

# Sentencing Snapshot

## Sentencing trends for aggravated burglary in the higher courts of Victoria



### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of aggravated burglary 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 enters a building or part of a building as a trespasser and who intends to steal, assault a person in the building or to damage the building or property in the building, is guilty of burglary<sup>4</sup>. The offence of burglary is aggravated if the person has with him or her, a firearm, imitation firearm, offensive weapon, explosive or imitation explosive<sup>5</sup>. Aggravated burglary also occurs if, at the time of entering the building, someone else was present and the offender knew, or was reckless as to the fact<sup>6</sup>.

Aggravated burglary is an indictable offence that carries a maximum penalty of 25 years' imprisonment and/or a fine of up to 3000 penalty units (\$314,430)<sup>7</sup>. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

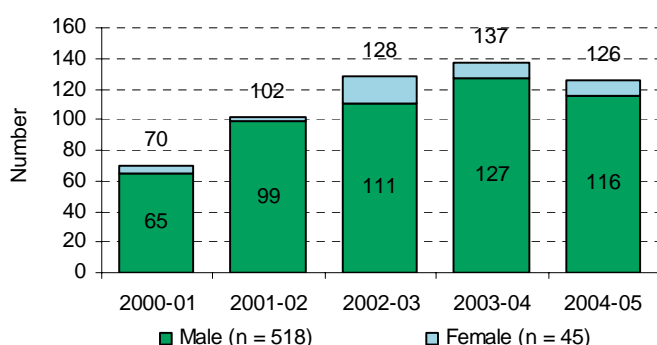
Of all people sentenced for the principle offence of aggravated burglary, 45% were sentenced in the higher courts<sup>8</sup>. The remaining cases were heard in the Children's Court and the Magistrates' Court<sup>9</sup>. The information presented in this report relates only to those sentencing outcomes handed down in the County and Supreme Court for aggravated burglary.

### People sentenced

Figure 1 shows the number of people sentenced for aggravated burglary for the period 2000-01 to 2004-05. As shown, 563 people were sentenced for aggravated burglary over the five year period. Between 2000-01 and 2003-04, the number of people sentenced for aggravated burglary almost doubled (from 70 in 2000-01 to 137 in 2003-04). There were 126 people sentenced for aggravated burglary in 2004-05.

Over the five years depicted, the majority of those sentenced were men (92.0% or 518 of 563 people), including 116 of the 126 people sentenced in 2004-05.

Figure 1: The number of people sentenced for aggravated burglary by gender, 2000-01 to 2004-05



### Sentence types and trends

Figure 2 shows the total number of people sentenced for aggravated burglary and the number who received a custodial sentence<sup>10</sup>. Over the five year period, 56% of people were given a custodial sentence. This peaked at 59% (41 of 70) in 2000-01 before decreasing to 52% (53 of 102) in 2001-02. In 2004-05, 58% of people sentenced (73 of 126) were given a custodial sentence.

Figure 2: The number of people sentenced for aggravated burglary and the number who received a custodial sentence, 2000-01 to 2004-05

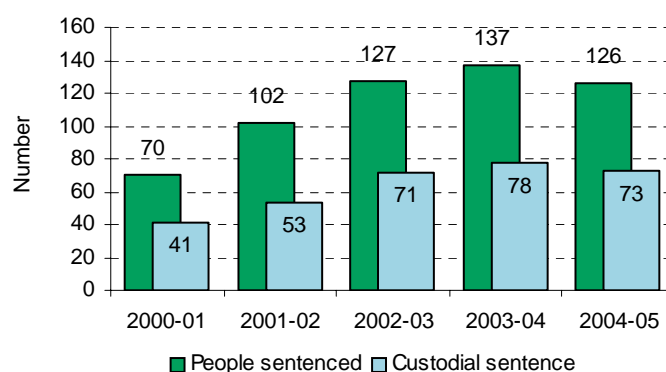


Figure 3 and Table 1 show the number of people sentenced for aggravated burglary from 2000-01 to 2004-05 by the types of sentences imposed.

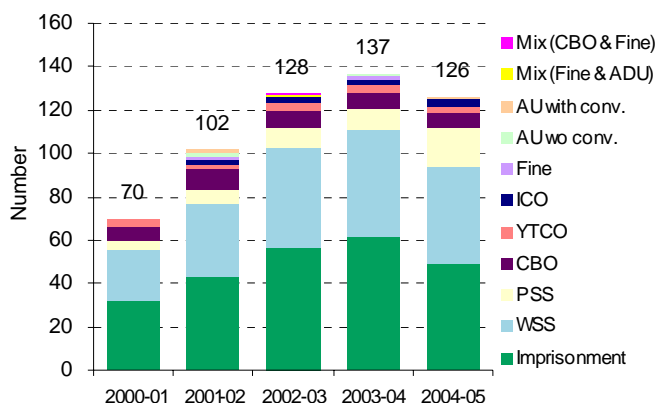
Over the five year period, around four in ten people sentenced for aggravated burglary received a period of imprisonment (43% or 242 of 563 people), while 35% (or 198 people) received a wholly suspended sentence of

imprisonment and 9% (or 48 people) received a partially suspended sentence of imprisonment.

Although the number of people who were imprisoned for aggravated burglary increased over the five year period (from 32 in 2000-01 to 49 in 2004-05), the percentage of people sentenced to imprisonment has remained relatively stable (ranging from 39% in 2004-05 to 46% in 2000-01).

The number of people who were given a wholly suspended sentence of imprisonment increased from 23 in 2000-01 to 49 in 2003-04, while the percentage of people who were given a wholly suspended sentence of imprisonment remained stable (ranging from 33% in 2000-01 and 2001-02 to 37% in 2002-03).

**Figure 3: The number of people sentenced for aggravated burglary by sentence type, 2000-01 to 2004-05**



Note: CBO refers to community based order, ADU refers to adjourned undertaking, AU with conv. refers to adjourned undertaking with conviction, AU wo conv. refers to adjourned undertaking without conviction, ICO refers to intensive correction order, YTCO refers to youth training centre order, PSS refers to partially suspended sentence of imprisonment and WSS refers to wholly suspended sentence of imprisonment.

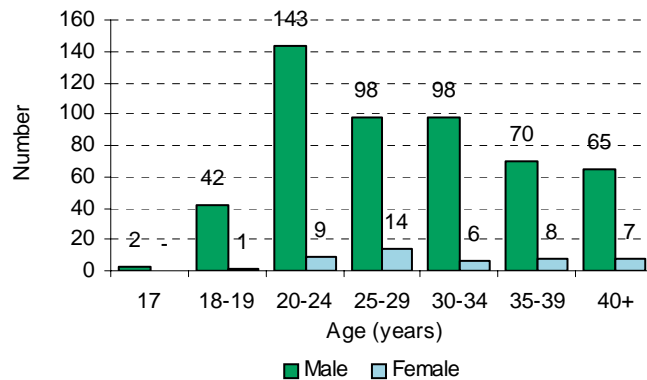
**Table 1: The number and percentage of people sentenced for aggravated burglary by sentence type, 2000-01 to 2004-05**

Sentence type	00-01	01-02	02-03	03-04	04-05
Imprisonment	32	43	56	62	49
	46%	42%	44%	45%	39%
Wholly suspended sentence	23	34	47	49	45
	33%	33%	37%	36%	36%
Partially suspended sentence	5	6	9	10	18
	7%	6%	7%	7%	14%
Community based order	6	10	8	7	7
	9%	10%	6%	5%	6%
Youth training centre order	4	2	3	3	3
	6%	2%	2%	2%	2%
Intensive correction order	0	2	3	3	3
	-	2%	2%	2%	2%
Fine	0	1	0	2	0
	-	<1%	-	1%	-
Adjourned undertaking without conviction	0	2	0	1	0
	-	2%	-	<1%	-
Adjourned undertaking with conviction	0	2	0	0	1
	-	2%	-	-	<1%
Mix (fine & adjourned undertaking)	0	0	1	0	0
	-	-	<1%	-	-
Mix (community based order & fine)	0	0	1	0	0
	-	-	<1%	-	-
<b>People sentenced</b>	<b>70</b>	<b>102</b>	<b>128</b>	<b>137</b>	<b>126</b>

## Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for aggravated burglary grouped by their age<sup>11</sup> between 2000-01 and 2004-05. The average age of people sentenced for aggravated burglary was twenty-nine years and seven months. Women sentenced over this time period were older than men (an average age of thirty-one years and one month for women compared to twenty-nine years and five months for men). Two male juveniles were sentenced in the County Court over this period.

**Figure 4: The number of people sentenced for aggravated burglary by gender and age, 2000-01 to 2004-05**



## Sentence types by gender

Figure 5 and Table 2 show the types of sentences imposed for aggravated burglary by gender. As shown, a higher percentage of men received a period of imprisonment (44.2% compared to 28.9% of women) and a partially suspended sentence of imprisonment (9.3% compared to no women). Conversely, a higher percentage of women received a wholly suspended sentence of imprisonment (57.8% compared to 33.2% of men).

**Figure 5: The percentage of people sentenced for aggravated burglary by sentence type and gender, 2000-01 to 2004-05**

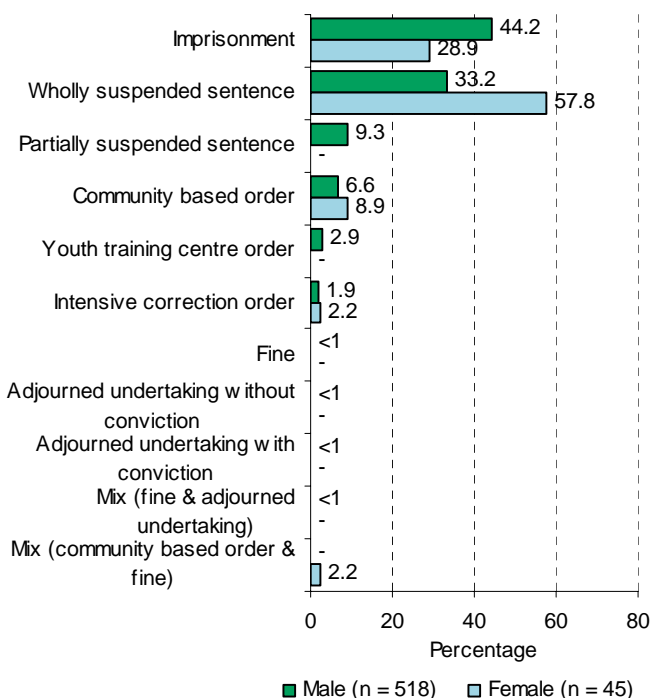


Table 2: The number and percentage breakdown of people sentenced for aggravated burglary by gender, 2000-01 to 2004-05

Sentence type	Male	Female	Total
Imprisonment	229 44%	13 29%	242 43%
Wholly suspended sentence	172 33%	26 58%	198 35%
Partially suspended sentence	48 9%	0 -	48 9%
Community based order	34 7%	4 9%	38 7%
Youth training centre order	15 3%	0 -	15 3%
Intensive correction order	10 2%	1 2%	11 2%
Fine	3 <1%	0 -	3 <1%
Adjourned undertaking without conviction	3 <1%	0 -	3 <1%
Adjourned undertaking with conviction	3 <1%	0 -	3 <1%
Mix (fine & adjourned undertaking)	1 <1%	0 -	1 <1%
Mix (community based order & fine)	0 -	1 2%	1 <1%
<b>People sentenced</b>	<b>518</b>	<b>45</b>	<b>563</b>

## Sentence types by age

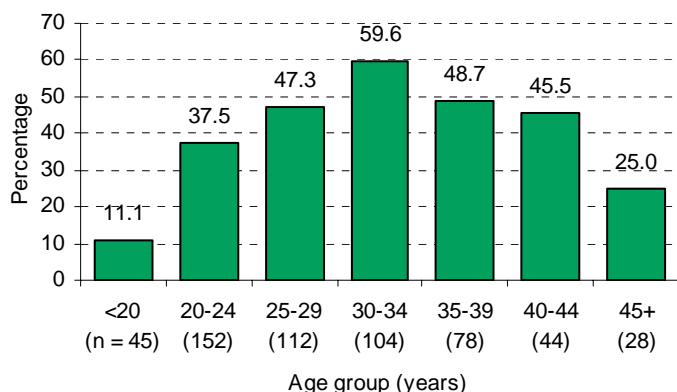
As shown in the table above, the four most common sentence types were imprisonment, wholly suspended sentences of imprisonment, partially suspended sentences of imprisonment and community based orders. The following analysis examines these sentence types by the offender's age group.

### Imprisonment

Sentences of imprisonment were most likely to be given to people aged 30-34 years old (60% or 62 of the 104 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (11% or five of the 45 people in this age group).

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

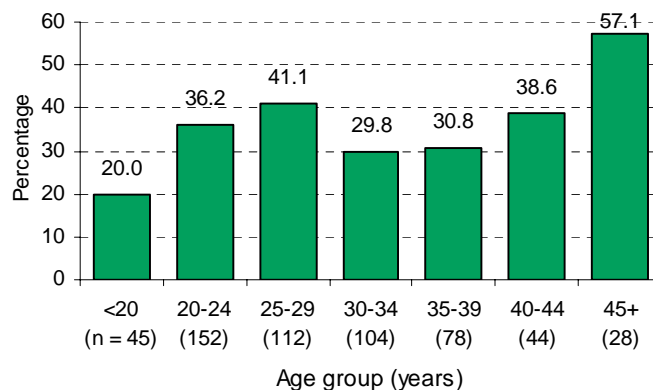


### Wholly suspended sentence of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people over 45 years (57% or 16 of the 28 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged under 20 years (20% or nine of the 45 people in this age group).

Figure 7: The percentage of people who were sentenced to a wholly suspended sentence of imprisonment for aggravated burglary by age group, 2000-01 to 2004-05

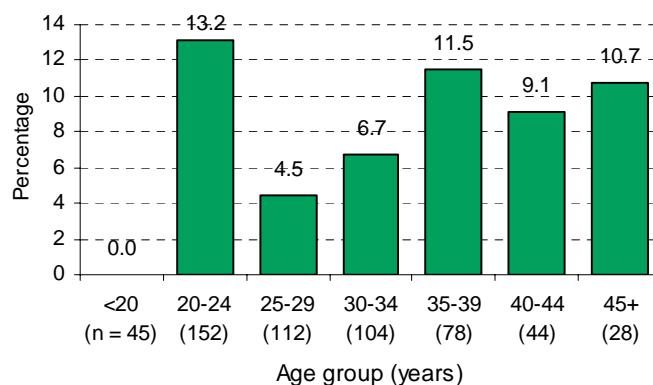


### Partially suspended sentence of imprisonment

Partially suspended sentences of imprisonment were most likely to be given to people aged 20-24 years old (13% or 20 of the 152 people in this age group).

Conversely, none of the 45 people aged under 20 years received a partially suspended sentence.

Figure 8: The percentage of people who were sentenced to a partially suspended sentence of imprisonment for aggravated burglary by age group, 2000-01 to 2004-05

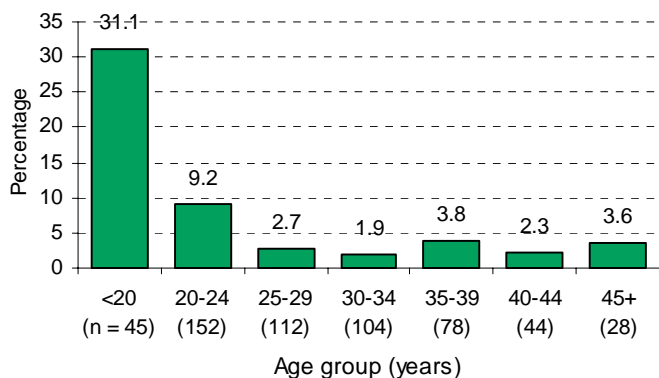


## Community based order

Community based orders were most likely to be given to people aged under 20 years (31% or 14 of the 45 people in this age group).

Conversely, community based orders were least common for those aged 30-34 years old (2% or two of the 104 people in this age group).

Figure 9: The percentage of people who were sentenced to a community based order for aggravated burglary 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.

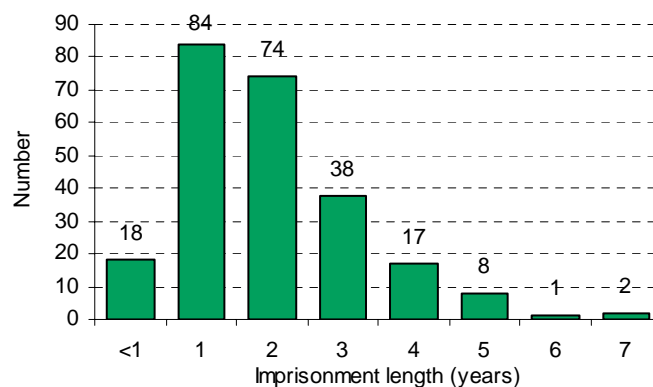
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for aggravated burglary must be considered in this broader context. The following sections analyse the use of imprisonment for aggravated burglary over 2000-01 to 2004-05.

### Principal sentence of imprisonment

Figure 10 shows the number of people sentenced to imprisonment for aggravated burglary between 2000-01 and 2004-05 by the length of the imprisonment term. Imprisonment terms ranged from 3 months to 7 years, while the median length of imprisonment was 2 years (meaning that half of the imprisonment terms were lower than 2 years and half were higher than 2 years).

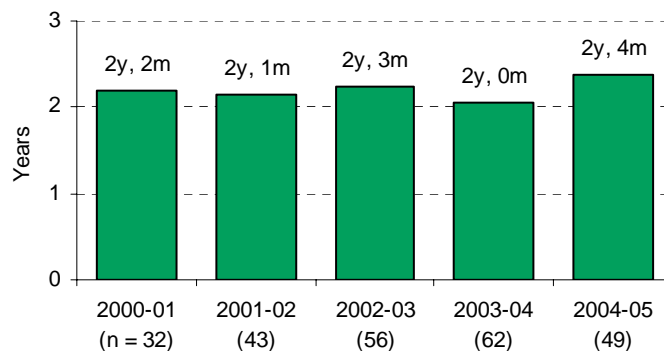
The most common length of imprisonment imposed was 1 year (84 people).

Figure 10: The number of people sentenced to imprisonment for aggravated burglary 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 aggravated burglary ranged from 2 years in 2003-04 to 2 years and 4 months in 2004-05.

Figure 11: The average length of imprisonment term imposed on people sentenced for aggravated burglary, 2000-01 to 2004-05



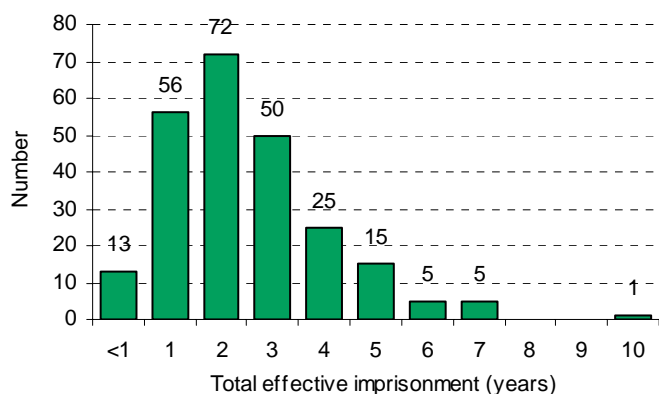
From 2000-01 to 2004-05, the majority of the people who received a term of imprisonment for aggravated burglary were men (229 people or 94.6%). Over the five year period, men received a longer average term of imprisonment (2 years and 2 months compared to 1 year and 5 months for women).

### Total effective sentence of imprisonment

There were 242 people who were given a total effective sentence of imprisonment<sup>12</sup>. Figure 12 shows the number of people sentenced to imprisonment for aggravated burglary 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 ten years<sup>13</sup>, while the median total effective length of imprisonment was two years and nine months (meaning that half of the total effective sentence lengths were below two years and nine months and half were above).

The most common total effective sentence of imprisonment was 2 years (72 people).

Figure 12: The number of people sentenced to imprisonment for aggravated burglary by total effective length of imprisonment term, 2000-01 to 2004-05



## Non-parole period

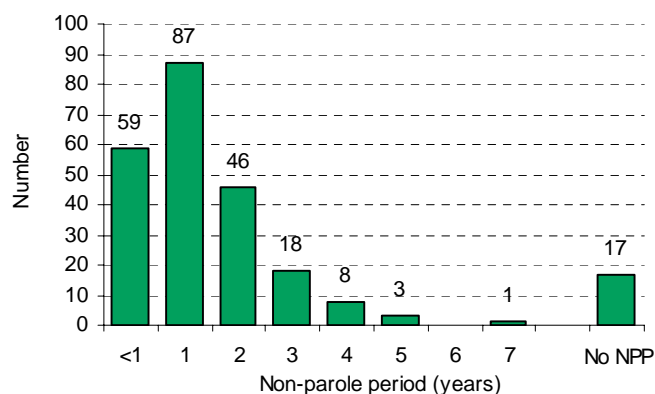
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person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

Of the 242 people who were sentenced to imprisonment for aggravated burglary, 229 people were eligible for parole. Of these people, 222 were given a non-parole period (97%)<sup>14</sup>. Figure 13 shows the number of people sentenced to imprisonment for aggravated burglary between 2000-01 and 2004-05 by the length of their non-parole period. Non-parole periods ranged from four months to seven years, while the median length of the non-parole period was one year and six months (meaning that half of the non-parole periods were shorter than one year and six months and half were longer than one year and six months).

The most common non-parole period imposed was 1 year (87 people).

Figure 13: The number of people sentenced to imprisonment for aggravated burglary by length of non-parole imprisonment term, 2000-01 to 2004-05



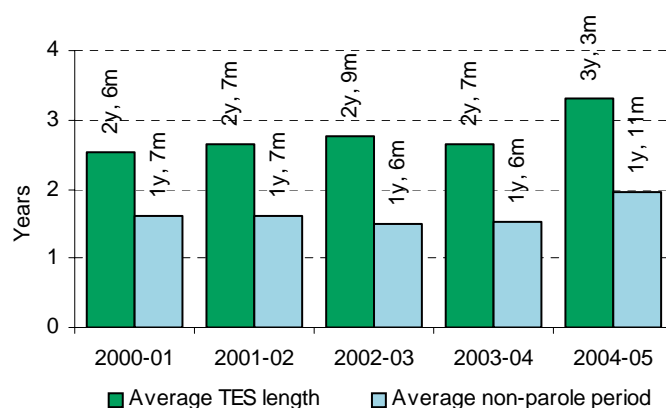
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

## 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 2004-05<sup>15</sup>. 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.

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

Figure 14: People sentenced to imprisonment for aggravated burglary by average total effective sentence and average non-parole period, 2000-01 to 2004-05

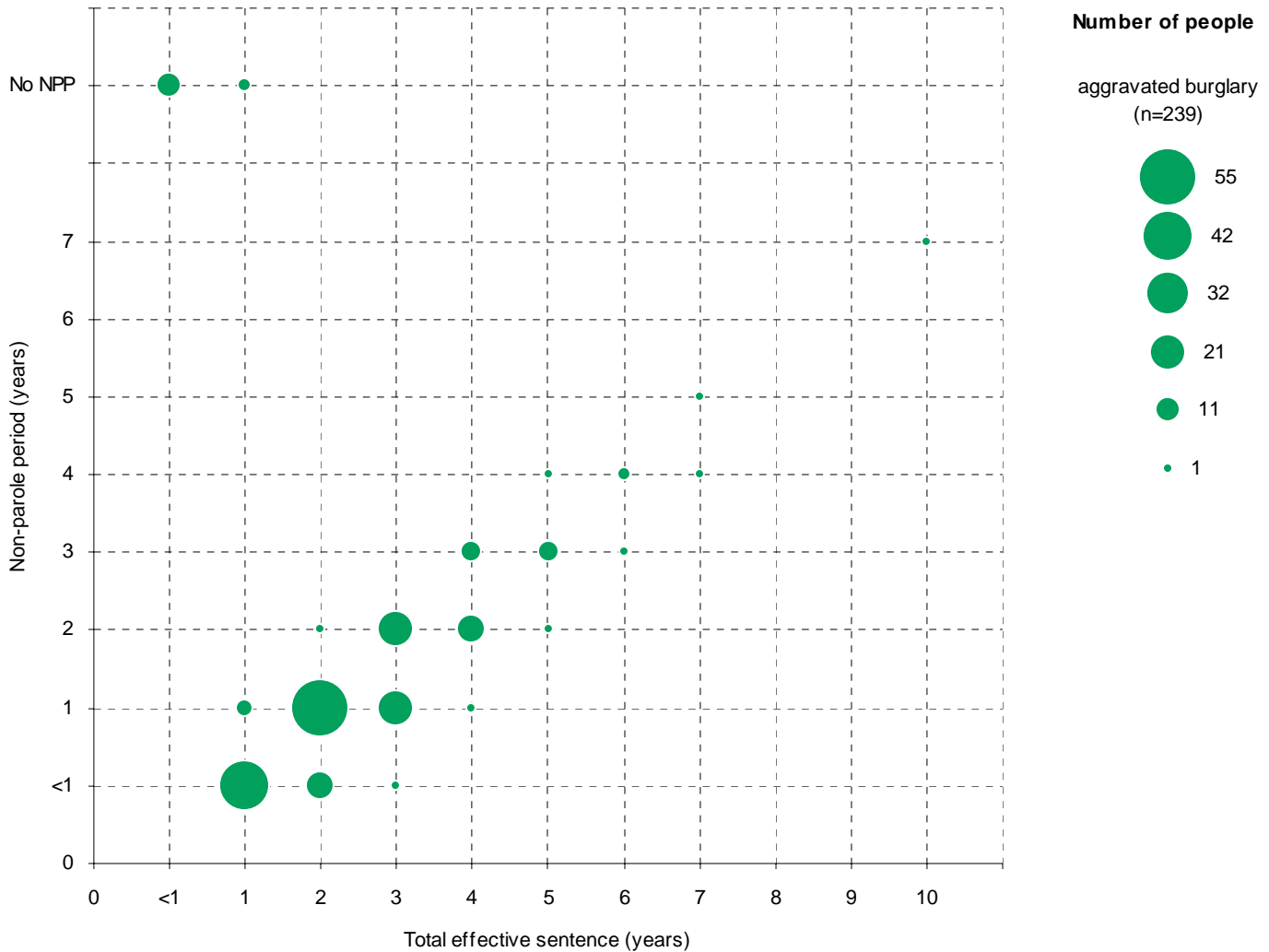


## Total effective sentence of imprisonment by non-parole period

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 aggravated burglary for each individual person.

The centre of each 'bubble' on the chart represents a combination of imprisonment length and non-parole period, while the size of the bubble reflects the number of people who received that particular combination<sup>16</sup>. 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 (55 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from three months with no non-parole period to ten years with a non-parole period of seven years<sup>17</sup>.

Figure 15: The number of people sentenced<sup>18</sup> to imprisonment for aggravated burglary by the total effective sentence and the non-parole period imposed, 2000-01 to 2004-05



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

## Conclusion

Between 2000-01 and 2004-05, 563 people were sentenced for aggravated burglary in the higher courts. Over this period, the majority of those sentenced were men (92%), while 73% were between the age of 18 and 35 years.

Around four in ten people sentenced for aggravated burglary received a period of imprisonment (43%), while 35% received a wholly suspended sentence of imprisonment and 9% received a partially suspended sentence of imprisonment.

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

likely to be sentenced to a wholly suspended sentence of imprisonment.

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

The length of imprisonment ranged from three months with no non-parole period to ten years with a non-parole period of seven years. The most common sentence of imprisonment imposed was two years with one year non-parole.



- 1 This report presents sentencing outcomes for people sentenced for the principal offence of aggravated burglary in the County and Supreme Court of Victoria. The principal offence describes the offence proven that attracted the most serious sentence according to the sentencing hierarchy. The analysis will therefore exclude people sentenced for aggravated burglary who received a more serious sentence for another offence forming part of the same presentment. For example, in 2004-05, 200 people were sentenced for aggravated burglary. Aggravated burglary was the principal offence for 126 of the 200 people.
- 2 The information source for sentencing outcomes for aggravated burglary only contains information on age and gender characteristics. No other demographic analysis is possible.
- 3 The statistical information presented here was provided by Court Services, Department of Justice (Vic). This report describes sentencing trends for aggravated burglary 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.
- 4 *Crimes Act 1958 s.76*
- 5 *Crimes Act 1958 s.77*
- 6 *Crimes Act 1958 s.77*
- 7 Aggravated burglary carries a maximum fine of 3000 penalty units and each penalty unit is worth \$104.81, Victorian Government Gazette 14 April 2005.
- 8 Aggravated burglary was the third 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 Custodial sentence includes imprisonment, partially suspended sentence, youth training centre order and intensive correction order.
- 11 Age is as at the time of sentencing.
- 12 All of the 242 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
- 13 In 2002, a man aged 32 years was sentenced to ten years' imprisonment with a 7 year non-parole period.
- 14 13 people were not eligible for parole because they were given a total effective sentence length of less than one year.  
  
A further 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. The non-parole periods for these people are excluded from the analysis. A non-parole period was not set for four people who were eligible for a non-parole period.
- 15 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
- 16 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.
- 17 Refer fn. 13
- 18 This graph includes the 239 people who were given a total effective sentence and a non-parole period that related to this case only.

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- No. 11 Sentencing trends for aggravated burglary in the higher courts of Victoria

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