

Sentencing Snapshot

Sentencing trends in
the higher courts of
Victoria
2008–09 to 2012–13

June 2014
No. 156

Causing serious injury intentionally

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of causing serious injury intentionally and details the age and gender² of people sentenced for this offence in the County and Supreme Courts of Victoria between 2008–09 and 2012–13.³ Except where otherwise noted, the data represent sentences imposed at first instance.

A person who intentionally causes serious injury to another person without lawful excuse is guilty of this offence. 'Injury' includes unconsciousness, hysteria, pain, and any substantial impairment of bodily function. 'Serious injury' includes a combination of injuries. These definitions are not exhaustive. Causing serious injury intentionally is an indictable offence that carries a maximum penalty of 20 years' imprisonment and/or a fine of 2,400 penalty units. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

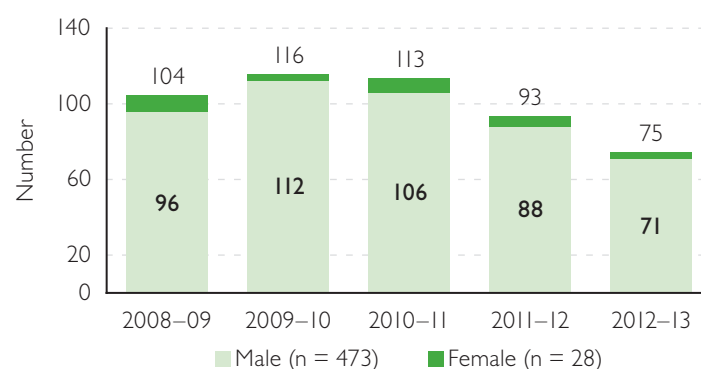
Causing serious injury intentionally was the principal offence⁴ in 5.2% of cases sentenced in the higher courts between 2008–09 and 2012–13.

People sentenced

From 2008–09 to 2012–13, 501 people were sentenced in the higher courts for a principal offence of causing serious injury intentionally. These people are the focus of this Snapshot. However, an additional 82 people were sentenced in cases that involved causing serious injury intentionally but where some other offence was the principal offence. In total, 583 people were sentenced in the higher courts for 646 charges of causing serious injury intentionally.

Figure 1 shows the number of people sentenced for the principal offence of causing serious injury intentionally by gender. Over the five years depicted, the majority of those sentenced were men (94.4% or 473 of the 501 people), including 71 of the 75 people sentenced in 2012–13.

Figure 1: The number of people sentenced for causing serious injury intentionally by gender, 2008–09 to 2012–13



Sentence types and trends

Figure 2 shows the total number of people sentenced for causing serious injury intentionally and the number who received an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate (as opposed to wholly suspended) imprisonment or detention.⁵ Over the five-year period, 87% of people were given an immediate custodial sentence. This peaked at 92% (69 of 75) in 2012–13 after a low of 84% (87 of 104) in 2008–09.

Table 1 shows the number of people sentenced for causing serious injury intentionally from 2008–09 to 2012–13 by the types of sentences imposed.

Over the five-year period, the majority of the people sentenced for causing serious injury intentionally received a period of imprisonment (72% or 363 of 501 people), while 10% received a youth justice centre order.

The number of people receiving a sentence of imprisonment was lowest during 2012–13 (58 people) and highest during 2010–11 (85 people). The percentage of people receiving a sentence of imprisonment was lowest during 2009–10 (77 of 116 people or 66%) and highest in 2011–12 (72 of 93 people or 77%).

The number and percentage of people receiving a youth justice centre order were lowest during 2012–13 (6 of 75 people or 8%) and highest during 2009–10 (14 of 116 people or 12%).

Figure 2: The number of people sentenced for causing serious injury intentionally and the number who received an immediate custodial sentence, 2008–09 to 2012–13



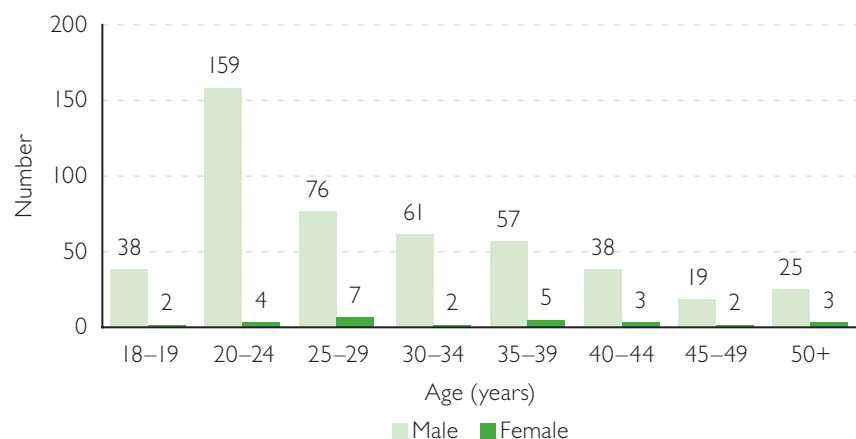
Table 1: The number and percentage of people sentenced for causing serious injury intentionally by sentence type, 2008–09 to 2012–13

Sentence type	2008–09	2009–10	2010–11	2011–12	2012–13	Total
Imprisonment	71 (68%)	77 (66%)	85 (75%)	72 (77%)	58 (77%)	363 (72%)
Youth justice centre order	10 (10%)	14 (12%)	10 (9%)	8 (9%)	6 (8%)	48 (10%)
Wholly suspended sentence	11 (11%)	11 (9%)	7 (6%)	5 (5%)	0 –	34 (7%)
Partially suspended sentence	6 (6%)	7 (6%)	5 (4%)	0 –	1 (1%)	19 (4%)
Non-custodial supervision order	2 (2%)	5 (4%)	2 (2%)	2 (2%)	2 (3%)	13 (3%)
Community correction order	0 –	0 –	0 –	5 (5%)	4 (5%)	9 (2%)
Intensive correction order	2 (2%)	1 (<1%)	1 (<1%)	0 –	0 –	4 (<1%)
Community-based order	2 (2%)	0 –	2 (2%)	0 –	0 –	4 (<1%)
Mix (imprisonment and community correction order)	0 –	0 –	0 –	0 –	3 (4%)	3 (<1%)
Mix (imprisonment and community-based order)	0 –	0 –	1 (<1%)	0 –	0 –	1 (<1%)
Hospital security order	0 –	1 (<1%)	0 –	0 –	0 –	1 (<1%)
Custodial supervision order	0 –	0 –	0 –	1 (1%)	0 –	1 (<1%)
Aggregate imprisonment	0 –	0 –	0 –	0 –	1 (1%)	1 (<1%)
People sentenced	104	116	113	93	75	501

Age and gender of people sentenced

Figure 3 shows the gender of people sentenced for causing serious injury intentionally grouped by their age⁶ between 2008–09 and 2012–13. The average (mean) age of people sentenced for causing serious injury intentionally was 30 years. Women sentenced over this period were older than men (an average age of 34 years and 3 months for women compared with 29 years and 9 months for men). There were no juveniles sentenced over this period.⁷

Figure 3: The number of people sentenced for causing serious injury intentionally by gender and age, 2008–09 to 2012–13



Sentence types by gender

Table 2 shows the types of sentences imposed for causing serious injury intentionally grouped by gender. As shown, a higher percentage of men received a period of imprisonment (73.8% compared with 50.0% of women) and a partially suspended sentence of imprisonment (4.0% compared with no women). Conversely, a higher percentage of women received a non-custodial supervision order (14.3% compared with 1.9% of men), a wholly suspended sentence of imprisonment (14.3% compared with 6.3%), and a custodial supervision order (3.6% compared with no men).

Table 2: The number and percentage of people sentenced for causing serious injury intentionally by sentence type and gender, 2008–09 to 2012–13

Sentence type	Male	Female
Imprisonment	349 (74%)	14 (50%)
Youth justice centre order	46 (10%)	2 (7%)
Wholly suspended sentence	30 (6%)	4 (14%)
Partially suspended sentence	19 (4%)	0 –
Non-custodial supervision order	9 (2%)	4 (14%)
Community correction order	8 (2%)	1 (4%)
Intensive correction order	4 (<1%)	0 –
Community-based order	3 (<1%)	1 (4%)
Mix (imprisonment and community correction order)	2 (<1%)	1 (4%)
Mix (imprisonment and community-based order)	1 (<1%)	0 –
Hospital security order	1 (<1%)	0 –
Custodial supervision order	0 –	1 (4%)
Aggregate imprisonment	1 (<1%)	0 –
People sentenced	473	28

Sentence types by age

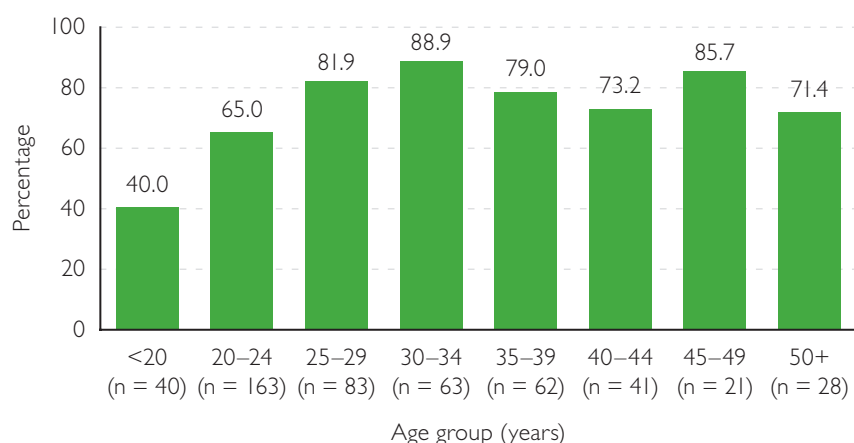
As shown in Table 1, the most common sentence type was imprisonment. The following analysis examines this sentence type by the offenders' age group.

Imprisonment

As shown in Figure 4, sentences of imprisonment were most likely to be given to people aged 30–34 years (89% or 56 of the 63 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 20 years (40% or 16 of the 40 people in this age group).

Figure 4: The percentage of people who received a period of imprisonment for causing serious injury intentionally by age group, 2008–09 to 2012–13



Principal and total effective sentences

Two methods for describing sentence types and 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 the individual sentence imposed for the charge that is the principal offence.⁸

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 will be longer than the principal sentence. Principal sentences for causing serious injury intentionally must be considered in this broader context. The following sections analyse the use of imprisonment for the offence of causing serious injury intentionally from 2008–09 to 2012–13.

Principal sentence of imprisonment

A total of 367 people received a principal sentence of imprisonment for causing serious injury intentionally between 2008–09 and 2012–13.

Figure 5 shows these people by the length of their imprisonment term.⁹ Imprisonment terms ranged from 5 days to 12 years, while the median length of imprisonment was 4 years (meaning that half of the imprisonment terms were shorter than 4 years and half were longer).

The most common range of imprisonment length was 4 to less than 5 years (99 people).

Expanding the analysis from principal sentences of imprisonment to all charges that received imprisonment, there were 484 charges of causing serious injury intentionally sentenced to imprisonment between 2008–09 and 2012–13. Imprisonment lengths ranged from 5 days to 12 years while the median was 4 years and the most common range of imprisonment length was 4 to less than 5 years (116 charges).

Returning to principal sentences of imprisonment, as shown in Figure 6, the average (mean) length of imprisonment term imposed on people sentenced for causing serious injury intentionally ranged from 3 years and 8 months in 2008–09 to 4 years and 9 months in 2010–11.

From 2008–09 to 2012–13, the majority of people who received a term of imprisonment for causing serious injury intentionally were men (352 people or 95.9%). Over the five-year period, the average (mean) sentence of imprisonment was 4 years and 5 months for men compared with 3 years and 7 months for women.

Other offences finalised at the same hearing

Often people prosecuted for causing serious injury intentionally face multiple charges, which are finalised at the same hearing. This section looks at the range of offences for which offenders have been sentenced at the same time as being sentenced for the principal offence of causing serious injury intentionally.

Figure 7 shows the number of people sentenced for the principal offence of causing serious injury intentionally by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 46, while the median was 2 offences. There were 222 people (44.3 %) sentenced for the single offence of causing serious injury intentionally. The average (mean) number of offences per person sentenced for causing serious injury intentionally was 2.76.

Figure 5: The number of people sentenced to imprisonment for causing serious injury intentionally by length of imprisonment term, 2008–09 to 2012–13

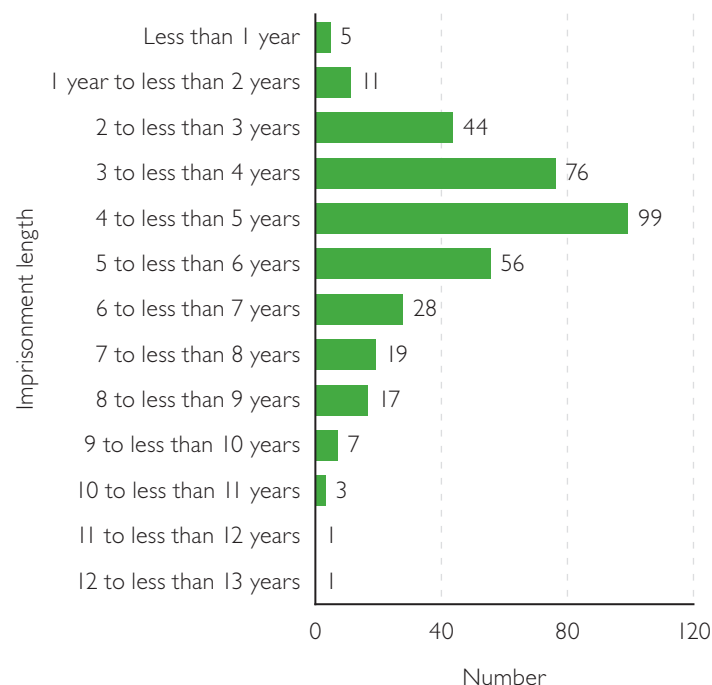


Figure 6: The average length of imprisonment term imposed on people sentenced for causing serious injury intentionally, 2008–09 to 2012–13

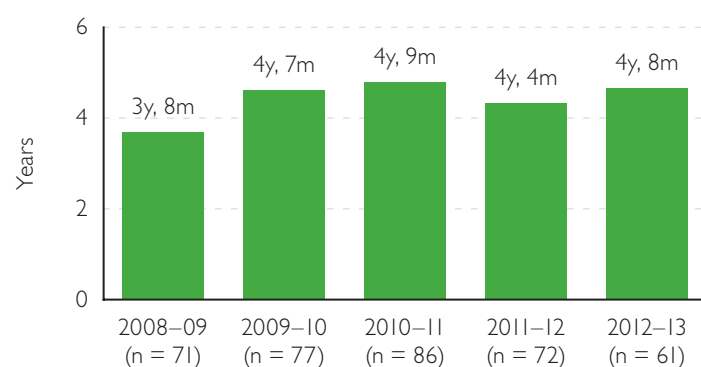
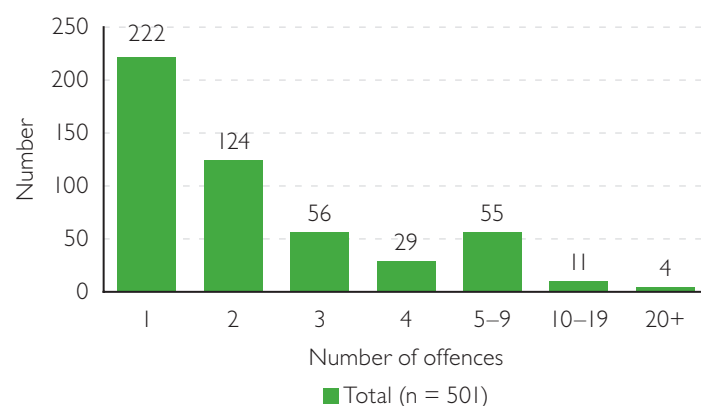


Figure 7: The number of people sentenced for the principal offence of causing serious injury intentionally by the number of sentenced offences per person, 2008–09 to 2012–13



While Figure 7 presents the number of sentenced offences for those sentenced for causing serious injury intentionally, Table 3 shows what the accompanying offences were. It shows the number and percentage of people sentenced for the 10 most common offences. The last column sets out the average (mean) number of offences sentenced per person. For example, 52 of the total 501 people (10.4%) also received sentences for theft. On average, they were sentenced for 1.63 counts of theft.

Table 3: The number and percentage of people sentenced for the principal offence of causing serious injury intentionally by the most common offences that were sentenced and the average number of those offences that were sentenced, 2008–09 to 2012–13

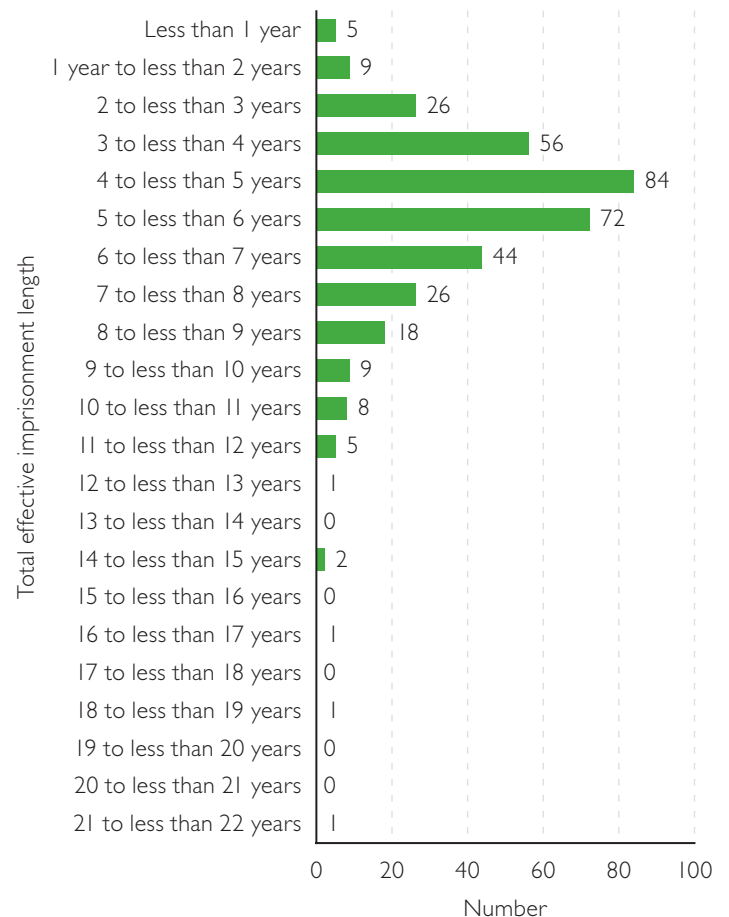
	Offence	No.	%	Average
1	Causing serious injury intentionally	501	100.0	1.09
2	Causing injury intentionally	66	13.2	1.36
3	Theft	52	10.4	1.63
4	Aggravated burglary	49	9.8	1.22
5	Intentionally damage/destroy property	33	6.6	1.39
6	Affray	32	6.4	1.09
7	Common law assault	32	6.4	1.50
8	False imprisonment	31	6.2	1.29
9	Causing serious injury recklessly	28	5.6	1.11
10	Armed robbery	27	5.4	3.30
	People sentenced	501	100.0	2.76

Total effective sentence of imprisonment

There were 368 people given a total effective sentence of imprisonment.¹⁰ Figure 8 shows the number of people sentenced to imprisonment for causing serious injury intentionally between 2008–09 and 2012–13 by length of total effective sentence. The length of total effective sentences ranged from 5 days to 21 years and 4 months (18 years and 6 months after appeals are taken into account) while the median total effective length of imprisonment was 5 years (meaning that half of the total effective sentence lengths were below 5 years and half were above).

The most common range of total effective imprisonment length was 4 to less than 5 years (84 people).

Figure 8: The number of people sentenced to imprisonment for causing serious injury intentionally by length of total effective imprisonment term, 2008–09 to 2012–13



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 section 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 longer than the individual principal sentence for causing serious injury intentionally. Sentences and non-parole periods must be considered in this broader context.

Of the 368 people who were sentenced to imprisonment for causing serious injury intentionally, 363 were eligible to have a non-parole period fixed.¹¹ Of these people, 357 were given a non-parole period (98%).¹² Figure 9 shows the number of people sentenced to imprisonment for causing serious injury intentionally between 2008–09 and 2012–13 by length of non-parole period. Non-parole periods ranged from 6 months to 18 years (13 years and 6 months after appeals are taken into account), while the median length of the non-parole period was 3 years (meaning that half of the non-parole periods were below 3 years and half were above).

The most common range of non-parole period imposed was 2 to less than 3 years (90 people).

Total effective sentences of imprisonment and non-parole periods

Figure 10 presents the average (mean) length of total effective sentences of imprisonment compared with the average length of non-parole periods for all people from 2008–09 to 2012–13. From 2008–09 to 2012–13, the average length of total effective sentences ranged from 4 years and 5 months in 2008–09 to 5 years and 8 months in 2009–10. Over the same period, the average length of non-parole periods ranged from 2 years and 7 months in 2008–09 to 3 years and 7 months in 2009–10 and 2012–13.

Men tended to receive longer total effective sentences of imprisonment than women. Over the five-year period, the average for men was 5 years and 2 months compared with 4 years and 1 month for women.

Figure 9: The number of people sentenced to imprisonment for causing serious injury intentionally by length of non-parole period, 2008–09 to 2012–13

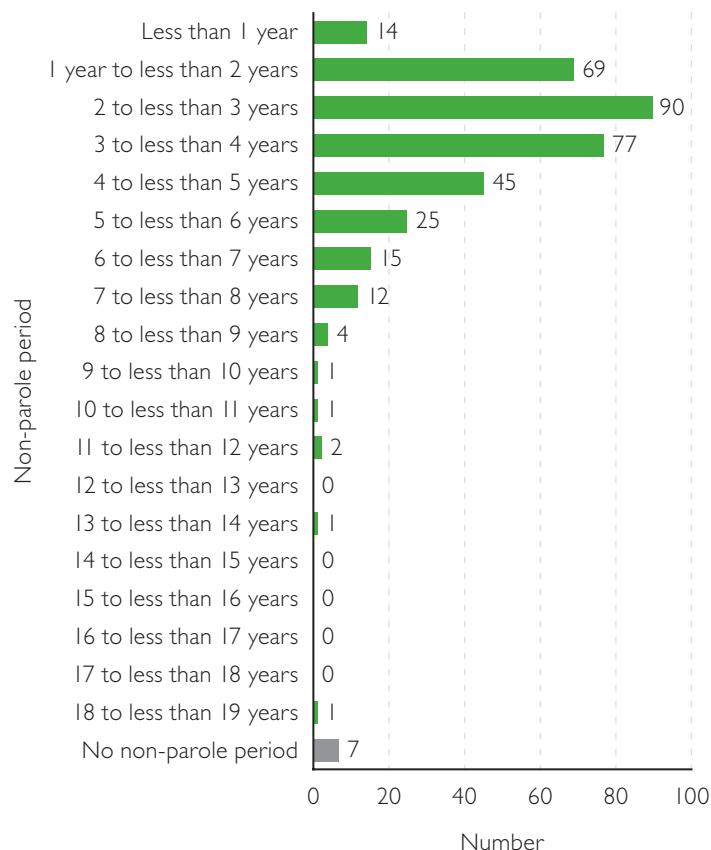
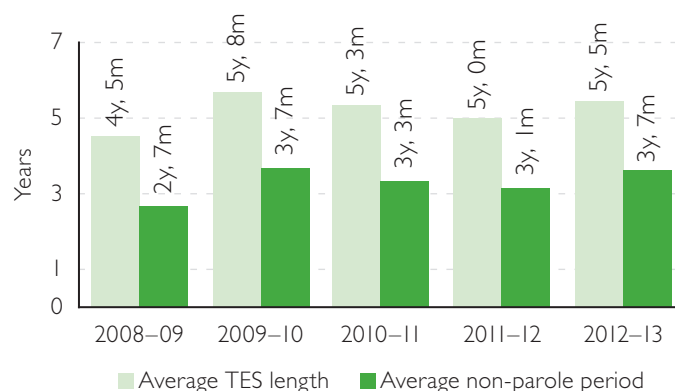


Figure 10: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for causing serious injury intentionally, 2008–09 to 2012–13



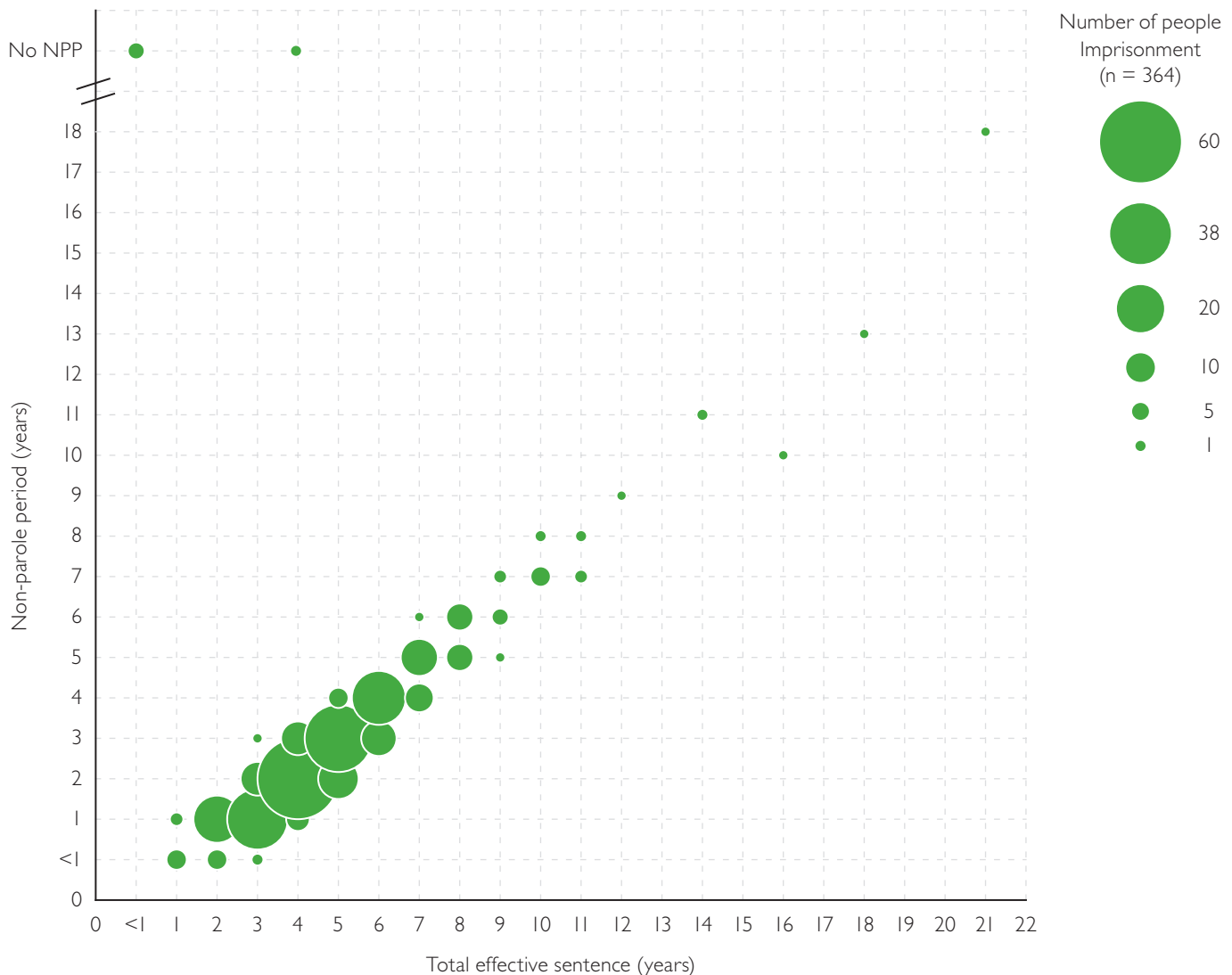
Total effective sentence of imprisonment by non-parole period

While Figures 8 and 9 present the lengths of the total effective sentences and non-parole periods separately, Figure 11 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. Sentence lengths and non-parole periods that are longer than one year are rounded down to the nearest year of imprisonment, while sentence lengths and non-parole periods of less than one year are grouped into the '<1' year category. For example, a sentence length of 2 years and 6 months would be included as a sentence length of 2 years for the purposes of Figure 11.

As shown, the most common combination of imprisonment length and non-parole period imposed was 4 years with a non-parole period of 2 years (60 people – as represented by the largest bubble on the chart). The length of imprisonment ranged from 4 days with no non-parole period to 21 years and 4 months with a non-parole period of 18 years. After appeals are taken into account, the longest sentence combination was an imprisonment term of 16 years and 6 months with a non-parole period of 12 years and 6 months.

Figure 11: The number of people sentenced to imprisonment for causing serious injury intentionally by the total effective sentence and the non-parole period imposed, 2008–09 to 2012–13



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

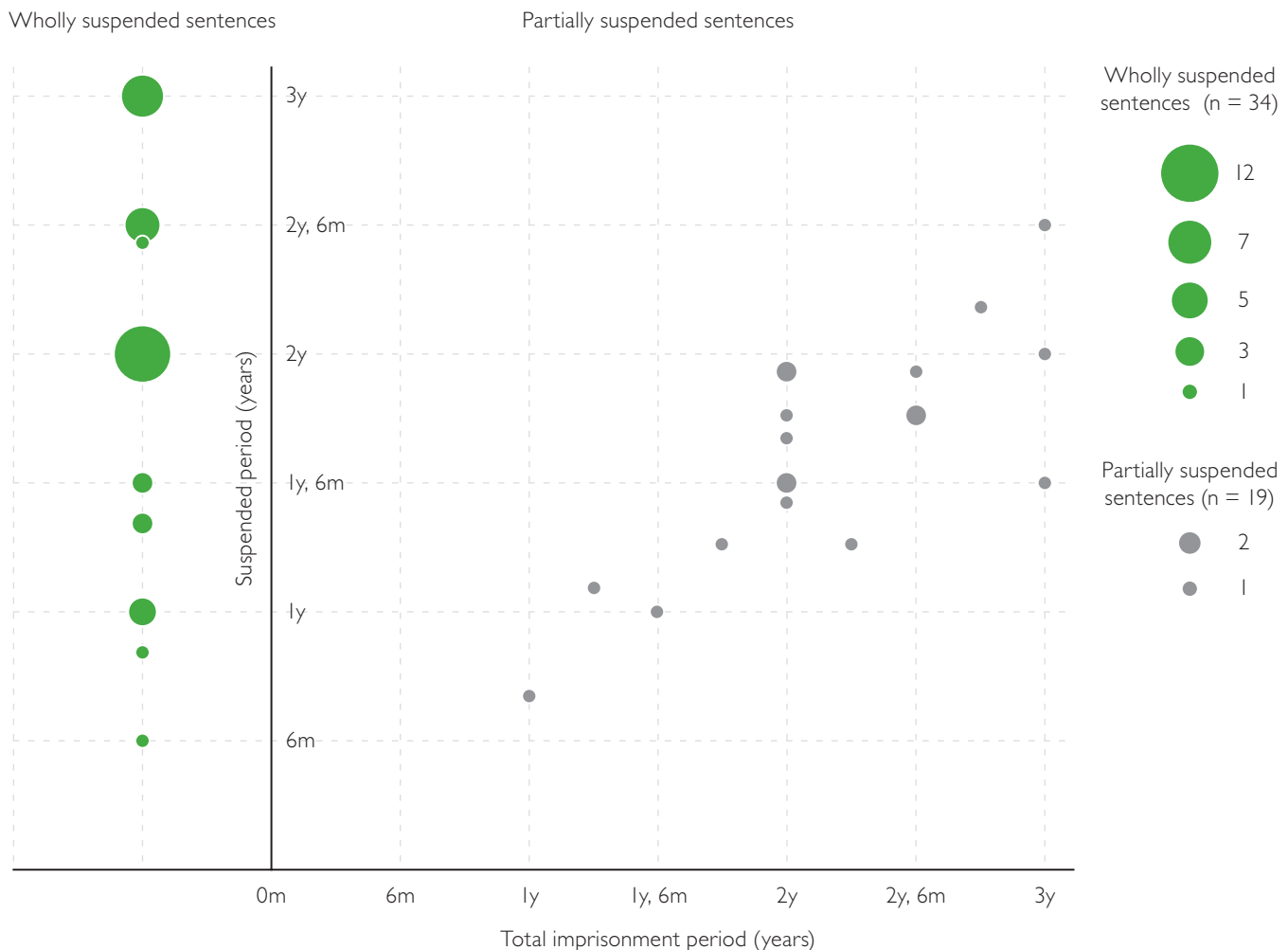
Suspended sentences of imprisonment

There were 53 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 34 people had their prison sentence wholly suspended and 19 received a partially suspended sentence of imprisonment. Figure 12 shows the number of people with a suspended sentence of imprisonment as their total effective sentence by the suspended sentence type and length of sentence. The green 'bubbles' to the left of the vertical axis show the lengths of the wholly suspended sentences, while the grey bubbles to the right of the vertical axis show the combination of total imprisonment length and the suspended period for those sentenced to a partially suspended sentence. The size of the bubble reflects the number of people who received either the wholly or the partially suspended prison term. Imprisonment lengths and suspended periods that end part way through a month are rounded down to the nearest complete month. For example, a wholly suspended sentence of 6 months and 12 days would be included as a sentence length of 6 months for the purposes of Figure 12.

Wholly suspended sentence lengths ranged from 6 months to 3 years. The most common wholly suspended sentence length was 2 years (12 people – as represented by the largest green bubble on the chart).

The most common partially suspended sentence combinations were 2 years with 1 year and 6 months suspended, 2 years with 1 year and 11 months suspended, and 2 years and 6 months with 1 year and 9 months suspended (2 people each – as represented by the three larger grey bubbles on the chart).

Figure 12: The number of people given a wholly or partially suspended sentence of imprisonment for causing serious injury intentionally by sentence type and length, 2008–09 to 2012–13



Community correction orders

Community correction orders were introduced in early 2012 to replace community-based orders and intensive correction orders. A feature of community correction orders is that the sentence length on the order can be as high as the statutory maximum of the offence being sentenced.

From 2008–09 to 2012–13, 9 people sentenced for the principal offence of causing serious injury intentionally were given a community correction order. The length of community correction orders ranged from 1 year to 3 years and 6 months. The most commonly used community correction order length was 2 years (given to 4 people or 44.4%).

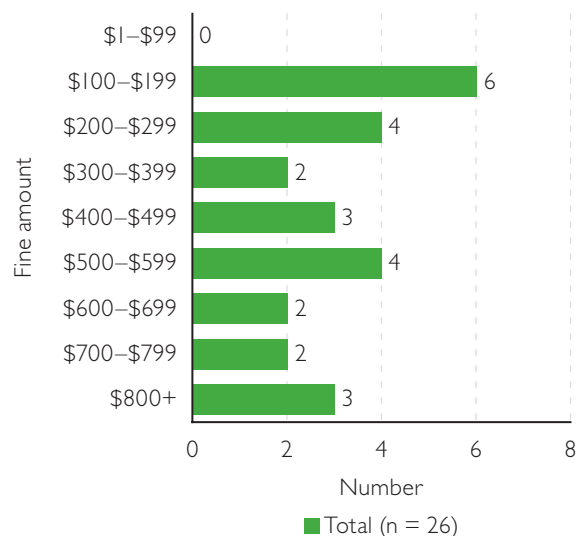
Fines

This analysis includes all fines that were imposed for cases where causing serious injury intentionally was the principal offence. Fines were imposed on 25 people.

As Figure 13 shows, the fine amount imposed ranged from \$100 to \$3,500, with a median of \$400 (meaning that half of the values fell below \$400 and half of the values were above \$400).

The average (mean) fine amount was \$592. The average fine amount imposed against the 24 males was \$604, much higher than the fine imposed against the 1 female (\$300).

Figure 13: The number of people who received a fine for causing serious injury intentionally by fine amount, 2008–09 to 2012–13



Appeals

A sentence imposed on a person may be appealed¹³ by that person or by the Crown. A person sentenced may also appeal against their conviction. All appeals made in relation to people sentenced in the higher courts are determined by the Court of Appeal.

Up to June 2013, 2 people sentenced for a principal offence of causing serious injury intentionally in the period 2008–09 to 2012–13 successfully appealed their conviction and were granted a retrial. Thus, the number of people sentenced from 2008–09 to 2012–13 for a principal offence of causing serious injury intentionally was reduced to 499 people once appeals are considered.

As a result of successful appeals against sentence, the total effective sentence and/or the non-parole period changed for 22 people. Of these, 18 were made by the person sentenced and resulted in a sentence reduction. The longest total effective imprisonment term to be reduced was a sentence of 21 years and 4 months, which decreased to 16 years and 6 months. The remaining 4 successful appeals were made by the Crown.

The principal sentence changed for 20 people as a result of a successful appeal. The longest principal sentence of imprisonment reduced was 9 years, which decreased to 6 years. The longest of the 4 principal sentences of imprisonment that increased after appeals was 6 years and 6 months, which was changed to 8 years and 6 months.

With the original sentencing data revised to incorporate appeal outcomes, the adjusted longest total effective imprisonment term was changed at 18 years and 6 months. The adjusted longest non-parole period was 13 years and 6 months.

The adjusted longest principal sentence of imprisonment was unchanged at 12 years.

Summary

Between 2008–09 and 2012–13, 501 people were sentenced for causing serious injury intentionally in the higher courts. Over this period, the majority of people sentenced were men (94%), while 90% were between the age of 18 and 45 years.

The majority of the people sentenced for causing serious injury intentionally received a period of imprisonment (73%), while 10% received a youth justice centre order.

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

Imprisonment was more common for those aged between 25 and 50 years.

Each of the 501 people was sentenced for an average (mean) of 2.76 offences, including 1.09 offences of causing serious injury intentionally. The most common offence finalised in conjunction with causing serious injury intentionally was causing injury intentionally (66 cases or 13.2%). The number and range of offences for which people with a principal offence of causing serious injury intentionally were sentenced help explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was 5 years, while the median principal imprisonment length was 4 years.

Total effective imprisonment lengths ranged from 4 days with no non-parole period to 21 years and 4 months with a non-parole period of 18 years. The most common sentence of imprisonment was 4 years with a non-parole period of 2 years.

A small number of people were able to successfully appeal against their sentences. When the results of the appeal outcomes are incorporated into the original sentencing data, the range of total effective imprisonment length was 5 days to 18 years and 6 months and the range of principal imprisonment sentence length was unchanged at 5 days to 12 years.

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 defendant is 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. 125, which describes sentencing trends for causing serious injury intentionally between 2004–05 and 2008–09.
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 using this data source.
3. The source data for the statistical information presented in this Snapshot were provided by the Business Intelligence area of the Courts and Tribunals unit within the Department of Justice (Vic). 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 are accurate, the data are subject to revision.
4. 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.
5. Immediate custodial sentence includes imprisonment, youth justice centre order, partially suspended sentence, mix (imprisonment and community-based order), mix (imprisonment and community correction order), hospital security order, custodial supervision order, and aggregate imprisonment.
6. Age is as at the time of sentencing.
7. Some defendants who were under the age of 18 at the time of committing the alleged offence and who were not 19 years or older at the time proceedings commenced may have been dealt with in the Children's Court of Victoria.
8. Refer to Endnote 4.
9. Data presented in this section do 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 5 only deals with sentences of imprisonment for the principal proven offence of causing serious injury intentionally. During the 2008–09 to 2012–13 period, 1 person received an aggregate form of imprisonment.
10. All of the 367 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence. In addition, the 1 person with an aggregate imprisonment sentence is counted in Figure 8.
11. A total of 5 people were not eligible for parole because they were given a total effective sentence length of less than 1 year.
12. A total of 4 people were not given a non-parole period relating to that case alone, but a non-parole period that also related to other cases. It is not possible to determine the length of the non-parole period that relates to these cases. The non-parole periods for these people are excluded from the analysis. A non-parole period was not set for 2 people who were eligible for a non-parole period.
13. Appeals data were collected by the Sentencing Advisory Council from transcripts of sentencing remarks of criminal appeals on the Australasian Legal Information Institute's website <www.austlii.gov.au>.

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