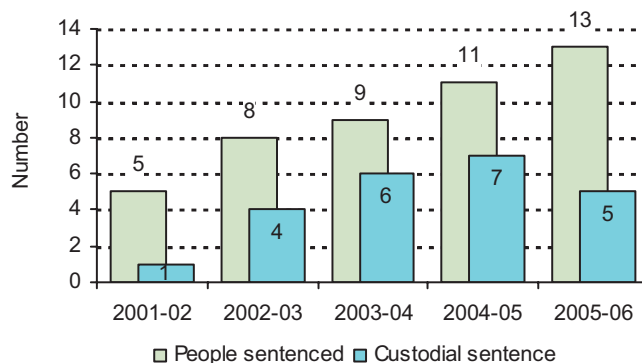


Figure 3 and Table 1 show the number of people sentenced for making a threat to kill from 2001-02 to 2005-06 by the types of sentences imposed.

Over the five year period, around four in ten people sentenced for making a threat to kill received a period of imprisonment (43% or 20 of 46 people), while 28% received a wholly suspended sentence of imprisonment and 13% received a community based order.

The number of people sentenced to imprisonment fluctuated each year ranging from one person in 2001-02 to seven people in 2004-05. The number of people sentenced to a wholly suspended sentence of imprisonment totalled seven over the first four years before increasing to six in 2005-06 alone.

Figure 3: The number of people sentenced for making a threat to kill by sentence type, 2001-02 to 2005-06

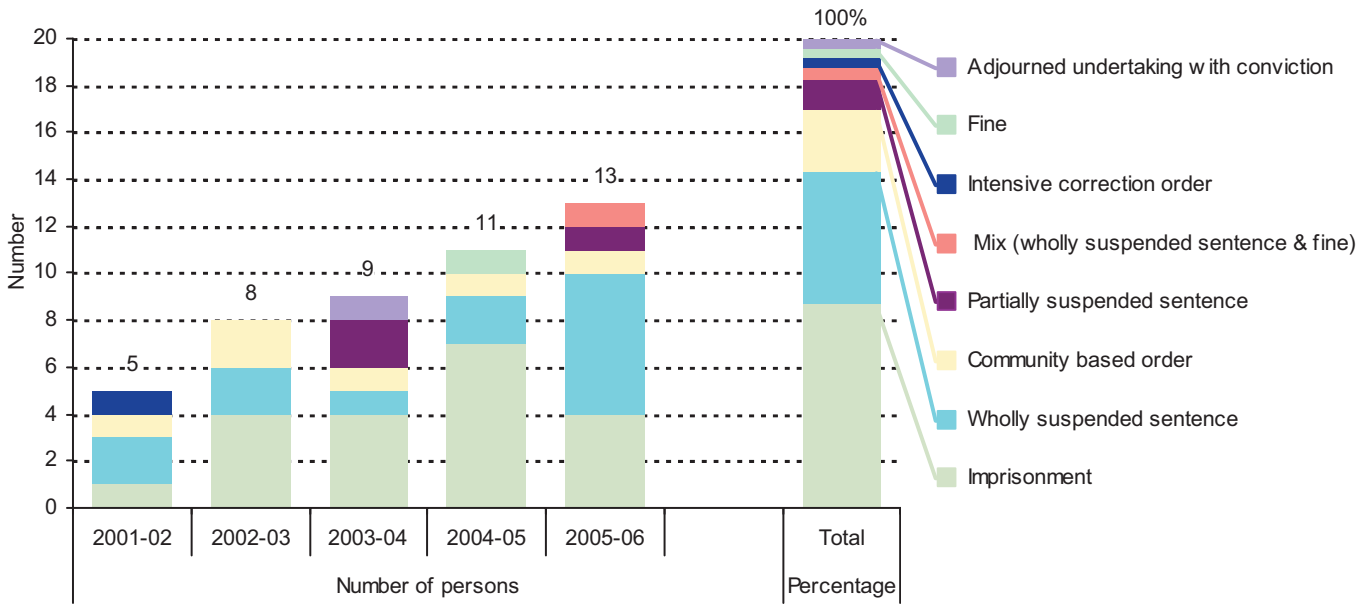


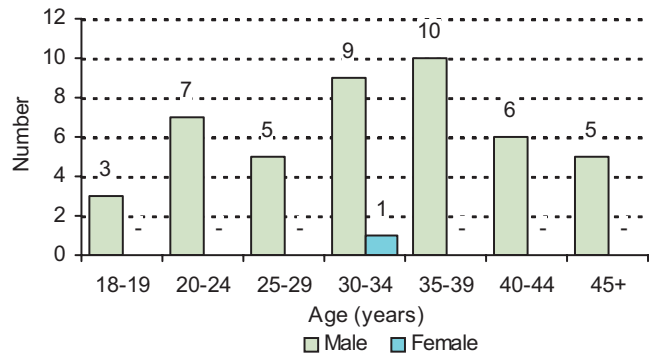
Table 1: The number and percentage of people sentenced for making a threat to kill by sentence type, 2001-02 to 2005-06

Sentence type	01-02	02-03	03-04	04-05	05-06
Imprisonment	1	4	4	7	4
Wholly suspended sentence	2	2	1	2	6
Community based order	1	2	1	1	1
Partially suspended sentence	0	0	2	0	1
Mix (wholly suspended sentence & fine)	0	0	0	0	1
Intensive correction order	1	0	0	0	0
Fine	0	0	0	1	0
Adjourned undertaking with conviction	0	0	1	0	0
People sentenced	5	8	9	11	13

Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for making a threat to kill grouped by their age⁹ between 2001-02 and 2005-06. The average age of people sentenced for making a threat to kill was thirty-three years and five months. There were no juveniles sentenced over this period.

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



Sentence types by age

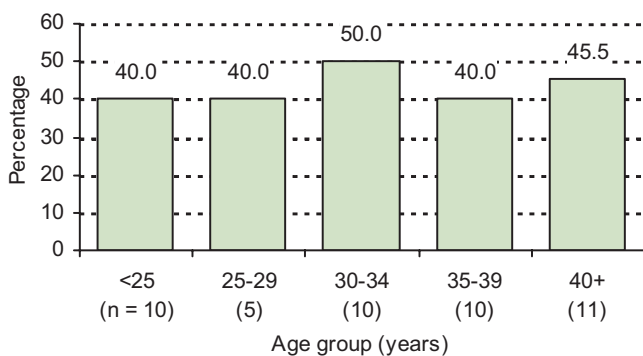
As shown in the table above, the two most common sentence types were imprisonment and wholly suspended sentences of imprisonment. The following analysis examines these sentence types by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 30-34 years old (50% or five of the 10 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 25 years (40% or four of the 10 people in this age group), people aged 25-29 years old (40% or two of the 5 people in this age group) and people aged 35-39 years old (40% or four of the 10 people in this age group).

Figure 5: The percentage of people who received a period of imprisonment for making a threat to kill by age group, 2001-02 to 2005-06

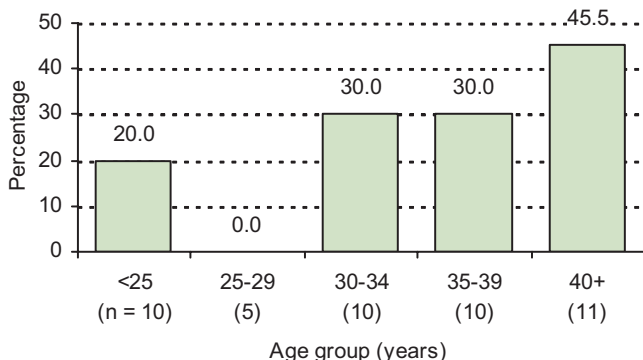


Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 40 years and older (45% or five of the 11 people in this age group).

Conversely, none of the 5 people aged 25-29 years old received a wholly suspended sentence of imprisonment.

Figure 6: The percentage of people who received a wholly suspended sentence of imprisonment for making a threat to kill 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 making a threat to kill must be considered in this broader context. The following sections analyse the use of imprisonment for making a threat to kill over 2001-02 to 2005-06.

Principal sentence of imprisonment

Figure 7 shows the number of people sentenced to imprisonment for making a threat to kill between 2001-02

and 2005-06 by the length of the imprisonment term. Imprisonment terms ranged from twenty-two days to five years, while the median length of imprisonment was one year, four months and fifteen days (meaning that half of the imprisonment terms were shorter than one year, four months and fifteen days and half were longer).

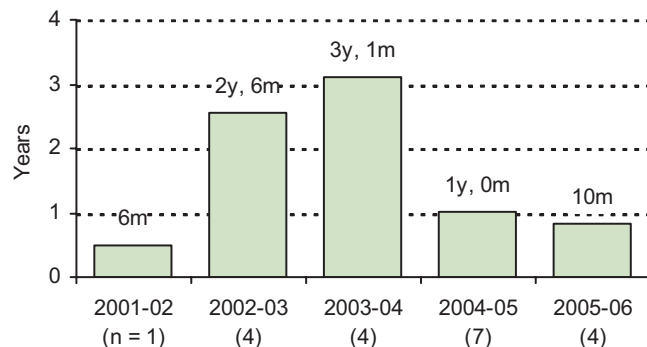
The most common length of imprisonment imposed was less than one year (7 people).

Figure 7: The number of people sentenced to imprisonment for making a threat to kill 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 making a threat to kill ranged from six months in 2001-02 to three years and one month in 2003-04.

Figure 8: The average length of imprisonment term imposed on people sentenced for making a threat to kill, 2001-02 to 2005-06

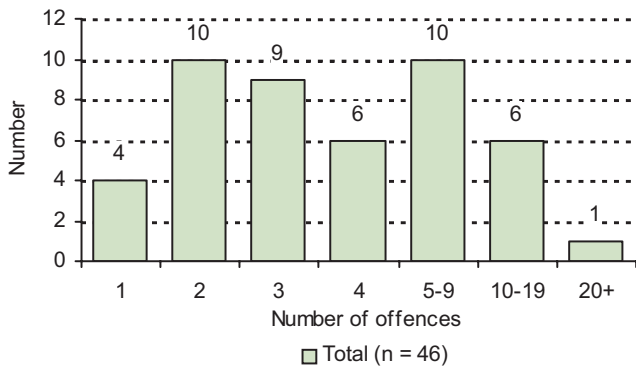


Other offences finalised at the same hearing

Often people prosecuted for making a threat to kill 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 making a threat to kill.

Figure 9 shows the number of people sentenced for the principal offence of making a threat to kill by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 20, while the median was 3.5 offences. There were 4 people (8.7%) sentenced for the single offence of making a threat to kill alone. The average number of offences per person sentenced for making a threat to kill was 5.11.

Figure 9: The number of people sentenced for the principal offence of making a threat to kill by the number of sentenced offences per person, 2001-02 to 2005-06



While Figure 9 presents the number of sentenced offences for those sentenced for making a threat to kill, Figure 10 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, 14 of the total 46 people (30.4%) also received sentences for intentionally destroy/damage property (criminal damage). On average, they were sentenced for 1.64 counts of intentionally destroy/damage property (criminal damage).

Figure 10: The number and percentage of people sentenced for the principal offence of making a threat to kill 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 making a threat to kill	46	100.0	1.41
2 intentionally destroy/damage property (criminal damage)	14	30.4	1.64
3 common law assault	13	28.3	1.31
4 causing injury	8	17.4	1.38
5 false imprisonment	7	15.2	1.57
6 theft	6	13.0	1.50
7 aggravated burglary	6	13.0	1.00
8 prohibited person in possession of a firearm	5	10.9	1.00
9 obtain property by deception	3	6.5	6.00
10 stalking	3	6.5	1.33
People sentenced	46	100.0	5.11

Total effective sentence of imprisonment

There were 20 people given a total effective sentence of imprisonment¹⁰. Figure 11 shows the number of people sentenced to imprisonment for making a threat to kill between 2001-02 and 2005-06 by the length of their total effective sentence. The length of total effective sentences ranged from twenty-two days to six years, while the median total effective length of imprisonment was one year, ten months and fifteen days (meaning that half of the total effective sentence lengths were below one year, ten months and fifteen days and half were above).

The most common total effective imprisonment length was 1 year (6 people).

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



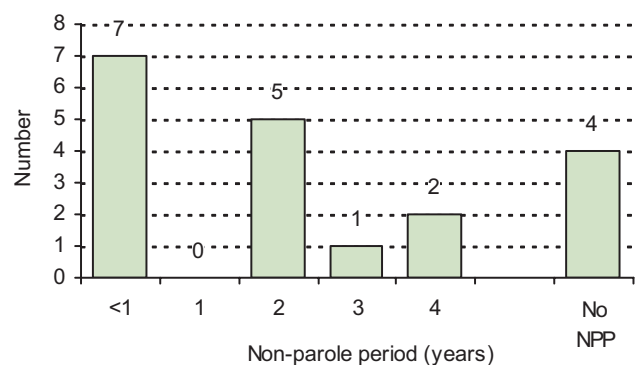
Non-parole period

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 making a threat to kill. Sentences and non-parole periods must be considered in this broader context.

Of the 20 people who were sentenced to imprisonment for making a threat to kill, 16 were eligible to have a non-parole period set¹¹. Of these people, 15 were given a non-parole period (94%)¹². Figure 12 shows the number of people sentenced to imprisonment for making a threat to kill between 2001-02 and 2005-06 by the length of their non-parole period. Non-parole periods ranged from four months and fifteen days to four years and six months, while the median length of the non-parole period was two years (meaning that half of the non-parole periods were below two years and half were above).

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



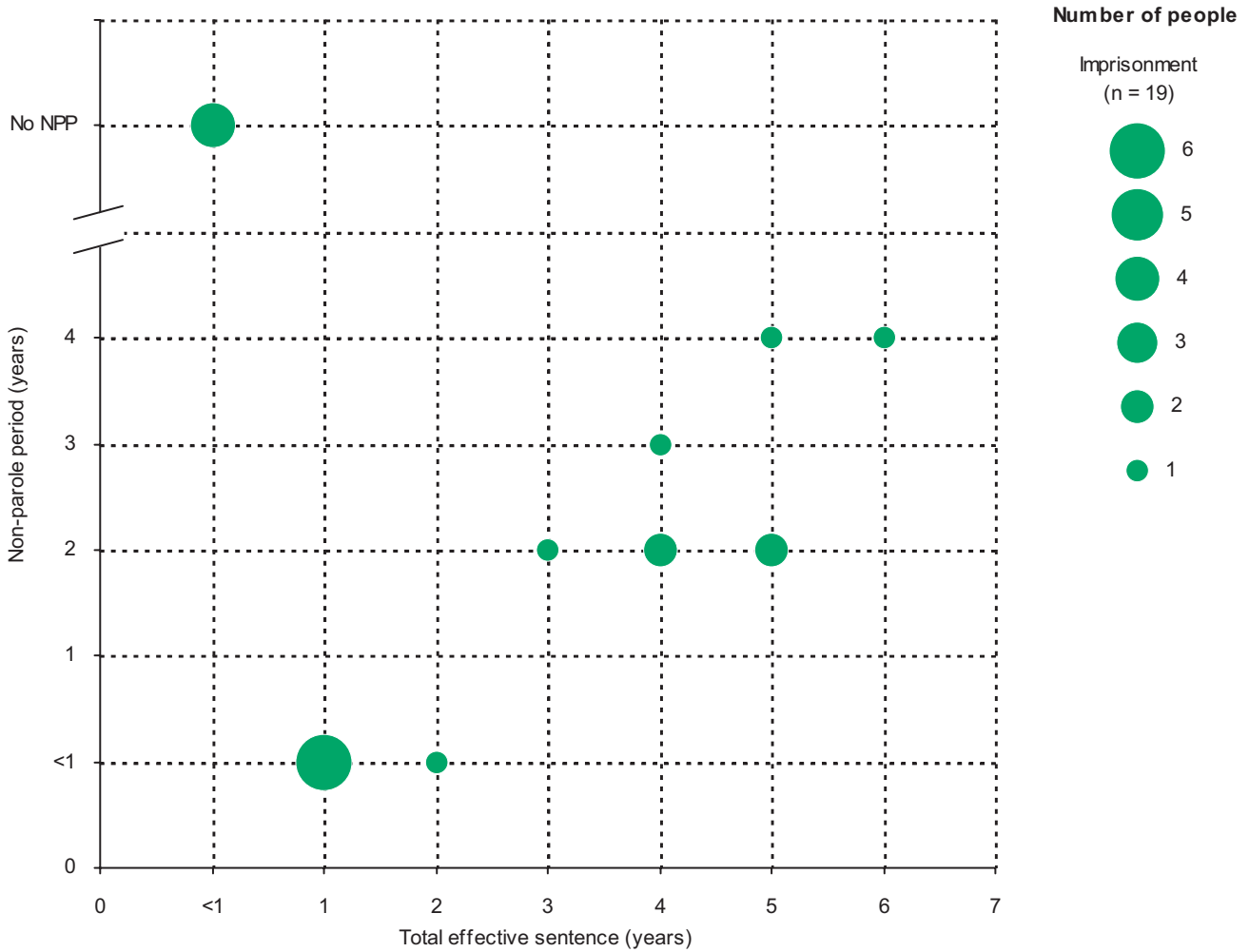
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

Total effective 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 13 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for making a threat to kill 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 combination¹³. As shown, the most common combination of imprisonment length and non-parole period imposed was one year with a non-parole period of less than one year (6 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from twenty-two days with no non-parole period to six years with a non-parole period of four years and six months.

Figure 13: The number of people sentenced to imprisonment for making a threat to kill by the total effective sentence and the non-parole period imposed, 2001-02 to 2005-06¹⁴



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

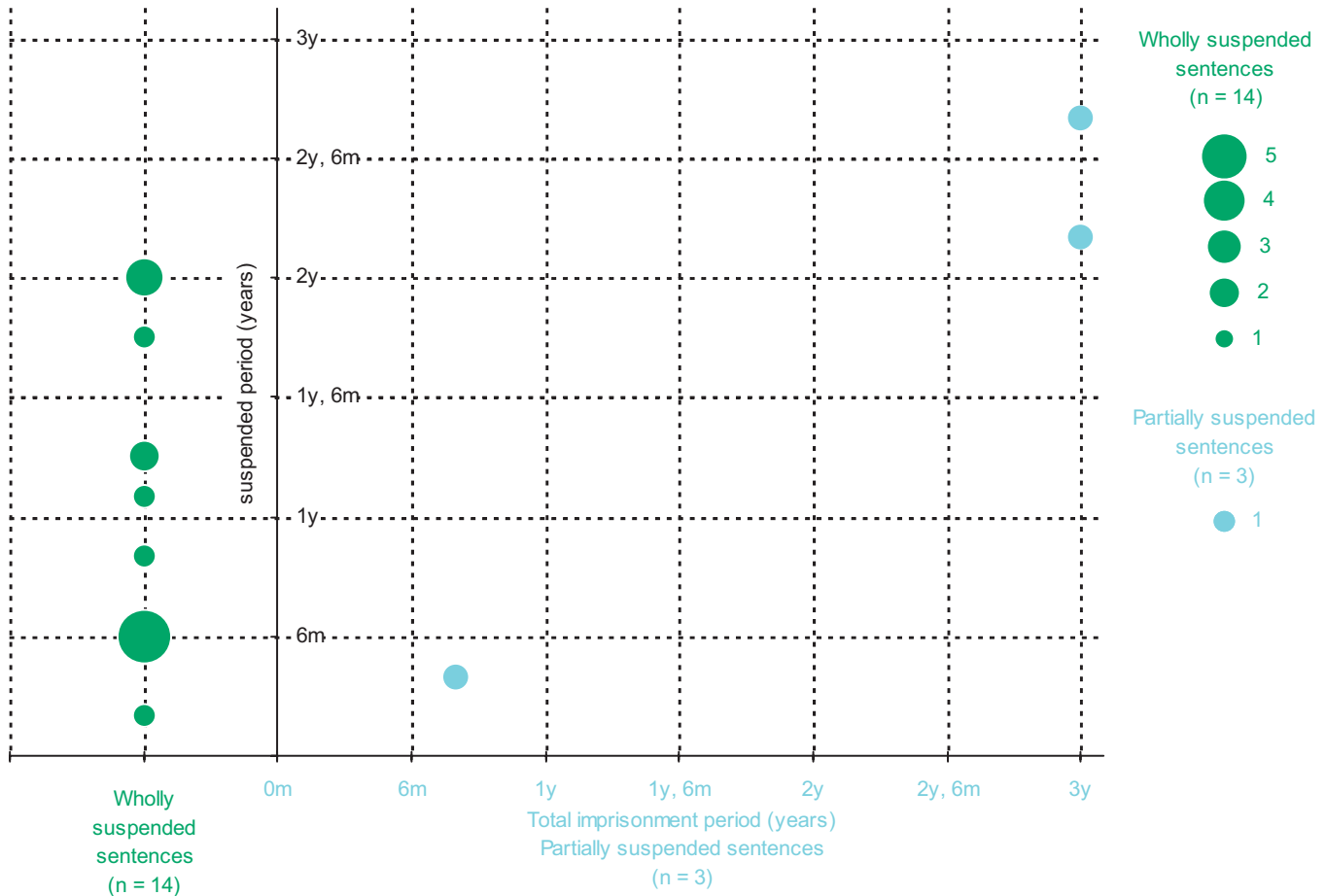
Suspended sentences of imprisonment

There were 17 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 14 people had their prison sentence wholly suspended and 3 received a partially suspended sentence of imprisonment. Figure 14 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 two years. The most common wholly suspended sentence length was six months (5 people - as represented by the largest green 'bubble' on the chart).

The three partially suspended sentences were imposed for eight months with four months suspended, three years with two years and two months suspended and three years with two years and eight months suspended (1 person each).

Figure 14: The number of people given a wholly or partially suspended sentence of imprisonment for making a threat to kill by sentence type and length, 2001-02 to 2005-06



Summary

Between 2001-02 and 2005-06, 46 people were sentenced for making a threat to kill in the higher courts. Over this period, the majority of those sentenced were men (98%), while 76% were between the age of 18 and 40 years.

Around four in ten people sentenced for making a threat to kill received a period of imprisonment (43%), while 28% received a wholly suspended sentence of imprisonment and 13% received a community based order.

Imprisonment was more common for those aged older than 30 years of age and wholly suspended sentences of imprisonment were more common for those aged older than 40 years of age.

Each of the 46 people was sentenced for an average of 5.11 offences, including 1.41 offences of making a threat to kill. The most common offence finalised in conjunction with making a threat to kill was intentionally destroy/damage property (criminal damage) (30.4% of all cases).

The number and range of offences for which people with a principal offence of making a threat to kill 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 one year, ten months and fifteen days, while the median principal imprisonment length was one year, four months and fifteen days.

Total effective imprisonment lengths ranged from twenty-two days with no non-parole period to six years with a non-parole period of four years and six months. The most common sentence of imprisonment was one year with a non-parole period of less than one year.

- 4 *Crimes Act 1958* (Vic) s 20.
- 5 *Crimes Act 1958* (Vic) s 20.
- 6 Making a threat to kill carries a maximum fine of 1200 penalty units. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette.
- 7 Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.
- 8 Custodial sentence includes imprisonment and partially suspended sentence.
- 9 Age is as at the time of sentencing.
- 10 All of the 20 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
- 11 Four people were not eligible for parole because they were given a total effective sentence length of less than one year.
- 12 One person was not given a non-parole period relating to that case alone, but a non-parole period that also related to other cases. It is not possible to determine the length of the non-parole period that relates to this case. The non-parole period for this person is excluded from the analysis.
- 13 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.
- 14 This graph includes the 19 people who were given a total effective sentence and a non-parole period that related to this case only.

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

Published by the Sentencing Advisory Council, Melbourne Victoria Australia, August, 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

Disclaimer:

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 making a threat to kill 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 making a threat to kill who received a more serious sentence for another offence forming part of the same presentment. There were 279 people sentenced from 2001-02 to 2005-06 for 392 offences of making a threat to kill. Making a threat to kill was the principal proven offence for 46 of these people.
- 2 The information source for sentencing outcomes for making a threat to kill 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 making a threat to kill 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.

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