

Sentencing trends
in the higher courts
of Victoria
2012–13 to 2016–17

June 2018
No. 215

Causing injury intentionally

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of causing injury intentionally in the County and Supreme Courts of Victoria from 2012–13 to 2016–17.² Adjustments made by the Court of Appeal to sentence or conviction as at June 2017 have been incorporated into the data in this Snapshot.

Detailed data on causing injury intentionally and other offences is available on [Sentencing Advisory Council Statistics Online \(SACStat\)](#).

A person who intentionally causes injury to another person without lawful excuse is guilty of this offence. *Injury* includes unconsciousness, hysteria, pain and any substantial impairment of bodily function. This definition is not exhaustive. Causing injury intentionally is an indictable offence that carries a maximum penalty of 10 years' imprisonment and/or a fine of 1,200 penalty units.³ Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court. The offence can also be tried summarily by the Magistrates' Court if the Magistrates' Court considers it appropriate and the accused consents.

Causing injury intentionally⁴ was the principal offence⁵ in 4.2% of cases sentenced in the higher courts between 2012–13 and 2016–17.

People sentenced

From 2012–13 to 2016–17, 380 people were sentenced in the higher courts for a principal offence of causing injury intentionally.

Figure 1 shows the number of people sentenced for the principal offence of causing injury intentionally by financial year. There were 57 people sentenced for this offence in 2016–17, down by 15 people from the previous year. The number of people sentenced was highest in 2014–15 (96 people).

Figure 1: The number of people sentenced for causing injury intentionally by financial year, 2012–13 to 2016–17

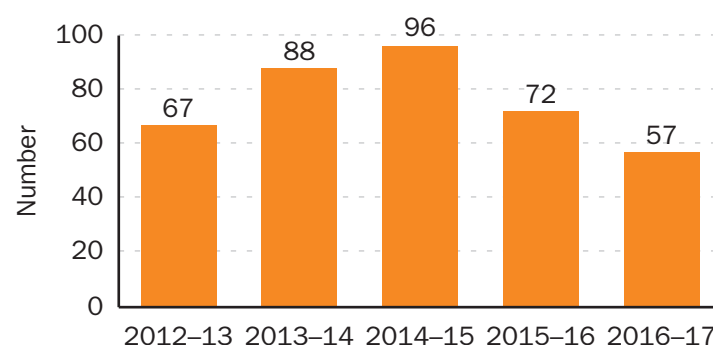
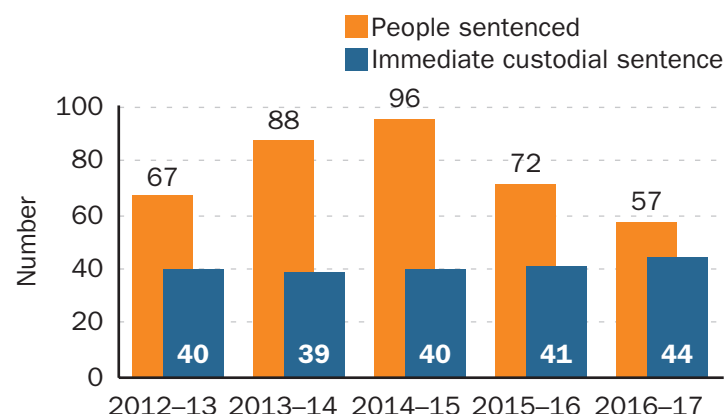


Figure 2: The number of people sentenced for causing injury intentionally and the number receiving an immediate custodial sentence, 2012–13 to 2016–17



Sentence types and trends

Figure 2 shows the total number of people sentenced for causing injury intentionally and the number receiving an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate imprisonment or detention.⁶ Over the five-year period, 54% of people were given an immediate custodial sentence.

Table 1 shows the number of people sentenced for causing injury intentionally from 2012–13 to 2016–17 by the type of sentence imposed. The availability of different sentence types has changed over time. Most notably, wholly and partially suspended sentences have now been abolished.⁷ Changes to community correction orders have also influenced sentencing trends over the five years covered by this Snapshot.⁸

Over the five-year period, one-quarter of the people sentenced for causing injury intentionally received a sentence of imprisonment (25% or 95 of 380 people), while 9% received a sentence of aggregate imprisonment combined with a community correction order and 33% received a community correction order.

A total of 179 people received a principal sentence of imprisonment for causing injury intentionally. The *principal sentence* is the sentence imposed for the charge that is the principal offence.⁹ This total includes the people in Table 1 who received a sentence of imprisonment, aggregate imprisonment combined with a community correction order, imprisonment combined with a community correction order, and aggregate imprisonment. Of the total number of people receiving a principal sentence of imprisonment for causing injury intentionally, 53% (95 of 179 people) received imprisonment, 20% (35 of 179 people) received a sentence of aggregate imprisonment combined with a community correction order, 17% (30 of 179 people) received imprisonment combined with a community correction order, and 11% (19 of 179 people) received a sentence of aggregate imprisonment.

The percentage and number of people who received a principal sentence of imprisonment (including a combined or an aggregate sentence) for causing injury intentionally peaked at 75% in 2016–17 (43 of 57 people), while the percentage and number were lowest in 2013–14 (33% or 29 of 88 people).

Table 1: The number and percentage of people sentenced for causing injury intentionally by sentence type, 2012–13 to 2016–17 (in descending order of numbers for 2016–17)

Sentence type	2012–13	2013–14	2014–15	2015–16	2016–17	Total
Imprisonment	28 (42%)	26 (30%)	11 (11%)	13 (18%)	17 (30%)	95 (25%)
Aggregate imprisonment and community correction order (combined)	0 (–)	0 (–)	8 (8%)	16 (22%)	11 (19%)	35 (9%)
Community correction order	18 (27%)	34 (39%)	42 (44%)	22 (31%)	9 (16%)	125 (33%)
Imprisonment and community correction order (combined)	2 (3%)	0 (–)	11 (11%)	8 (11%)	9 (16%)	30 (8%)
Aggregate imprisonment	2 (3%)	3 (3%)	4 (4%)	4 (6%)	6 (11%)	19 (5%)
Non-custodial supervision order	1 (1%)	2 (2%)	4 (4%)	2 (3%)	2 (4%)	11 (3%)
Adjourned undertaking with conviction	0 (–)	0 (–)	0 (–)	0 (–)	2 (4%)	2 (<1%)
Custodial supervision order	0 (–)	0 (–)	1 (1%)	0 (–)	1 (2%)	2 (<1%)
Wholly suspended sentence	6 (9%)	9 (10%)	2 (2%)	0 (–)	0 (–)	17 (4%)
Partially suspended sentence	5 (7%)	6 (7%)	2 (2%)	0 (–)	0 (–)	13 (3%)
Fine	1 (1%)	4 (5%)	2 (2%)	2 (3%)	0 (–)	9 (2%)
Youth justice centre order	3 (4%)	2 (2%)	2 (2%)	0 (–)	0 (–)	7 (2%)
Community correction order and aggregated fine (combined)	1 (1%)	0 (–)	2 (2%)	4 (6%)	0 (–)	7 (2%)
Aggregate youth justice centre order	0 (–)	2 (2%)	1 (1%)	0 (–)	0 (–)	3 (<1%)
Wholly suspended sentence and aggregate fine (combined)	0 (–)	0 (–)	2 (2%)	0 (–)	0 (–)	2 (<1%)
Aggregate community correction order	0 (–)	0 (–)	1 (1%)	1 (1%)	0 (–)	2 (<1%)
Adjourned undertaking without conviction	0 (–)	0 (–)	1 (1%)	0 (–)	0 (–)	1 (<1%)
People sentenced	67	88	96	72	57	380

A total of 134 people received a community correction order as their principal sentence. This total includes the people in Table 1 who received a community correction order, a community correction order combined with an aggregate fine, or an aggregate community correction order. Of the total number receiving a community correction order, 93% (125 of 134 people) received a community correction order, 5% (7 of 134 people) received a community correction order combined with an aggregate fine and 2% (2 of 134 people) received an aggregate community correction order.

The percentage and number of people receiving a community correction order (not combined with a period of imprisonment) peaked in 2014–15 (47% or 45 of 96 people), while the percentage and number were lowest in 2016–17 (16% or 9 of 57 people).

Age and gender of people sentenced

Data on the age and gender of people sentenced for causing injury intentionally is available on [SACStat](#).

Sentence length

Two methods for describing sentence lengths are examined in this section. One relates to the principal sentence and examines sentences for the offence at a charge level. The other relates to the total effective sentence and examines sentences for the offence at a case level (the principal sentence is described on page 2).

The total effective sentence in a case with a single charge is the principal sentence. The total effective sentence in a case with multiple charges is the sentence that results from the court ordering the individual sentences for each charge to be served concurrently (at the same time) or wholly or partially cumulatively (one after the other).

In many cases, the total effective sentence imposed on a person is longer than the principal sentence. Principal sentences for causing injury intentionally must be considered in this broader context. The following sections analyse the use of imprisonment for the offence of causing injury intentionally from 2012–13 to 2016–17.

Principal sentence of imprisonment

Of the 179 people who received a principal sentence of imprisonment, 125 people received a non-aggregate term of imprisonment.

Figure 3 shows the length of imprisonment for the people receiving a non-aggregate term.¹⁰ Imprisonment terms ranged from 1 month to 5 years, while the median length of imprisonment was 1 year and 3 months (meaning that half of the imprisonment terms were shorter than 1 year and 3 months and half were longer).

The most common length of imprisonment imposed was 1 to less than 2 years (50 people).

As shown in Figure 4, the average (mean) length of imprisonment imposed on people sentenced for causing injury intentionally ranged from 1 year and 3 months in 2012–13 to 1 year and 10 months in 2013–14.

Figure 3: The number of people sentenced to imprisonment for causing injury intentionally by length of imprisonment term, 2012–13 to 2016–17

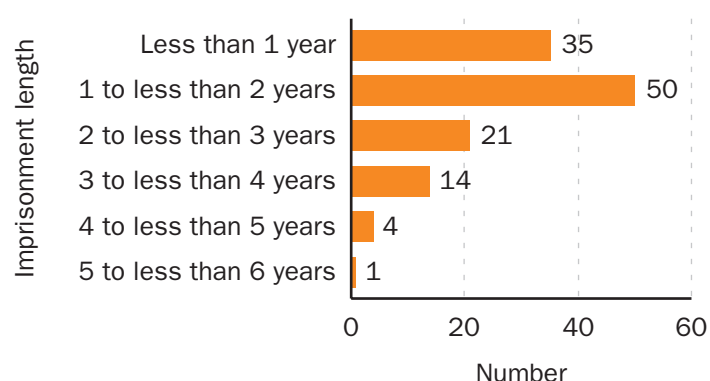
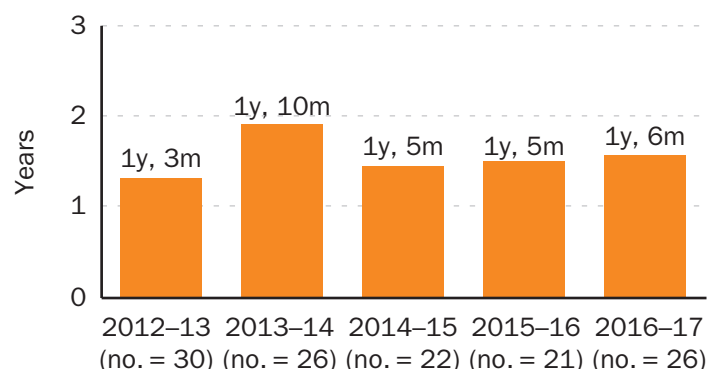


Figure 4: The average (mean) length of imprisonment imposed on people sentenced for causing injury intentionally, 2012–13 to 2016–17



Other offences finalised at the same hearing

Often people prosecuted for causing 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 injury intentionally.

Figure 5 shows the number of people sentenced for the principal offence of causing injury intentionally by the total number of offences for which sentences were imposed. The number of sentenced offences per person ranged from 1 to 16, while the median was 2 offences.

There were 92 people (24.2%) sentenced for the single offence of causing injury intentionally. The average number of offences per person sentenced for causing injury intentionally was 2.85.

Table 2 shows the 10 most common offences for people sentenced for causing injury intentionally, by number and percentage. The last column sets out the average number of offences sentenced per person. For example, 108 of the total 380 people (28.4%) also received sentences for aggravated burglary. On average, they were sentenced for 1.03 counts of aggravated burglary.

Table 2: The number and percentage of people sentenced for the principal offence of causing injury intentionally by the most common offences that were sentenced and the average number of those offences that were sentenced, 2012–13 to 2016–17

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Causing injury intentionally	380	100.0%	1.16
2. Aggravated burglary	108	28.4%	1.03
3. Intentionally destroy/damage property (criminal damage)	58	15.3%	1.16
4. Theft	40	10.5%	1.28
5. False imprisonment	36	9.5%	1.17
6. Common law assault	33	8.7%	1.67
7. Affray	33	8.7%	1.00
8. Causing injury recklessly	26	6.8%	1.04
9. Making a threat to kill	22	5.8%	1.45
10. Robbery	19	5.0%	1.16
People sentenced	380	100.0%	2.85

Total effective imprisonment terms

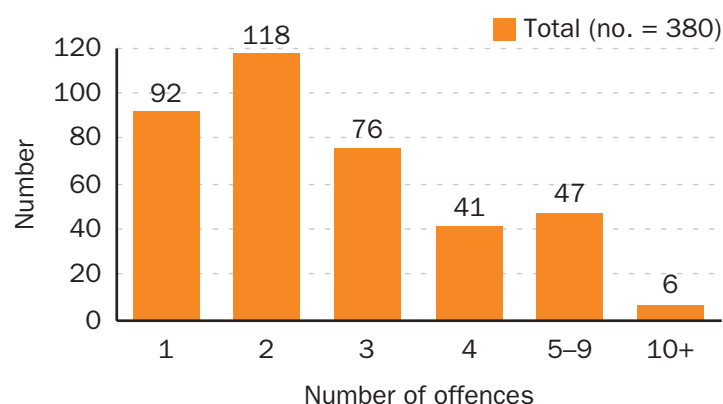
Figure 6 shows the number of people sentenced to imprisonment for causing injury intentionally from 2012–13 to 2016–17 by length of total effective imprisonment term. Total effective imprisonment terms ranged from 1 month to 6 years and 3 months, while the median total effective imprisonment term was 1 year and 3 months (meaning that half of the total effective imprisonment terms were below 1 year and 3 months and half were above).

The most common total effective imprisonment term was less than 1 year (61 people).

Non-parole period

If a person is sentenced to a term of immediate imprisonment of less than 1 year, the court cannot impose a non-parole period. For terms between 1 year and less than 2 years, the court has the discretion to fix a

Figure 5: The number of people sentenced for the principal offence of causing injury intentionally by the number of sentenced offences per person, 2012–13 to 2016–17



non-parole period. For terms of imprisonment of 2 years or more, the court must impose a non-parole period in most circumstances. 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 in custody.

Of the 179 people who were sentenced to imprisonment for causing injury intentionally, 118 were eligible to have a non-parole period fixed.¹¹ Of these people, 76 were given a non-parole period (64%).¹² Figure 7 shows the number of people sentenced to imprisonment for causing injury intentionally from 2012–13 to 2016–17 by length of non-parole period. Non-parole periods ranged from 6 months to 4 years, while the median length of the non-parole period was 1 year, 5 months and 15 days (meaning that half of the non-parole periods were below 1 year, 5 months and 15 days and half were above).

The majority of people sentenced to imprisonment did not receive a non-parole period (102 people).

Total effective sentences of imprisonment and non-parole periods

Figure 8 compares the average length of total effective sentences of imprisonment with the average length of non-parole periods from 2012–13 to 2016–17.

From 2012–13 to 2016–17, the average length of total effective sentences for all people ranged from 1 year and 4 months in 2014–15 to 2 years and 1 month in 2013–14. Over the same period, the average length of non-parole periods ranged from 1 year and 3 months in 2012–13 and 2013–14 to 2 years and 2 months in 2015–16.¹³

Further data on total effective sentences of imprisonment and corresponding non-parole periods for causing injury intentionally is available on [SACStat](#).

Non-imprisonment sentences

Data on the length of non-imprisonment sentence types, such as community correction orders, suspended sentences and fines, for causing injury intentionally is available on [SACStat](#).

Summary

From 2012–13 to 2016–17, 380 people were sentenced in the higher courts for causing injury intentionally. Of these people, 179 (47%) were given a principal sentence of imprisonment.

Both the median total effective imprisonment length and principal imprisonment length were 1 year and 3 months.

Total effective imprisonment lengths ranged from 1 month to 6 years and 3 months, and non-parole periods (where imposed) ranged from 6 months to 4 years.

Figure 6: The number of people sentenced to imprisonment for causing injury intentionally by length of total effective imprisonment term, 2012–13 to 2016–17

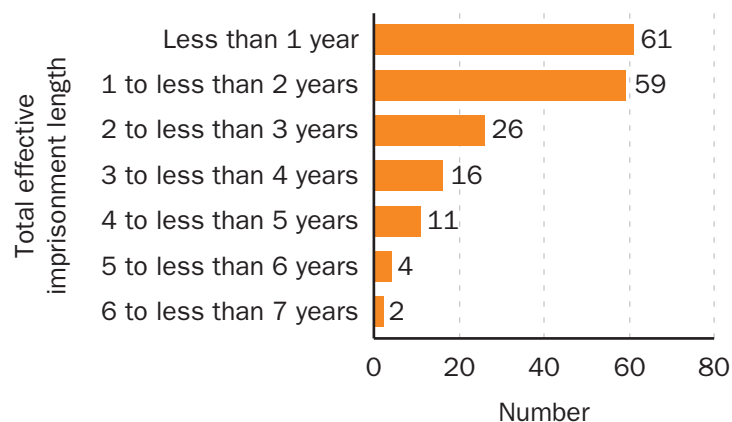


Figure 7: The number of people sentenced to imprisonment for causing injury intentionally by length of non-parole period, 2012–13 to 2016–17

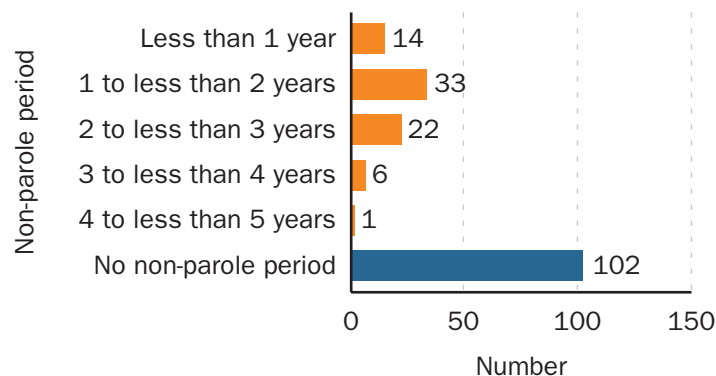
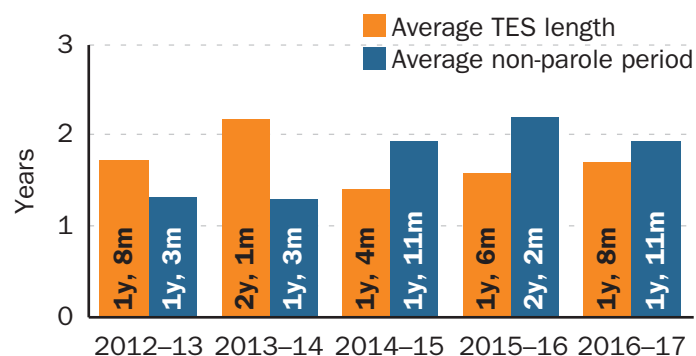


Figure 8: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for causing injury intentionally, 2012–13 to 2016–17



Endnotes

1. This series of reports includes custodial and non-custodial supervision orders imposed under Part 5 of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) as sentencing orders and in the count of people sentenced. These orders are not sentencing orders, as they are imposed in cases where the accused is found to be unfit to stand trial or not guilty because of mental impairment. However, they are included in this report as they are an important form of disposition of criminal charges.
This Sentencing Snapshot is an update of Sentencing Snapshot no. 189, which describes sentencing trends for causing injury intentionally between 2010–11 and 2014–15.
2. Data on first-instance sentence outcomes presented in this Snapshot was obtained from the Strategic Analysis and Review Team at Court Services Victoria. Data on appeal outcomes was collected by the Sentencing Advisory Council from the [Australasian Legal Information Institute](#), and was also provided by the Victorian Court of Appeal. The Sentencing Advisory Council regularly undertakes extensive quality control measures for current and historical data. While every effort is made to ensure that the data analysed in this report is accurate, the data is subject to revision.
3. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette and on the [Victorian Legislation and Parliamentary Documents website](#).
4. *Crimes Act 1958* (Vic) s 18.
5. If a person is sentenced for a case with a single charge, the offence for that charge is the principal offence. If a person is sentenced for more than one charge in a single case, the principal offence is the offence for the charge that attracted the most serious sentence according to the sentencing hierarchy.
6. An *immediate custodial sentence* includes imprisonment, aggregate imprisonment combined with a community correction order, imprisonment combined with a community correction order, aggregate imprisonment, a custodial supervision order, a partially suspended sentence, a youth justice centre order and an aggregate youth justice centre order.
7. Suspended sentences have been abolished in the higher courts for all offences committed on or after 1 September 2013 and in the Magistrates' Court for all offences committed on or after 1 September 2014.
8. For example, initially the maximum term of imprisonment that could be combined with a community correction order was set at 3 months, but it was increased to 2 years in September 2014 and reduced to 1 year in March 2017.
9. Refer to Endnote 5.
10. Data presented in this section does not include imprisonment lengths for people who received an aggregate sentence of imprisonment. Sentence lengths for aggregate sentences of imprisonment apply to the whole case, while Figure 3 only deals with sentences of imprisonment for the principal proven offence of causing injury intentionally. From 2012–13 to 2016–17, 54 people received an aggregate form of imprisonment.
11. A total of 61 people were not eligible to have a non-parole period fixed because they were given a total effective sentence length of less than 1 year.
12. One person was not given a non-parole period relating to that case alone, but a non-parole period that also related to other cases. It is not possible to determine the length of the non-parole period that relates to this case. The non-parole period for this person is excluded from the analysis. A non-parole period was not set for 41 people who were eligible for a non-parole period.
13. From 2014–15 to 2016–17, average total effective imprisonment lengths were lower than the average non-parole periods. This occurs when a large portion of cases involve offending attracting sentences of less than 1 year's imprisonment, which are too low to be eligible for a non-parole period.

SACStat Causing injury intentionally

http://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_6231_18.html

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