

# Sentencing Snapshot

## Sentencing trends for causing serious injury intentionally in the higher courts of Victoria



### 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 2000-01 and 2004-05<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.

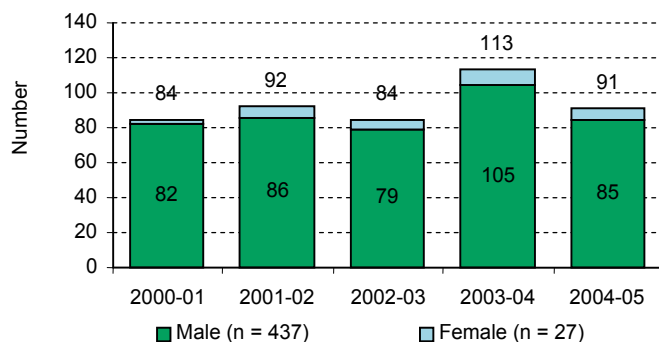
Of all people sentenced for the principal offence of causing serious injury intentionally, 84.8% were heard in the higher courts<sup>7</sup>. The remaining cases were heard in the Children's and Magistrates' Court<sup>8</sup>.

### People sentenced

Figure 1 shows the number of people sentenced for causing serious injury intentionally for the period 2000-01 to 2004-05. As shown, 464 people were sentenced for causing serious injury intentionally over the five year period. There were 91 people sentenced for this offence in 2004-05, down by 22 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (94.2% or 437 of 464 people), including 85 of the 91 people sentenced in 2004-05.

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



### Sentence types and trends<sup>9</sup>

Figure 2 shows the total number of people sentenced for causing serious injury intentionally and the number who received a custodial sentence<sup>10</sup>. Over the five year period, 73% of people were given a custodial sentence. This peaked at 76% (64 of 84) in 2000-01 before decreasing to 67% (62 of 92) in 2001-02. In 2004-05, 71% of people sentenced (65 of 91) were given a custodial sentence.

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

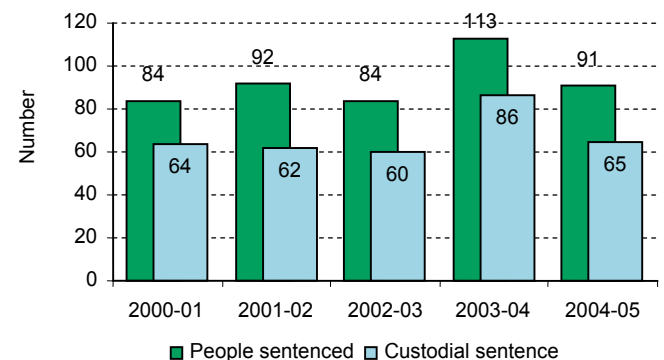


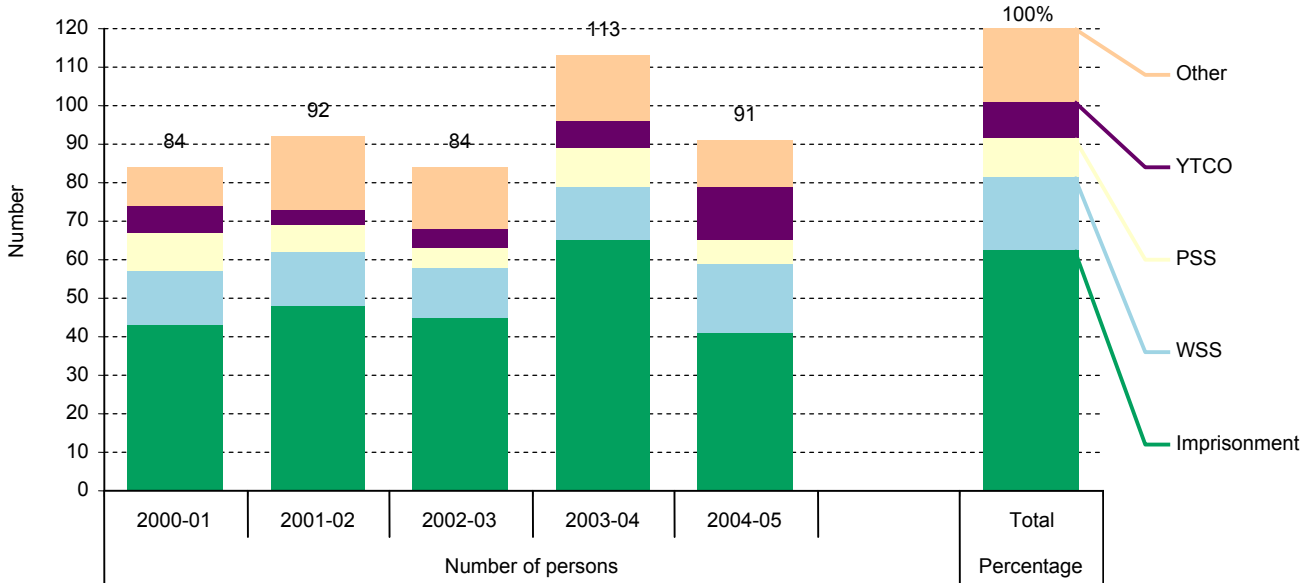
Figure 3 and Table 1 show the number of people sentenced for causing serious injury intentionally from 2000-01 to 2004-05 by the types of sentences imposed.

Over the five year period, around half of the people sentenced for causing serious injury intentionally received a period of imprisonment (52% or 242 of 464 people), while 16% received a wholly suspended sentence of imprisonment and 8% received a partially suspended sentence of imprisonment.

Over the past five years, the number of people who were sentenced to a period of imprisonment was lowest in 2004-05 (41 people or 45%).

Conversely, the number of people receiving a wholly suspended sentence (18 people or 20%) or a youth training centre order (14 people or 15%) was highest in 2004-05.

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



Note: WSS refers to wholly suspended sentence of imprisonment, PSS refers to partially suspended sentence of imprisonment and YTCO refers to youth training centre order. Other includes community based order, intensive correction order, non-custodial supervision order, custodial supervision order, hospital security order, mix (wholly suspended sentence & fine), combined custody and treatment order, mix (imprisonment & community based order), hospital order, adjourned undertaking without conviction, adjourned undertaking with conviction, probation and mix (community based order & fine).

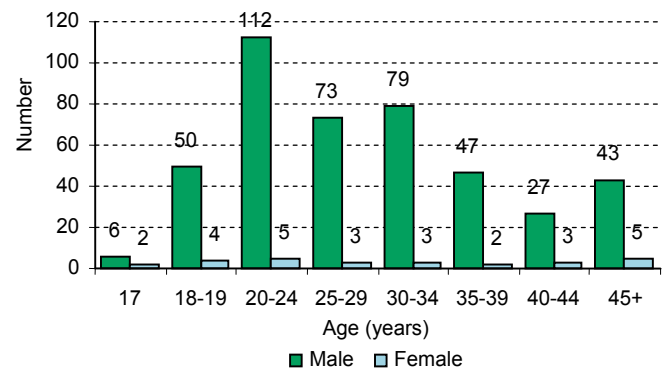
**Table 1: The number and percentage of people sentenced for causing serious injury intentionally by sentence type, 2000-01 to 2004-05**

Sentence type	00-01	01-02	02-03	03-04	04-05
Imprisonment	43 51%	48 52%	45 54%	65 58%	41 45%
Wholly suspended sentence	14 17%	14 15%	13 15%	14 12%	18 20%
Partially suspended sentence	10 12%	7 8%	5 6%	10 9%	6 7%
Youth training centre order	7 8%	4 4%	5 6%	7 6%	14 15%
Community based order	3 4%	4 4%	6 7%	4 4%	3 3%
Intensive correction order	0 -	4 4%	2 2%	6 5%	4 4%
Non-custodial supervision order	1 1%	4 4%	1 1%	2 2%	1 1%
Custodial supervision order	0 -	2 2%	3 4%	2 2%	1 1%
Hospital security order	1 1%	0 -	2 2%	2 2%	0 -
Mix (wholly suspended sentence & fine)	1 1%	1 1%	1 1%	0 -	0 -
Combined custody and treatment order	2 2%	0 -	0 -	0 -	1 1%
Mix (Imprisonment & community based order)	0 -	1 1%	0 -	0 -	1 1%
Hospital order	1 1%	0 -	0 -	0 -	1 1%
Adjourned undertaking without conviction	1 1%	1 1%	0 -	0 -	0 -
Adjourned undertaking with conviction	0 -	2 2%	0 -	0 -	0 -
Probation	0 -	0 -	1 1%	0 -	0 -
Mix (community based order & fine)	0 -	0 -	0 -	1 <1%	0 -
<b>People sentenced</b>	<b>84</b>	<b>92</b>	<b>84</b>	<b>113</b>	<b>91</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>11</sup> between 2000-01 and 2004-05. The average age of people sentenced for causing serious injury intentionally was twenty-nine years and ten months. Women sentenced over this period were much older than men (an average age of thirty-two years and one month for women compared to twenty-nine years and nine months for men). Six male and two female juveniles were sentenced over this period.

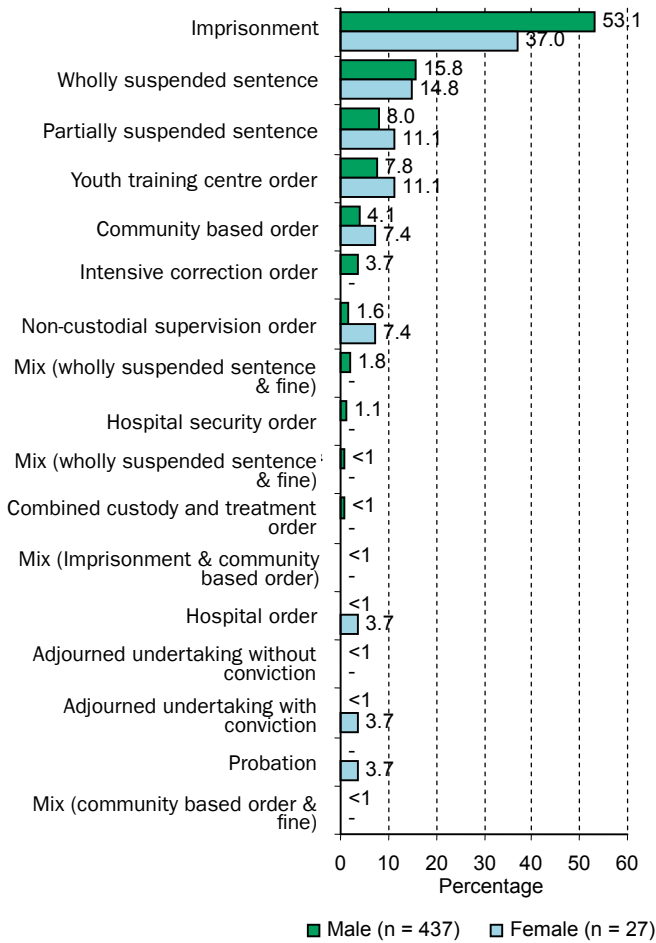
**Figure 4: The number of people sentenced for causing serious injury intentionally by gender and age, 2000-01 to 2004-05**



## Sentence types by gender<sup>12</sup>

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 (53.1% compared to 37.0% of women) and an intensive correction order (3.7% compared to no women). Conversely, a higher percentage of women received a non-custodial supervision order (7.4% compared to 1.6% of men) and a youth training centre order (11.1% compared to 7.8%).

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



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

Sentence type	Male	Female	Total
Imprisonment	232	10	242
Wholly suspended sentence	69	4	73
Partially suspended sentence	35	3	38
Youth training centre order	34	3	37
Community based order	18	2	20
Intensive correction order	16	0	16
Non-custodial supervision order	7	2	9
Custodial supervision order	8	0	8
Hospital security order	5	0	5
Mix (wholly suspended sentence & fine)	3	0	3
Combined custody and treatment order	3	0	3
Mix (Imprisonment & community based order)	2	0	2
Hospital order	1	1	2
Adjourned undertaking without conviction	2	0	2
Adjourned undertaking with conviction	1	1	2
Probation	0	1	1
Mix (community based order & fine)	1	0	1
<b>People sentenced</b>	<b>437</b>	<b>27</b>	<b>464</b>

## Sentence types by age

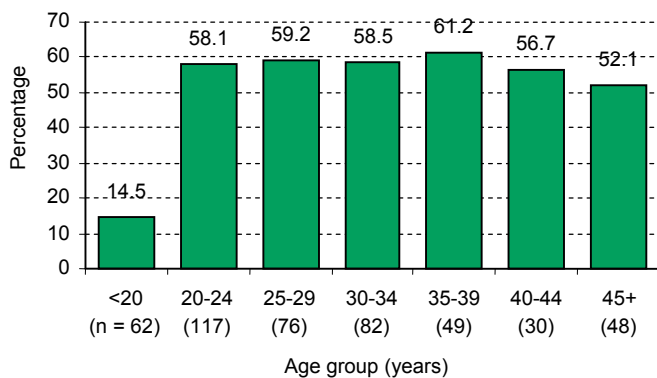
As shown in the table above, the three most common sentence types were imprisonment, wholly suspended sentences of imprisonment and partially suspended sentences of imprisonment. The following analysis examines these sentence types by the offender's age group.

### Imprisonment

Sentences of imprisonment were most likely to be given to people aged 35-39 years old (61% or 30 of the 49 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (15% or nine of the 62 people in this age group).

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

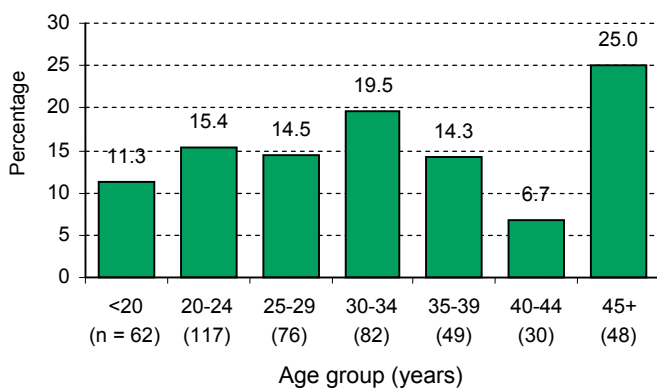


### Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 45 years and older (25% or 12 of the 48 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged 40-44 years old (7% or two of the 30 people in this age group).

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

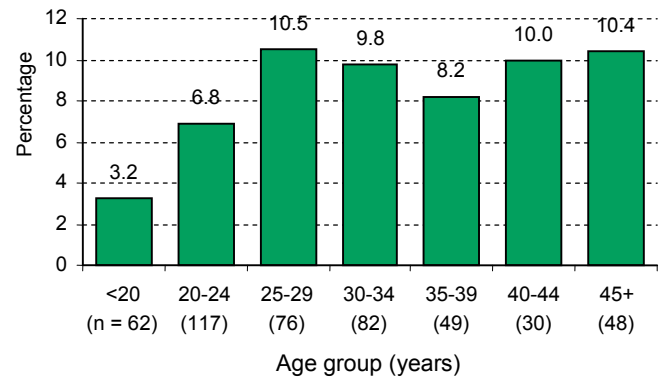


### Partially suspended sentences of imprisonment

Partially suspended sentences of imprisonment were most likely to be given to people aged 25-29 years old (11% or eight of the 76 people in this age group).

Conversely, partially suspended sentences of imprisonment were least common for those aged under 20 years (3% or two of the 62 people in this age group).

**Figure 8: The percentage of people who were sentenced to a partially suspended sentence of imprisonment for causing serious injury intentionally by age group, 2000-01 to 2004-05**



## Principal and total effective sentences

There are two methods for describing sentence types and lengths - the principal sentence and the total effective sentence.

The *principal sentence* is the individual sentence imposed for a single charge. When imposing a sentence for multiple charges, the court imposes a 'total effective sentence'. The *total effective sentence* aggregates the principal sentence handed down for each charge, and takes into account whether sentences are ordered by the court to be served concurrently (at the same time) or cumulatively.

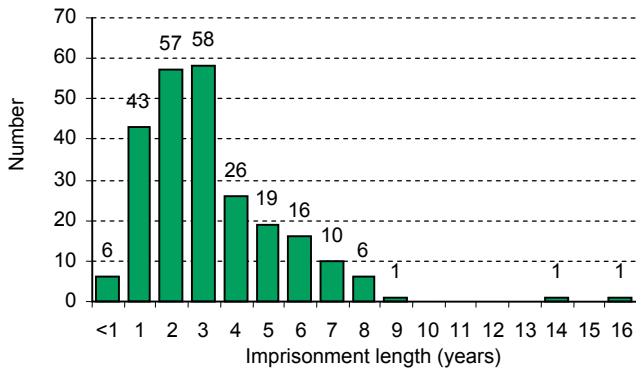
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for causing serious injury intentionally must be considered in this broader context. The following sections analyse the use of imprisonment for causing serious injury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

### Principal sentence of imprisonment

Figure 9 shows the number of people sentenced to imprisonment for causing serious injury intentionally between 2000-01 and 2004-05 by the length of the imprisonment term. Imprisonment terms ranged from 3 months to 16 years, while the median length of imprisonment was 3 years (meaning that half of the imprisonment terms were shorter than 3 years and half were longer).

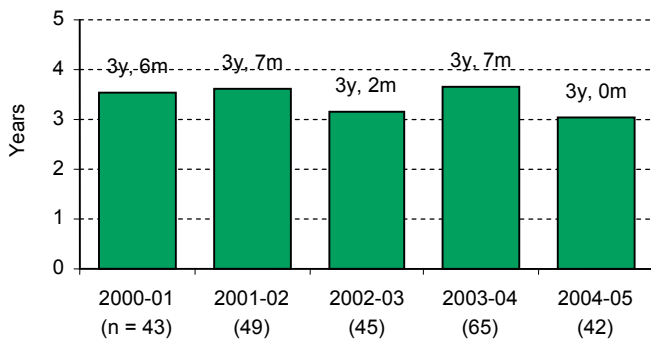
The most common length of imprisonment imposed was 3 years (58 people).

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



As shown in Figure 10, the average length of imprisonment term imposed on people sentenced for causing serious injury intentionally ranged from three years in 2004-05 to three years and 7 months in 2001-02 and 2003-04.

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



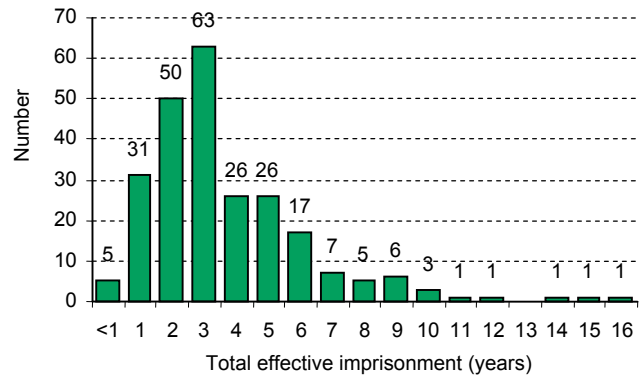
From 2000-01 to 2004-05, the majority of the people who received a term of imprisonment for causing serious injury intentionally were men (234 people or 95.9%).

### Total effective sentence of imprisonment

There were 244 people given a total effective sentence of imprisonment<sup>13</sup>. Figure 11 shows the number of people sentenced to imprisonment for causing serious injury intentionally between 2000-01 and 2004-05 by the length of their total effective sentence. The length of total effective sentences ranged from three months to sixteen years<sup>14</sup>, while the median total effective length of imprisonment was three years and four months (meaning that half of the total effective sentence lengths were below three years and four months and half were above).

The most common total effective imprisonment length imposed was 3 years (63 people).

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



### Non-parole period

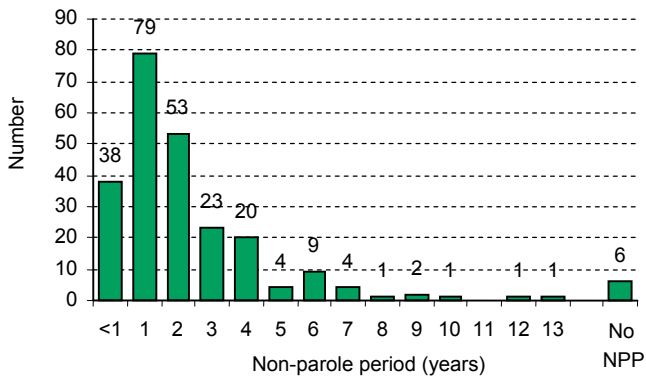
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person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

Under s.11(4) of the *Sentencing Act 1991* (Vic), if a court sentences an offender to imprisonment in respect of more than one offence, the non-parole period set by the court must be in respect of the total effective sentence of imprisonment that the offender is liable to serve under all the sentences imposed. In many cases, the non-parole period will be lengthier than the individual principal sentence for causing serious injury intentionally. Sentences and non-parole periods must be considered in this broader context.

Of the 244 people who were sentenced to imprisonment for causing serious injury intentionally, 239 were eligible for parole<sup>15</sup>. Of these people, 236 were given a non-parole period (99%)<sup>16</sup>. Figure 12 shows the number of people sentenced to imprisonment for causing serious injury intentionally between 2000-01 and 2004-05 by the length of their non-parole period. Non-parole periods ranged from four 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).

The most common non-parole period imposed was 1 year (79 people).

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



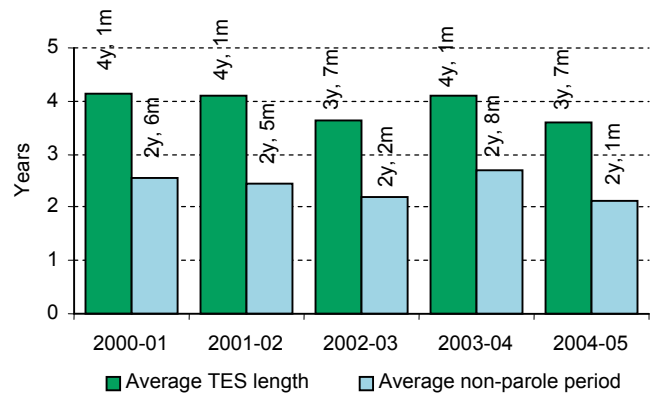
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

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

Figure 13 presents the average length of total effective sentence of imprisonment compared to the average length of non-parole period for all people from 2000-01 to 2004-05<sup>17</sup>.

From 2000-01 to 2004-05, 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 one month in 2000-01, 2001-02 and 2003-04. 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 eight months in 2003-04.

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

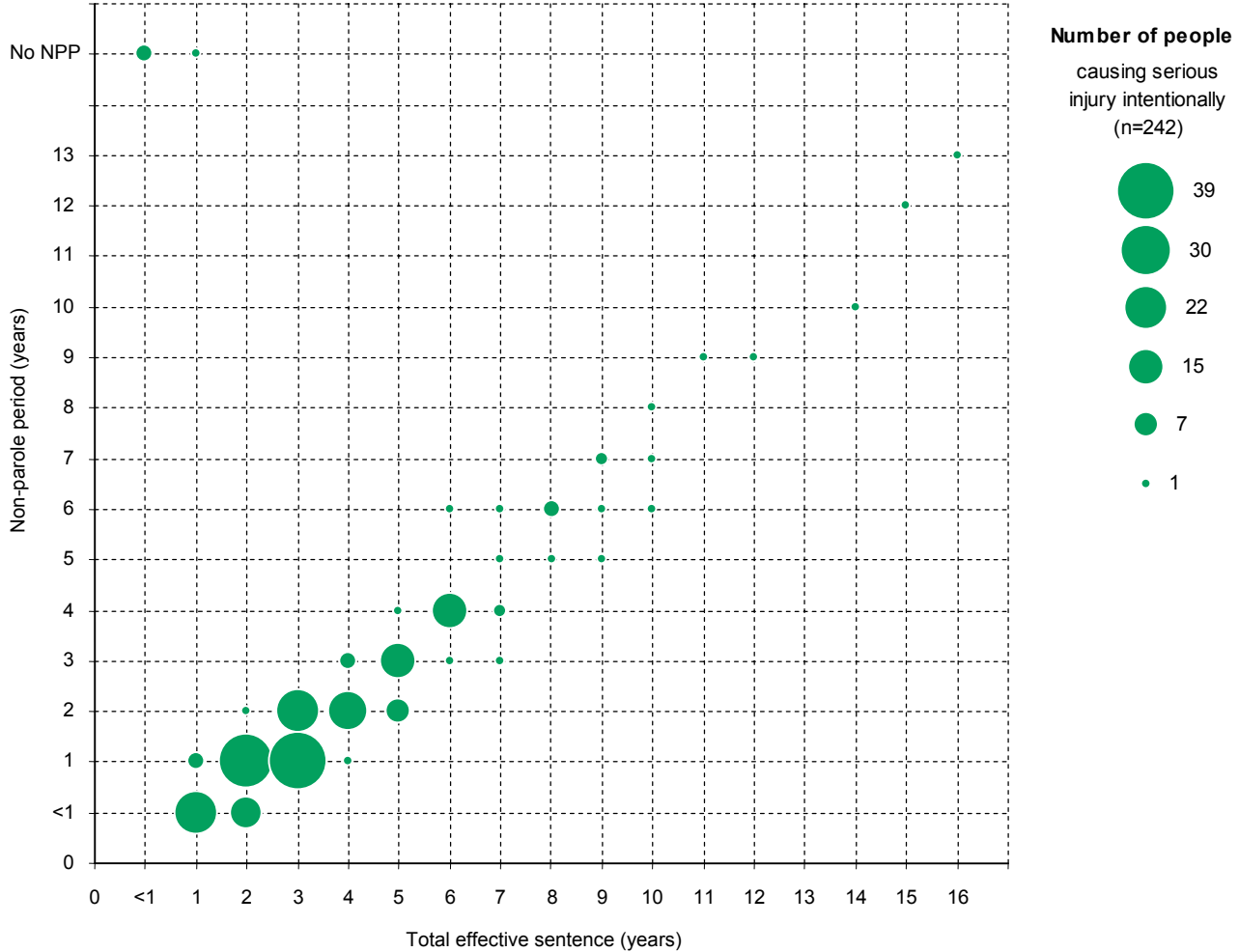


## Total effective sentence of imprisonment by non-parole period

While Figure 11 and Figure 12 present the lengths of the total effective sentences and non-parole periods separately, Figure 14 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for causing 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>18</sup>. As shown, the most common combination of imprisonment length and non-parole period imposed was three years with a non-parole period of one year (39 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>19</sup>.

**Figure 14: The number of people sentenced to imprisonment for causing serious injury intentionally by the total effective sentence and the non-parole period imposed, 2000-01 to 2004-05<sup>20</sup>**



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

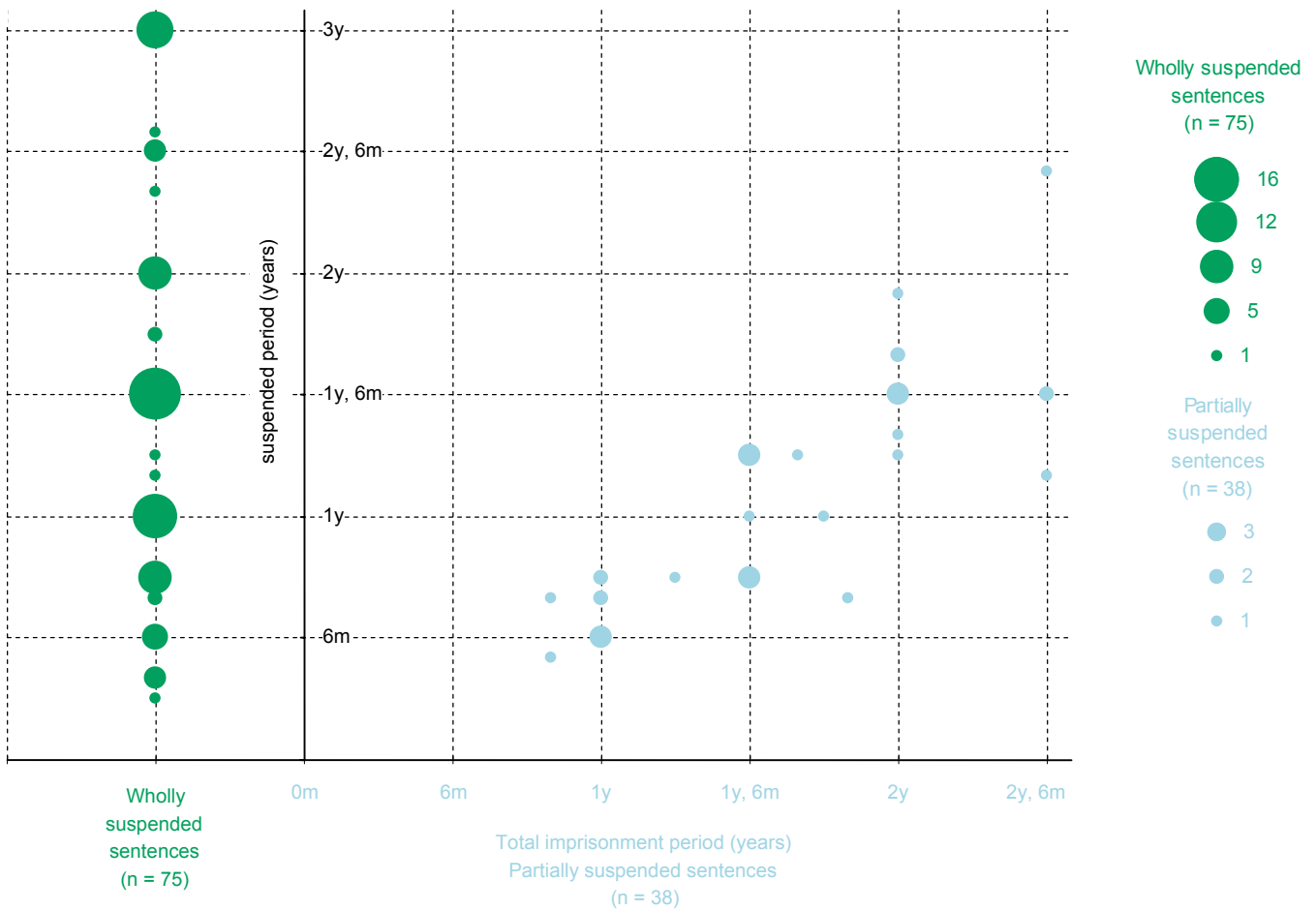
## Suspended sentences of imprisonment

There were 113 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 75 people had their prison sentence wholly suspended and 38 received a partially suspended sentence of imprisonment. Figure 15 shows the number of people with a suspended sentence of imprisonment as their total effective sentence by the type of suspended sentence and the length of sentence<sup>21</sup>. The green 'bubbles' to the left of the vertical axis show the lengths of wholly suspended sentences. The blue 'bubbles' to the right of the vertical axis show the combination of total imprisonment length and the suspended period for people sentenced to a partially suspended sentence. The size of the 'bubble' reflects the number of people who received either the wholly or partially suspended prison term.

Wholly suspended sentence lengths ranged from three months to three years. The most common wholly suspended sentence length was one year and six months (16 people - as represented by the largest green 'bubble' on the chart).

The most common partially suspended sentence combinations were for one year with six months suspended, one year and six months with nine months suspended, one year and six months with one year and three months suspended and two years with one year and six months suspended (3 people each - as represented by the four largest blue 'bubbles' on the chart).

**Figure 15: The number of people given a wholly or partially suspended sentence of imprisonment by sentence type and length, 2000-01 to 2004-05**



## Conclusion

Between 2000-01 and 2004-05, 464 people were sentenced for causing serious injury intentionally in the higher courts. Over this period, the majority of those sentenced were men (94%), while 71% were between the age of 18 and 35 years.

Around half of the people sentenced for causing serious injury intentionally received a period of imprisonment (52%), while 16% received a wholly suspended sentence of imprisonment and 8% received a partially suspended sentence of imprisonment.

Men were more likely than women to be sentenced to a period of imprisonment. Conversely, women were more likely than men to be given a non-custodial supervision order, probation, an adjourned undertaking with conviction, a hospital order and a youth training centre order.

Imprisonment was more common for those aged over 20 years of age and wholly suspended sentences of imprisonment were more common for those older than 45 years of age. Partially suspended sentences were least common people under 25 years of age.

The length of imprisonment 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 imposed was three years with a one year non-parole period.

The most common partially suspended sentence lengths were for one year with six months suspended, one year and six months with nine months suspended, one year and six months with one year and three months suspended and two years with one year and six months suspended, while 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. For example, in 2004-05, 130 people were sentenced for causing serious injury intentionally. Causing serious injury intentionally was the principal offence for 91 of the 130 people.
- 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). This report describes sentencing trends for causing serious injury intentionally since 2000-01. Court Services advises that sentencing data from the higher courts prior to this period may be unreliable due to changed data collection processes and counting rules.  
  
These data include people dealt with under the *Crimes (Mental Impairment and Unfitness to be tried) Act 1997* (Vic). Under this act, judges of the Supreme and County Courts may make supervision orders of a custodial or non-custodial nature of persons who have been found unfit to stand trial or who have successfully raised the defence of mental impairment under the Act.
- 4 *Crimes Act 1958* s. 16.
- 5 *Crimes Act 1958* s. 15.
- 6 Causing serious injury intentionally carries a maximum fine of 2400 penalty units and each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.
- 7 Causing serious injury intentionally was the fifth 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 This section analyses the sentence types imposed against the principal charge of causing serious injury intentionally.
- 10 Custodial sentence includes imprisonment, partially suspended sentence, youth training centre order, custodial supervision order, hospital security order, combined custody and treatment order, mix (imprisonment & community based order) and hospital order. The definition of custodial sentence has been revised to exclude intensive correction orders. In Sentencing snapshots No. 8 to No. 11, intensive correction order was counted as being a custodial sentence. For Sentencing Snapshot No.8 and 9 (robbery and armed robbery), intensive correction orders made up 1% and 4%, respectively, while for Sentencing Snapshot No.10 and 11 (burglary and aggravated burglary), intensive correction orders made up 6% and 2%, respectively.
- 11 Age is as at the time of sentencing.
- 12 Refer fn. 9
- 13 All of the 242 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence. There were two people who were given a mix of imprisonment and a community based order as the principal sentence for causing serious injury intentionally and imprisonment as the total effective sentence.
- 14 In 2000-01, a man aged 34 years was sentenced for 17 offences, including nine offences of intentionally causing serious injury. He received a total effective sentence of 15 years and ten months with 12 years and ten months' non-parole. In 2002-03, a man aged 29 years was sentenced to 16 years with a non-parole period of 13 years. In 2003-04, a man aged 62 years was sentenced to 14 years with a non-parole period of ten years.
- 15 Five people were not eligible for parole because they were given a total effective sentence length of less than one year.
- 16 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 this case. The non-parole periods for these people are excluded from the analysis. The court declined to fix a non-parole period for one person who was eligible to have one set.
- 17 Due to the low number of women (10) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
- 18 Sentence lengths that are longer than one year are rounded down to the nearest year of imprisonment, while sentence lengths of less than one year are grouped into the '<1 year' category.
- 19 Refer fn. 14
- 20 This graph includes the 242 people who were given a total effective sentence and a non-parole period that related to this case only.
- 21 Sentence lengths are rounded to the nearest month of imprisonment.

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**Suspended sentences**

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

**Sentencing trends in the higher courts**

- No. 4 Murder
- No. 5 Manslaughter
- No. 6 Culpable driving causing death
- No. 7 Rape
- 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

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