

No. 37: Sentencing trends for burglary in the higher courts of Victoria, 2002-03 to 2006-07

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of burglary and details the age and gender² of people sentenced for this offence in the County Court of Victoria between 2002-03 and 2006-07³.

A person who enters a building or part of a building as a trespasser and who intends to steal, assault a person in the building or to damage the building or property in the building, is guilty of burglary⁴. Burglary is an indictable offence that carries a maximum penalty of 10 years' imprisonment and/or a fine of up to 1200 penalty units⁵. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court⁶.

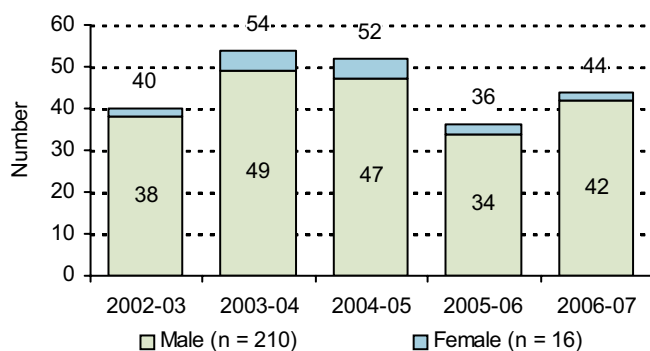
Of all people sentenced for the principal offence of burglary, 2.0% had their cases heard in the higher courts. The remaining cases were heard in the Children's and Magistrates' Court⁷. Burglary was the principal offence in 2.2% of cases sentenced in the higher courts between 2002-03 and 2006-07.

People sentenced

Figure 1 shows the number of people sentenced for burglary for the period 2002-03 to 2006-07. As shown, 226 people were sentenced for burglary over the five year period. There were 44 people sentenced for this offence in 2006-07, up by 8 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (92.9% or 210 of the 226 people), including 42 of the 44 people sentenced in 2006-07.

Figure 1: The number of people sentenced for burglary by gender, 2002-03 to 2006-07



Sentence types and trends

Figure 2 shows the total number of people sentenced for burglary 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, 55% of people were given a custodial sentence. This peaked at 64% (28 of 44) in 2006-07 after a low of 43% (17 of 40) in 2002-03.

Figure 2: The number of people sentenced for burglary and the number who received a custodial sentence, 2002-03 to 2006-07

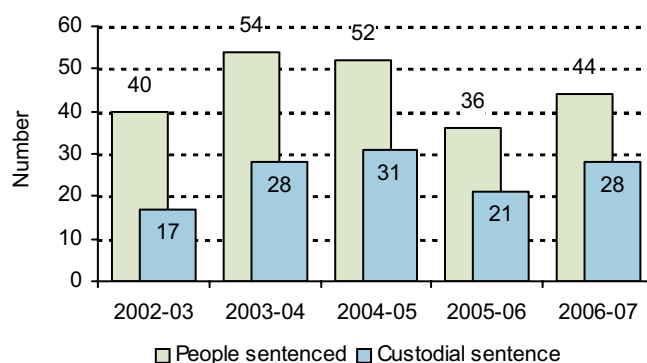
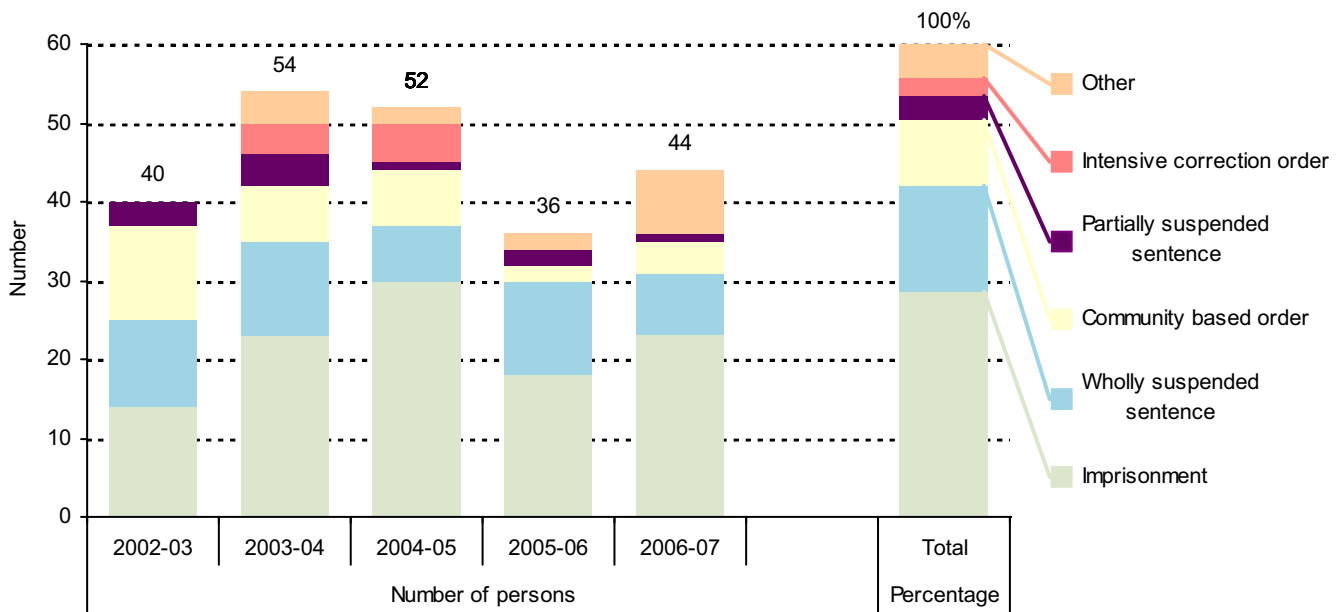


Figure 3 and Table 1 show the number of people sentenced for burglary from 2002-03 to 2006-07 by the types of sentences imposed.

Over the five year period, around half of the people sentenced for burglary received a period of imprisonment (48% or 108 of 226 people), while 22% received a wholly suspended sentence of imprisonment and 14% received a community based order.

The number of people imprisoned for burglary peaked at 30 in 2004-05 before decreasing to 18 the following year. However the percentage of people who were imprisoned has remained relatively stable over the past three years at around 50%.

Figure 3: The number of people sentenced for burglary by sentence type, 2002-03 to 2006-07



Other includes fine and aggregate imprisonment, adjourned undertaking without conviction, adjourned undertaking with conviction, mix (intensive correction order & fine) and mix (community based order & fine).

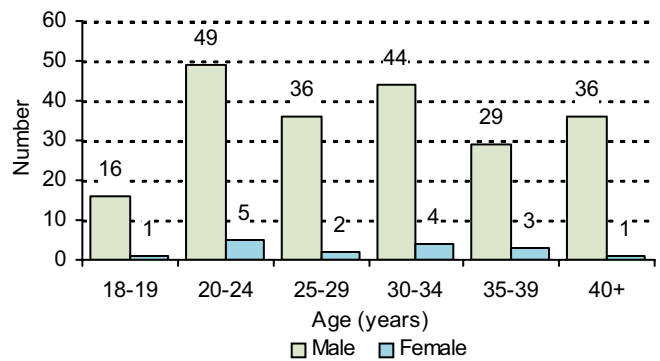
Table 1: The number and percentage of people sentenced for burglary by sentence type, 2002-03 to 2006-07

Sentence type	02-03	03-04	04-05	05-06	06-07
Imprisonment	14	23	30	18	23
	35%	43%	58%	50%	52%
Wholly suspended sentence	11	12	7	12	8
	28%	22%	13%	33%	18%
Community based order	12	7	7	2	4
	30%	13%	13%	6%	9%
Partially suspended sentence	3	4	1	2	1
	8%	7%	2%	6%	2%
Intensive correction order	0	4	5	0	0
	-	7%	10%	-	-
Fine	0	1	1	1	1
	-	2%	2%	3%	2%
Aggregate imprisonment	0	0	0	0	3
	-	-	-	-	7%
Youth training centre order	0	1	0	1	1
	-	2%	-	3%	2%
Adjournd undertaking without conviction	0	2	0	0	0
	-	4%	-	-	-
Adjournd undertaking with conviction	0	0	0	0	2
	-	-	-	-	5%
Mix (intensive correction order & Fine)	0	0	0	0	1
	-	-	-	-	2%
Mix (community based order & fine)	0	0	1	0	0
	-	-	2%	-	-
People sentenced	40	54	52	36	44

Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for burglary grouped by their age⁹ between 2002-03 and 2006-07. The average age of people sentenced for burglary was thirty years and six months. Men sentenced over this period were older than women (an average age of thirty years and eight months for men compared to twenty-nine years and one month for women). There were no juveniles sentenced over this period.

Figure 4: The number of people sentenced for burglary by gender and age, 2002-03 to 2006-07



Sentence types by gender

Table 2 shows the types of sentence imposed for burglary grouped by gender. As shown, a higher percentage of men received a period of imprisonment (50.5% compared to 12.5% of women). Conversely, a higher percentage of women received a wholly suspended sentence of imprisonment (37.5% compared to 21.0% of men).

Table 2: The number and percentage breakdown of people sentenced for burglary by gender, 2002-03 to 2006-07

Sentence type	Male	Female	Total
Imprisonment	106 50%	2 13%	108 48%
Wholly suspended sentence	44 21%	6 38%	50 22%
Community based order	29 14%	3 19%	32 14%
Partially suspended sentence	9 4%	2 13%	11 5%
Intensive correction order	8 4%	1 6%	9 4%
Fine	3 1%	1 6%	4 2%
Youth training centre order	3 1%	0 -	3 1%
Aggregate imprisonment	3 1%	0 -	3 1%
Adjourned undertaking without conviction	2 <1%	0 -	2 <1%
Adjourned undertaking with conviction	2 <1%	0 -	2 <1%
Mix (intensive correction order & Fine)	1 <1%	0 -	1 <1%
Mix (community based order & fine)	0 -	1 6%	1 <1%
People sentenced	210	16	226

Sentence types by age

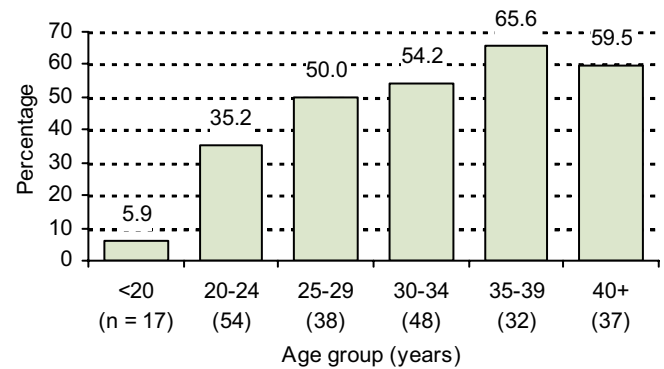
As shown in the table above, the three most common sentence types were imprisonment, wholly suspended sentences of imprisonment and community based orders. The following analysis examines these sentence types by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 35-39 years old (66% or 21 of the 32 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (6% or one of the 17 people in this age group).

Figure 5: The percentage of people who received a period of imprisonment for burglary by age group, 2002-03 to 2006-07

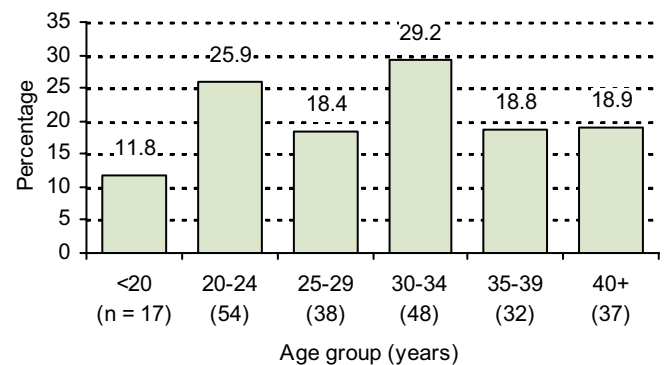


Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 30-34 years old (29% or 14 of the 48 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (12% or two of the 17 people in this age group).

Figure 6: The percentage of people who received a wholly suspended sentence of imprisonment for burglary by age group, 2002-03 to 2006-07

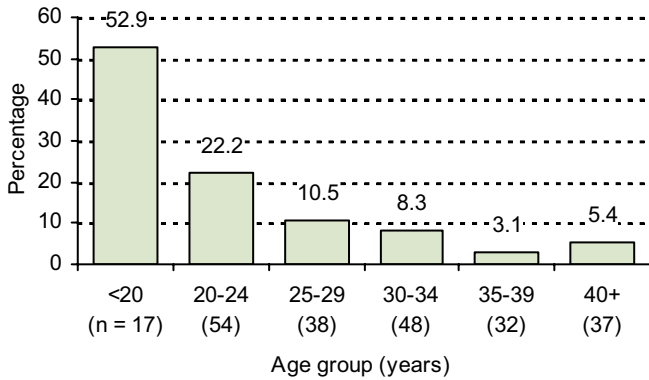


Community based orders

Community based orders were most likely to be given to people aged under 20 years (53% or nine of the 17 people in this age group).

Conversely, community based orders were least common for those aged 35-39 years old (3% or one of the 32 people in this age group).

Figure 7: The percentage of people who received a community based order for burglary by age group, 2002-03 to 2006-07



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.

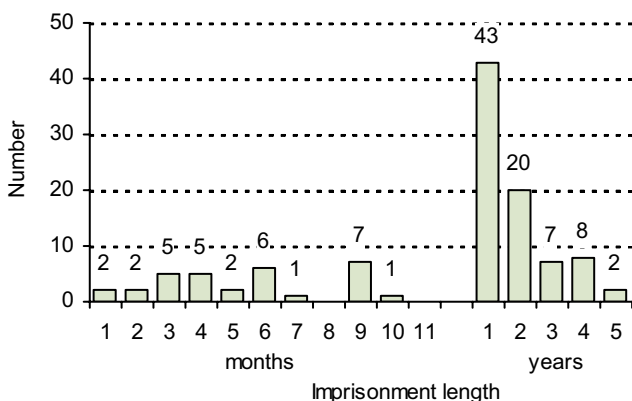
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for burglary must be considered in this broader context. The following sections analyse the use of imprisonment for burglary over 2002-03 to 2006-07.

Principal sentence of imprisonment

Figure 8 shows the number of people sentenced to imprisonment for burglary between 2002-03 and 2006-07 by the length of the imprisonment term. Imprisonment terms ranged from 1 month to five years, while the median length of imprisonment was one year and three months (meaning that half of the imprisonment terms were shorter than one year and three months and half were longer).

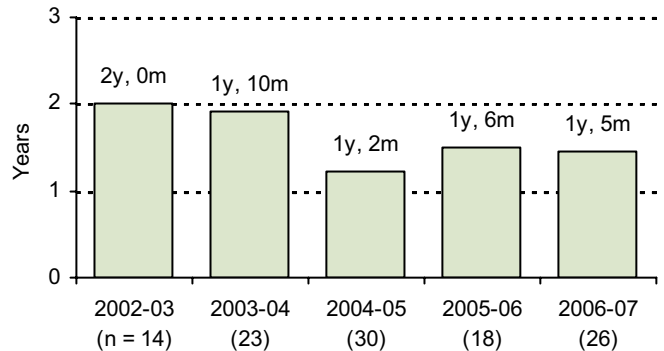
The most common length of imprisonment imposed was 1 year (43 people).

Figure 8: The number of people sentenced to imprisonment for burglary by length of imprisonment term, 2002-03 to 2006-07



As shown in Figure 9, the average length of imprisonment term imposed on people sentenced for burglary ranged from one year and two months in 2004-05 to two years in 2002-03.

Figure 9: The average length of imprisonment term imposed on people sentenced for burglary, 2002-03 to 2006-07

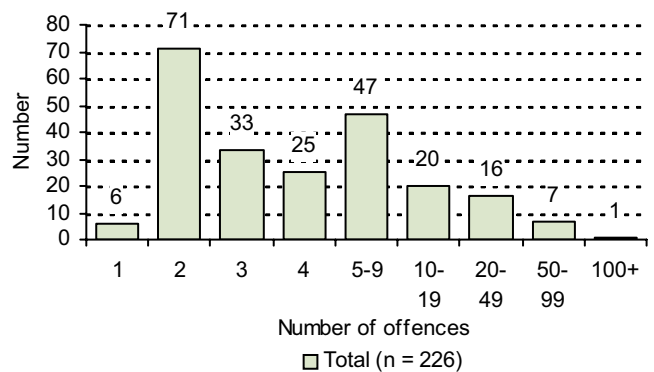


Other offences finalised at the same hearing

Often people prosecuted for burglary 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 burglary.

Figure 10 shows the number of people sentenced for the principal offence of burglary by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 102, while the median was 4 offences. The average number of offences per person sentenced for burglary was 8.83.

Figure 10: The number of people sentenced for the principal offence of burglary by the number of sentenced offences per person, 2002-03 to 2006-07



While Figure 10 presents the number of sentenced offences for those sentenced for burglary, 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, 197 of the total 226 people (87.2%) also received sentences for theft. On average, they were sentenced for 4.25 counts of theft.

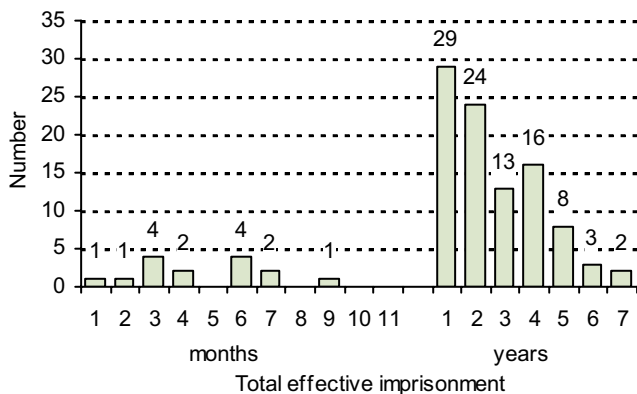
Figure 11: The number and percentage of people sentenced for the principal offence of burglary by the most common offences that were sentenced and the average number of those offences that were sentenced, 2002-03 to 2006-07

Offence	No.	%	Avg.
1 burglary	226	100.0	3.13
2 theft	197	87.2	4.25
3 handling stolen goods	30	13.3	3.23
4 intentionally destroy/damage property (criminal damage)	29	12.8	2.17
5 obtain property by deception	20	8.8	4.55
6 possess a drug of dependence	15	6.6	1.20
7 attempted theft	14	6.2	1.21
8 go equipped to steal	13	5.8	1.31
9 attempted burglary	10	4.4	2.00
10 causing injury	9	4.0	1.56
People sentenced	226	100.0	8.83

Total effective sentence of imprisonment

There were 110 people given a total effective sentence of imprisonment¹⁰. Figure 12 shows the number of people sentenced to imprisonment for burglary between 2002-03 and 2006-07 by the length of their total effective sentence. The length of total effective sentences ranged from one month and eleven days to seven years and six months, while the median total effective length of imprisonment was two years and three months (meaning that half of the total effective sentence lengths were below two years and three months and half were above).

Figure 12: The number of people sentenced to imprisonment for burglary by total effective length of imprisonment term, 2002-03 to 2006-07



Non-parole period

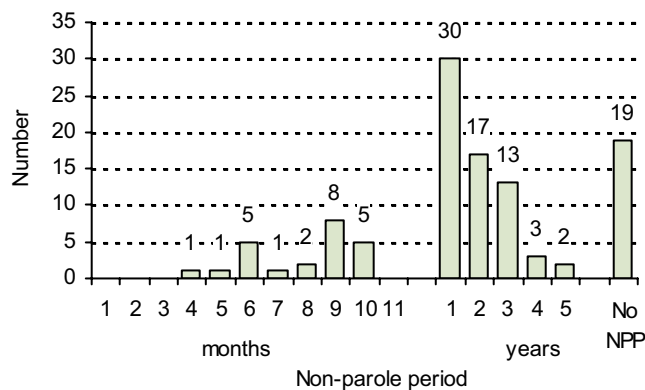
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person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

burglary. Sentences and non-parole periods must be considered in this broader context.

Of the 110 people who were sentenced to imprisonment for burglary, 95 were eligible to have a non-parole period fixed¹¹. Of these people, 88 were given a non-parole period (93%)¹². Figure 13 shows the number of people sentenced to imprisonment for burglary between 2002-03 and 2006-07 by the length of their non-parole period. Non-parole periods ranged from four months to five years and six months, while the median length of the non-parole period was one year and five months (meaning that half of the non-parole periods were below one year and five months and half were above).

Figure 13: The number of people sentenced to imprisonment for burglary by length of non-parole period, 2002-03 to 2006-07



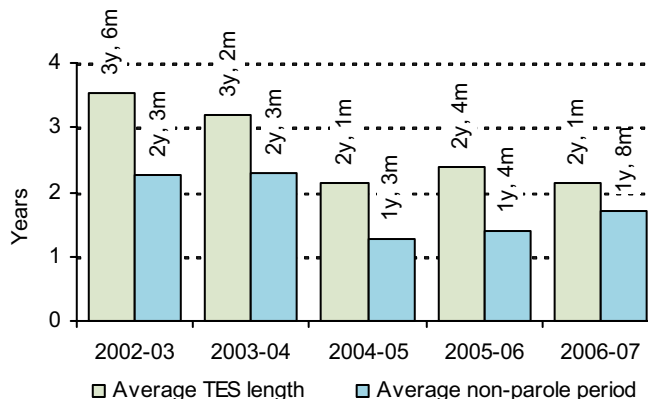
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

Total effective sentences of imprisonment and non-parole periods

Figure 14 presents the average length of total effective sentence of imprisonment compared to the average length of non-parole period for all people from 2002-03 to 2006-07¹³.

From 2002-03 to 2006-07, the average length of total effective sentence for all people ranged from two years and one month in 2004-05 and 2006-07 to three years and six months in 2002-03. Over the same period, the average length of non-parole period ranged from one year and three months in 2004-05 to two years and three months in 2002-03 and 2003-04.

Figure 14: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for burglary, 2002-03 to 2006-07

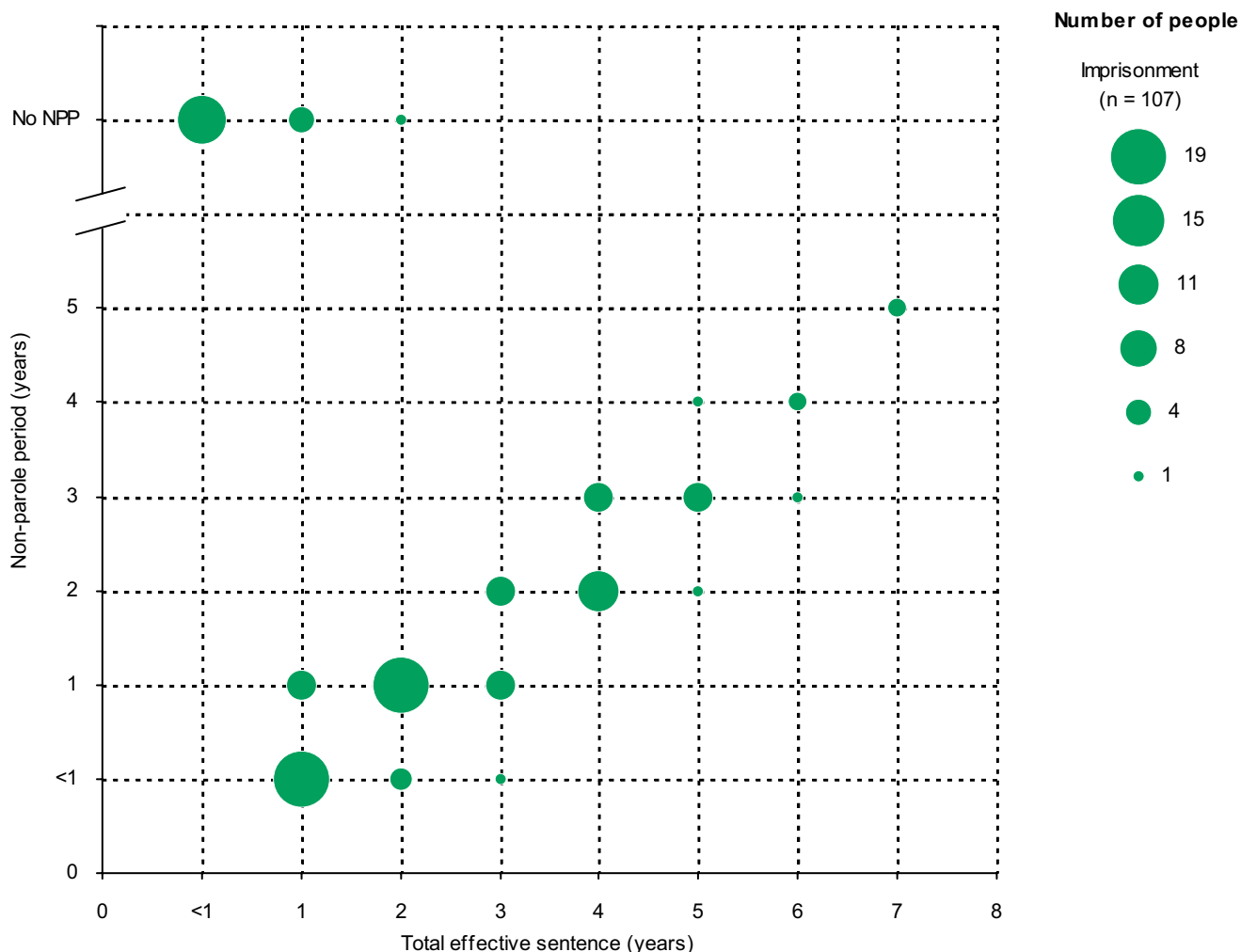


Total effective sentence of imprisonment by non-parole period

While Figure 12 and Figure 13 present the lengths of the total effective sentences and non-parole periods separately, Figure 15 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for burglary 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 combination¹⁴. 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 (19 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from one month and eleven days with no non-parole period to seven years and six months with a non-parole period of five years.

Figure 15: The number of people sentenced to imprisonment for burglary by the total effective sentence and the non-parole period imposed, 2002-03 to 2006-07¹⁵



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

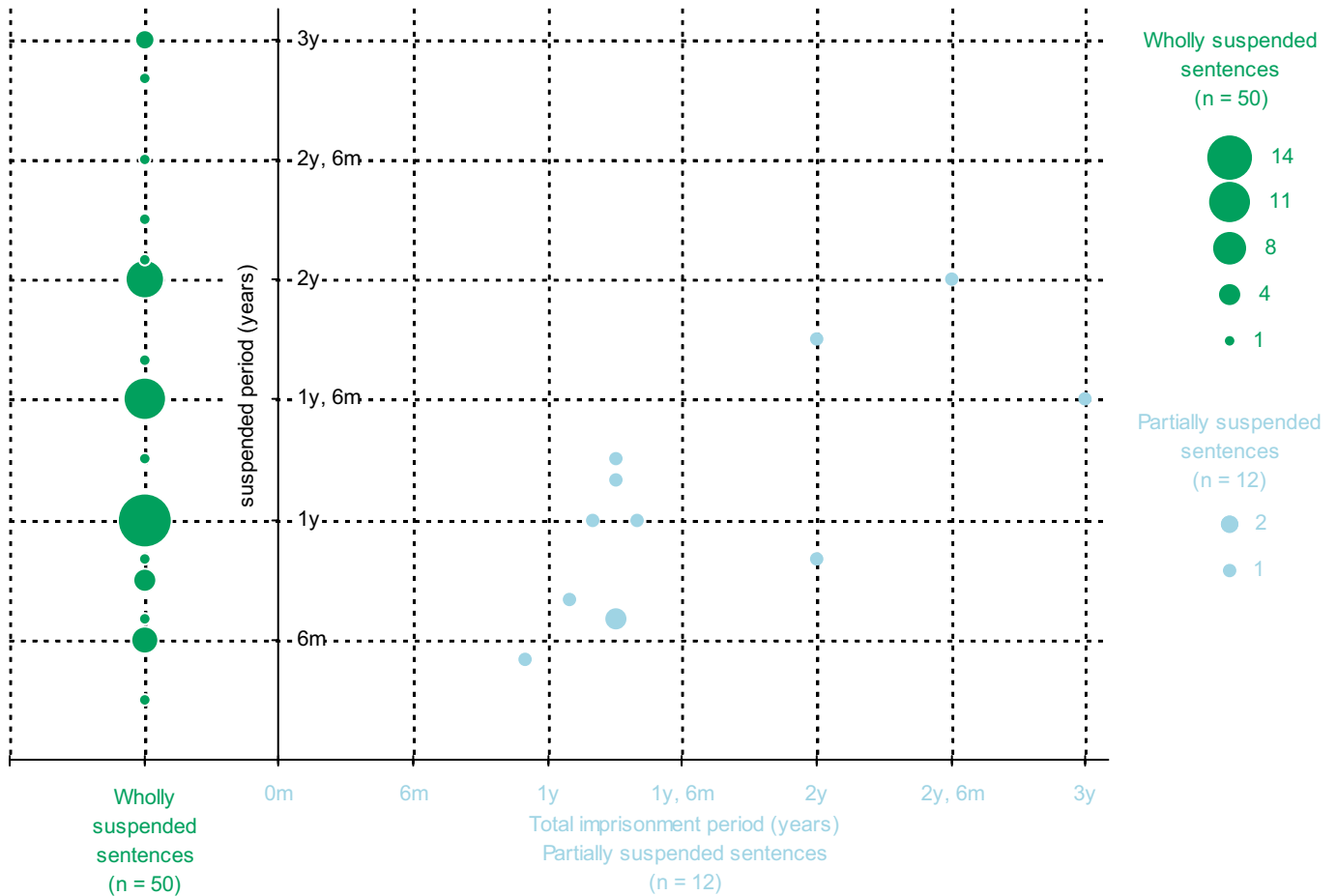
Suspended sentences of imprisonment

There were 62 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 50 people had their prison sentence wholly suspended and 12 received a partially suspended sentence of imprisonment. Figure 16 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 three months to three years. The most common wholly suspended sentence length was one year (14 people - as represented by the largest green 'bubble' on the chart).

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

Figure 16: The number of people given a wholly or partially suspended sentence of imprisonment for burglary by sentence type and length, 2002-03 to 2006-07

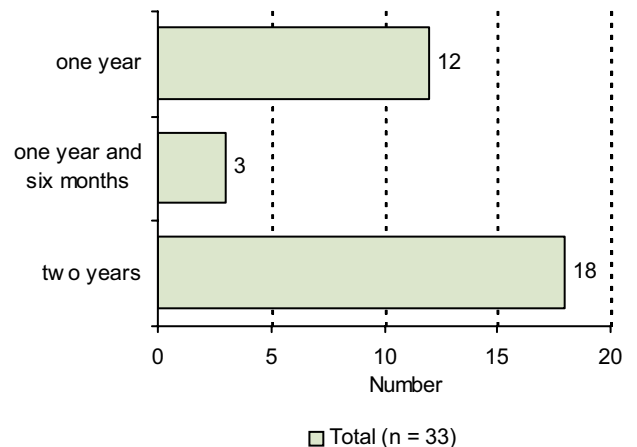


Community based orders

There were 33 people given a community based order as their total effective sentence.

The length of community based orders for burglary ranged from one year to two years, while the median length was two years (meaning that half of the lengths were shorter than or equal to two years and half were longer than or equal to two years).

Figure 17: The number of people sentenced to a community based order for burglary by length of order imposed, 2002-03 to 2006-07



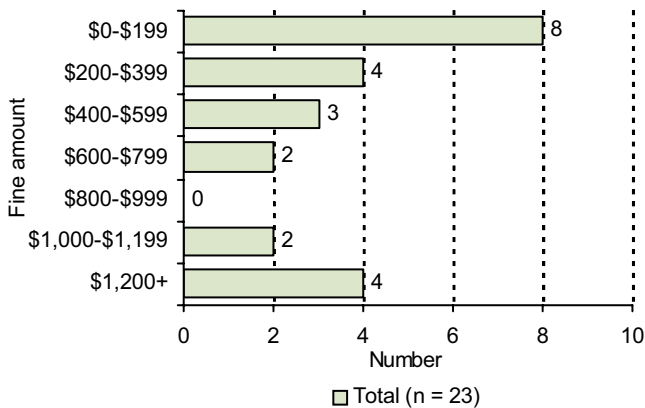
Fines

This analysis includes all fines that were imposed for cases where burglary was the principal offence. Fines were imposed on 23 people.

The fine amount imposed ranged from \$50 to \$2,500, with a median of \$300 (meaning that half of the values fell below \$300 and half of the values were above \$300).

The average fine amount was \$643. The average fine amount imposed against the 3 females was \$1,567, much higher than the average fine for the 20 males (\$505).

Figure 18: The number of people who received a fine for burglary by fine amount, 2002-03 to 2006-07



Summary

Between 2002-03 and 2006-07, 226 people were sentenced for burglary in the higher courts. Over this period, the majority of those sentenced were men (93%), while 69% were between the age of 18 and 35 years.

Around half of the people sentenced for burglary received a period of imprisonment (48%), while 22% received a wholly suspended sentence of imprisonment and 14% 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.

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

Each of the 226 people was sentenced for an average of 8.83 offences, including 3.13 offences of burglary. The most common offence finalised in conjunction with burglary was theft (87.2% of all cases). The number and range of offences for which people with a principal offence of burglary 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 two years and three months, while the median principal imprisonment length was one year and three months.

Total effective imprisonment lengths ranged from one month and eleven days with no non-parole period to seven years and six months with a non-parole period of five years. The most common sentence of imprisonment was two years with a one year non-parole period.

1 This report presents sentencing outcomes for people sentenced for the principal offence of burglary 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 burglary who received a more serious sentence for another offence forming part of the same presentment. There were 498 people sentenced from 2002-03 to 2006-07 for 1,537 offences of burglary. Burglary was the principal proven offence for 226 of these people.

2 The information source for sentencing outcomes for burglary 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 s.76.*

5 The value of a penalty unit changes each year and can be found in the Victorian Government Gazette.

6 Some less serious indictable offences can be finalised summarily by the Magistrates' Court: *Magistrates' Court Act (Vic) 1989 s.25, s.53 (1) and Schedule 4.* Under s.53 (1) an offence can only be heard summarily if the court is of the opinion that the charge is appropriate to be determined summarily and if the defendant consents.

Burglary can be heard summarily if the offence involves intent to steal property not exceeding \$25,000 in value (*Magistrates' Court Act 1989 (Vic), s.53 (1) and Sched. 4*). If this offence is tried summarily in the Magistrates' Court it carries a maximum penalty of 2 years' imprisonment and/or a fine of up to 240 penalty units.

7 Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.

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

9 Age is as at the time of sentencing.

10 Of the 111 people who were given a principal sentence of imprisonment, 110 were also given a total effective sentence of imprisonment. There was one person who was given imprisonment as the principal sentence for burglary and a partially suspended sentence as a total effective sentence.

11 15 people were not eligible for parole because they were given a total effective sentence length of less than one year.

12 Two people were 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 these cases. The non-parole periods for these people are excluded from the analysis. A non-parole period was not set for five people who were eligible for a non-parole period.

13 Due to the low number of women who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.

14 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.

15 This graph includes the 107 people who were given a total effective sentence and a non-parole period that related to this case only.

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