

Sentencing Snapshot

Sentencing trends for burglary in the higher courts of Victoria



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 and Supreme Courts of Victoria between 2000-01 and 2004-05³.

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 units (\$125,770)⁵. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court⁶.

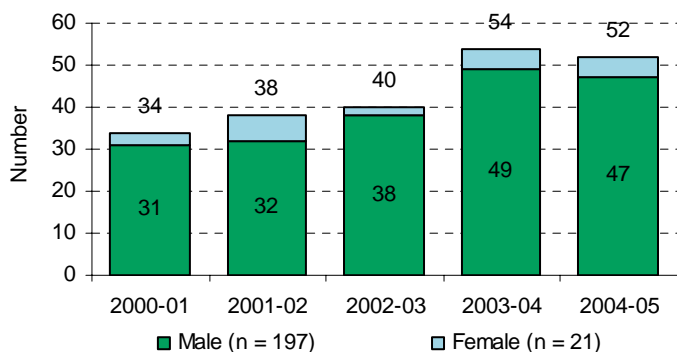
Of all people sentenced for the principle offence of burglary, 2% were sentenced in the higher courts⁷. The remaining cases were heard in the Children's Court and the Magistrates' Court⁸. The information presented in this report relates only to those sentencing outcomes handed down in the County and Supreme Courts for burglary.

People sentenced

Figure 1 shows the number of people sentenced for burglary for the period 2000-01 to 2004-05. As shown, 218 people were sentenced for burglary over the five year period. From 2000-01 to 2004-05, there was an overall increase in the number of people sentenced for burglary, up from 34 in 2000-01 to 52 in 2004-05.

Over the five years depicted, the majority of those sentenced were men (90.4% or 197 of 218 people), including 47 of the 52 people sentenced in 2004-05.

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



Sentence types and trends

Figure 2 shows the total number of people sentenced for burglary and the number who received a custodial sentence⁹. Over the five year period, 63% of people were given a custodial sentence. This peaked at 76% (29 of 38) in 2001-02 before decreasing to 43% (17 of 40) in 2002-03. In 2004-05, 69% of people sentenced (36 of 52) were given a custodial sentence.

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

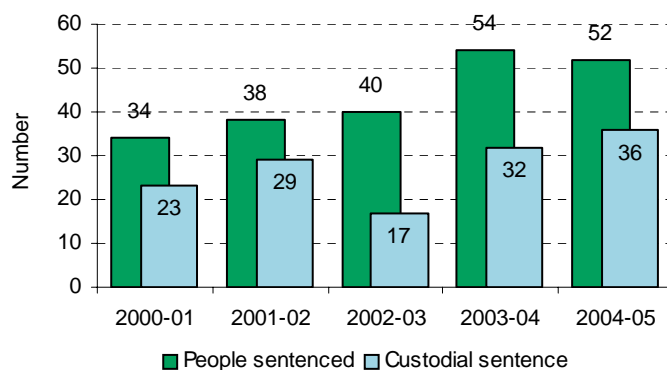


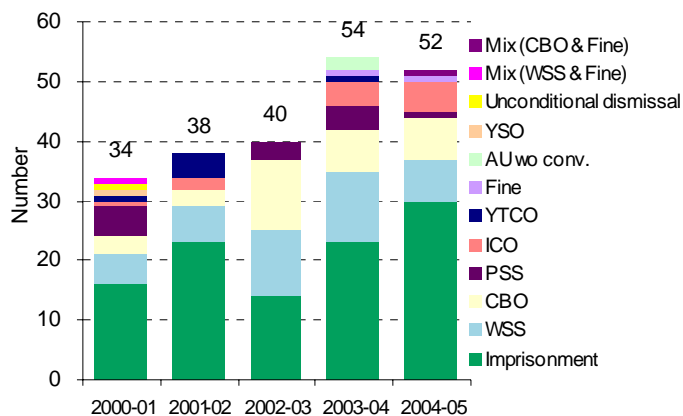
Figure 3 and Table 1 show the number of people sentenced for burglary from 2000-01 to 2004-05 by the types of sentences imposed.

Over the five year period, around half of the people sentenced for burglary received a period of imprisonment (49% or 106 of 218 people), while 19% (or 41 people) received a wholly suspended sentence and 15% (or 32 people) received a community based order.

The number of people who were imprisoned for burglary fluctuated over the five year period, ranging from 14 in 2002-03 to 30 in 2004-05.

Similarly, the number of people who were given a wholly suspended sentence of imprisonment for burglary also fluctuated, ranging from 5 in 2000-01 to 12 in 2003-04.

Figure 3: The number of people sentenced for burglary by sentence type, 2000-01 to 2004-05



Note: CBO refers to community based order, WSS refers to wholly suspended sentence of imprisonment, YSO refers to youth supervision order, AU wo conv. refers to adjourned undertaking without conviction, YTCO refers to youth training centre order, ICO refers to intensive correction order and PSS refers to partially suspended sentence of imprisonment.

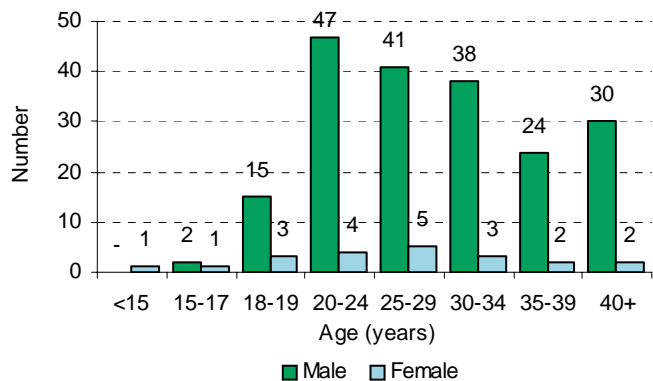
Table 1: The number and percentage of people sentenced for burglary by sentence type, 2000-01 to 2004-05

Sentence type	00-01	01-02	02-03	03-04	04-05
Imprisonment	16 47%	23 61%	14 35%	23 43%	30 58%
Wholly suspended sentence	5 15%	6 16%	11 28%	12 22%	7 13%
Community based order	3 9%	3 8%	12 30%	7 13%	7 13%
Partially suspended sentence	5 15%	0 -	3 8%	4 7%	1 2%
Intensive correction order	1 3%	2 5%	0 -	4 7%	5 10%
Youth training centre order	1 3%	4 11%	0 -	1 2%	0 -
Fine	0 -	0 -	0 -	1 2%	1 2%
Adjourned undertaking without conviction	0 -	0 -	0 -	2 4%	0 -
Youth supervision order	1 3%	0 -	0 -	0 -	0 -
Unconditional dismissal	1 3%	0 -	0 -	0 -	0 -
Mix (wholly suspended sentence & fine)	1 3%	0 -	0 -	0 -	0 -
Mix (community based order & fine)	0 -	0 -	0 -	0 -	1 2%
People sentenced	34	38	40	54	52

Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for burglary grouped by their age¹⁰ between 2000-01 and 2004-05. The average age of people sentenced for burglary was twenty-nine years and eight months. Men sentenced over this time period were older than women (an average age of twenty-nine years and eleven months for men compared to twenty-seven years for women). Two male and two female juveniles were sentenced in the County Court over this period.

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



Sentence types by gender

Figure 5 and Table 2 show the types of sentence imposed for burglary grouped by gender. As shown, a higher percentage of men received a period of imprisonment (51.3% compared to 23.8% of women) and a community based order (15.2% compared to 9.5%). Conversely, a higher percentage of women received a youth training centre order (14.3% compared to 1.5% of men), a partially suspended sentence of imprisonment (14.3% compared to 5.1%) and a wholly suspended sentence of imprisonment (23.8% compared to 18.3%).

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

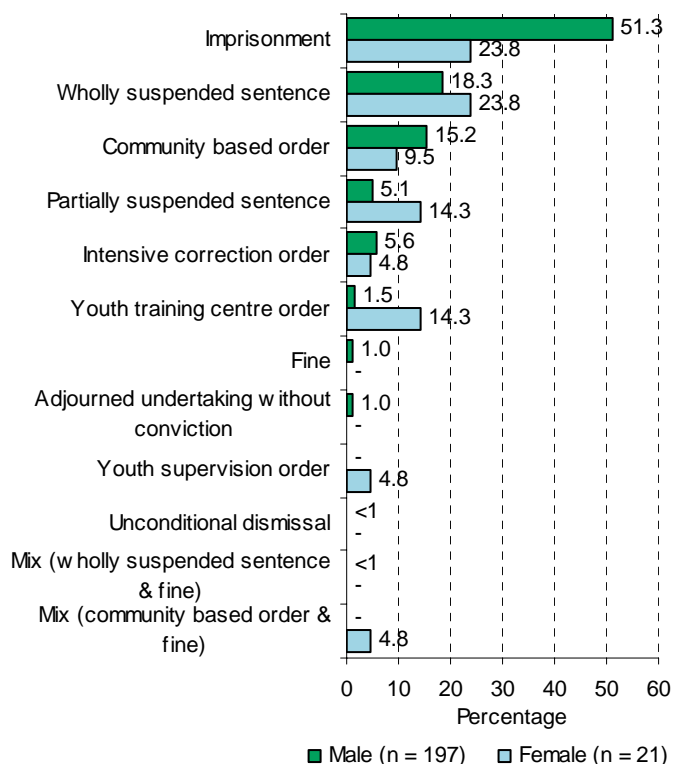


Table 2: The number and percentage breakdown of people sentenced for burglary by gender, 2000-01 to 2004-05

Sentence type	Male	Female	Total
Imprisonment	101 51%	5 24%	106 49%
Wholly suspended sentence	36 18%	5 24%	41 19%
Community based order	30 15%	2 10%	32 15%
Partially suspended sentence	10 5%	3 14%	13 6%
Intensive correction order	11 6%	1 5%	12 6%
Youth training centre order	3 2%	3 14%	6 3%
Fine	2 1%	0 -	2 <1%
Adjourned undertaking without conviction	2 1%	0 -	2 <1%
Youth supervision order	0 -	1 5%	1 <1%
Unconditional dismissal	1 <1%	0 -	1 <1%
Mix (wholly suspended sentence & fine)	1 <1%	0 -	1 <1%
Mix (community based order & fine)	0 -	1 5%	1 <1%
People sentenced	197	21	218

Sentence types by age

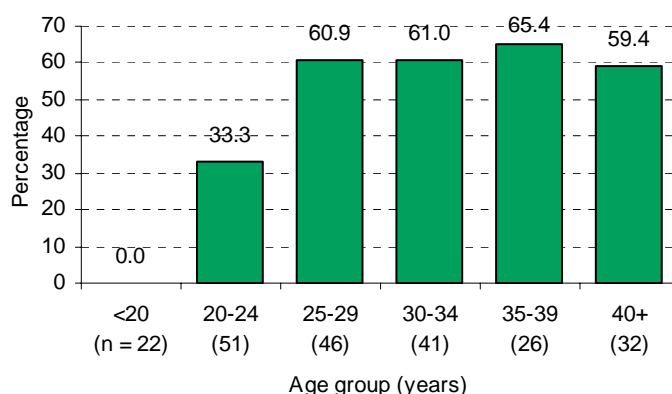
As shown in the table above, the three most common sentence types were imprisonment, wholly suspended sentences of imprisonment and community based orders. The following analysis examines these sentence types by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 35-39 years old (65% or 17 of the 26 people in this age group).

Conversely, none of the 22 people aged under 20 years received a period of imprisonment.

Figure 6: The percentage of people who were sentenced to a period of imprisonment for burglary by age group, 2000-01 to 2004-05

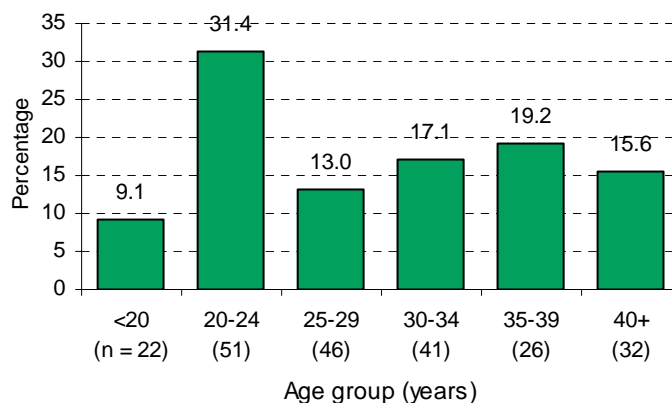


Wholly suspended sentence of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 20-24 years old (31% or 16 of the 51 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (9% or two of the 22 people in this age group).

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

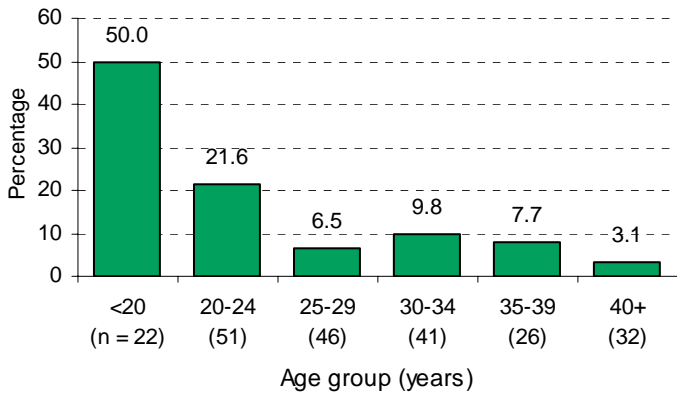


Community based order

Community based orders were most likely to be given to people aged under 20 years (50% or 11 of the 22 people in this age group).

Conversely, community based orders were least common for those aged 40 years and older (3% or one of the 32 people in this age group).

Figure 8: The percentage of people who were sentenced to a community based order for burglary 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.

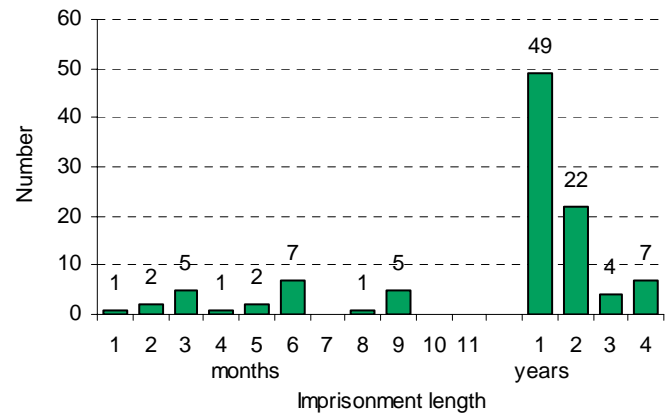
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for burglary must be considered in this broader context. The following sections analyse the use of imprisonment for burglary over 2000-01 to 2004-05.

Principal sentence of imprisonment

Figure 9 shows the number of people sentenced to imprisonment for burglary between 2000-01 and 2004-05 by the length of the imprisonment term. Imprisonment terms ranged from 1 month to 4 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 than 1 year).

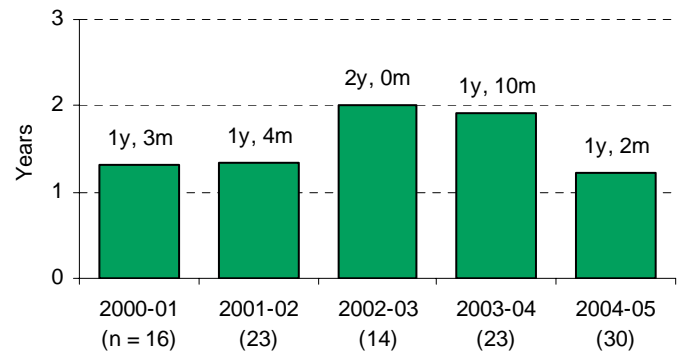
The most common length of imprisonment imposed was also 1 year (49 people).

Figure 9: The number of people sentenced to imprisonment for burglary 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 burglary ranged from 1 year and 2 months in 2004-05 to 2 years in 2002-03.

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



Total effective sentence of imprisonment

There were 105 people who were given a total effective sentence of imprisonment¹¹. Figure 11 shows the number of people sentenced to imprisonment for burglary between 2000-01 and 2004-05 by the length of their total effective sentence. The length of total effective sentences ranged from two months and fifteen days to seven years and six months¹², while the median total effective length of imprisonment was two years and six months (meaning that half of the total effective sentence lengths were below two years and six months and half were above).

The most common total effective imprisonment length imposed was 2 years (27 people).

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

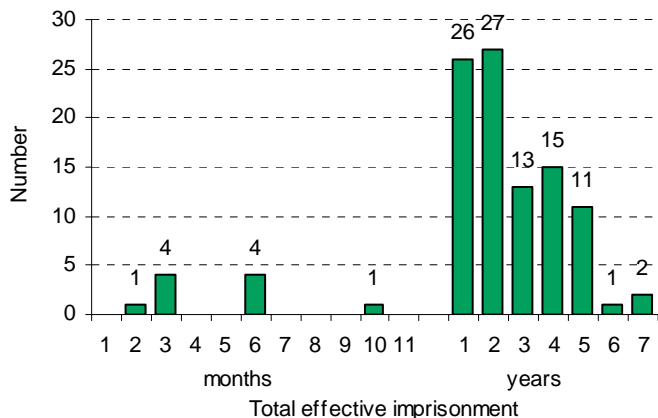
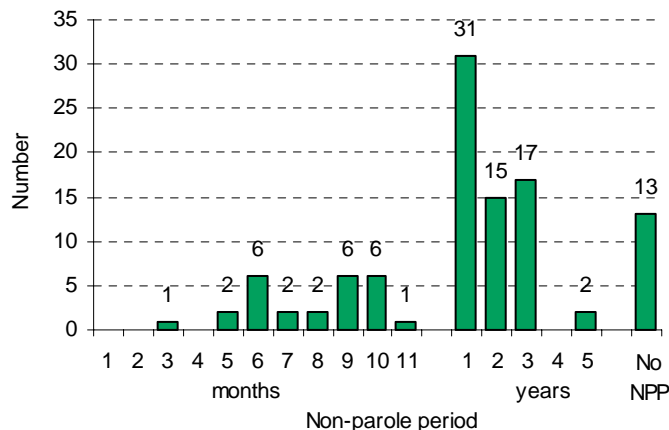


Figure 12: The number of people sentenced to imprisonment for burglary by length of non-parole imprisonment term, 2000-01 to 2004-05



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

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 105 people who were sentenced to imprisonment for burglary, 95 were eligible for parole. Of these people, 91 were given a non-parole period (96%)¹³. Figure 12 shows the number of people sentenced to imprisonment for burglary between 2000-01 and 2004-05 by the length of their non-parole period. Non-parole periods ranged from three months to five years and six months, while the median length of the non-parole period was one year and eight months (meaning that half of the non-parole periods were below one year and eight months and half were above).

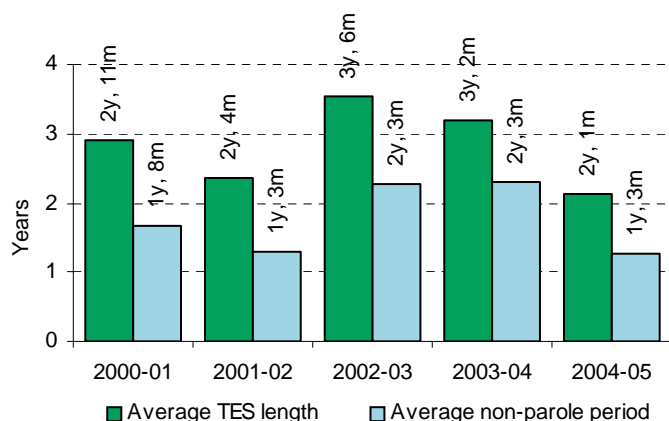
The most common non-parole period imposed was 1 year (31 people).

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 2004-05¹⁴.

From 2000-01 to 2004-05, the average length of total effective sentence imposed against all people ranged from two years and one month in 2004-05 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 2001-02 and 2004-05 to two years and three months in 2002-03 and 2003-04.

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

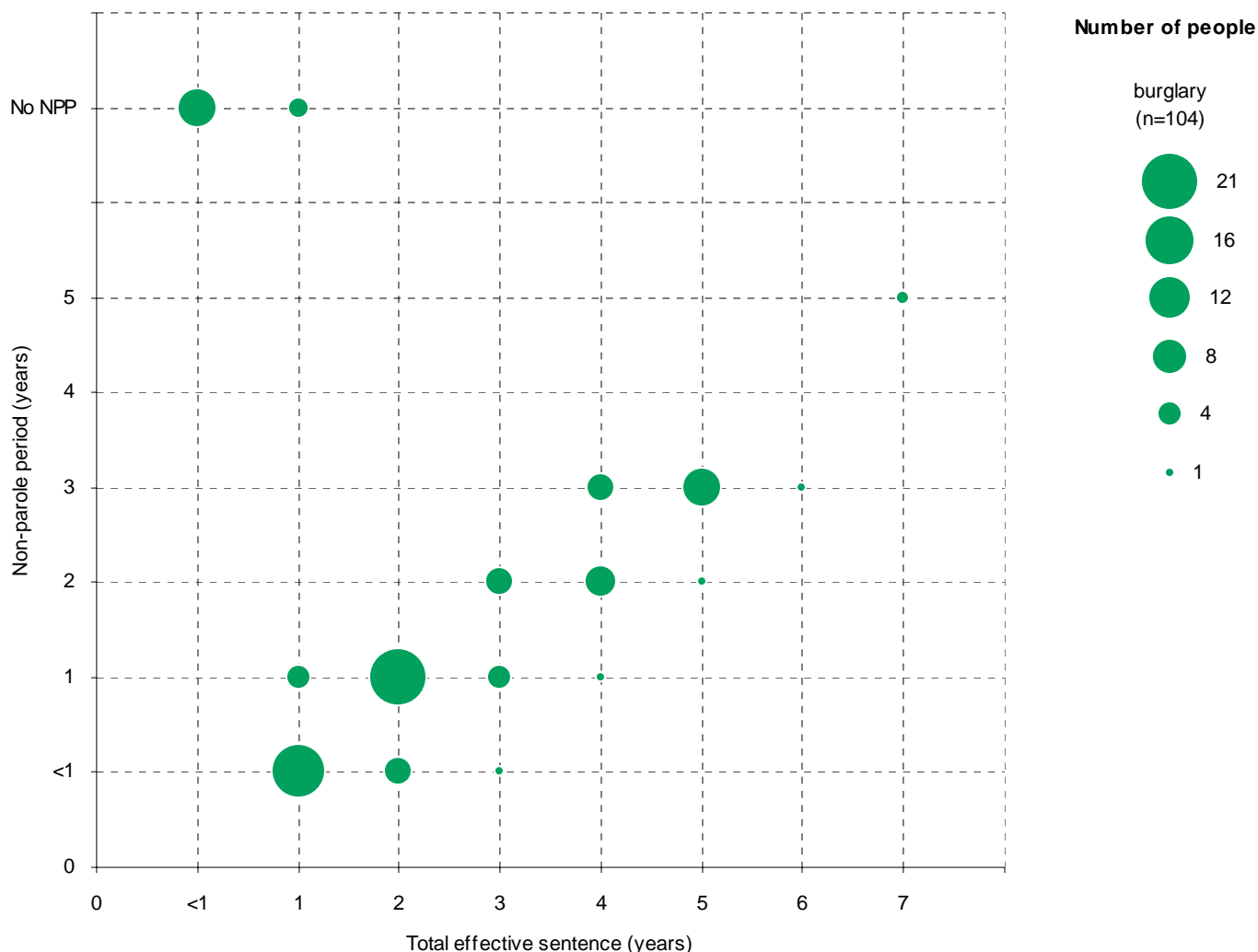


Total effective sentence of imprisonment by non-parole period

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 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 combination¹⁵. 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 (21 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from two months and fifteen days with no non-parole period to seven years and six months with a non-parole period of five years¹⁶.

Figure 14: The number of people¹⁷ sentenced to imprisonment for burglary by the total effective sentence and the non-parole period imposed, 2000-01 to 2004-05



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

Conclusion

Between 2000-01 and 2004-05, 218 people were sentenced for burglary in the higher courts. Over this period, the majority of those sentenced were men (90%), while 72% were between the age of 18 and 35 years.

Around half of the people sentenced for burglary received a period of imprisonment (49%), while 19% received a wholly suspended sentence of imprisonment and 15% received a community based order.

Men were more likely than women to be sentenced to a period of imprisonment and a community based order. Conversely, women were more likely to be sentenced to a youth training centre order, a partially suspended sentence

of imprisonment and a wholly suspended sentence of imprisonment.

Sentences of imprisonment were more common for those aged over 25 years of age, wholly suspended sentences of imprisonment were more common for those aged between 20 and 25 years of age and community based orders were more common for those aged under 20 years of age.

The length of imprisonment ranged from two months and fifteen 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 imposed was two years with one year non-parole.

- ¹ This report presents sentencing outcomes for people sentenced for the principal offence of burglary in the County and Supreme Court 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. For example, in 2004-05, 128 people were sentenced for burglary. Burglary was the principal offence for 52 of the 128 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). This report describes sentencing trends for burglary 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.
- ⁴ *Crimes Act 1958 s.76*
- ⁵ Burglary carries a maximum fine of 1200 penalty units and each penalty unit is worth \$104.81, Victorian Government Gazette 14 April 2005.
- ⁶ Some less serious indictable offences can be finalised summarily by the Magistrates' Court. *Magistrates' Court Act 1989 s.25* provides the Magistrates' Court with the jurisdiction to determine some indictable matters triable summarily. The principle indictable offences triable summarily are listed in the *Magistrates' Court Act 1989* Schedule 4. Under the *Magistrates' Court Act 1989* (Vic) 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 (\$25,154)
- ⁷ Burglary was the 13th most common principal offence that resulted in a person being sentenced in the higher courts over 2000-01 to 2004-05.
- ⁸ Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.
- ⁹ Custodial sentence includes imprisonment, partially suspended sentence, intensive correction order and youth training centre order.
- ¹⁰ Age is as at the time of sentencing.
- ¹¹ Of the 106 people who were given a principal sentence of imprisonment, 105 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.
- ¹² In 2003, a man aged 35 years was sentenced to seven years and six months' imprisonment with a five year non-parole period, while in 2004, a man aged 41 years was given seven years' imprisonment with a non-parole of five years and six months.
- ¹³ Ten people were not eligible for parole because they were given a total effective sentence length of less than one year.

A further 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. The non-parole period for this person is excluded from the analysis. A non-parole period was not set for three people who were eligible for a non-parole period.
- ¹⁴ Due to the low number of women (5) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
- ¹⁵ Sentence lengths that are longer than one year are rounded to the nearest year of imprisonment, while sentence lengths of less than one year are grouped into the '<1 year' category.
- ¹⁶ Refer fn. 12
- ¹⁷ This graph includes the 104 people who were given a total effective sentence and a non-parole period that related to this case only.

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