

Sentencing trends in  
the higher courts of  
Victoria  
2010–11 to 2014–15

June 2016  
No. 183

## Burglary

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of burglary in the County Court of Victoria between 2010–11 and 2014–15.<sup>2</sup> Adjustments made by the Court of Appeal to sentence or conviction as at June 2015 have been incorporated into the data in this Snapshot.

Detailed data on [burglary](#) and other offences are available on [SACStat – Higher Courts](#).

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 damage the building or property in the building is guilty of burglary. Burglary<sup>3</sup> is an indictable offence that carries a maximum penalty of 10 years' imprisonment and/or a fine of up to 1,200 penalty units.<sup>4</sup> Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court. Burglary can also be tried summarily by the Magistrates' Court, if the offence involves an intent to steal property not exceeding a \$100,000 value, the Magistrates' Court considers it appropriate, and the defendant consents.

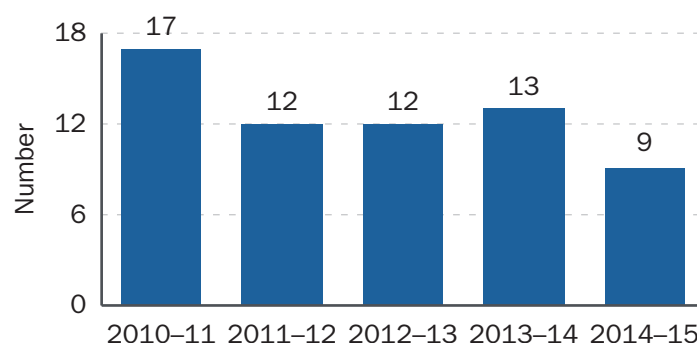
Burglary was the principal offence<sup>5</sup> in 0.7% of cases sentenced in the higher courts between 2010–11 and 2014–15.

### People sentenced

From 2010–11 to 2014–15, 63 people were sentenced in the higher courts for a principal offence of burglary.

Figure 1 shows the number of people sentenced for the principal offence of burglary by financial year. There were 9 people sentenced for this offence in 2014–15, down by 4 people from the previous year. The number of people sentenced was highest in 2010–11 at 17 people.

**Figure 1:** The number of people sentenced for burglary by financial year, 2010–11 to 2014–15



### Sentence types and trends

Figure 2 shows the total number of people sentenced for burglary and the number that 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.<sup>6</sup> Over the five-year period, 81% of people were given an immediate custodial sentence. This peaked at 89% (8 of 9) in 2014–15 after a low of 75% (9 of 12) in 2012–13.

**Figure 2:** The number of people sentenced for burglary and the number that received an immediate custodial sentence, 2010–11 to 2014–15

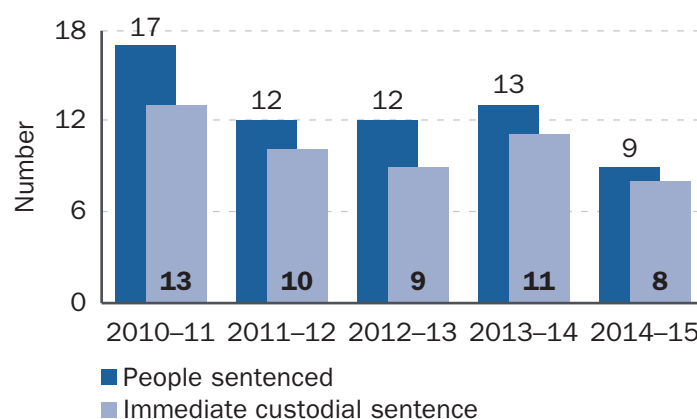


Table 1 shows the number of people sentenced for burglary from 2010–11 to 2014–15 by the types of sentences imposed.

Over the five-year period, the majority of the people sentenced for burglary received a period of imprisonment (67% or 42 of 63 people). Three people (5%) each received a partially suspended sentence, a wholly suspended sentence, and a community correction order.

The percentage of people receiving imprisonment for burglary peaked at 83% (10 of 12 people) in 2011–12, while the number receiving imprisonment was highest in 2010–11 (12 people). The number and percentage of people receiving imprisonment were lowest in 2012–13 (42% or 5 of 12 people). In 2014–15, 67% (6 of 9) of people sentenced for burglary received imprisonment.

**Table 1:** The number and percentage of people sentenced for burglary by sentence type, 2010–11 to 2014–15

Sentence type	2010–11	2011–12	2012–13	2013–14	2014–15	Total
Imprisonment	12 (71%)	10 (83%)	5 (42%)	9 (69%)	6 (67%)	42 (67%)
Partially suspended sentence	0 (–)	0 (–)	3 (25%)	0 (–)	0 (–)	3 (5%)
Wholly suspended sentence	2 (12%)	1 (8%)	0 (–)	0 (–)	0 (–)	3 (5%)
Community correction order	0 (–)	0 (–)	1 (8%)	1 (8%)	1 (11%)	3 (5%)
Aggregate imprisonment	0 (–)	0 (–)	0 (–)	1 (8%)	1 (11%)	2 (3%)
Youth justice centre order	1 (6%)	0 (–)	0 (–)	1 (8%)	0 (–)	2 (3%)
Aggregate wholly suspended sentence	0 (–)	1 (8%)	1 (8%)	0 (–)	0 (–)	2 (3%)
Mix (aggregate imprisonment and community correction order)	0 (–)	0 (–)	0 (–)	0 (–)	1 (11%)	1 (2%)
Aggregate partially suspended sentence	0 (–)	0 (–)	1 (8%)	0 (–)	0 (–)	1 (2%)
Non-custodial supervision order	0 (–)	0 (–)	0 (–)	1 (8%)	0 (–)	1 (2%)
Community-based order	1 (6%)	0 (–)	0 (–)	0 (–)	0 (–)	1 (2%)
Aggregate fine	0 (–)	0 (–)	1 (8%)	0 (–)	0 (–)	1 (2%)
Adjourned undertaking with conviction	1 (6%)	0 (–)	0 (–)	0 (–)	0 (–)	1 (2%)
<b>People sentenced</b>	<b>17</b>	<b>12</b>	<b>12</b>	<b>13</b>	<b>9</b>	<b>63</b>

## Age and gender of people sentenced

Data on the age and gender of people sentenced for [burglary](#) are available on [SACStat – Higher Courts](#).

## 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.<sup>7</sup>

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 burglary must be considered in this broader context. The following sections analyse the use of imprisonment for the offence of burglary from 2010–11 to 2014–15.

### Principal sentence of imprisonment

A total of 45 people (71%) received a principal sentence of imprisonment for burglary between 2010–11 and 2014–15.<sup>8</sup>

Figure 3 shows these people by the length of their imprisonment term.<sup>9</sup> Imprisonment terms ranged from 2 months and 19 days to 4 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 (18 people).

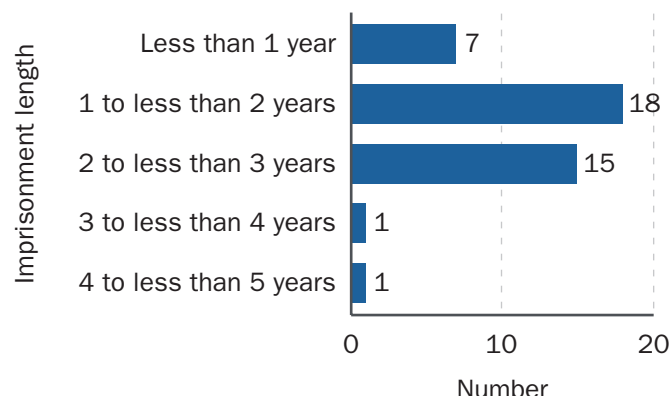
As shown in Figure 4, the average length of imprisonment term imposed on people sentenced for burglary ranged from 1 year and 3 months in 2011–12 to 2 years in 2012–13. In 2014–15, the average imprisonment length imposed was 1 year and 4 months.

### Other offences finalised at the same hearing

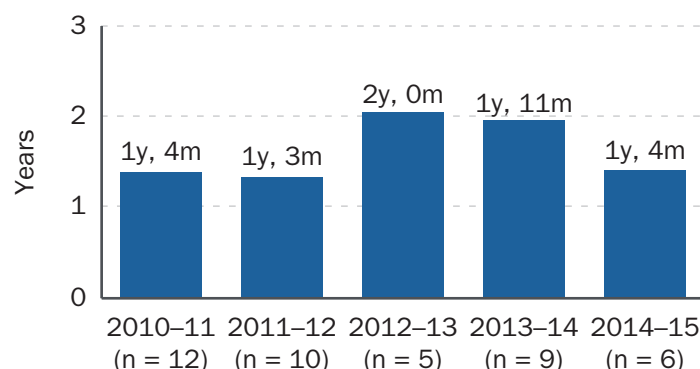
Often people prosecuted for burglary face multiple charges, which are finalised at the same hearing. This section looks at the range of offences for which offenders have been sentenced at the same time as being sentenced for the principal offence of burglary.

Figure 5 shows the number of people sentenced for the principal offence of burglary by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 76 while the median was 8 offences. There were two people (3.2%) sentenced for the single offence of burglary. The average (mean) number of offences per person sentenced for burglary was 13.68.

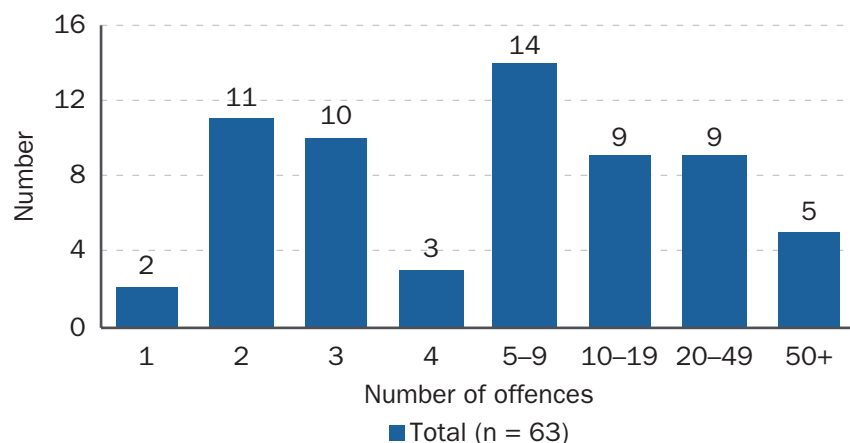
**Figure 3:** The number of people sentenced to imprisonment for burglary by length of imprisonment term, 2010–11 to 2014–15



**Figure 4:** The average length of imprisonment term imposed on people sentenced for burglary, 2010–11 to 2014–15



**Figure 5:** The number of people sentenced for the principal offence of burglary by the number of sentenced offences per person, 2010–11 to 2014–15



While Figure 5 presents the number of sentenced offences for those sentenced for burglary, Table 2 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 number of offences sentenced per person. For example, 55 of the total 63 people (87.3%) also received sentences for theft. On average, they were sentenced for 5.95 counts of theft.

**Table 2:** The number and percentage of people sentenced for the principal offence of burglary by the most common offences that were sentenced and the average number of those offences that were sentenced, 2010–11 to 2014–15

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Burglary	63	100	4.67
2. Theft	55	87.3	5.95
3. Handling stolen goods	14	22.2	1.86
4. Intentionally destroy/damage property (criminal damage)	12	19.0	1.83
5. Possess a drug of dependence	10	15.9	3.40
6. Obtaining property by deception	8	12.7	4.00
7. Attempted theft	6	9.5	1.67
8. Attempted burglary	5	7.9	1.60
9. Possess prohibited weapon without exemption	4	6.3	3.00
10. Trafficking in a non-commercial quantity of a drug of dependence	4	6.3	2.50
<b>People sentenced</b>	<b>63</b>	<b>100.0</b>	<b>13.68</b>

### Total effective sentence of imprisonment

Figure 6 shows the number of people sentenced to imprisonment for burglary between 2010–11 and 2014–15 by length of total effective sentence. The length of total effective sentences ranged from 2 months and 19 days to 7 years and 6 months, while the median total effective length of imprisonment was 3 years (meaning that half of the total effective sentence lengths were below 3 years and half were above).

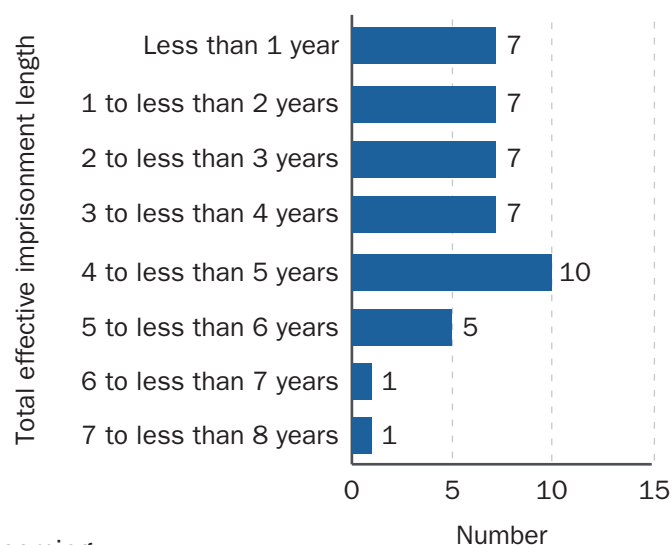
The most common total effective imprisonment length was 4 to less than 5 years (10 people).

### 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 burglary. Sentences and non-parole periods must be considered in this broader context.

**Figure 6:** The number of people sentenced to imprisonment for burglary by length of total effective imprisonment term, 2010–11 to 2014–15



Of the 45 people who were sentenced to imprisonment for burglary, 38 were eligible to have a non-parole period fixed.<sup>10</sup> Of these people, 37 were given a non-parole period (97%).<sup>11</sup> Figure 7 shows the number of people sentenced to imprisonment for burglary between 2010–11 and 2014–15 by length of non-parole period. Non-parole periods ranged from 4 months to 5 years, while the median length of the non-parole period was 1 year and 10 months (meaning that half of the non-parole periods were below 1 year and 10 months and half were above).

The most common non-parole period imposed was 1 to less than 2 years (14 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 2010–11 to 2014–15.

From 2010–11 to 2014–15, the average length of total effective sentences for all people ranged from 2 years and 5 months in 2011–12 to 3 years and 4 months in 2013–14. Over the same period, the average length of non-parole periods ranged from 1 year and 9 months in 2011–12 to 2 years and 4 months in 2014–15.

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

Data on the total effective sentence of imprisonment by non-parole period for burglary are available on [SACStat – Higher Courts](#).

### Non-imprisonment sentences

Data on the length of non-imprisonment sentence types – such as community correction orders, suspended sentences, and fines – for burglary are available on [SACStat – Higher Courts](#).

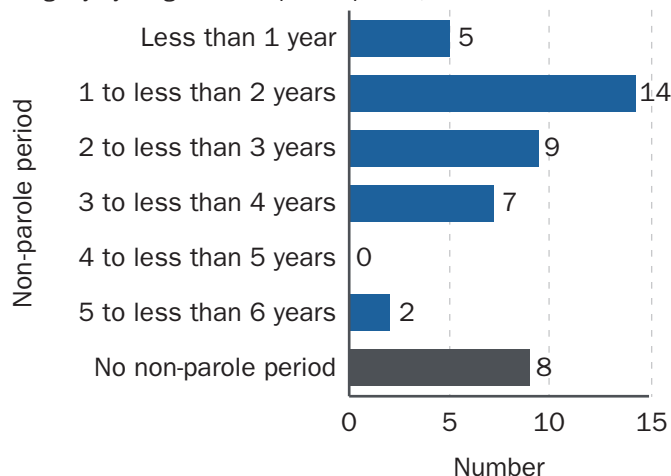
## Summary

Between 2010–11 and 2014–15, 63 people were sentenced for burglary in the higher courts. Of these people, 45 (71%) were given a principal sentence of imprisonment.

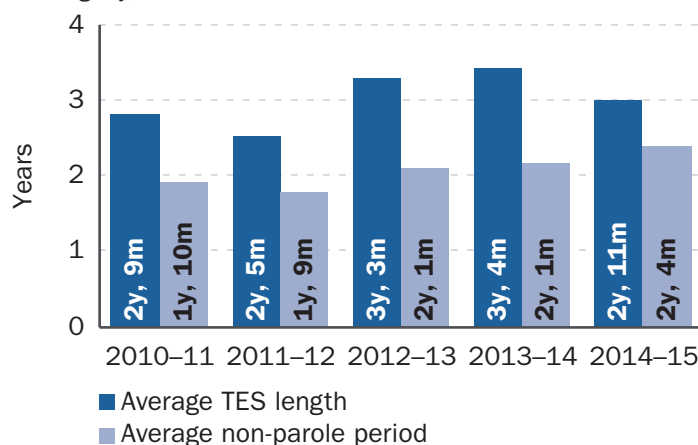
The number and range of offences for which people with a principal offence of burglary were sentenced help explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was 3 years while the median principal imprisonment length was 1 year and 3 months.

Overall, total effective imprisonment lengths ranged from 2 months and 19 days to 7 years and 6 months, and non-parole periods (where imposed) ranged from 4 months to 5 years.

**Figure 7:** The number of people sentenced to imprisonment for burglary by length of non-parole period, 2010–11 to 2014–15



**Figure 8:** The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for burglary, 2010–11 to 2014–15



## 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 found to be unfit to stand trial or not guilty because of mental impairment. However, these orders 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. 154, which describes sentencing trends for burglary between 2008–09 and 2012–13.
2. Data on first-instance sentence outcomes presented in this Snapshot were obtained from the Strategic Analysis and Review Team at Court Services Victoria. Data on appeal outcomes were collected by the Sentencing Advisory Council from the [Australasian Legal Information Institute](#), and also were 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 are accurate, the data are subject to revision.
3. *Crimes Act 1958* (Vic) s 76.
4. 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](#).
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. Immediate custodial sentence includes imprisonment, aggregate imprisonment, partially suspended sentence, youth justice centre order, mix (aggregate imprisonment and community correction order), and aggregate partially suspended sentence.
7. Refer to endnote 5.
8. This total includes the people in Table 1 who received a sentence of imprisonment, aggregate imprisonment, and mix (aggregate imprisonment and community correction order).
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 3 only deals with sentences of imprisonment for the principal proven offence of burglary. During the 2010–11 to 2014–15 period, 3 people received an aggregate form of imprisonment.
10. A total of 7 people were not eligible for parole because they were given a total effective sentence length of less than 1 year.
11. A non-parole period was not set for 1 person who was eligible for a non-parole period.

## SACStat – Higher Courts Burglary

[http://www.sentencingcouncil.vic.gov.au/sacstat/higher\\_courts/HC\\_6231\\_76\\_1.html](http://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_6231_76_1.html)

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