

Sentencing Snapshot

Sentencing trends for causing injury intentionally or recklessly in the higher courts of Victoria



Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of causing injury intentionally or recklessly and details the age and gender² of people sentenced for this offence in the County and Supreme Courts of Victoria between 2000-01 and 2004-05³. This offence is less serious than the offences of 'causing serious injury intentionally' and 'causing serious injury recklessly'. For an analysis of sentencing trends for these two offences, please refer to Sentencing Snapshots No. 12 and No.13.

A person who intentionally or recklessly causes injury to another person without lawful excuse is guilty of the offence of causing injury intentionally or recklessly⁴. Recklessness requires foresight on the part of the accused of the probability that injury will occur as a consequence of his or her actions⁵. 'Injury' includes unconsciousness, hysteria, pain and any substantial impairment of bodily function⁶. These definitions are not exhaustive.

Causing injury intentionally or recklessly is an indictable offence which carries a maximum penalty of 10 years' imprisonment and/or a fine of 1200 penalty units⁷. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

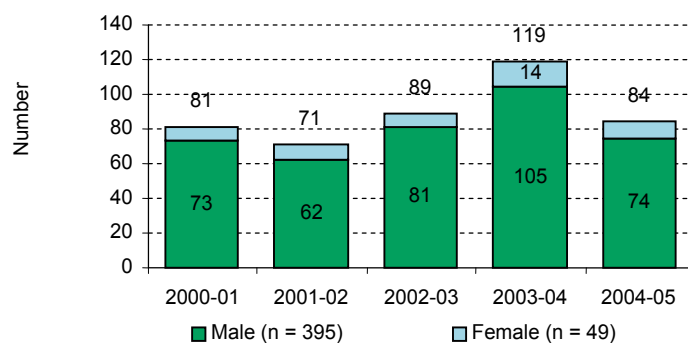
Of all people sentenced for the principal offence of causing injury, 4.4% were heard in the higher courts⁸. The remaining cases were heard in the Children's and Magistrates' Court⁹.

People sentenced

Figure 1 shows the number of people sentenced for causing injury for the period 2000-01 to 2004-05. As shown, 444 people were sentenced for causing injury over the five year period. There were 84 people sentenced for this offence in 2004-05, down by 35 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (89.0% or 395 of 444 people), including 74 of the 84 people sentenced in 2004-05.

Figure 1: The number of people sentenced for causing injury by gender, 2000-01 to 2004-05



Sentence types and trends¹⁰

Figure 2 shows the total number of people sentenced for causing injury and the number who received a custodial sentence¹¹. Over the five year period, 28% of people were given a custodial sentence. This peaked at 33% (28 of 84) in 2004-05 after a low of 23% (19 of 81) in 2000-01.

Figure 2: The number of people sentenced for causing injury and the number who received a custodial sentence, 2000-01 to 2004-05

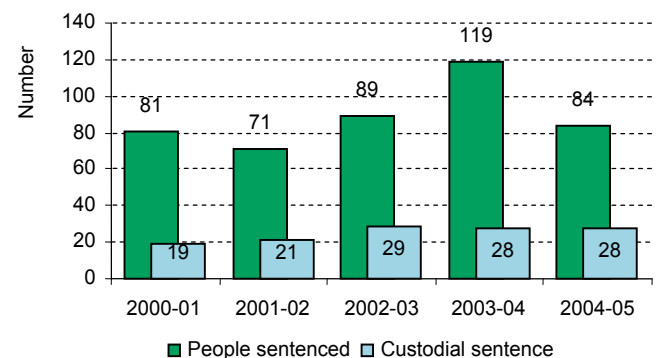


Figure 3 and Table 1 show the number of people sentenced for causing injury from 2000-01 to 2004-05 by the types of sentences imposed.

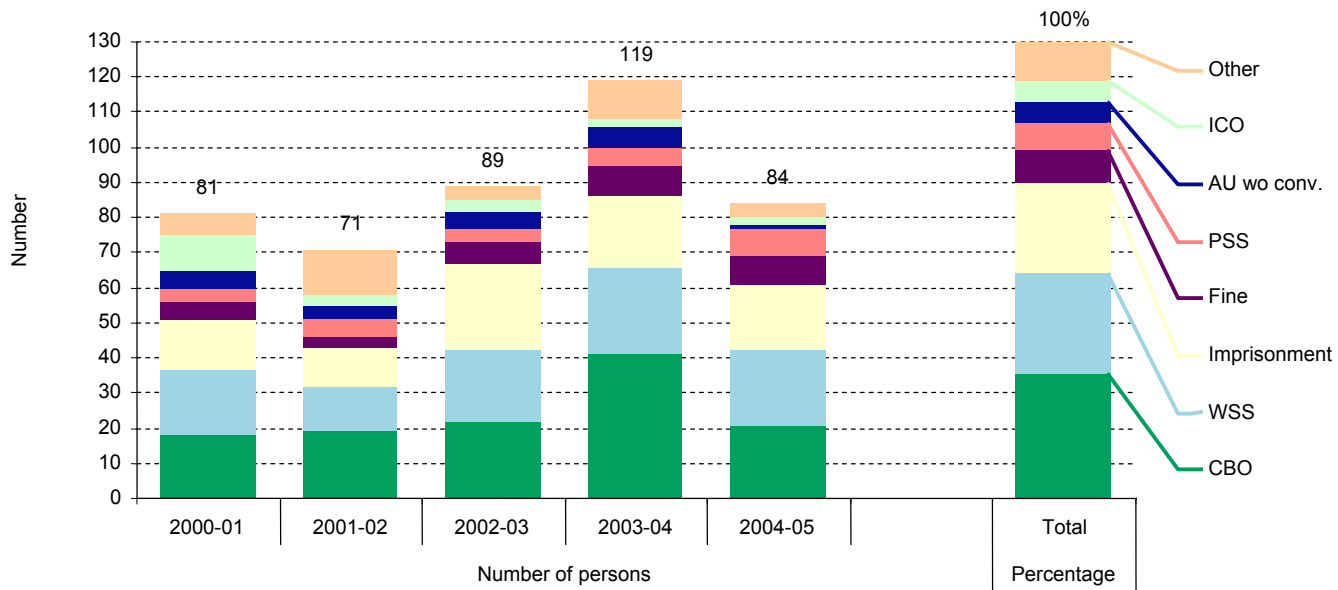
Over the five year period, around one in four people sentenced for causing injury received a community based order (27% or 121 of 444 people), while 22% received a wholly suspended sentence of imprisonment and 20% received a period of imprisonment.

The number of people who received a community based order was relatively stable at around 20 people over the five year period, with the exception of 2003-04 in which the number doubled to 41 people.

The percentage of people who received a wholly suspended sentence of imprisonment was relatively stable over the five year period, ranging from 18% (13 people) in 2001-02 to 25% (21 people) in 2004-05.

The number of people who received a period of imprisonment fluctuated over the five year period ranging from 11 people (15%) in 2001-02 to 25 people (28%) in 2002-03.

Figure 3: The number of people sentenced for causing injury each year and the percentage breakdown over the five years combined by sentence type, 2000-01 to 2004-05



Note: CBO refers to community based order, WSS refers to wholly suspended sentence of imprisonment, PSS refers to partially suspended sentence of imprisonment, AU wo conv. refers to adjourned undertaking without conviction and ICO refers to intensive correction order. Other includes adjourned undertaking with conviction, mix (wholly suspended sentence & fine), mix (community based order & fine), youth training centre order, hospital security order, mix (imprisonment & community based order), mix (wholly suspended sentence & aggregated fine), mix (intensive correction order & fine), hospital order, custodial supervision order and aggregate fine.

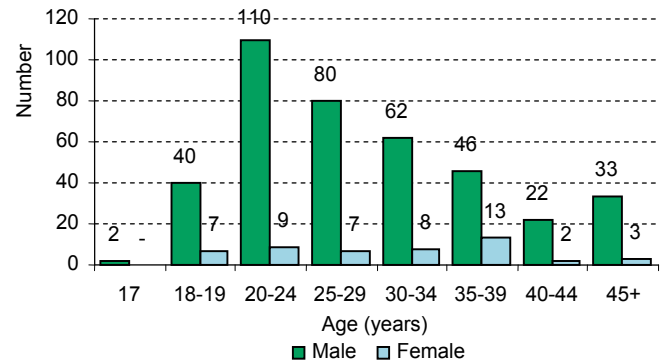
Table 1: The number and percentage of people sentenced for causing injury by sentence type, 2000-01 to 2004-05

Sentence type	00-01	01-02	02-03	03-04	04-05
Community based order	18 22%	19 27%	22 25%	41 34%	21 25%
Wholly suspended sentence	19 23%	13 18%	20 22%	25 21%	21 25%
Imprisonment	14 17%	11 15%	25 28%	20 17%	19 23%
Fine	5 6%	3 4%	6 7%	9 8%	8 10%
Partially suspended sentence	4 5%	5 7%	4 4%	5 4%	8 10%
Adjourned undertaking without conviction	5 6%	4 6%	5 6%	6 5%	1 1%
Intensive correction order	10 12%	3 4%	3 3%	2 2%	2 2%
Adjourned undertaking with conviction	2 2%	2 3%	3 3%	5 4%	2 2%
Mix (wholly suspended sentence & fine)	2 2%	2 3%	0 -	1 <1%	1 1%
Mix (community based order & fine)	1 1%	3 4%	0 -	1 <1%	0 -
Youth training centre order	0 -	1 1%	0 -	1 <1%	1 1%
Hospital security order	1 1%	1 1%	0 -	1 <1%	0 -
Mix (Imprisonment & community based order)	0 -	1 1%	0 -	1 <1%	0 -
Mix (wholly suspended sentence & aggregated fine)	0 -	0 -	0 -	1 <1%	0 -
Mix (intensive correction order & Fine)	0 -	0 -	1 1%	0 -	0 -
Hospital order	0 -	1 1%	0 -	0 -	0 -
Custodial supervision order	0 -	1 1%	0 -	0 -	0 -
Aggregate fine	0 -	1 1%	0 -	0 -	0 -
People sentenced	81	71	89	119	84

Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for causing injury grouped by their age¹² between 2000-01 and 2004-05. The average age of people sentenced for causing injury was twenty-nine years and four months. Women sentenced over this period were older than men (an average age of thirty years and two months for women compared to twenty-nine years and two months for men). Two male juveniles were sentenced over this period.

Figure 4: The number of people sentenced for causing injury by gender and age, 2000-01 to 2004-05



Sentence types by gender¹³

Figure 5 and Table 2 show the types of sentence imposed for causing injury grouped by gender. As shown, a higher percentage of men received a period of imprisonment (21.8% compared to 6.1% of women), a fine (7.3% compared to 4.1%) and a partially suspended sentence of imprisonment (6.1% compared to 4.1%).

Conversely, a higher percentage of women received an adjourned undertaking without conviction (10.2% compared to 4.1% of men), a wholly suspended sentence of imprisonment (26.5% compared to 21.5%), a youth training centre order (4.1% compared to 0.3%) and an adjourned undertaking with conviction (6.1% compared to 2.8%).

Figure 5: The percentage of people sentenced for causing injury by sentence type and gender, 2000-01 to 2004-05

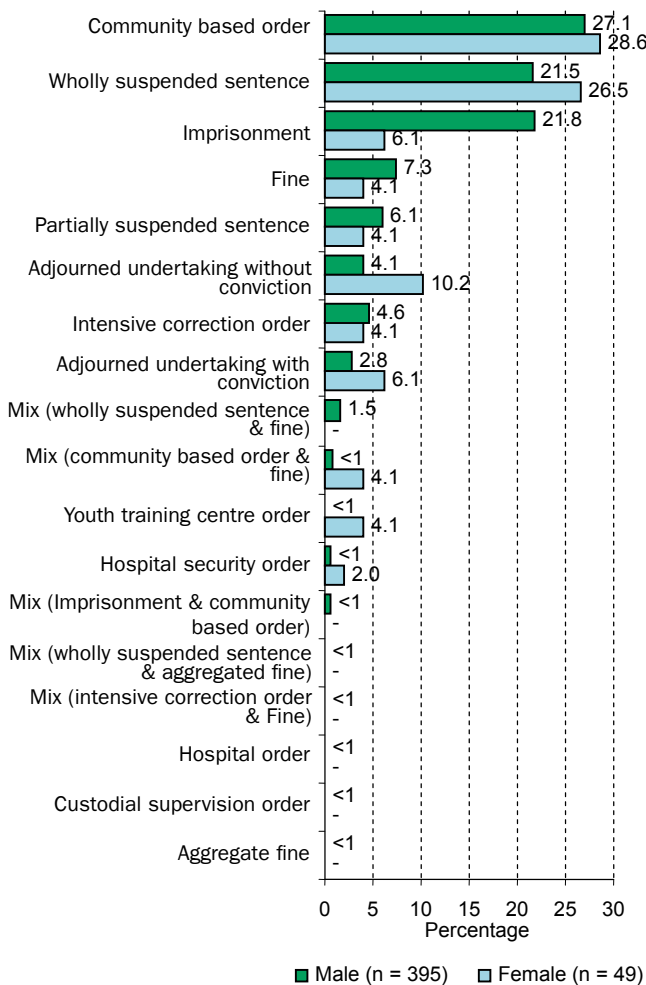


Table 2: The number and percentage breakdown of people sentenced for causing injury by gender, 2000-01 to 2004-05

Sentence type	Male	Female	Total
Community based order	107	14	121
Wholly suspended sentence	85	13	98
Imprisonment	86	3	89
Fine	29	2	31
Partially suspended sentence	24	2	26
Adjourned undertaking without conviction	16	5	21
Intensive correction order	18	2	20
Adjourned undertaking with conviction	11	3	14
Mix (wholly suspended sentence & fine)	6	0	6
Mix (community based order & fine)	3	2	5
Youth training centre order	1	2	3
Hospital security order	2	1	3
Mix (Imprisonment & community based order)	2	0	2
Mix (wholly suspended sentence & aggregated fine)	1	0	1
Mix (intensive correction order & Fine)	1	0	1
Hospital order	1	0	1
Custodial supervision order	1	0	1
Aggregate fine	1	0	1
People sentenced	395	49	444

Sentence types by age

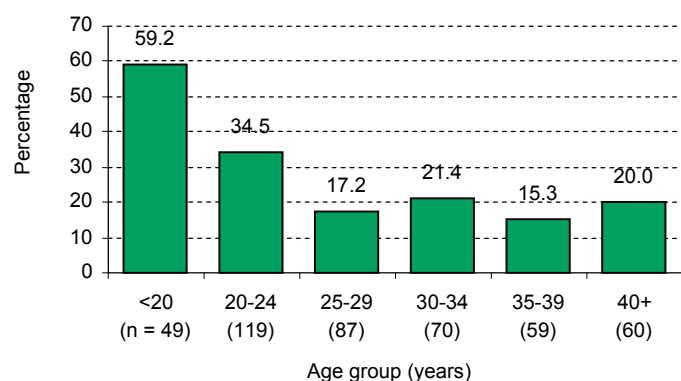
As shown in the table above, the four most common sentence types were community based orders, wholly suspended sentences of imprisonment, imprisonment and fines. The following analysis examines these sentence types by the offender's age group.

Community based orders

Community based orders were most likely to be given to people aged under 20 years (59% or 29 of the 49 people in this age group).

Conversely, community based orders were least common for those aged 35-39 years old (15% or nine of the 59 people in this age group).

Figure 6: The percentage of people who were sentenced to a community based order for causing injury by age group, 2000-01 to 2004-05

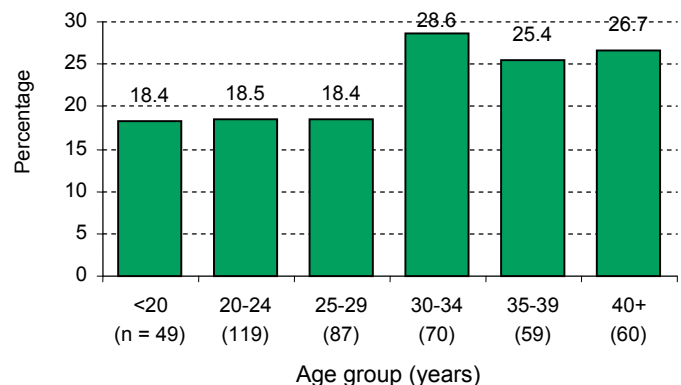


Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 30-34 years old (29% or 20 of the 70 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (18% or nine of the 49 people in this age group), people aged 25-29 years old (18% or 16 of the 87 people in this age group) and people aged 20-24 years old (18% or 22 of the 119 people in this age group).

Figure 7: The percentage of people who were sentenced to a wholly suspended sentence of imprisonment for causing injury by age group, 2000-01 to 2004-05

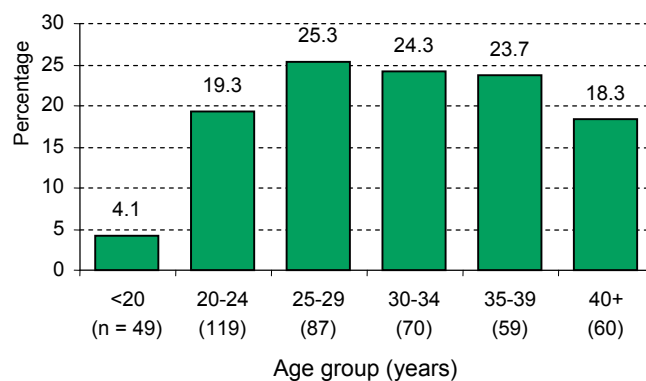


Imprisonment

Sentences of imprisonment were most likely to be given to people aged 25-29 years old (25% or 22 of the 87 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (4% or two of the 49 people in this age group).

Figure 8: The percentage of people who were sentenced to a period of imprisonment for causing injury by age group, 2000-01 to 2004-05



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.

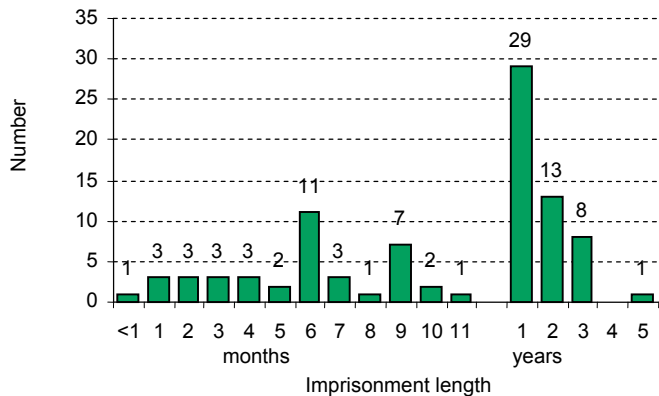
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for causing injury intentionally or recklessly must be considered in this broader context. The following sections analyse the use of imprisonment for causing injury over 2000-01 to 2004-05.

Principal sentence of imprisonment

Figure 9 shows the number of people sentenced to imprisonment for causing injury intentionally or recklessly between 2000-01 and 2004-05 by the length of the imprisonment term. Imprisonment terms ranged from under 1 month to 5 years, while the median length of imprisonment was 1 year (meaning that half of the imprisonment terms were shorter than 1 year and half were longer).

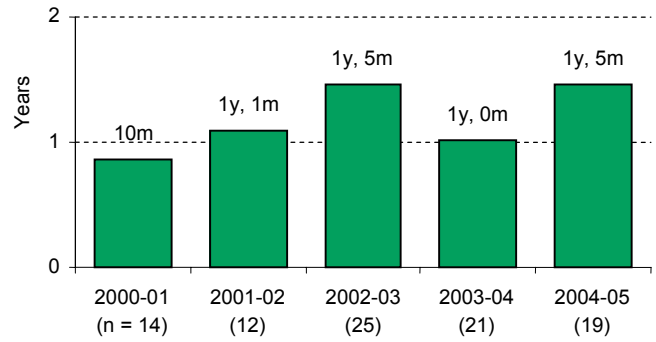
The most common length of imprisonment was 1 year (29 people).

Figure 9: The number of people sentenced to imprisonment for causing injury by length of imprisonment term, 2000-01 to 2004-05



As shown in Figure 10, the average length of imprisonment term imposed on people sentenced for causing injury ranged from ten months in 2000-01 to one year and five months in 2002-03 and 2004-05.

Figure 10: The average length of imprisonment term imposed on people sentenced for causing injury, 2000-01 to 2004-05



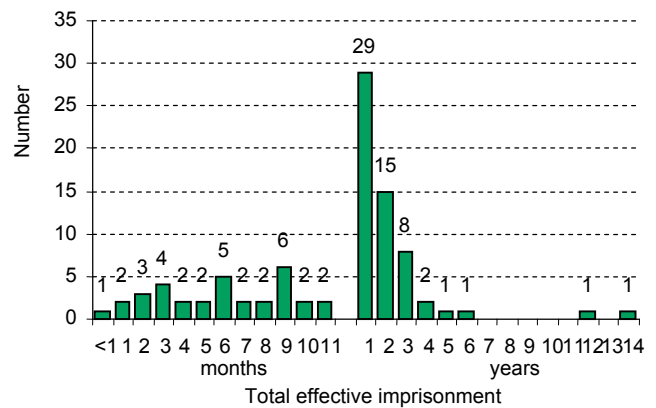
From 2000-01 to 2004-05, the majority of the people who received a term of imprisonment for causing injury intentionally or recklessly were men (88 people or 96.7%).

Total effective sentence of imprisonment

There were 91 people given a total effective sentence of imprisonment¹⁴. Figure 11 shows the number of people sentenced to imprisonment between 2000-01 and 2004-05 by the length of their total effective sentence. The length of total effective sentences ranged from seven days to fourteen years¹⁵, while the median total effective length of imprisonment was one year (meaning that half of the total effective sentence lengths were below one year and half were above).

The most common total effective imprisonment length imposed was 1 year (29 people).

Figure 11: The number of people sentenced to imprisonment for causing injury by total effective length of imprisonment term, 2000-01 to 2004-05



Non-parole period

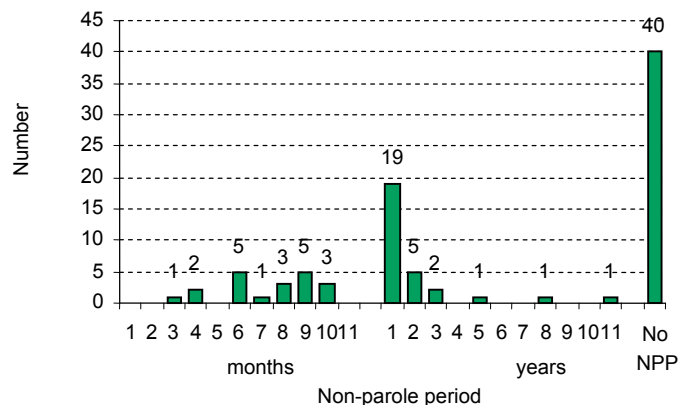
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person 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 causing injury. Sentences and non-parole periods must be considered in this broader context.

Of the 91 people who were sentenced to imprisonment for causing injury, 58 were eligible for parole¹⁶. Of these people, 49 were given a non-parole period (84%)¹⁷. Figure 12 shows the number of people sentenced to imprisonment for causing injury between 2000-01 and 2004-05 by the length of their non-parole period. Non-parole periods ranged from three months to eleven years and six months, while the median length of the non-parole period was one year (meaning that half of the non-parole periods were below one year and half were above).

The most common non-parole period imposed was 1 year (19 people).

Figure 12: The number of people sentenced to imprisonment for causing injury by length of non-parole period, 2000-01 to 2004-05



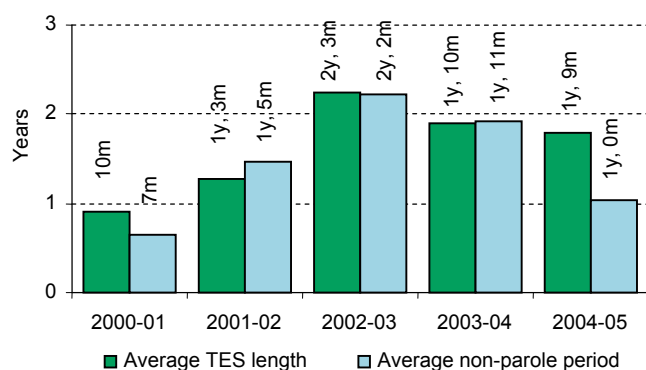
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

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 2000-01 to 2004-05¹⁸.

From 2000-01 to 2004-05, the average length of total effective sentence for all people ranged from ten months in 2000-01 to two years and three months in 2002-03. Over the same period, the average length of non-parole period ranged from seven months in 2000-01 to two years and two months in 2002-03.

Figure 13: People sentenced to imprisonment for causing injury by average total effective sentence and average non-parole period, 2000-01 to 2004-05

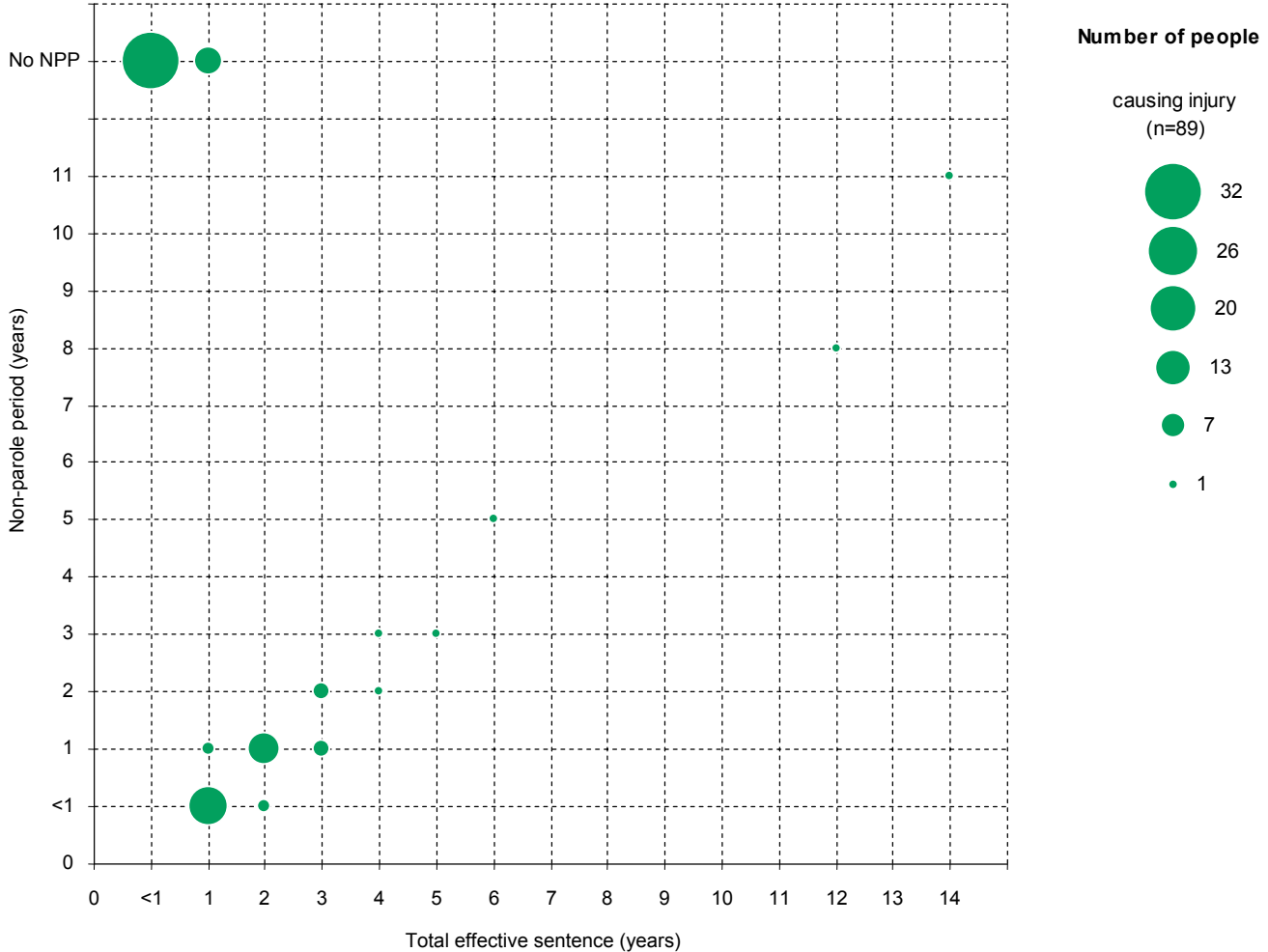


Total effective sentence of imprisonment by non-parole period

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 causing injury 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 combination¹⁹. As shown, the most common combination of imprisonment length and non-parole period imposed was less than one year with no non-parole period (32 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from seven days with no non-parole period to fourteen years with a non-parole period of eleven years and six months²⁰.

Figure 14: The number of people sentenced to imprisonment for causing injury by the total effective sentence and the non-parole period imposed, 2000-01 to 2004-05²¹



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

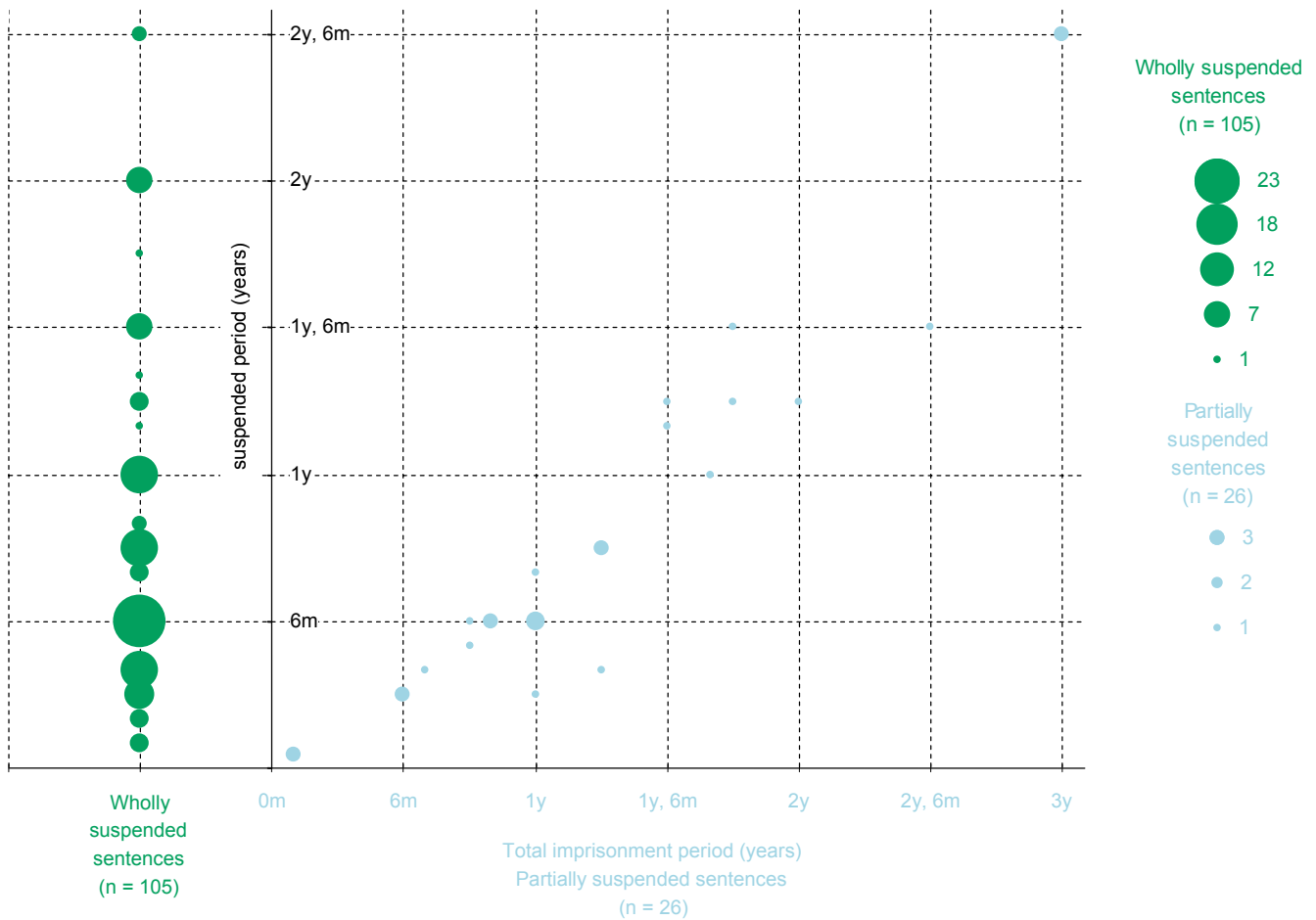
Suspended sentences of imprisonment

There were 131 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 105 people had their prison sentence wholly suspended and 26 received a partially suspended sentence of imprisonment. Figure 15 shows the number of people who were given a suspended sentence of imprisonment as their total effective sentence by the type of suspended sentence and the length of sentence²². The green 'bubbles' to the left of the vertical axis show the lengths of wholly suspended sentences. The blue 'bubbles' to the right of the vertical axis show the combination of total imprisonment length and the suspended period for people 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 imposed ranged from one month to two years and six months. The most common wholly suspended sentence length was six months (23 people - as represented by the largest green 'bubble' on the chart).

The most common partially suspended sentence combination was one year with six months suspended (3 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, 2000-01 to 2004-05



Community based orders

There were 126 people given a community based order as their total effective sentence.

The length of community based orders imposed for causing injury ranged from six months to two years, while the median length was one year (meaning that half of the lengths were shorter than or equal to one year and half were longer than or equal to one year). The most common length of community based order was one year (59 people).

Figure 16: The number of people sentenced to a community based order for causing injury by length of order imposed, 2000-01 to 2004-05



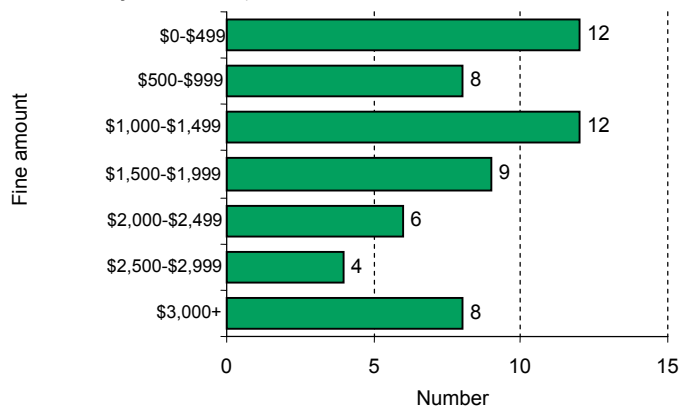
Fines

This analysis includes all fines that were imposed for cases where causing injury was the principal offence. Fines were imposed on 59 people.

The fine amount imposed ranged from \$150 to \$7,000, with a median of \$1,000 (meaning that half of the values fell below \$1,000 and half of the values were above \$1,000).

The average fine amount was \$1,519. The average fine amount imposed against the 55 males was \$1,554, much higher than the average fine for the 4 females (\$1,050).

Figure 17: The number of people who received a fine for causing injury by fine amount, 2000-01 to 2004-05



Conclusion

Between 2000-01 and 2004-05, 444 people were sentenced for causing injury intentionally or recklessly in the higher courts. Over this period, the majority of those sentenced were men (89%), while 57% were between the age of 18 and 30 years.

Around one in four people sentenced for causing injury received a community based order (27%), while 22% received a wholly suspended sentence of imprisonment and 20% received a period 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 an adjourned undertaking without conviction or a wholly suspended sentence of imprisonment.

Community based orders were more common for people aged under 20 years of age, wholly suspended sentences of imprisonment were more common for people older than 30 years of age and imprisonment was more common for those aged over 25 years of age.

The length of imprisonment ranged from seven days with no non-parole period to fourteen years with a non-parole period of eleven years and six months. The most common sentence of imprisonment was less than one year with no 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 causing injury 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 causing injury who received a more serious sentence for another offence forming part of the same presentment. For example, in 2004-05, 237 people were sentenced for causing injury. Causing injury was the principal offence for 84 of the 237 people.
- 2 The information source for sentencing outcomes for causing injury 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 causing injury since 2000-01. Court Services advises that sentencing data from the higher courts prior to this period may be unreliable due to changed data collection processes and counting rules.

These data include people dealt with under the *Crimes (Mental Impairment and Unfitness to be tried) Act 1997* (Vic). Under this act, judges of the Supreme and County Courts may make supervision orders of a custodial or non-custodial nature of persons who have been found unfit to stand trial or who have successfully raised the defence of mental impairment under the Act.
- 4 *Crimes Act 1958* (Vic) s. 18.
- 5 *R v Campbell* [1997] 2 VR 585. See also *R v Crabbe* (1995) 156 CLR 464; *R v Nuri* [1990] VR 641.
- 6 *Crimes Act 1958* (Vic) s. 15.
- 7 Causing injury carries a maximum fine of 1200 penalty units and each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.
- 8 Causing injury was the seventh most common principal offence that resulted in a person being sentenced in the higher courts over 2000-01 to 2004-05.
- 9 Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.
- 10 This section analyses the sentence types imposed against the principal charge of causing injury.
- 11 Custodial sentence includes imprisonment, partially suspended sentence, youth training centre order, hospital security order, mix (imprisonment & community based order), hospital order and custodial supervision order. The definition of custodial sentence has been revised to exclude intensive correction orders. In Sentencing snapshots No. 8 to No. 11, intensive correction order was counted as being a custodial sentence. For Sentencing Snapshot No.8 and 9 (robbery and armed robbery), intensive correction orders made up 1% and 4%, respectively, while for Sentencing Snapshot No.10 and 11 (burglary and aggravated burglary), intensive correction orders made up 6% and 2%, respectively.
- 12 Age is as at the time of sentencing.
- 13 Refer fn. 10
- 14 All of the 89 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence. There were two people who were given a mix of imprisonment and a community based order as the principal sentence for causing injury and imprisonment as the total effective sentence.
- 15 In 2002-03, a man aged 23 years was sentenced for 30 offences, including two offences of causing injury. He received a total effective sentence of 12 years with an eight year and six month non-parole period. In 2003-04, a man aged 43 years was sentenced for 67 offences, including 15 offences of causing injury. He received a total effective sentence of 14 years with a non-parole period of 11 years and six months.
- 16 33 people were not eligible for parole because they were given a total effective sentence length of less than one year.
- 17 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. The court declined to fix a non-parole period for eight persons who were eligible to have one set.
- 18 Due to the low number of women (1) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
- 19 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.
- 20 Refer fn. 15

21 This graph includes the 89 people who were given a total effective sentence and a non-parole period that related to this case only.

22 Sentence lengths are rounded to the nearest month of imprisonment.

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Suspended sentences

- No. 1 What are suspended sentences?
- No. 2 Use of suspended sentences in Victoria
- No. 3 Breach of suspended sentences in Victoria

Sentencing trends in the higher courts

- No. 4 Murder
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- No. 11 Aggravated burglary
- No. 12 Causing serious injury intentionally
- No. 13 Causing serious injury recklessly
- No. 14 Causing injury
- No. 15 Affray

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