

Sentencing Snapshot

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



Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of causing serious injury recklessly 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 recklessly causes serious injury to another person without lawful excuse is guilty of this offence⁴. Recklessness requires foresight on the part of the accused of the probability that injury will occur as a consequence of his or her actions⁵. 'Injury' includes unconsciousness, hysteria, pain and any substantial impairment of bodily function. 'Serious injury' includes a combination of injuries. These definitions are not exhaustive⁶.

Causing serious injury recklessly is an indictable offence which carries a maximum penalty of 10 years' imprisonment and/or a fine of 1200 penalty units⁷. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

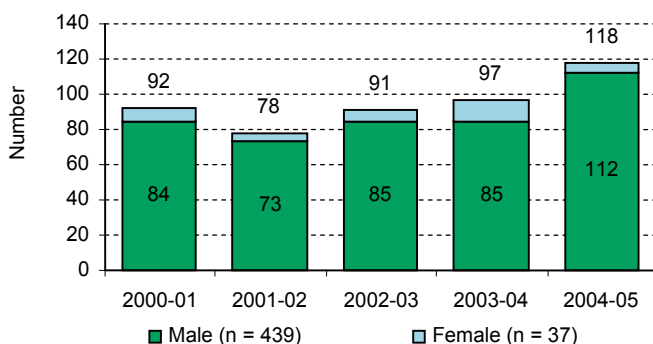
Of all people sentenced for the principal offence of causing serious injury recklessly, 22.2% were heard in the higher courts⁸. The remaining cases were heard in the Children's and Magistrates' Court⁹.

People sentenced

Figure 1 shows the number of people sentenced for causing serious injury recklessly for the period 2000-01 to 2004-05. As shown, 476 people were sentenced for causing serious injury recklessly over the five year period. There were 118 people sentenced for this offence in 2004-05, up by 21 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (92.2% or 439 of 476 people), including 112 of the 118 people sentenced in 2004-05.

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



Sentence types and trends¹⁰

Figure 2 shows the total number of people sentenced for causing serious injury recklessly and the number who received a custodial sentence¹¹. Over the five year period, 45% of people were given a custodial sentence. This peaked at 47% (46 of 97) in 2003-04 before decreasing to 42% (49 of 118) in 2004-05.

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

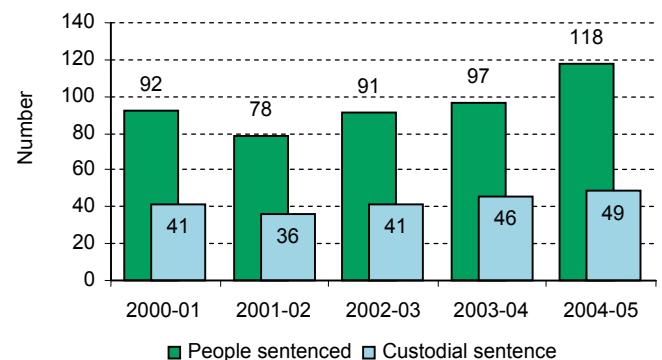


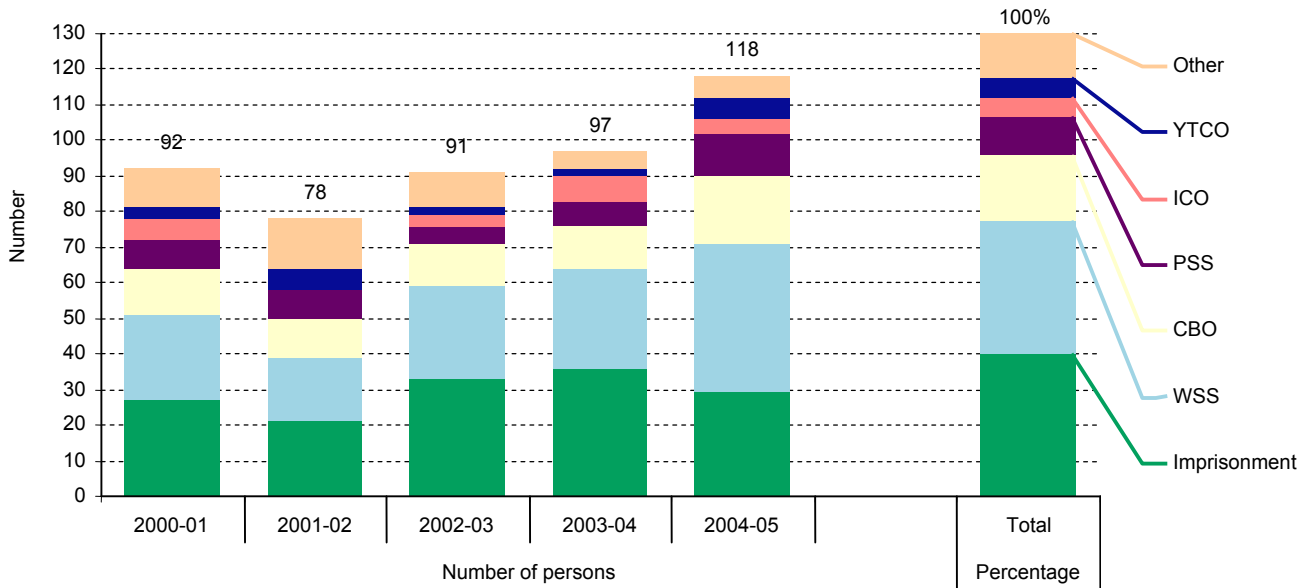
Figure 3 and Table 1 show the number of people sentenced for causing serious injury recklessly from 2000-01 to 2004-05 by the types of sentences imposed.

Over the five year period, around one third of the people sentenced for causing serious injury recklessly received a period of imprisonment (31% or 146 of 476 people), while 29% received a wholly suspended sentence of imprisonment, 14% received a community based order and 8% received a partially suspended sentence of imprisonment.

The number of people imprisoned for causing serious injury recklessly fluctuated over the five year period, ranging from 21 (27%) in 2001-02 to 36 (37%) in 2003-04. The lowest percentage of people imprisoned occurred in 2004-05 (25%).

The number of people who received a wholly suspended sentence of imprisonment increased over the past four years, from 18 (23%) in 2001-02 to 42 (36%) in 2004-05.

Figure 3: The number of people sentenced for causing serious injury recklessly 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, CBO refers to community based order, PSS refers to partially suspended sentence of imprisonment, ICO refers to intensive correction order and YTCO refers to youth training centre order. Other includes mix (community based order & fine), mix (wholly suspended sentence & fine), fine, adjourned undertaking with conviction, adjourned undertaking without conviction, combined custody and treatment order, non-custodial supervision order, hospital security order and hospital order.

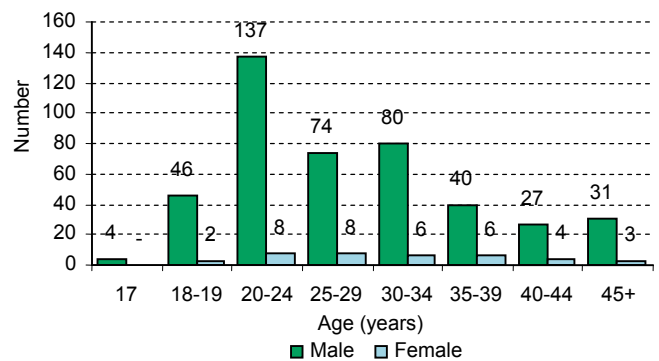
Table 1: The number and percentage of people sentenced for causing serious injury recklessly by sentence type, 2000-01 to 2004-05

Sentence type	00-01	01-02	02-03	03-04	04-05
Imprisonment	27	21	33	36	29
Wholly suspended sentence	24	18	26	28	42
Community based order	13	11	12	12	19
Partially suspended sentence	8	8	5	7	12
Intensive correction order	6	0	3	7	4
Youth training centre order	3	6	2	2	6
Mix (community based order & fine)	0	6	0	1	2
Mix (wholly suspended sentence & fine)	2	2	3	0	0
Fine	0	4	3	0	0
Adjourned undertaking with conviction	4	1	1	1	0
Adjourned undertaking without conviction	2	0	0	2	2
Combined custody and treatment order	2	0	1	0	1
Non-custodial supervision order	0	0	2	0	0
Hospital security order	1	1	0	0	0
Hospital order	0	0	0	1	1
People sentenced	92	78	91	97	118

Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for causing serious injury recklessly grouped by their age¹² between 2000-01 and 2004-05. The average age of people sentenced for causing serious injury recklessly was twenty-eight years and nine months. Women sentenced over this period were older than men (an average age of thirty-one years and three months for women compared to twenty-eight years and seven months for men). Four male juveniles were sentenced over this period.

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



Sentence types by gender¹³

Figure 5 and Table 2 show the types of sentence imposed for causing serious injury recklessly grouped by gender. As shown, a higher percentage of men received a period of imprisonment (32.3% compared to 10.8% of women), a youth training centre order (4.3% compared to no women) and a mixed sentence of a community based order and fine (2.1% compared to no women).

Conversely, a higher percentage of women received a community based order (32.4% compared to 12.5% of men), a wholly suspended sentence of imprisonment (37.8% compared to 28.2%), a hospital order (2.7% compared to 0.2%) and a hospital security order (2.7% compared to 0.2%).

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

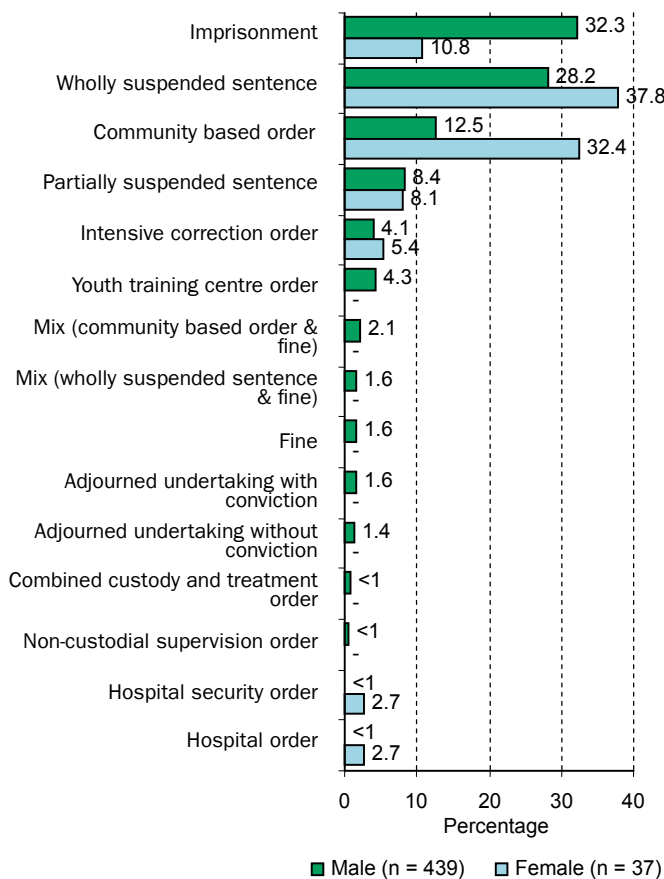


Table 2: The number and percentage breakdown of people sentenced for causing serious injury recklessly by gender, 2000-01 to 2004-05

Sentence type	Male	Female	Total
Imprisonment	142	4	146
Wholly suspended sentence	124	14	138
Community based order	55	12	67
Partially suspended sentence	37	3	40
Intensive correction order	18	2	20
Youth training centre order	19	0	19
Mix (community based order & fine)	9	0	9
Mix (wholly suspended sentence & fine)	7	0	7
Fine	7	0	7
Adjourned undertaking with conviction	7	0	7
Adjourned undertaking without conviction	6	0	6
Combined custody and treatment order	4	0	4
Non-custodial supervision order	2	0	2
Hospital security order	1	1	2
Hospital order	1	1	2
People sentenced	439	37	476

Sentence types by age

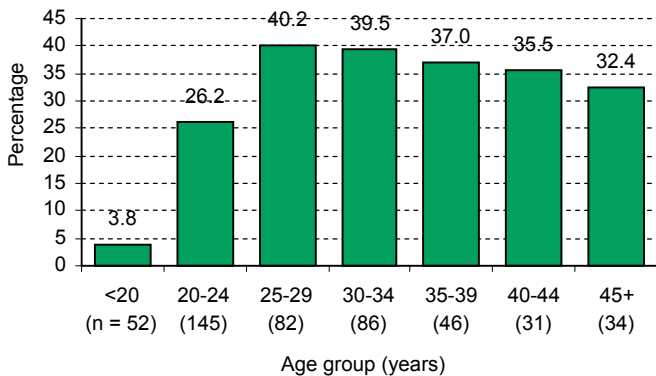
As shown in the table above, the four most common sentence types were imprisonment, wholly suspended sentences of imprisonment, community based orders and partially suspended sentences of imprisonment. The following analysis examines these sentence types by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 25-29 years old (40% or 33 of the 82 people in this age group) followed by people aged 30-34 years old (40% or 34 of the 86 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (4% or two of the 52 people in this age group).

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

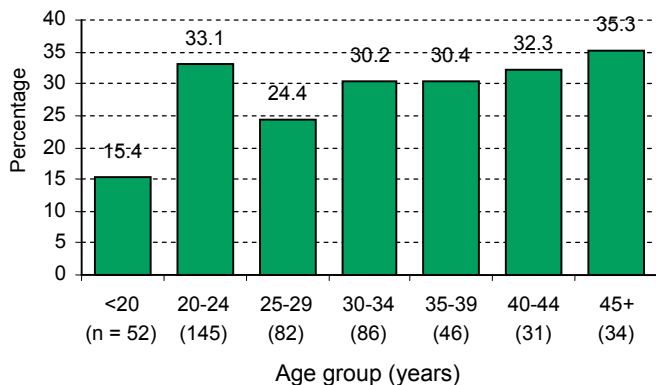


Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 45 years and older (35% or 12 of the 34 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (15% or eight of the 52 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 recklessly by age group, 2000-01 to 2004-05

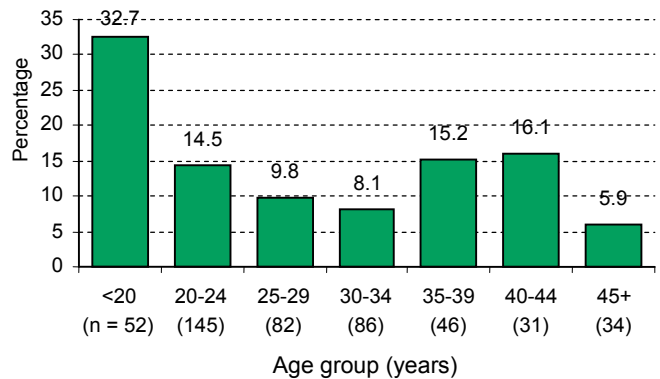


Community based orders

Community based orders were most likely to be given to people aged under 20 years (33% or 17 of the 52 people in this age group).

Conversely, community based orders were least common for those aged 45 years and older (6% or two of the 34 people in this age group).

Figure 8: The percentage of people who were sentenced to a community based order for causing serious injury recklessly by age group, 2000-01 to 2004-05

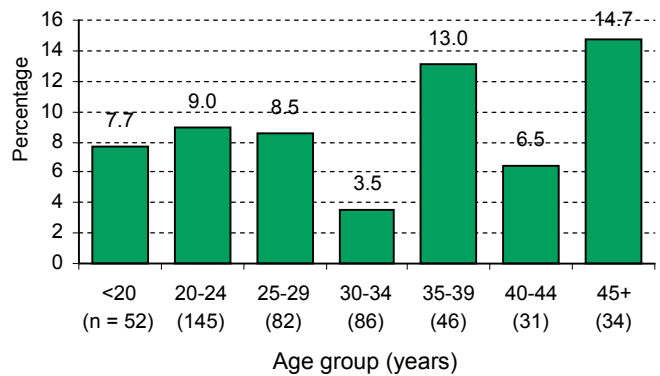


Partially suspended sentences of imprisonment

Partially suspended sentences of imprisonment were most likely to be given to people aged 45 years and older (15% or five of the 34 people in this age group).

Conversely, partially suspended sentences of imprisonment were least common for those aged 30-34 years old (3% or three of the 86 people in this age group).

Figure 9: The percentage of people who were sentenced to a partially suspended sentence of imprisonment for causing serious injury recklessly 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 recklessly must be considered in this broader context. The following sections analyse the use of imprisonment for causing serious injury recklessly over 2000-01 to 2004-05.

Principal sentence of imprisonment

Figure 10 shows the number of people sentenced to imprisonment for causing serious injury recklessly between 2000-01 and 2004-05 by the length of the imprisonment term. Imprisonment terms ranged from 2 months to 10 years, while the median length of imprisonment was 2 years (meaning that half of the imprisonment terms were shorter than 2 years and half were longer).

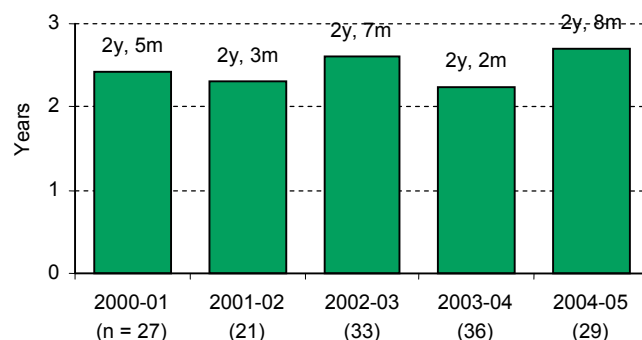
The most common length of imprisonment imposed was 1 year (46 people).

Figure 10: The number of people sentenced to imprisonment for causing serious injury recklessly by length of imprisonment term, 2000-01 to 2004-05



As shown in Figure 11, the average length of imprisonment term imposed on people sentenced for causing serious injury recklessly ranged from two years and 2 months in 2003-04 to two years and 8 months in 2004-05.

Figure 11: The average length of imprisonment term imposed on people sentenced for causing serious injury recklessly, 2000-01 to 2004-05



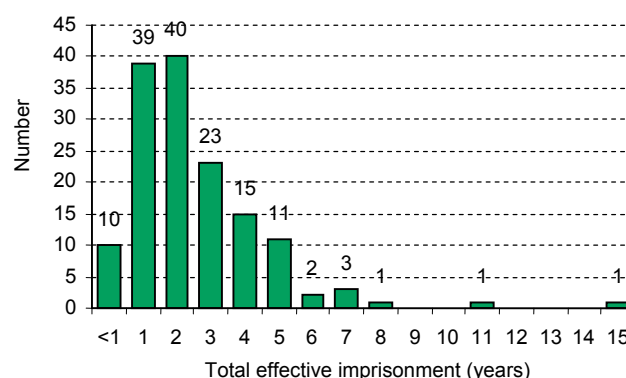
From 2000-01 to 2004-05, the majority of the people who received a term of imprisonment for causing serious injury recklessly were men (142 people or 97.3%).

Total effective sentence of imprisonment

There were 146 people given a total effective sentence of imprisonment¹⁴. Figure 12 shows the number of people sentenced to imprisonment for causing serious injury recklessly 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 fifteen years¹⁵, 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 (40 people).

Figure 12: The number of people sentenced to imprisonment for causing serious injury recklessly by total effective length of imprisonment term, 2000-01 to 2004-05



Non-parole period

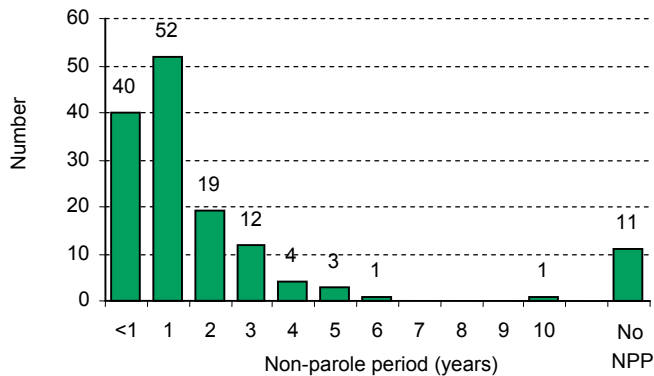
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person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

Of the 146 people who were sentenced to imprisonment for causing serious injury recklessly, 136 were eligible for parole¹⁶. Of these people, 132 were given a non-parole period (97%)¹⁷. Figure 13 shows the number of people sentenced to imprisonment for causing serious injury recklessly between 2000-01 and 2004-05 by the length of their non-parole period. Non-parole periods ranged from three months to ten years, while the median length of the non-parole period was one year and eleven months (meaning that half of the non-parole periods were below one year and eleven months and half were above).

The most common non-parole period imposed was 1 year (52 people).

Figure 13: The number of people sentenced to imprisonment for causing serious injury recklessly by length of non-parole period, 2000-01 to 2004-05



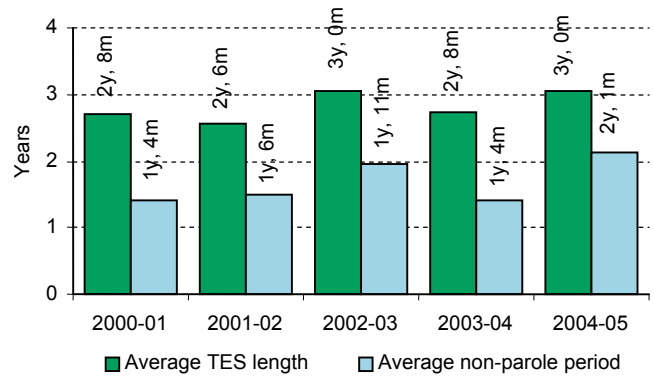
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

Total effective sentences of imprisonment and non-parole periods

Figure 14 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 2004-05¹⁸.

From 2000-01 to 2004-05, the average length of total effective sentence for all people ranged from two years and six months in 2001-02 to three years in 2002-03 and 2004-05. Over the same period, the average length of non-parole period ranged from one year and four months in 2000-01 and 2003-04 to two years and one month in 2004-05.

Figure 14: People sentenced to imprisonment for causing serious injury recklessly by average total effective sentence and average non-parole period, 2000-01 to 2004-05

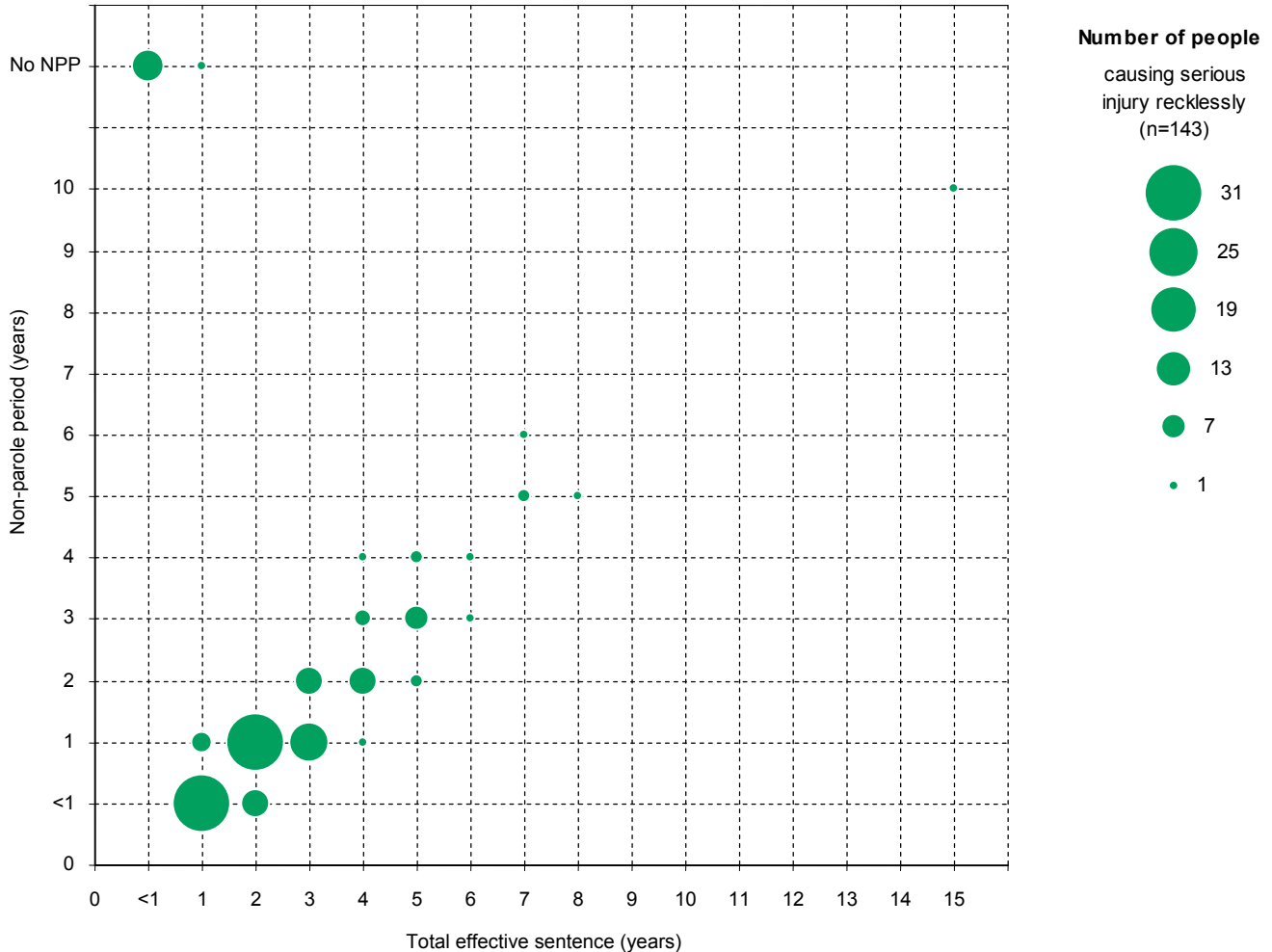


Total effective sentence of imprisonment by non-parole period

While Figure 12 and Figure 13 present the lengths of the total effective sentences and non-parole periods separately, Figure 15 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for causing serious injury recklessly 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 combination¹⁹. 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 (31 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 fifteen years with a non-parole period of ten years²⁰.

Figure 15: The number of people sentenced to imprisonment for causing serious injury recklessly by the total effective sentence and the non-parole period imposed, 2000-01 to 2004-05²¹



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

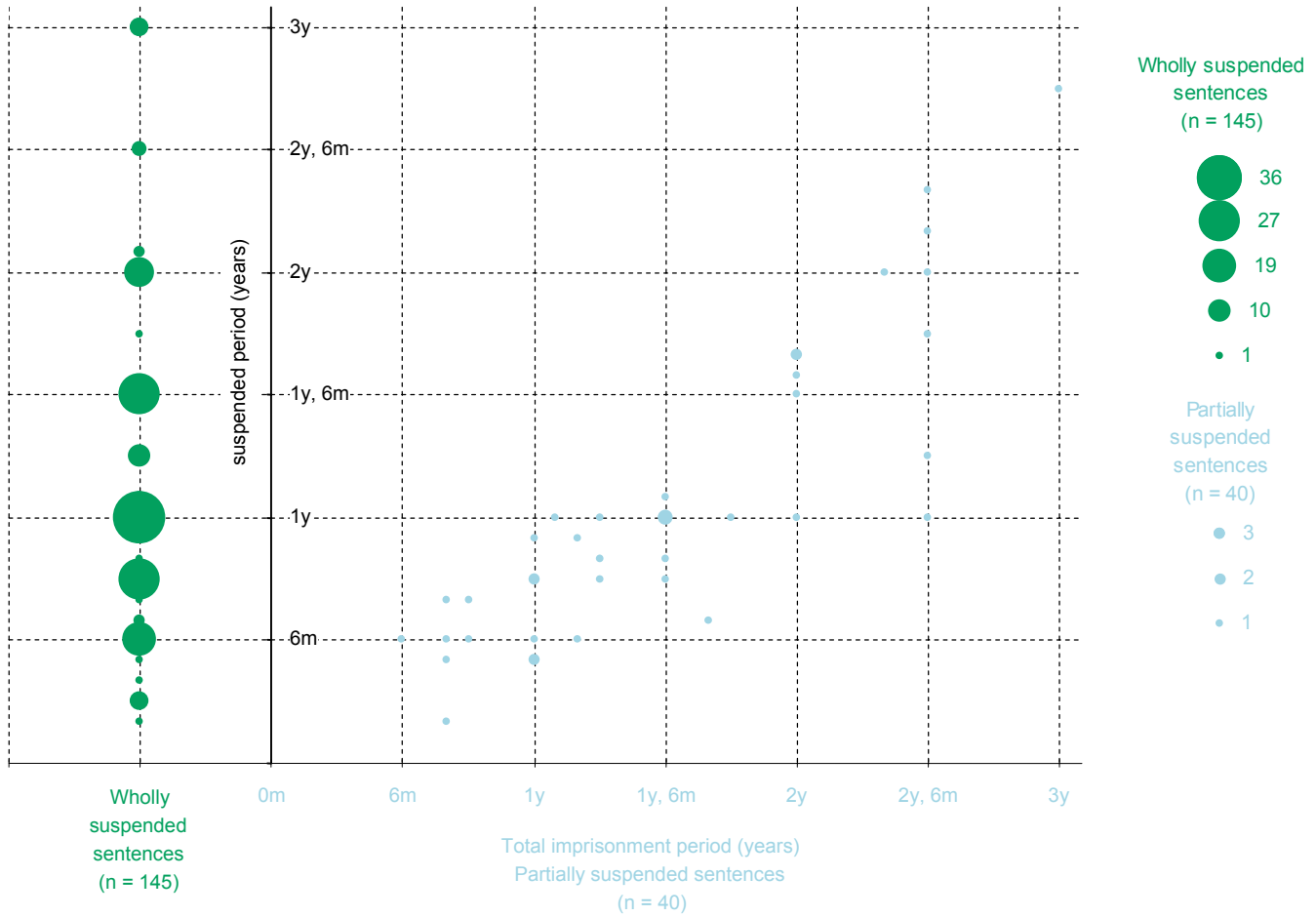
Suspended sentences of imprisonment

There were 185 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 145 people had their prison sentence wholly suspended and 40 received a partially suspended sentence of imprisonment. Figure 16 shows the number of people with a suspended sentence of imprisonment as their total effective sentence by the type of suspended sentence and the length of sentence²². 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 imposed ranged from two months to three years. The most common wholly suspended sentence length was one year (36 people - as represented by the largest green 'bubble' on the chart).

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

Figure 16: The number of people given a wholly or partially suspended sentence of imprisonment by sentence type and length, 2000-01 to 2004-05

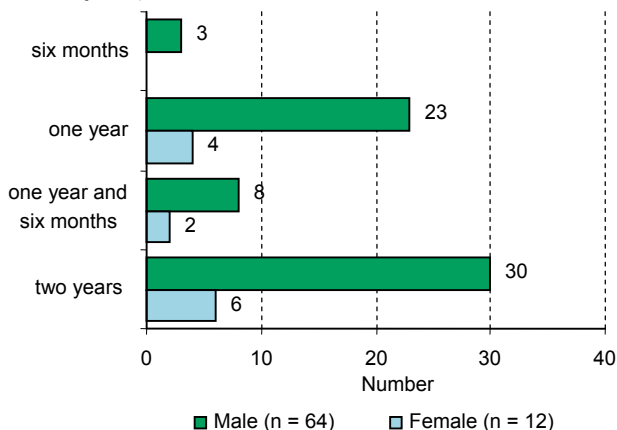


Community based orders

There were 76 people given a community based order as their total effective sentence.

The length of community based orders for causing serious injury recklessly ranged from six months to two years, while the median length was one year and six months (meaning that half of the lengths were shorter than or equal to one year and six months and half were longer than or equal to one year and six months). The most common length of community based order was two years (36 people).

Figure 17: The number of people sentenced to a community based order for causing serious injury recklessly by length of order imposed, 2000-01 to 2004-05



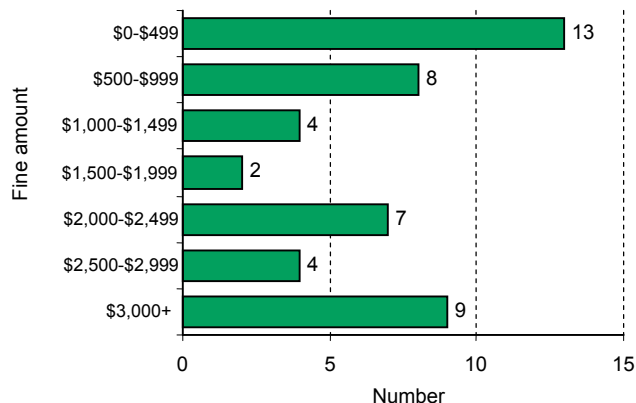
Fines

This analysis includes all fines that were imposed for cases where causing serious injury recklessly was the principal offence. Fines were imposed on 47 people.

The fine amount imposed ranged from \$100 to \$7,000, with a median of \$1,000 (meaning that half of the values fell below \$1,000 and half of the values were above \$1,000).

The average fine amount was \$1,536. Fines were only imposed against men.

Figure 18: The number of people who received a fine for causing serious injury recklessly by fine amount, 2000-01 to 2004-05



Conclusion

Between 2000-01 and 2004-05, 476 people were sentenced for causing serious injury recklessly in the higher courts. Over this period, the majority of those sentenced were men (92%), while 41% were between the age of 18 and 25 years.

Around one third of the people sentenced for causing serious injury recklessly received a period of imprisonment (31%), while 29% received a wholly suspended sentence of imprisonment, 14% received a community based order 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 to be sentenced to a community based order or a wholly suspended sentence of imprisonment.

Imprisonment was more common for people aged over 25 years of age, wholly suspended sentences of imprisonment were more common for people older than 20 years of age and community based orders were more common for those aged under 20 years of age.

Imprisonment lengths ranged from two months and fifteen days with no non-parole period to fifteen years with a non-parole period of ten years. The most common sentence of imprisonment was two years with a one year non-parole period.

The most common partially suspended sentence length was for one year and six months with one year suspended, while the most common wholly suspended sentence length was one year. The most common length of community based order was two years.

- 1 This report presents sentencing outcomes for people sentenced for the principal offence of causing serious injury recklessly 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 recklessly who received a more serious sentence for another offence forming part of the same presentment. For example, in 2004-05, 157 people were sentenced for causing serious injury recklessly. Causing serious injury recklessly was the principal offence for 118 of the 157 people.
- 2 The information source for sentencing outcomes for causing serious injury recklessly 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 recklessly 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. 17
- 5 *R v Campbell* [1997] 2 VR 585. See also *R v Crabbe* (1995) 156 CLR 464; *R v Nuri* [1990] VR 641.
- 6 *Crimes Act 1958* s. 15
- 7 Causing serious injury recklessly carries a maximum fine of 1200 penalty units and each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.
- 8 Causing serious injury recklessly was the fourth most common principal offence that resulted in a person being sentenced in the higher courts over 2000-01 to 2004-05.
- 9 Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.
- 10 This section analyses the sentence types imposed against the principal charge of causing serious injury recklessly.
- 11 Custodial sentence includes imprisonment, partially suspended sentence, youth training centre order, combined custody and treatment order, hospital security 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.
- 12 Age is as at the time of sentencing.
- 13 Refer fn. 10
- 14 All of the 146 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
- 15 In 2002-03, a man aged 45 years was sentenced to 15 years' imprisonment with a non-parole period of ten years. Also in 2002-03, a man aged 31 years was sentenced to 11 years' imprisonment with an unascertainable non-parole period. The non-parole period was unascertainable because it also related to another case.
- 16 Ten people were not eligible for parole because they were given a total effective sentence length of less than one year.
- 17 Three 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.
- 18 Due to the low number of women (4) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
- 19 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.
- 20 Refer fn. 15
- 21 This graph includes the 143 people who were given a total effective sentence of imprisonment and a non-parole period that related to this case only.
- 22 Sentence lengths are rounded to the nearest month of imprisonment.

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- No. 2 Use of suspended sentences in Victoria
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- 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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