

## No. 39: Sentencing trends for causing serious injury intentionally in the higher courts of Victoria, 2002-03 to 2006-07

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of causing serious injury intentionally and details the age and gender<sup>2</sup> of people sentenced for this offence in the County and Supreme Courts of Victoria between 2002-03 and 2006-07<sup>3</sup>.

A person who intentionally causes serious injury to another person without lawful excuse is guilty of this offence<sup>4</sup>. 'Injury' includes unconsciousness, hysteria, pain and any substantial impairment of bodily function. 'Serious injury' includes a combination of injuries. These definitions are not exhaustive<sup>5</sup>.

Causing serious injury intentionally is an indictable offence which carries a maximum penalty of 20 years' imprisonment and/or a fine of 2400 penalty units<sup>6</sup>. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

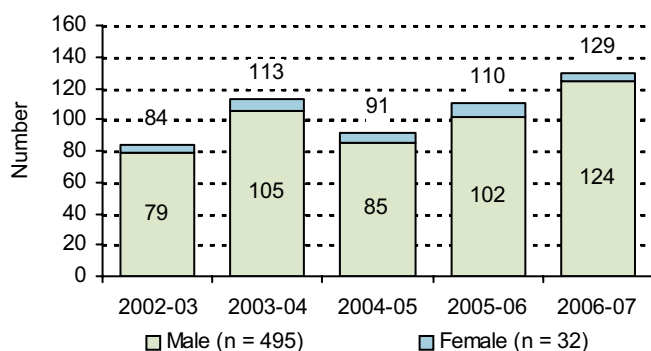
Of all people sentenced for the principal offence of causing serious injury intentionally, 84.6% had their cases heard in the higher courts. The remaining cases were heard in the Children's and Magistrates' Court<sup>7</sup>. Causing serious injury intentionally was the principal offence in 5.1% of cases sentenced in the higher courts between 2002-03 and 2006-07.

### People sentenced

Figure 1 shows the number of people sentenced for causing serious injury intentionally for the period 2002-03 to 2006-07. As shown, 527 people were sentenced for causing serious injury intentionally over the five year period. There were 129 people sentenced for this offence in 2006-07, up by 19 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (93.9% or 495 of the 527 people), including 124 of the 129 people sentenced in 2006-07.

**Figure 1: The number of people sentenced for causing serious injury intentionally by gender, 2002-03 to 2006-07**



### Sentence types and trends

Figure 2 shows the total number of people sentenced for causing serious injury intentionally and the number who received a custodial sentence. Custodial refers to sentences that involve at least some aspect of immediate imprisonment or detention<sup>8</sup>. Over the five year period, 73% of people were given a custodial sentence. This peaked at 79% (102 of 129) in 2006-07 after a low of 67% (74 of 110) in 2005-06.

**Figure 2: The number of people sentenced for causing serious injury intentionally and the number who received a custodial sentence, 2002-03 to 2006-07**

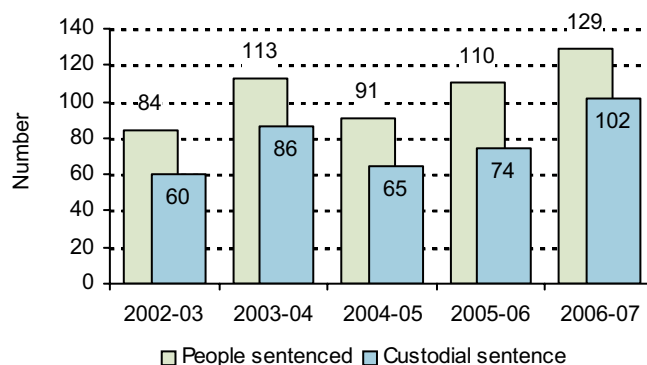
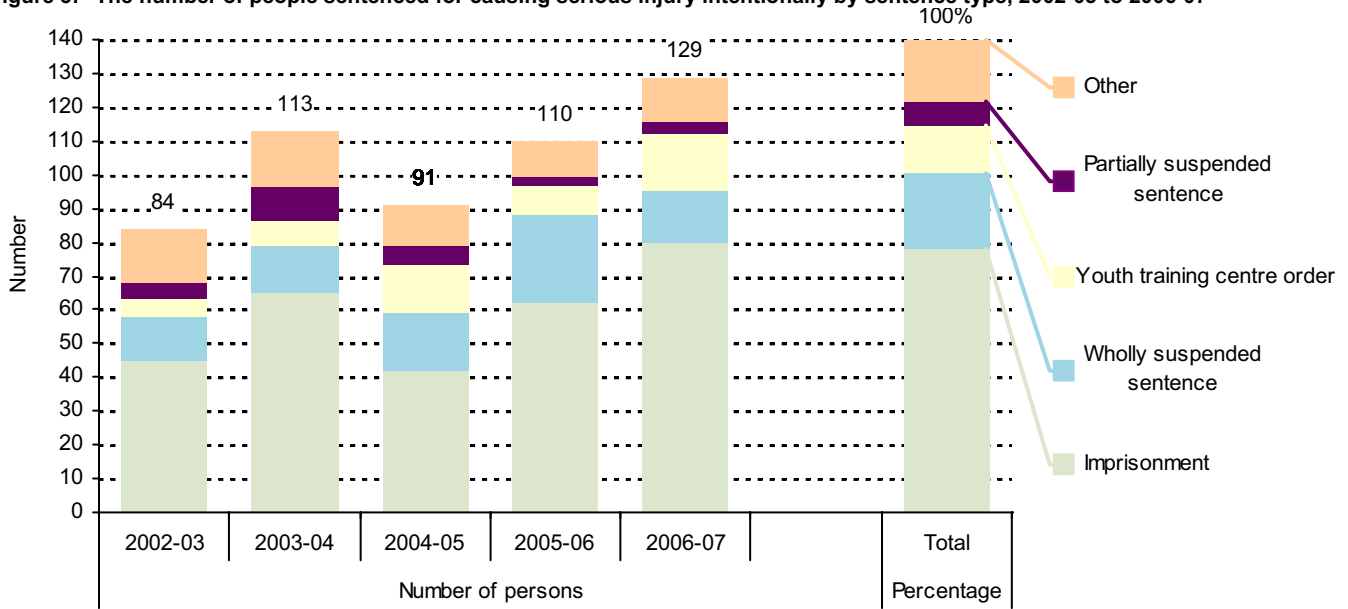


Figure 3 and Table 1 show the number of people sentenced for causing serious injury intentionally from 2002-03 to 2006-07 by the types of sentences imposed.

Over the five year period, the majority of the people sentenced for causing serious injury intentionally received a period of imprisonment (56% or 294 of 527 people), while 16% received a wholly suspended sentence of imprisonment and 10% received a youth training centre order.

The percentage of people who received a sentence of imprisonment increased over the past 3 years from 46% in 2004-05 to 62% in 2006-07. Over the same period the use of both wholly and partially suspended sentences has decreased (from 19% and 7%, respectively, in 2004-05 to 12% and 3% in 2006-07).

Figure 3: The number of people sentenced for causing serious injury intentionally by sentence type, 2002-03 to 2006-07



Other includes community based order, intensive correction order, non-custodial supervision order, custodial supervision order, hospital security order, restricted involuntary treatment order (hospital order), mix (wholly suspended sentence & fine), mix (community based order & fine), combined custody and treatment order, probation, mix (imprisonment & community based order), mix (intensive correction order & fine), fine, aggregate imprisonment and adjourned undertaking with conviction.

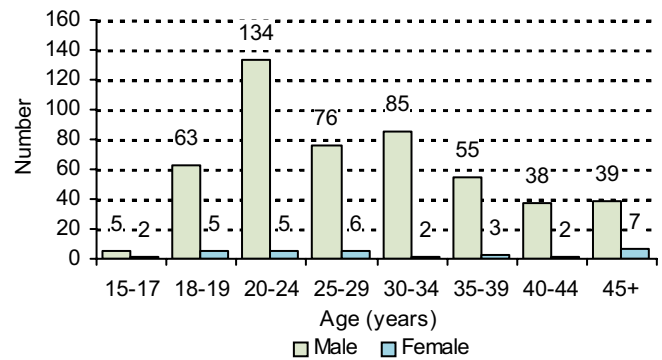
**Table 1: The number and percentage of people sentenced for causing serious injury intentionally by sentence type, 2002-03 to 2006-07**

Sentence type	02-03	03-04	04-05	05-06	06-07
Imprisonment	45 54%	65 58%	42 46%	62 56%	80 62%
Wholly suspended sentence	13 15%	14 12%	17 19%	26 24%	15 12%
Youth training centre order	5 6%	7 6%	14 15%	9 8%	17 13%
Partially suspended sentence	5 6%	10 9%	6 7%	2 2%	4 3%
Community based order	6 7%	4 4%	3 3%	4 4%	3 2%
Intensive correction order	2 2%	6 5%	4 4%	3 3%	2 2%
Non-custodial supervision order	1 1%	2 2%	1 1%	1 <1%	3 2%
Custodial supervision order	3 4%	2 2%	1 1%	0 -	0 -
Hospital security order	2 2%	2 2%	0 -	0 -	0 -
Restricted involuntary treatment order (hospital order)	0 -	0 -	1 1%	1 <1%	0 -
Mix (wholly suspended sentence & fine)	1 1%	0 -	0 -	0 -	1 <1%
Mix (community based order & fine)	0 -	1 <1%	0 -	0 -	1 <1%
Combined custody and treatment order	0 -	0 -	1 1%	1 <1%	0 -
Probation	1 1%	0 -	0 -	0 -	0 -
Mix (imprisonment & community based order)	0 -	0 -	1 1%	0 -	0 -
Mix (intensive correction order & Fine)	0 -	0 -	0 -	0 -	1 <1%
Fine	0 -	0 -	0 -	0 -	1 <1%
Aggregate imprisonment	0 -	0 -	0 -	0 -	1 <1%
Adjourned undertaking with conviction	0 -	0 -	0 -	1 <1%	0 -
<b>People sentenced</b>	<b>84</b>	<b>113</b>	<b>91</b>	<b>110</b>	<b>129</b>

## Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for causing serious injury intentionally grouped by their age<sup>9</sup> between 2002-03 and 2006-07. The average age of people sentenced for causing serious injury intentionally was twenty-nine years and nine months. Women sentenced over this period were much older than men (an average age of thirty-two years and three months for women compared to twenty-nine years and seven months for men). Five male and two female juveniles were sentenced over this period.

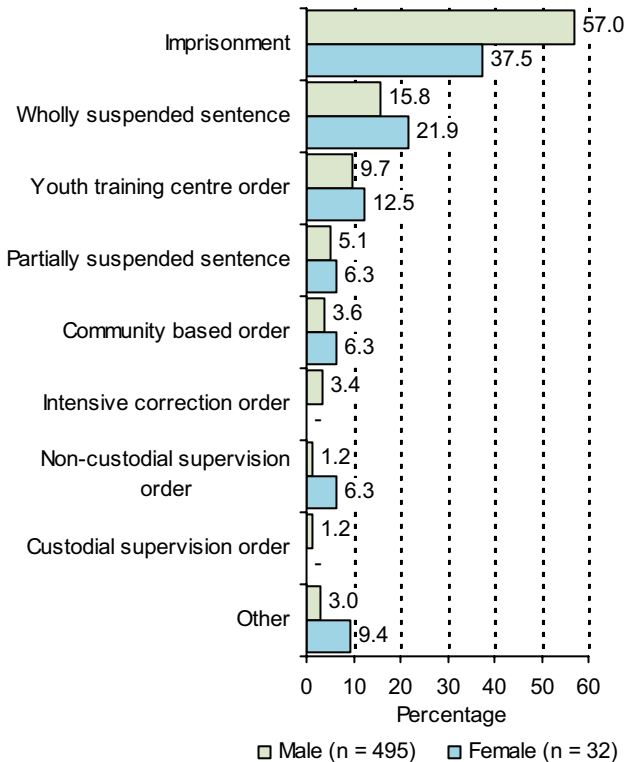
**Figure 4: The number of people sentenced for causing serious injury intentionally by gender and age, 2002-03 to 2006-07**



## Sentence types by gender

Figure 5 and Table 2 show the types of sentence imposed for causing serious injury intentionally grouped by gender. As shown, a higher percentage of men received a period of imprisonment (57.0% compared to 37.5% of women) and an intensive correction order (3.4% compared to no women). Conversely, a wholly suspended sentence of imprisonment (21.9% compared to 15.8%), a non-custodial supervision order (6.3% compared to 1.2%), probation (3.1% compared to no men) and a community based order (6.3% compared to 3.6%).

**Figure 5: The percentage of people sentenced for causing serious injury intentionally by sentence type and gender, 2002-03 to 2006-07**



Other includes custodial supervision order, hospital security order, restricted involuntary treatment order, mix (wss & fine), mix (community based order & fine), combined custody and treatment order, probation, mix (imprisonment & community based order), mix (intensive correction order & fine), fine, aggregate imprisonment and adjourned undertaking with conviction.

**Table 2: The number and percentage breakdown of people sentenced for causing serious injury intentionally by gender, 2002-03 to 2006-07**

Sentence type	Male	Female	Total
Imprisonment	282	12	294
Wholly suspended sentence	78	7	85
Youth training centre order	48	4	52
Partially suspended sentence	25	2	27
Community based order	18	2	20
Intensive correction order	17	0	17
Non-custodial supervision order	6	2	8
Custodial supervision order	6	0	6
Hospital security order	4	0	4
Restricted involuntary treatment order (hospital order)	0	2	2
Mix (wholly suspended sentence & fine)	2	0	2
Mix (community based order & fine)	2	0	2
Combined custody and treatment order	2	0	2
Probation	0	1	1
Mix (imprisonment & community based order)	1	0	1
Mix (intensive correction order & Fine)	1	0	1
Fine	1	0	1
Aggregate imprisonment	1	0	1
Adjourned undertaking with conviction	1	0	1
<b>People sentenced</b>	<b>495</b>	<b>32</b>	<b>527</b>

## Sentence types by age

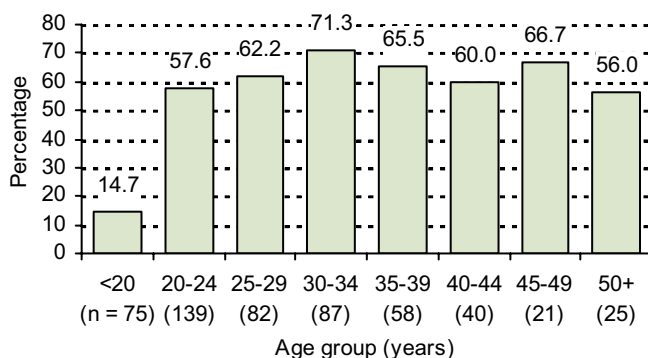
As shown in the table above, the two most common sentence types were imprisonment and wholly suspended sentences of imprisonment. The following analysis examines these sentence types by the offender's age group.

### Imprisonment

Sentences of imprisonment were most likely to be given to people aged 30-34 years old (71% or 62 of the 87 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (15% or 11 of the 75 people in this age group).

**Figure 6: The percentage of people who received a period of imprisonment for causing serious injury intentionally by age group, 2002-03 to 2006-07**

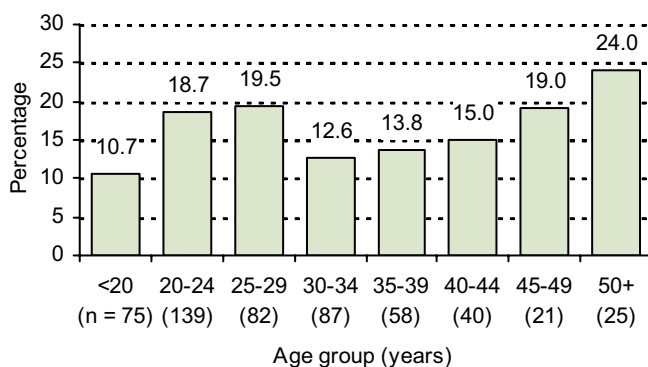


### Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 50 years and older (24% or six of the 25 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (11% or eight of the 75 people in this age group).

**Figure 7: The percentage of people who received a wholly suspended sentence of imprisonment for causing serious injury intentionally 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.

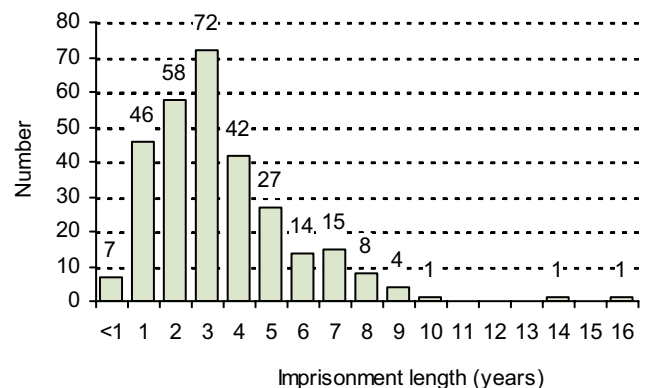
The *principal sentence* is the individual sentence imposed for a single charge. When imposing a sentence for multiple charges, the court imposes a 'total effective sentence'. The *total effective sentence* aggregates the principal sentence handed down for each charge, and takes into account whether 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 causing serious injury intentionally must be considered in this broader context. The following sections analyse the use of imprisonment for causing serious injury intentionally over 2002-03 to 2006-07.

### Principal sentence of imprisonment

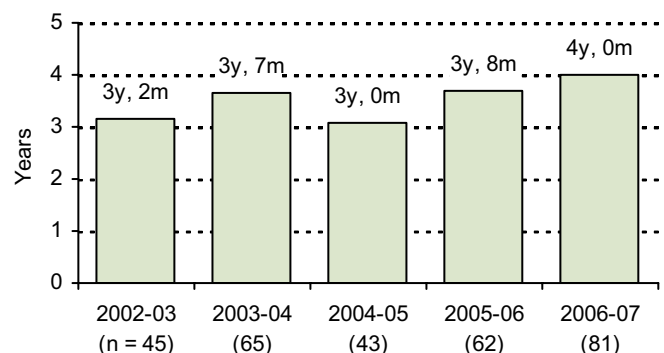
Figure 8 shows the number of people sentenced to imprisonment for causing serious injury intentionally between 2002-03 and 2006-07 by the length of the imprisonment term. Imprisonment terms ranged from 3 months to sixteen years, while the median length of imprisonment was three years (meaning that half of the imprisonment terms were shorter than three years and half were longer).

**Figure 8: The number of people sentenced to imprisonment for causing serious injury intentionally by length of imprisonment term, 2002-03 to 2006-07**



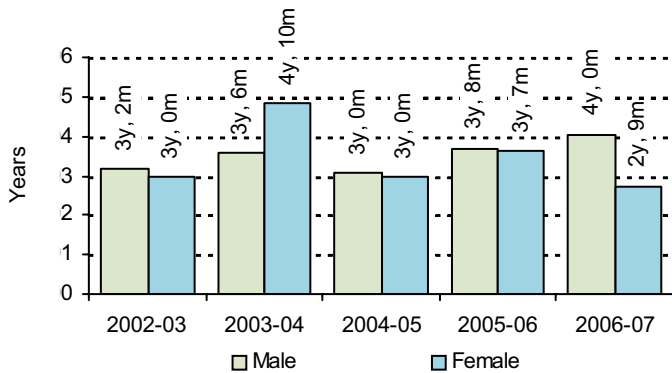
As shown in Figure 9, the average length of imprisonment term imposed on people sentenced for causing serious injury intentionally ranged from three years in 2004-05 to four years in 2006-07.

**Figure 9: The average length of imprisonment term imposed on people sentenced for causing serious injury intentionally, 2002-03 to 2006-07**



From 2002-03 to 2006-07, the majority of those people who received a term of imprisonment for causing serious injury intentionally were men (284 people or 95.9%). Figure 10 shows that over the five year period, men, however, received a shorter average term of imprisonment (three years and seven months compared to three years and nine months for women).

**Figure 10: The average period of imprisonment imposed on people sentenced for causing serious injury intentionally by gender, 2002-03 to 2006-07**

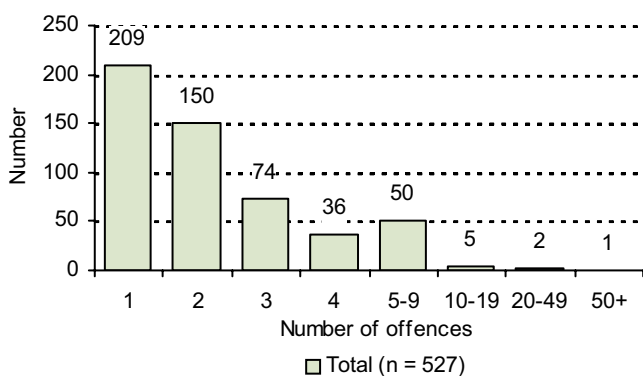


### Other offences finalised at the same hearing

Often people prosecuted for causing serious injury intentionally 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 causing serious injury intentionally.

Figure 11 shows the number of people sentenced for the principal offence of causing serious injury intentionally by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 66, while the median was 2 offences. There were 209 people (39.7%) sentenced for the single offence of causing serious injury intentionally alone. The average number of offences per person sentenced for causing serious injury intentionally was 2.55.

**Figure 11: The number of people sentenced for the principal offence of causing serious injury intentionally by the number of sentenced offences per person, 2002-03 to 2006-07**



While Figure 11 presents the number of sentenced offences for those sentenced for causing serious injury intentionally, Figure 12 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, 72 of the total 527 people (13.7%) also received sentences for aggravated burglary. On average, they were sentenced for 1.07 counts of aggravated burglary.

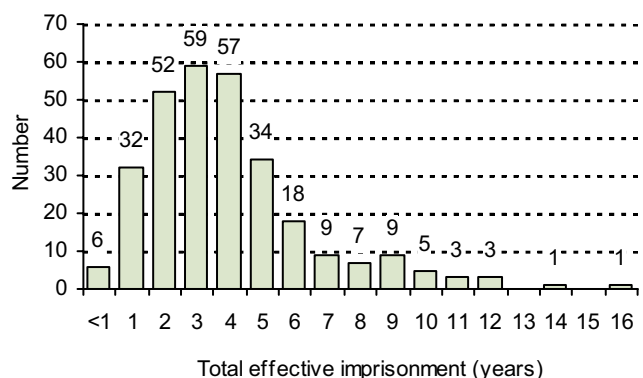
**Figure 12: The number and percentage of people sentenced for the principal offence of causing serious injury intentionally by the most common offences that were sentenced and the average number of those offences that were sentenced, 2002-03 to 2006-07**

Offence	No.	%	Avg.
1 causing serious injury intentionally	527	100.0	1.10
2 aggravated burglary	72	13.7	1.07
3 causing injury	70	13.3	1.27
4 affray	50	9.5	1.06
5 intentionally destroy/damage property (criminal damage)	45	8.5	1.64
6 false imprisonment	43	8.2	1.05
7 theft	37	7.0	2.30
8 making a threat to kill	28	5.3	1.21
9 common law assault	26	4.9	1.19
10 robbery	24	4.6	1.33
<b>People sentenced</b>	<b>527</b>	<b>100.0</b>	<b>2.55</b>

### Total effective sentence of imprisonment

There were 296 people given a total effective sentence of imprisonment<sup>10</sup>. Figure 13 shows the number of people sentenced to imprisonment for causing serious injury intentionally 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 sixteen years<sup>11</sup>, while the median total effective length of imprisonment was three years, nine months and fifteen days (meaning that half of the total effective sentence lengths were below three years, nine months and fifteen days and half were above).

**Figure 13: The number of people sentenced to imprisonment for causing serious injury intentionally by total effective length of imprisonment term, 2002-03 to 2006-07**



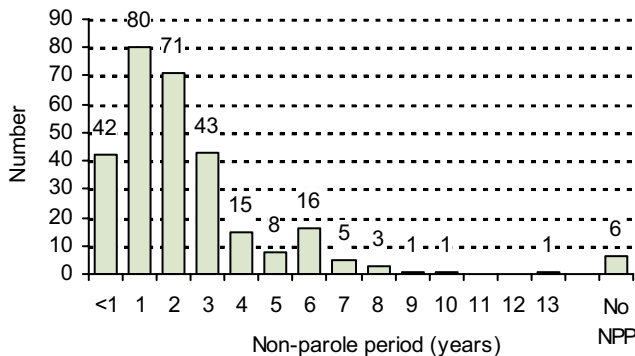
## Non-parole period

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 causing serious injury intentionally. Sentences and non-parole periods must be considered in this broader context.

Of the 296 people who were sentenced to imprisonment for causing serious injury intentionally, 290 were eligible to have a non-parole period fixed<sup>12</sup>. Of these people, 286 were given a non-parole period (99%)<sup>13</sup>. Figure 14 shows the number of people sentenced to imprisonment for causing serious injury intentionally between 2002-03 and 2006-07 by the length of their non-parole period. Non-parole periods ranged from three months to thirteen years, while the median length of the non-parole period was two years (meaning that half of the non-parole periods were below two years and half were above).

**Figure 14: The number of people sentenced to imprisonment for causing serious injury intentionally by length of non-parole period, 2002-03 to 2006-07**



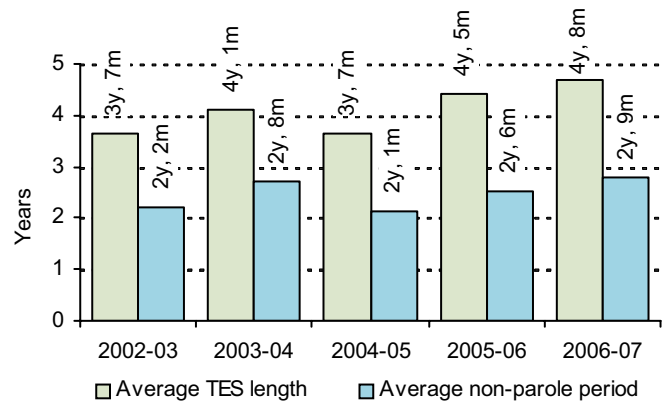
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

## Total effective sentences of imprisonment and non-parole periods

Figure 15 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 2006-07<sup>14</sup>.

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

**Figure 15: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for causing serious injury intentionally, 2002-03 to 2006-07**

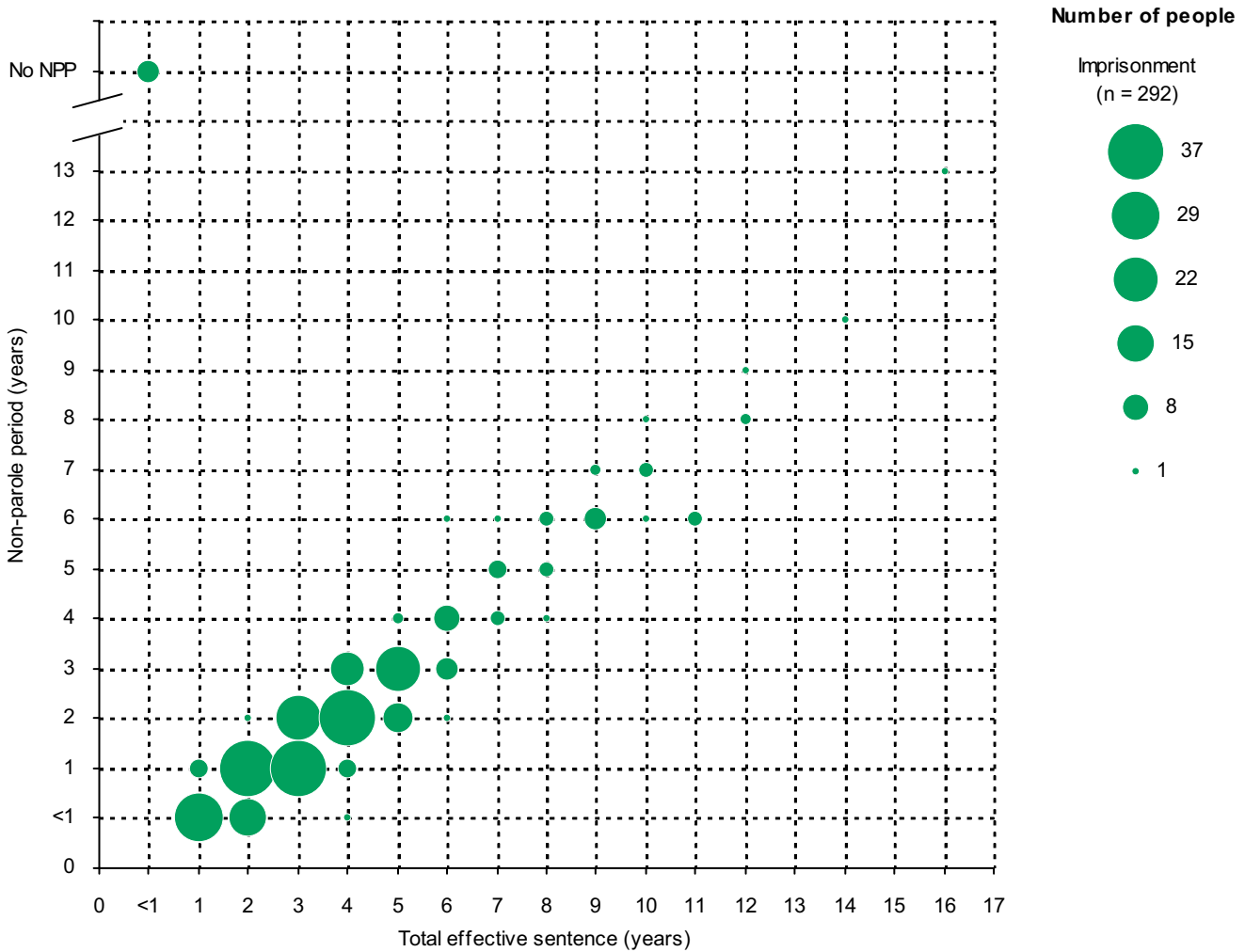


### Total effective sentence of imprisonment by non-parole period

While Figure 13 and Figure 14 present the lengths of the total effective sentences and non-parole periods separately, Figure 16 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for causing serious injury intentionally 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 combination<sup>15</sup>. As shown, the most common combination of imprisonment length and non-parole period imposed was four years with a non-parole period of two years (37 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from three months with no non-parole period to sixteen years with a non-parole period of thirteen years<sup>16</sup>.

Figure 16: The number of people sentenced to imprisonment for causing serious injury intentionally by the total effective sentence and the non-parole period imposed, 2002-03 to 2006-07<sup>17</sup>



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

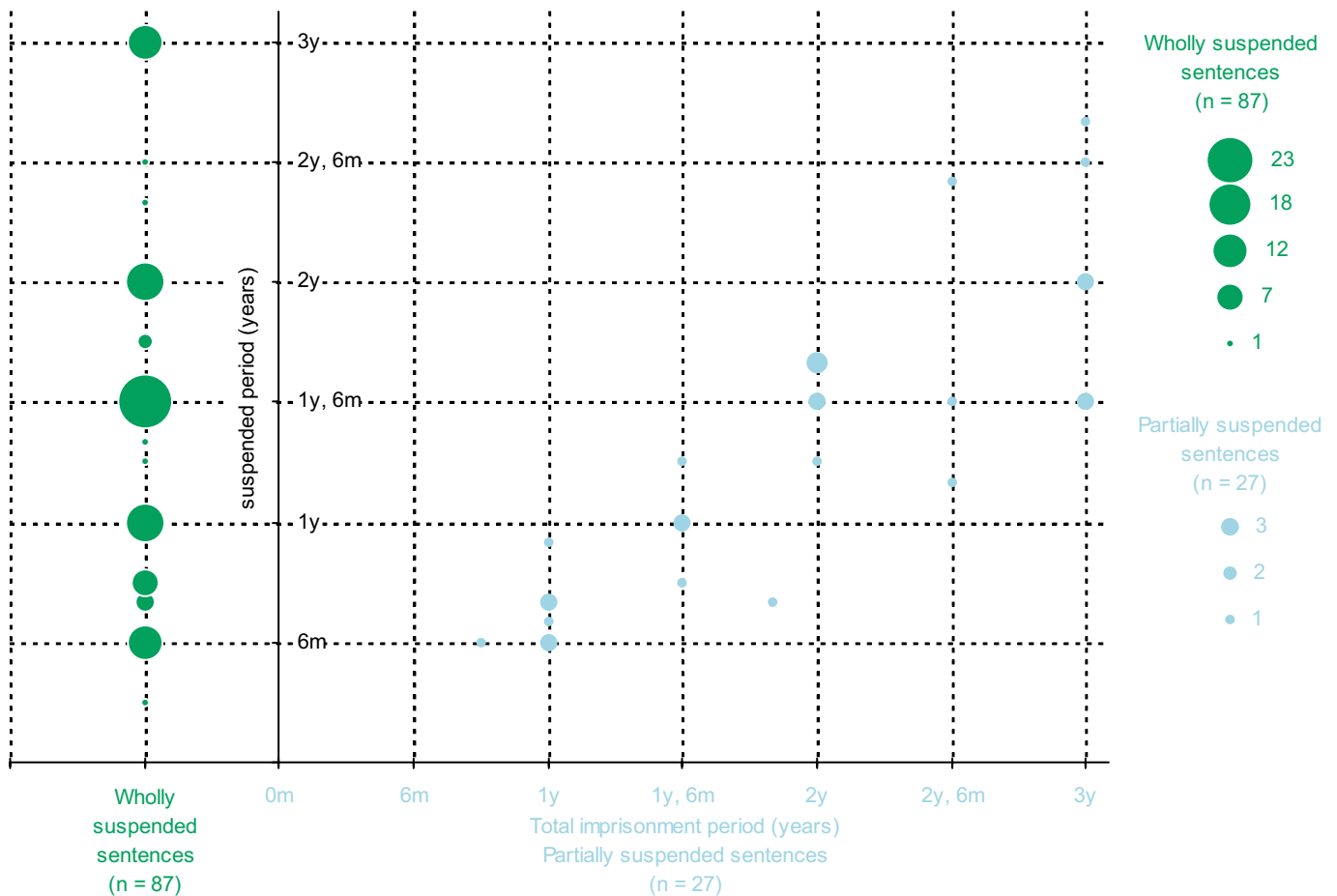
### Suspended sentences of imprisonment

There were 114 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 87 people had their prison sentence wholly suspended and 27 received a partially suspended sentence of imprisonment. Figure 17 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 and six months (23 people - as represented by the largest green 'bubble' on the chart).

The most common partially suspended sentence combination was two years with one year and eight months suspended (3 people - as represented by the largest blue 'bubble' on the chart).

**Figure 17: The number of people given a wholly or partially suspended sentence of imprisonment for causing serious injury intentionally by sentence type and length, 2002-03 to 2006-07**

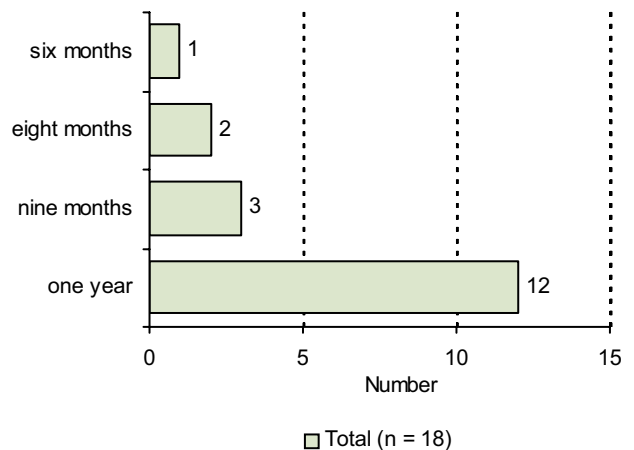


### Intensive correction orders

There were 18 people given an intensive correction order as their total effective sentence.

The length of intensive correction orders for causing serious injury intentionally ranged from six months to one year, 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).

**Figure 18: The number of people sentenced to an intensive correction order for causing serious injury intentionally by length of order imposed, 2002-03 to 2006-07**

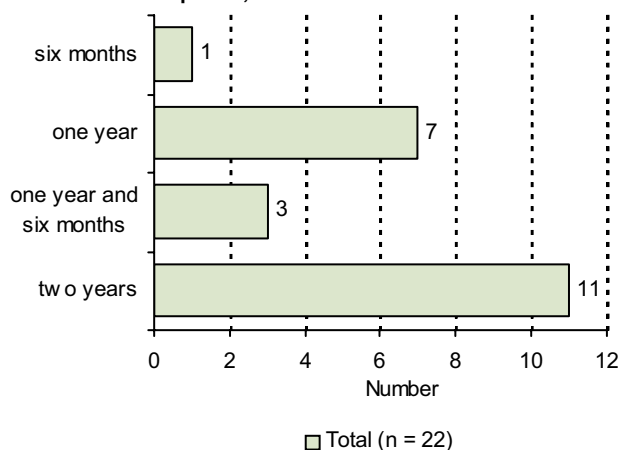


## Community based orders

There were 22 people given a community based order as their total effective sentence.

The length of community based orders for causing serious injury intentionally ranged from six months to two years, while the median length was one year and ten months (meaning that half of the lengths were shorter than or equal to one year and ten months and half were longer than or equal to one year and ten months). The most common length of community based order was two years (11 people).

**Figure 19: The number of people sentenced to a community based order for causing serious injury intentionally by length of order imposed, 2002-03 to 2006-07**



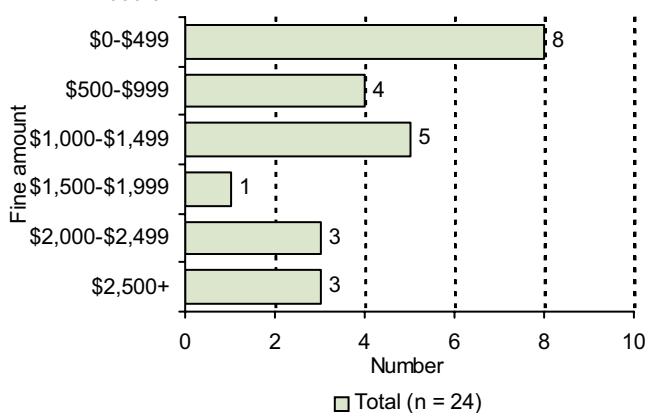
## Fines

This analysis includes all fines that were imposed for cases where causing serious injury intentionally was the principal offence. Fines were imposed on 24 people.

The fine amount imposed ranged from \$50 to \$10,000, with a median of \$750 (meaning that half of the values fell below \$750 and half of the values were above \$750).

The average fine amount was \$1,402. Fines were only imposed against men.

**Figure 20: The number of people who received a fine for causing serious injury intentionally by fine amount, 2002-03 to 2006-07**



## Summary

Between 2002-03 and 2006-07, 527 people were sentenced for causing serious injury intentionally in the higher courts. Over this period, the majority of those sentenced were men (94%), while 39% were between the age of 18 and 25 years.

The majority of the people sentenced for causing serious injury intentionally received a period of imprisonment (56%), while 16% received a wholly suspended sentence of imprisonment and 10% received a youth training centre order.

Men were more likely than women to be sentenced to a period of imprisonment. Conversely, women were more likely to be given a restricted involuntary treatment order (hospital order), sentenced to a wholly suspended sentence of imprisonment or given a non-custodial supervision order.

Imprisonment was more common for those aged between 30 and 50 years of age and wholly suspended sentences of imprisonment were more common for those older than 50 years of age.

Each of the 527 people was sentenced for an average of 2.55 offences, including 1.10 offences of causing serious injury intentionally. The most common offence finalised in conjunction with causing serious injury intentionally was aggravated burglary (13.7% of all cases). The number and range of offences for which people with a principal offence of causing serious injury intentionally 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 three years, nine months and fifteen days, while the median principal imprisonment length was three years.

Total effective imprisonment lengths ranged from three months with no non-parole period to sixteen years with a non-parole period of thirteen years. The most common sentence of imprisonment was four years with a two 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 causing serious injury intentionally 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 serious injury intentionally who received a more serious sentence for another offence forming part of the same presentment. There were 663 people sentenced from 2002-03 to 2006-07 for 731 offences of causing serious injury intentionally. Causing serious injury intentionally was the principal proven offence for 527 of these people.

This Sentencing Snapshot is an update of Sentencing Snapshot No.12, which described the sentencing trends for causing serious injury intentionally in Victoria between 2000-01 and 2004-05. This report is available for download from the Sentencing Advisory Council website ([www.sentencingcouncil.vic.gov.au](http://www.sentencingcouncil.vic.gov.au))

- 2 The information source for sentencing outcomes for causing serious injury intentionally 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.16.
- 5 *Crimes Act 1958* s.15.
- 6 The value of a penalty unit changes each year and can be found in the Victorian Government Gazette.
- 7 Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.
- 8 Custodial sentence includes imprisonment, youth training centre order, partially suspended sentence, custodial supervision order, hospital security order, combined custody and treatment order, mix (imprisonment & community based order) and aggregate imprisonment.
- 9 Age is as at the time of sentencing.
- 10 All of the 296 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
- 11 In 2002-03, a man aged 29 years was sentenced for one count of causing serious injury intentionally. He was sentenced to a total effective imprisonment term of 16 years with a non-parole period of 13 years. Also, in 2003-04, a man aged 62 years was sentenced for one count of causing serious injury intentionally. He was sentenced to a total effective imprisonment term of 14 years with a non-parole period of 10 years.
- 12 Six people were not eligible for parole because they were given a total effective sentence length of less than one year.
- 13 Four 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.
- 14 Due to the low number of women (12) 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 11.
- 17 This graph includes the 292 people who were given a total effective sentence and a non-parole period that related to this case only.

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- No. 5 Manslaughter
- No. 6 Culpable driving causing death

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
- No. 9 Armed robbery
- No. 10 Burglary
- No. 11 Aggravated burglary
- No. 12 Causing serious injury intentionally
- No. 13 Causing serious injury recklessly
- No. 14 Causing injury
- No. 15 Affray

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

- No. 16 Handling stolen goods
- No. 17 Theft
- No. 18 Obtaining financial advantage by deception
- No. 19 Obtaining property by deception
- No. 20 Arson
- No. 21 Attempted murder
- 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

- No. 34 Robbery
- No. 35 Armed robbery
- No. 36 Attempted armed robbery
- No. 37 Burglary
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- No. 39 Causing serious injury intentionally
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- No. 41 Causing injury
- No. 42 Affray
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Other topics:

- No. 22 The Victorian criminal justice system

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