

No. 38: Sentencing trends for aggravated burglary in the higher courts of Victoria, 2002-03 to 2006-07

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of aggravated 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. The offence of burglary is aggravated if the person has with him or her, a firearm, imitation firearm, offensive weapon, explosive or imitation explosive⁵. Aggravated burglary also occurs if, at the time of entering the building, someone else was present and the offender knew, or was reckless as to the fact⁶. Aggravated burglary is an indictable offence that carries a maximum penalty of 25 years' imprisonment and/or a fine of up to 3000 penalty units⁷. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

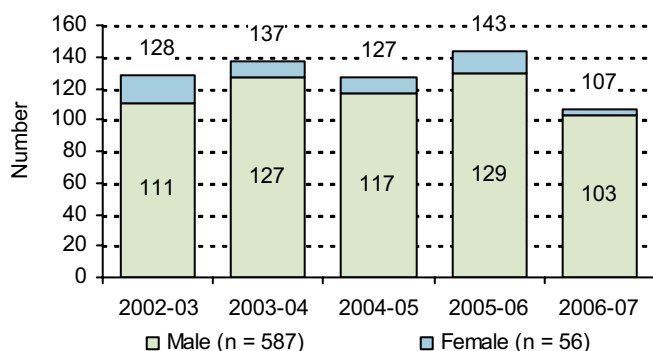
Of all people sentenced for the principal offence of aggravated burglary, 50.6% had their cases heard in the higher courts. The remaining cases were heard in the Children's and Magistrates' Court⁸. Aggravated burglary was the principal offence in 6.3% of cases sentenced in the higher courts between 2002-03 and 2006-07.

People sentenced

Figure 1 shows the number of people sentenced for aggravated burglary for the period 2002-03 to 2006-07. As shown, 642 people were sentenced for aggravated burglary over the five year period. There were 107 people sentenced for this offence in 2006-07, down by 36 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (91.4% or 587 of the 642 people), including 103 of the 107 people sentenced in 2006-07.

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



Sentence types and trends

Figure 2 shows the total number of people sentenced for aggravated burglary and the number who received a custodial sentence. Custodial refers to sentences that involve at least some aspect of immediate imprisonment or detention⁹. Over the five year period, 57% of people were given a custodial sentence. This peaked at 60% (86 of 143)

in 2005-06 after a low of 53% (68 of 128) in 2002-03. In 2006-07, 59% of people sentenced (63 of 107) were given a custodial sentence.

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

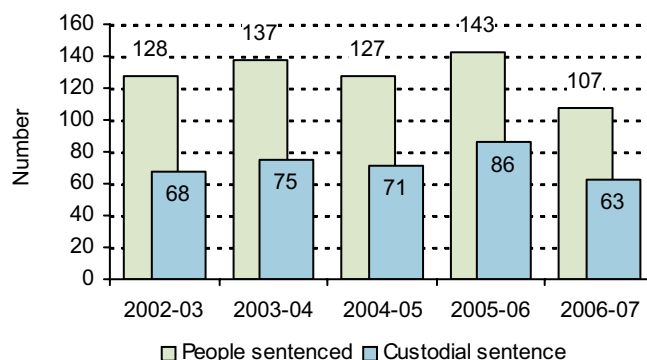
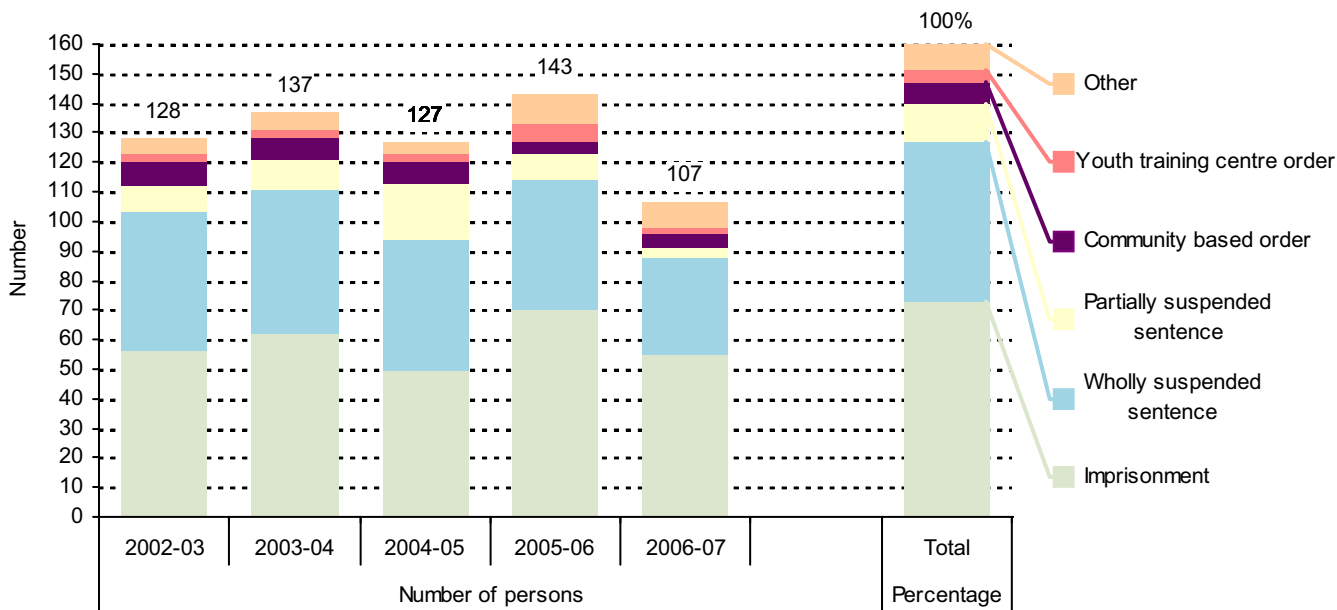


Figure 3 and Table 1 show the number of people sentenced for aggravated burglary from 2002-03 to 2006-07 by the types of sentences imposed.

Over the five year period, around half of the people sentenced for aggravated burglary received a period of imprisonment (45% or 292 of 642 people). This remained relatively stable over the five year period, ranging from 39% in 2004-05 to 51% in 2006-07.

Around one third (34%) of people sentenced received a wholly suspended sentence of imprisonment. This has slightly decreased over the five year period from 37% in 2002-03 to 31% in 2006-07.

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



Other includes intensive correction order, fine, adjourned undertaking without conviction, aggregate imprisonment, mix (community based order & fine), aggregate wholly suspended sentence, adjourned undertaking with conviction, mix (fine & adjourned undertaking) and combined custody and treatment order.

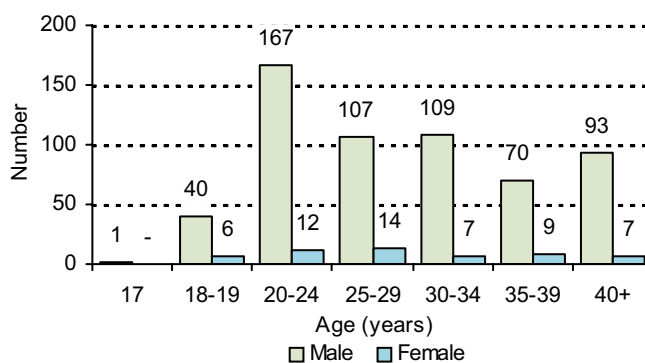
Table 1: The number and percentage of people sentenced for aggravated burglary by sentence type, 2002-03 to 2006-07

Sentence type	02-03	03-04	04-05	05-06	06-07
Imprisonment	56	62	49	70	55
	44%	45%	39%	49%	51%
Wholly suspended sentence	47	49	45	44	33
	37%	36%	35%	31%	31%
Partially suspended sentence	9	10	19	9	3
	7%	7%	15%	6%	3%
Community based order	8	7	7	4	5
	6%	5%	6%	3%	5%
Youth training centre order	3	3	3	6	2
	2%	2%	2%	4%	2%
Intensive correction order	3	3	3	1	4
	2%	2%	2%	<1%	4%
Fine	0	2	0	3	0
	-	1%	-	2%	-
Adjourned undertaking without conviction	0	1	0	3	0
	-	<1%	-	2%	-
Aggregate imprisonment	0	0	0	0	3
	-	-	-	-	3%
Mix (community based order & fine)	1	0	0	1	0
	<1%	-	-	<1%	-
Aggregate wholly suspended sentence	0	0	0	0	2
	-	-	-	-	2%
Adjourned undertaking with conviction	0	0	1	1	0
	-	-	<1%	<1%	-
Mix (fine & adjourned undertaking)	1	0	0	0	0
	<1%	-	-	-	-
Combined custody and treatment order	0	0	0	1	0
	-	-	-	<1%	-
People sentenced	128	137	127	143	107

Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for aggravated burglary grouped by their age¹⁰ between 2002-03 and 2006-07. The average age of people sentenced for aggravated burglary was twenty-nine years and eleven months. Men sentenced over this period were slightly older than women (an average age of twenty-nine years and eleven months for men compared to twenty-nine years and six months for women). One male juvenile was sentenced over this period.

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



Sentence types by gender

Figure 5 and Table 2 show the types of sentence imposed for aggravated burglary grouped by gender. As shown, a higher percentage of men received a period of imprisonment (47.4% compared to 25.5% of women) and a partially suspended sentence of imprisonment (8.3% compared to 1.8%). Conversely, a higher percentage of women received a wholly suspended sentence of imprisonment (54.5% compared to 32.0% of men) and an adjourned undertaking without conviction (3.6% compared to 0.3%).

Figure 5: The percentage of people sentenced for aggravated burglary by sentence type and gender, 2002-03 to 2006-07

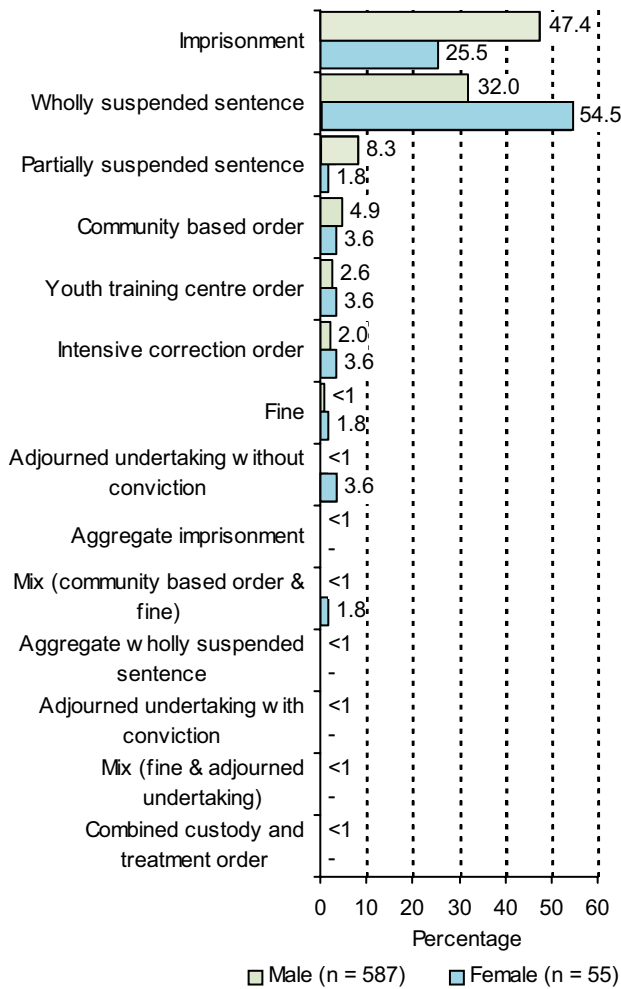


Table 2: The number and percentage breakdown of people sentenced for aggravated burglary by gender, 2002-03 to 2006-07

Sentence type	Male	Female	Total
Imprisonment	278	14	292
Wholly suspended sentence	188	30	218
Partially suspended sentence	49	1	50
Community based order	29	2	31
Youth training centre order	15	2	17
Intensive correction order	12	2	14
Fine	4	1	5
Adjourned undertaking without conviction	2	2	4
Aggregate imprisonment	3	0	3
Mix (community based order & fine)	1	1	2
Aggregate wholly suspended sentence	2	0	2
Adjourned undertaking with conviction	2	0	2
Mix (fine & adjourned undertaking)	1	0	1
Combined custody and treatment order	1	0	1
People sentenced	587	55	642

Sentence types by age

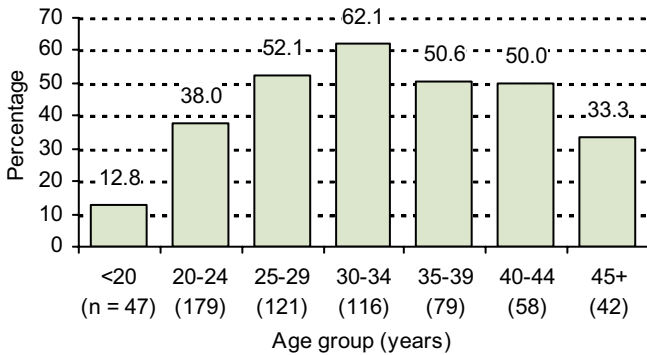
As shown in the table above, the four most common sentence types were imprisonment, wholly suspended sentences of imprisonment, partially suspended sentences of imprisonment and community based orders. The following analysis examines these sentence types by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 30-34 years old (62% or 72 of the 116 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (13% or six of the 47 people in this age group).

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

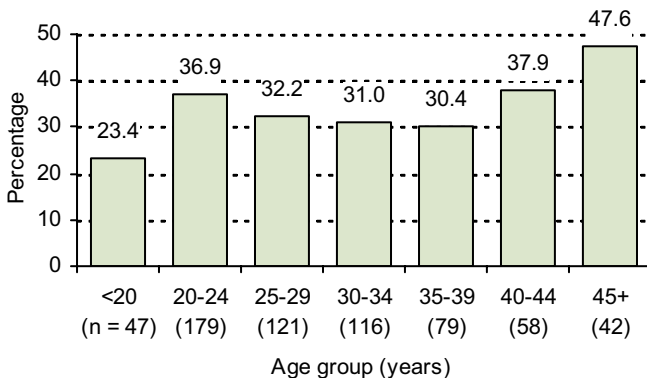


Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 45 years and older (48% or 20 of the 42 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (23% or 11 of the 47 people in this age group).

Figure 7: The percentage of people who received a wholly suspended sentence of imprisonment for aggravated burglary by age group, 2002-03 to 2006-07

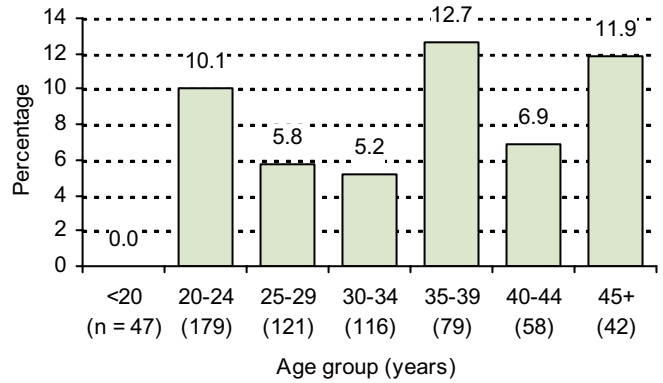


Partially suspended sentences of imprisonment

Partially suspended sentences of imprisonment were most likely to be given to people aged 35-39 years old (13% or 10 of the 79 people in this age group).

Conversely, none of the 47 people aged under 20 years received a partially suspended sentence of imprisonment.

Figure 8: The percentage of people who received a partially suspended sentence of imprisonment for aggravated burglary by age group, 2002-03 to 2006-07

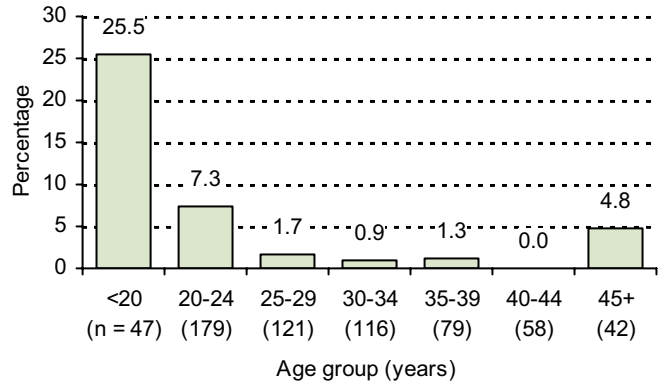


Community based orders

Community based orders were most likely to be given to people aged under 20 years (26% or 12 of the 47 people in this age group).

Conversely, none of the 58 people aged 40-44 years old received a community based order.

Figure 9: The percentage of people who received a community based order for aggravated 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.

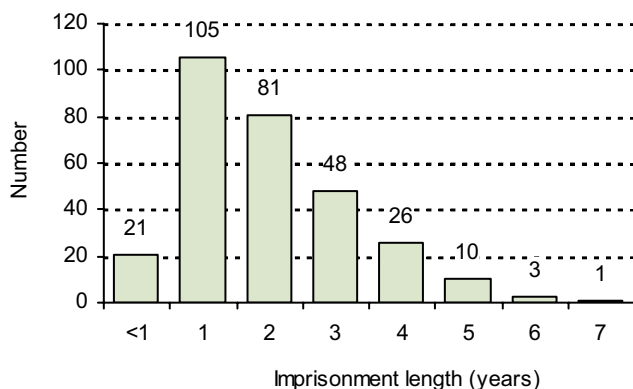
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for aggravated burglary must be considered in this broader context. The following sections analyse the use of imprisonment for aggravated burglary over 2002-03 to 2006-07.

Principal sentence of imprisonment

Figure 10 shows the number of people sentenced to imprisonment for aggravated burglary between 2002-03 and 2006-07 by the length of the imprisonment term. Imprisonment terms ranged from 3 months to seven years, while the median length of imprisonment was two years (meaning that half of the imprisonment terms were shorter than two years and half were longer).

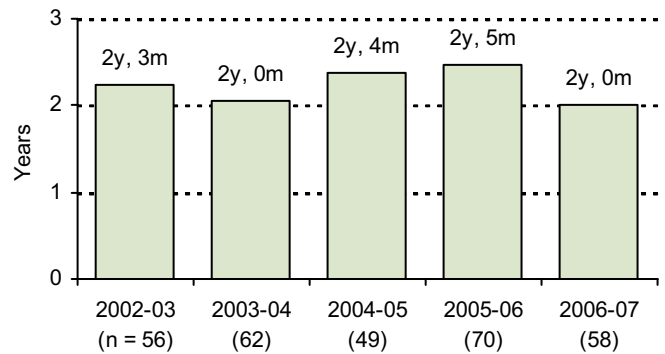
The most common length of imprisonment imposed was 1 year (105 people).

Figure 10: The number of people sentenced to imprisonment for aggravated burglary by length of imprisonment term, 2002-03 to 2006-07



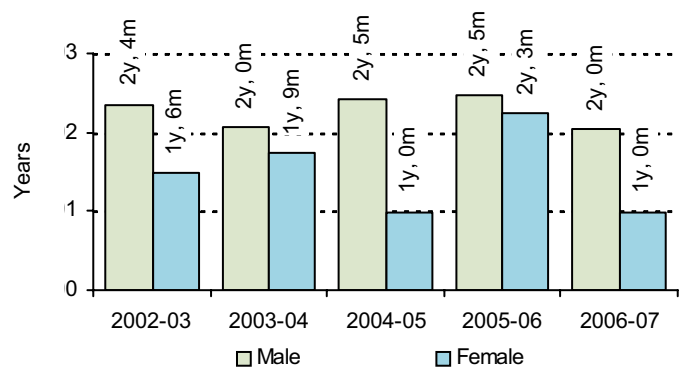
As shown in Figure 11, the average length of imprisonment term imposed on people sentenced for aggravated burglary ranged from two years in 2003-04 and 2006-07 to two years and five months in 2005-06.

Figure 11: The average length of imprisonment term imposed on people sentenced for aggravated burglary, 2002-03 to 2006-07



From 2002-03 to 2006-07, the majority of those people who received a term of imprisonment for aggravated burglary were men (281 people or 95.3%). Figure 12 shows that over the five year period, men also received a longer average term of imprisonment (two years and three months compared to one year and seven months for women).

Figure 12: The average period of imprisonment imposed on people sentenced for aggravated burglary by gender, 2002-03 to 2006-07

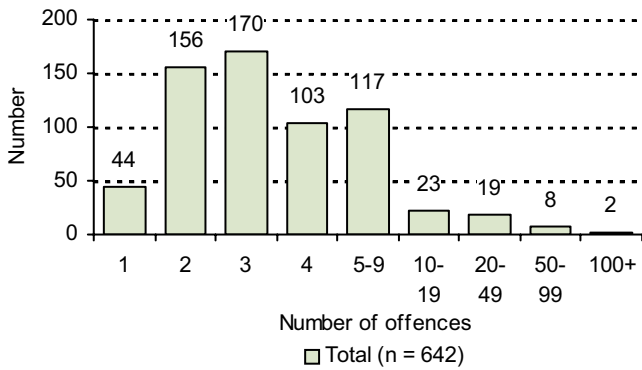


Other offences finalised at the same hearing

Often people prosecuted for aggravated 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 aggravated burglary.

Figure 13 shows the number of people sentenced for the principal offence of aggravated burglary by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 103, while the median was 3 offences. There were 44 people (6.9%) sentenced for the single offence of aggravated burglary alone. The average number of offences per person sentenced for aggravated burglary was 5.54.

Figure 13: The number of people sentenced for the principal offence of aggravated burglary by the number of sentenced offences per person, 2002-03 to 2006-07



While Figure 13 presents the number of sentenced offences for those sentenced for aggravated burglary, Figure 14 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, 249 of the total 642 people (38.8%) also received sentences for causing injury. On average, they were sentenced for 1.21 counts of causing injury.

Figure 14: The number and percentage of people sentenced for the principal offence of aggravated burglary by the most common offences that were sentenced and the average number of those offences that were sentenced, 2002-03 to 2006-07

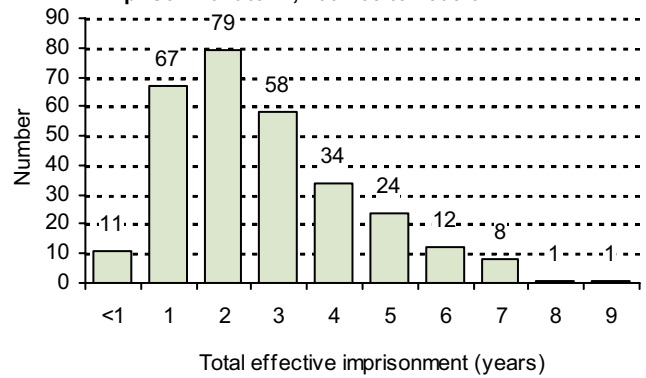
Offence	No.	%	Avg.
1 aggravated burglary	642	100.0	1.33
2 causing injury	249	38.8	1.21
3 theft	189	29.4	4.47
4 intentionally destroy/damage property (criminal damage)	168	26.2	1.23
5 common law assault	113	17.6	1.39
6 making a threat to kill	63	9.8	1.40
7 burglary	54	8.4	6.24
8 causing serious injury recklessly	45	7.0	1.09
9 causing serious injury intentionally	42	6.5	1.10
10 handling stolen goods	29	4.5	1.55
People sentenced	642	100.0	5.54

Total effective sentence of imprisonment

There were 295 people given a total effective sentence of imprisonment¹¹. Figure 15 shows the number of people sentenced to imprisonment for aggravated burglary between 2002-03 and 2006-07 by the length of their total effective sentence. The length of total effective sentences ranged from three months to nine years, while the median total effective length of imprisonment was two years and seven months (meaning that half of the total effective sentence lengths were below two years and seven months and half were above).

The most common total effective imprisonment length was 2 years (79 people).

Figure 15: The number of people sentenced to imprisonment for aggravated burglary by total effective length of imprisonment term, 2002-03 to 2006-07



Non-parole period

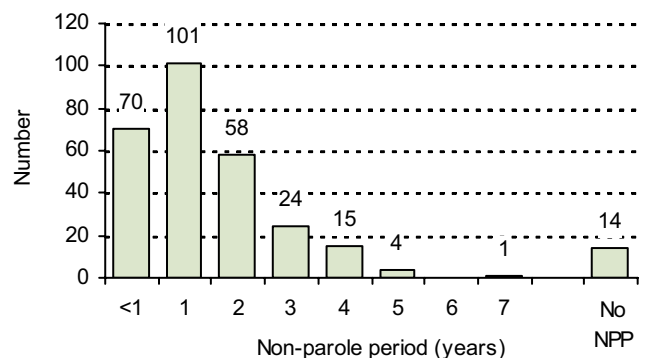
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person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

Of the 295 people who were sentenced to imprisonment for aggravated burglary, 284 were eligible to have a non-parole period fixed¹². Of these people, 273 were given a non-parole period (96%)¹³. Figure 16 shows the number of people sentenced to imprisonment for aggravated burglary between 2002-03 and 2006-07 by the length of their non-parole period. Non-parole periods ranged from three months to seven years and six months, while the median length of the non-parole period was one year and three months (meaning that half of the non-parole periods were below one year and three months and half were above).

The most common non-parole period imposed was 1 year (101 people).

Figure 16: The number of people sentenced to imprisonment for aggravated burglary by length of non-parole period, 2002-03 to 2006-07



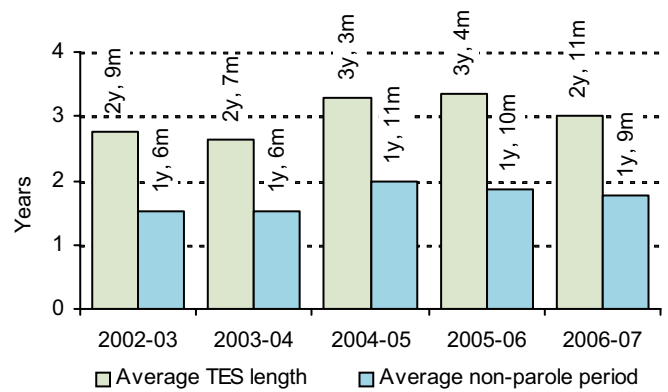
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

Total effective sentences of imprisonment and non-parole periods

Figure 17 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 2006-07¹⁴.

From 2002-03 to 2006-07, the average length of total effective sentence for all people ranged from two years and seven months in 2003-04 to three years and four months in 2005-06. Over the same period, the average length of non-parole period ranged from one year and six months in 2002-03 and 2003-04 to one year and eleven months in 2004-05.

Figure 17: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for aggravated burglary, 2002-03 to 2006-07

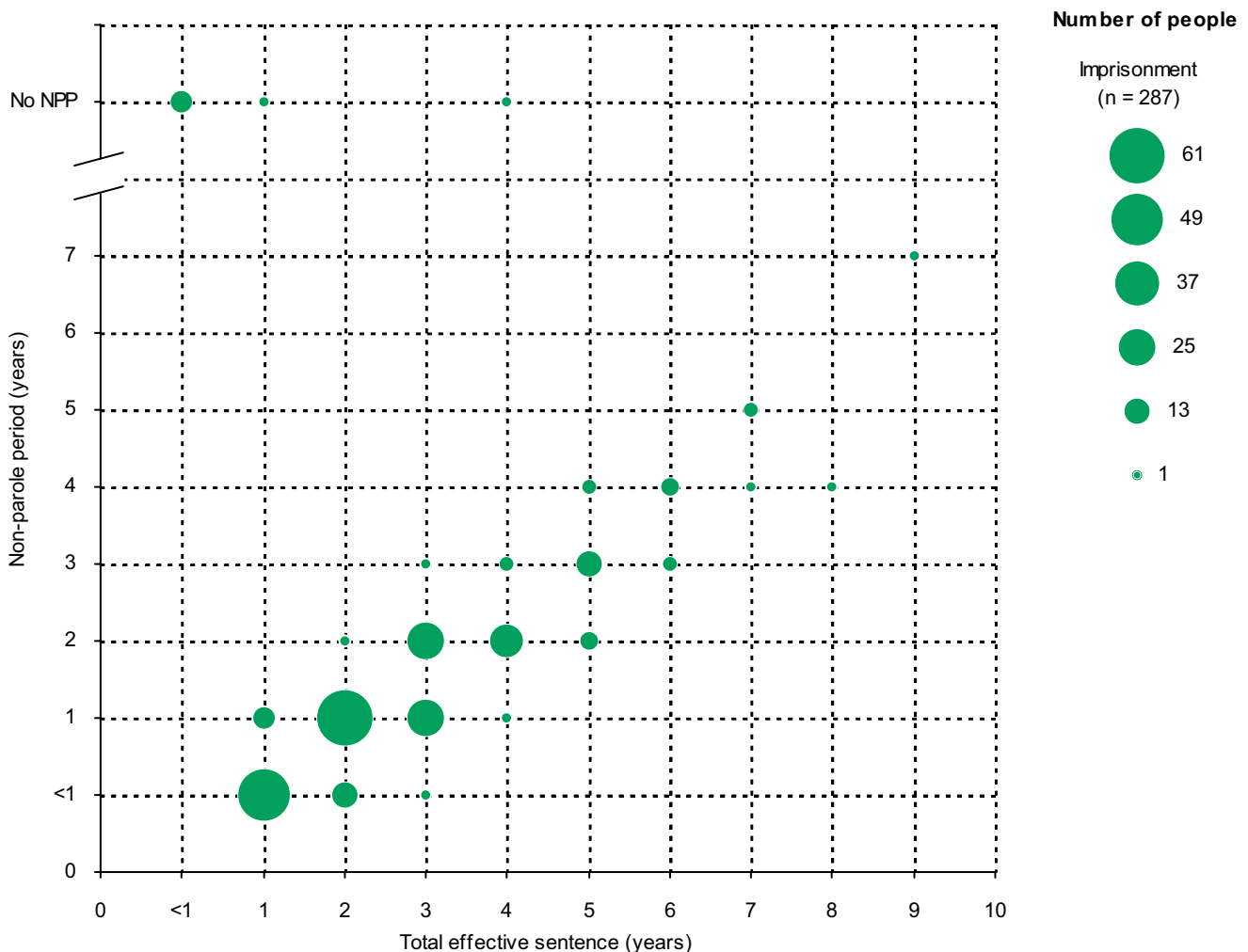


Total effective sentence of imprisonment by non-parole period

While Figure 15 and Figure 16 present the lengths of the total effective sentences and non-parole periods separately, Figure 18 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for aggravated 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 (61 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from three months with no non-parole period to nine years with a non-parole period of seven years and six months.

Figure 18: The number of people sentenced to imprisonment for aggravated burglary by the total effective sentence and the non-parole period imposed, 2002-03 to 2006-07¹⁶



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

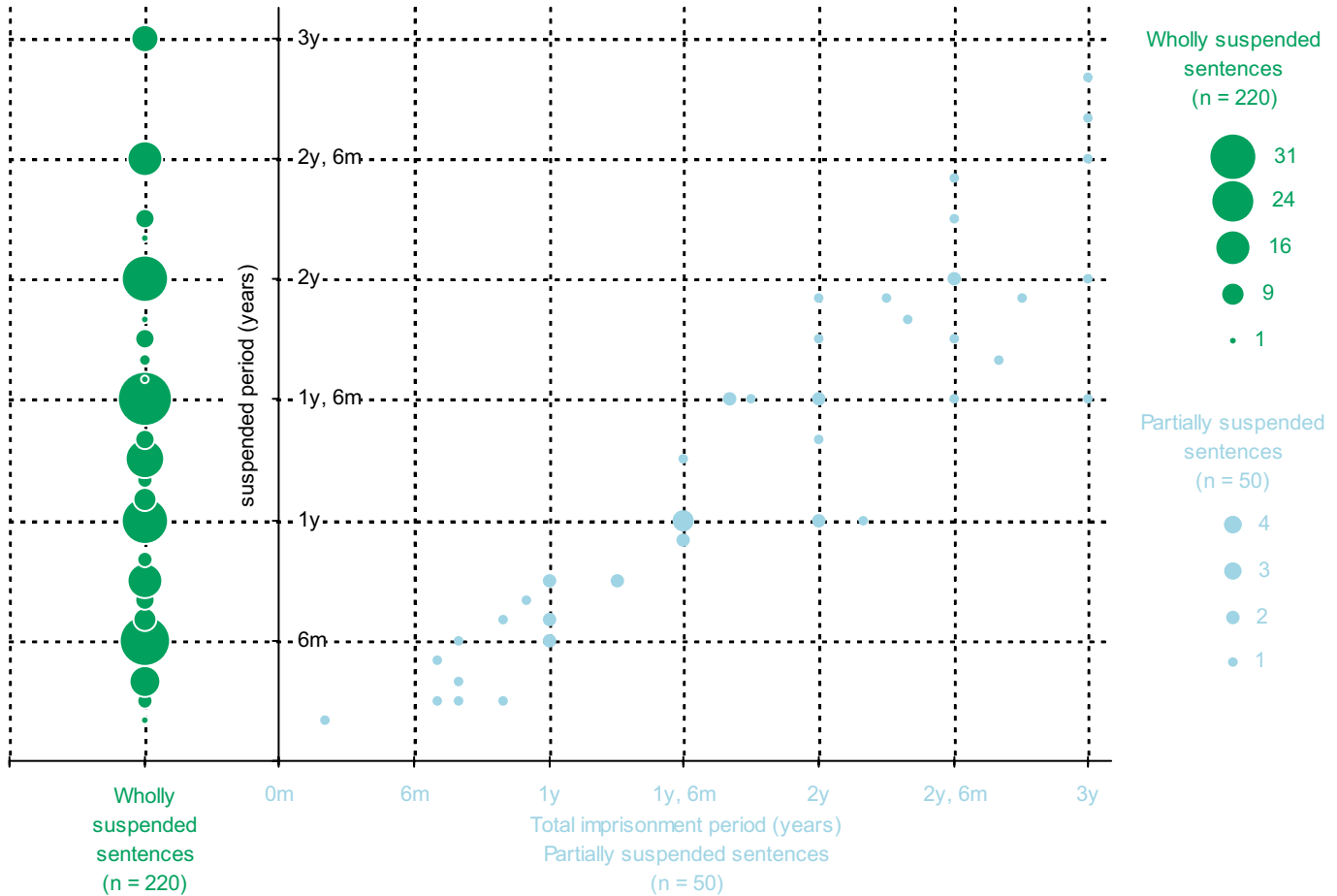
Suspended sentences of imprisonment

There were 270 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 220 people had their prison sentence wholly suspended and 50 received a partially suspended sentence of imprisonment. Figure 19 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 three years. The most common wholly suspended sentence length was one year and six months (31 people - as represented by the largest green 'bubble' on the chart).

The most common partially suspended sentence combination was one year and six months with one year suspended (4 people - as represented by the largest blue 'bubble' on the chart).

Figure 19: The number of people given a wholly or partially suspended sentence of imprisonment for aggravated burglary by sentence type and length, 2002-03 to 2006-07

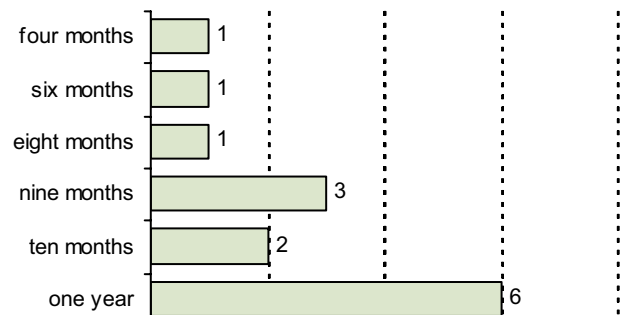


Intensive correction orders

There were 14 people given an intensive correction order as their total effective sentence.

The length of intensive correction orders for aggravated burglary ranged from four months to one year, while the median length was ten months (meaning that half of the lengths were shorter than or equal to ten months and half were longer than or equal to ten months). The most common length of intensive correction order was one year (6 people).

Figure 20: The number of people sentenced to an intensive correction order for aggravated burglary by length of order imposed, 2002-03 to 2006-07

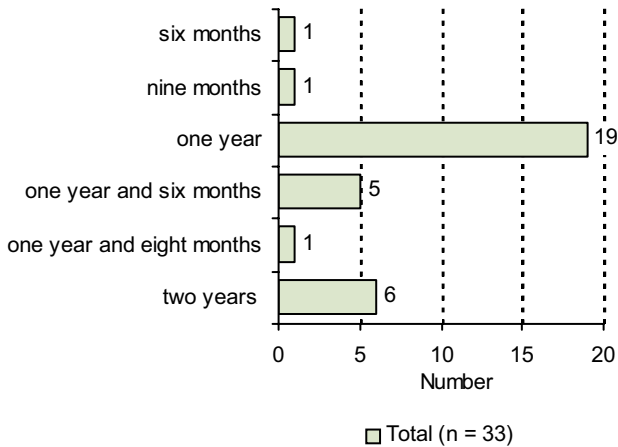


Community based orders

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

The length of community based orders for aggravated burglary 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 (19 people).

Figure 21: The number of people sentenced to a community based order for aggravated burglary by length of order imposed, 2002-03 to 2006-07



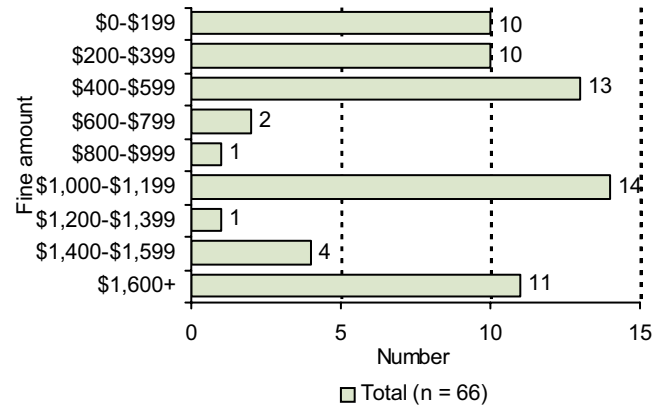
Fines

This analysis includes all fines that were imposed for cases where aggravated burglary was the principal offence. Fines were imposed on 66 people.

The fine amount imposed ranged from \$1 to \$7,000, with a median of \$575 (meaning that half of the values fell below \$575 and half of the values were above \$575).

The average fine amount was \$977. The average fine amount imposed against the 63 males was \$1,006, much higher than the average fine for the 3 females (\$367).

Figure 22: The number of people who received a fine for aggravated burglary by fine amount, 2002-03 to 2006-07



Summary

Between 2002-03 and 2006-07, 642 people were sentenced for aggravated burglary in the higher courts. Over this period, the majority of those sentenced were men (91%), while 72% were between the age of 18 and 35 years.

Around half of the people sentenced for aggravated burglary received a period of imprisonment (45%), while 34% received a wholly suspended sentence of imprisonment.

Men were more likely than women to be sentenced to a period of imprisonment or a partially suspended sentence of imprisonment. Conversely, women were more likely to be sentenced to a wholly suspended sentence of imprisonment.

Imprisonment was more common for those aged between 30 and 35 years of age and wholly suspended sentences of imprisonment were more common for those aged older than 45 years of age.

Each of the 642 people was sentenced for an average of 5.54 offences, including 1.33 offences of aggravated burglary. The most common offence finalised in conjunction with aggravated burglary was causing injury (38.8% of all cases). The number and range of offences for which people with a principal offence of aggravated 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 seven months, while the median principal imprisonment length was two years.

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

The most common wholly suspended sentence length was one year and six months.

- 1 This report presents sentencing outcomes for people sentenced for the principal offence of aggravated 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 aggravated burglary who received a more serious sentence for another offence forming part of the same presentment. There were 1,024 people sentenced from 2002-03 to 2006-07 for 1,292 offences of aggravated burglary. Aggravated burglary was the principal proven offence for 642 of these people.
- 2 The information source for sentencing outcomes for aggravated 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 *Crimes Act 1958 s.77.*
- 6 *Crimes Act 1958 s.77.*
- 7 The value of a penalty unit changes each year and can be found in the Victorian Government Gazette.
- 8 Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.
- 9 Custodial sentence includes imprisonment, partially suspended sentence, youth training centre order, aggregate imprisonment and combined custody and treatment order.
- 10 Age is as at the time of sentencing.
- 11 All of the 295 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
- 12 Eleven people were not eligible for parole because they were given a total effective sentence length of less than one year.
- 13 Eight 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 three people who were eligible for a non-parole period.
- 14 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.
- 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 This graph includes the 287 people who were given a total effective sentence and a non-parole period that related to this case only.

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Sentencing trends in the higher courts, 1998-99 to 2003-04

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Sentencing trends in the higher courts, 1999-00 to 2003-04

- No. 7 Rape

Sentencing trends in the higher courts, 2000-01 to 2004-05

- No. 8 Robbery
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- No. 12 Causing serious injury intentionally
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- No. 14 Causing injury
- No. 15 Affray

Sentencing trends in the higher courts, 2001-02 to 2005-06

- No. 16 Handling stolen goods
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- No. 19 Obtaining property by deception
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- No. 23 Indecent assault
- No. 24 Indecent act with a child under aged 16
- No. 25 Maintain a sexual relationship with a child aged under 16
- No. 26 Rape
- No. 27 Murder
- No. 28 Manslaughter
- No. 29 Culpable driving causing death
- No. 30 Make threat to kill
- No. 31 Sexual penetration of a child aged between 10 and 16
- No. 32 Sexual penetration of a child under care
- No. 33 Sexual penetration of a child aged under 10

Sentencing trends in the higher courts, 2002-03 to 2006-07

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