

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

June 2018
No. 213

Causing serious injury intentionally

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of causing serious 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 serious injury intentionally and other offences is available on [Sentencing Advisory Council Statistics Online \(SACStat\)](#).

A person who intentionally causes serious injury to another person without lawful excuse is guilty of this offence. Causing serious injury intentionally is a Category 2 offence, which means that a court cannot impose a non-custodial sentence except in particular circumstances.³

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 intentionally⁴ is an indictable offence that carries a maximum penalty of 20 years' imprisonment and/or a fine of 2,400 penalty units.⁵ 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 offence⁶ in 3.1% of cases sentenced in the higher courts between 2012–13 and 2016–17.

People sentenced

From 2012–13 to 2016–17, 276 people were sentenced in the higher courts for a principal offence of causing serious injury intentionally.

Figure 1 shows the number of people sentenced for the principal offence of causing serious injury intentionally by financial year. There were 31 people sentenced for this offence in 2016–17, down by 3 people from the previous year. The number of people sentenced was highest in 2013–14 (85 people).

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

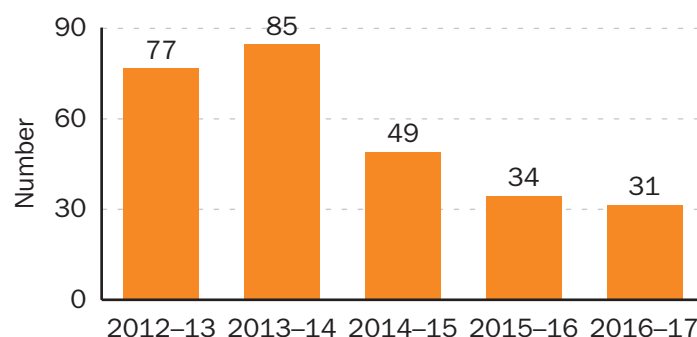
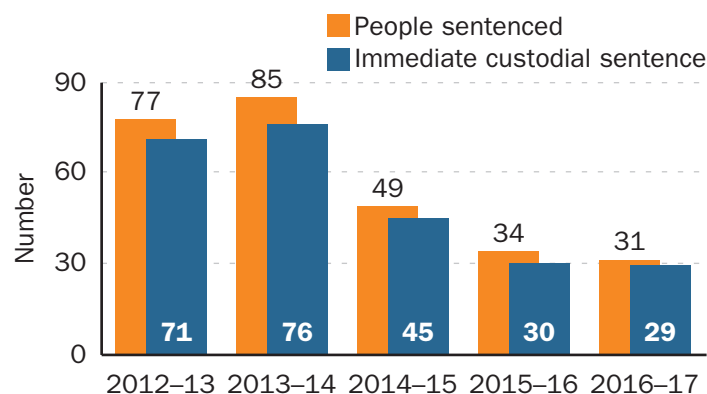


Figure 2: The number of people sentenced for causing serious injury intentionally and the number receiving an immediate custodial sentence, 2012–13 to 2016–17



Sentence types and trends

Figure 2 shows the total number of people sentenced for causing serious 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.⁷ Over the five-year period, 91% of people were given an immediate custodial sentence.

Table 1 shows the number of people sentenced for causing serious 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.⁸ Changes to community correction orders have also influenced sentencing trends over the five years covered by this Sentencing Snapshot.⁹

Over the five-year period, the majority of the people sentenced for causing serious injury intentionally received a sentence of imprisonment (75% or 206 of 276 people), while 6% received a community correction order, 5% received a sentence of imprisonment combined with a community correction order, and 5% received a youth justice centre order.

A total of 229 people received a principal sentence of imprisonment for causing serious injury intentionally. The *principal sentence* is the sentence imposed for the charge that is the principal offence.¹⁰ This total includes the people in Table 1 who received a sentence of imprisonment, aggregate imprisonment, imprisonment combined with a community correction order and aggregate imprisonment combined with a community correction order. Of the total number of people receiving a principal sentence of imprisonment for causing serious injury intentionally 90% (206 of 229 people) received imprisonment, 6% (13 of 229 people) received imprisonment combined with a community correction order, 3% (6 of 229 people) received an aggregate imprisonment sentence and 2% (4 of 229 people) received aggregate imprisonment combined with a community correction order.

The percentage of people receiving a principal sentence of imprisonment (including a combined or an aggregate sentence) for causing serious injury intentionally peaked in 2016–17 at 87% (27 of 31 people), while the number was highest in 2013–14 (80% or 68 of 85 people). The percentage of people receiving a principal sentence of imprisonment was lowest in 2013–14 (80% or 68 of 85 people), despite this financial year having the highest number of people sentenced to imprisonment in the five-year period. The number of people receiving a principal sentence of imprisonment was lowest in 2016–17 (87% or 27 of 31 people), despite this financial year having the highest percentage of imprisonment sentences in the five-year period.

Table 1: The number and percentage of people sentenced for causing serious 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	60 (78%)	64 (75%)	37 (76%)	21 (62%)	24 (77%)	206 (75%)
Non-custodial supervision order	2 (3%)	2 (2%)	1 (2%)	0 (–)	2 (6%)	7 (3%)
Aggregate imprisonment	1 (1%)	3 (4%)	0 (–)	0 (–)	2 (6%)	6 (2%)
Youth justice centre order	6 (8%)	5 (6%)	2 (4%)	1 (3%)	1 (3%)	15 (5%)
Imprisonment and community correction order (combined)	3 (4%)	0 (–)	3 (6%)	6 (18%)	1 (3%)	13 (5%)
Custodial supervision order	0 (–)	2 (2%)	0 (–)	1 (3%)	1 (3%)	4 (1%)
Community correction order	4 (5%)	6 (7%)	3 (6%)	3 (9%)	0 (–)	16 (6%)
Aggregate imprisonment and community correction order (combined)	0 (–)	1 (1%)	2 (4%)	1 (3%)	0 (–)	4 (1%)
Partially suspended sentence	1 (1%)	1 (1%)	0 (–)	0 (–)	0 (–)	2 (<1%)
Aggregate youth justice centre order	0 (–)	0 (–)	1 (2%)	0 (–)	0 (–)	1 (<1%)
Wholly suspended sentence	0 (–)	1 (1%)	0 (–)	0 (–)	0 (–)	1 (<1%)
Unconditional release	0 (–)	0 (–)	0 (–)	1 (3%)	0 (–)	1 (<1%)
People sentenced	77	85	49	34	31	276

Age and gender of people sentenced

Data on the age and gender of people sentenced for causing serious 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 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 2012–13 to 2016–17.

Principal sentence of imprisonment

Of the 229 people who received a principal sentence of imprisonment for causing serious injury intentionally, 219 people received a non-aggregate term of imprisonment.

Figure 3 shows the length of imprisonment for the people receiving a non-aggregate term.¹¹ Imprisonment terms ranged from 2 months and 24 days to 12 years, while the median length of imprisonment was 5 years (meaning that half of the imprisonment terms were shorter than 5 years and half were longer).

The most common length of imprisonment imposed was 5 to less than 6 years (60 people).

As shown in Figure 4, the average (mean) length of imprisonment imposed on people sentenced for causing serious injury intentionally ranged from 4 years and 4 months in 2015–16 to 5 years and 4 months in 2016–17.

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

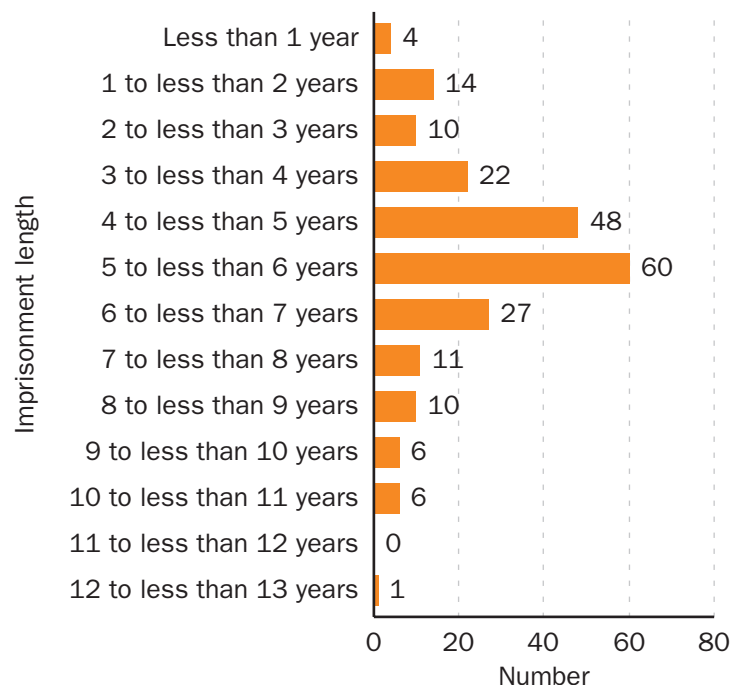


Figure 4: The average (mean) length of imprisonment imposed on people sentenced for causing serious injury intentionally, 2012–13 to 2016–17

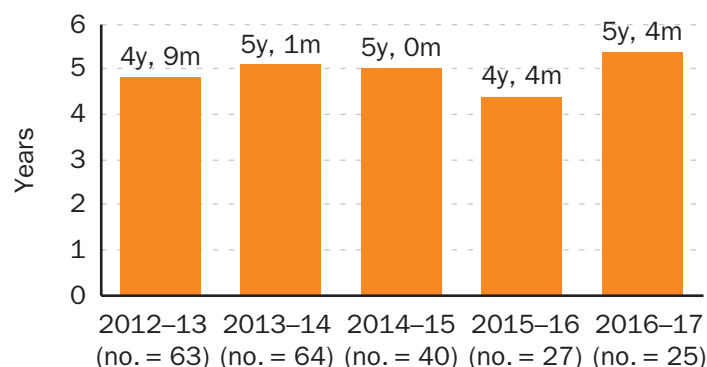


Figure 5: The number of people sentenced for the principal offence of causing serious injury intentionally by the number of sentenced offences per person, 2012–13 to 2016–17

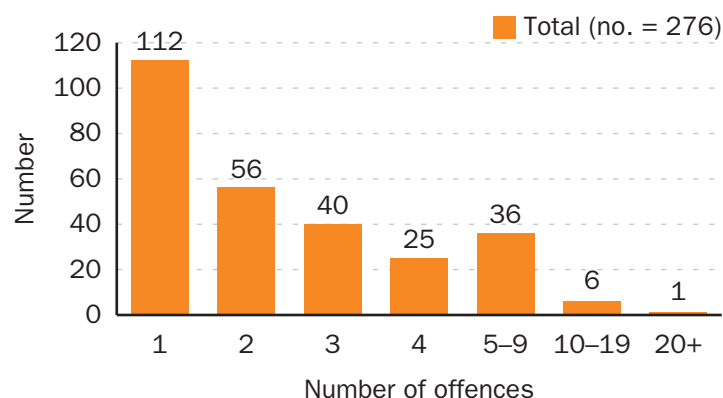


Figure 5 (page 3) shows the number of people sentenced for the principal offence of causing serious injury intentionally by the total number of offences for which sentences were imposed. The number of sentenced offences per person ranged from 1 to 24, while the median was 2 offences. There were 112 people (40.6%) sentenced for the single offence of causing serious injury intentionally. The average number of offences per person sentenced for causing serious injury intentionally was 2.76.

Table 2 shows the 10 most common offences for people sentenced for causing serious injury intentionally, by number and percentage. The last column sets out the average number of offences sentenced per person. For example, 29 of the total 276 people (10.5%) also received sentences for aggravated burglary. On average, they were sentenced for 1.17 counts of aggravated burglary.

Table 2: 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, 2012–13 to 2016–17

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Causing serious injury intentionally	276	100.0%	1.02
2. Aggravated burglary	29	10.5%	1.17
3. Causing injury intentionally	28	10.1%	1.43
4. Theft	24	8.7%	1.46
5. Armed robbery	23	8.3%	1.57
6. Common law assault	18	6.5%	1.72
7. False imprisonment	17	6.2%	1.00
8. Intentionally destroy/damage property (criminal damage)	16	5.8%	1.44
9. Causing injury recklessly	16	5.8%	1.06
10. Possess a drug of dependence	11	4.0%	1.64
People sentenced	276	100.0%	2.76

Total effective imprisonment terms

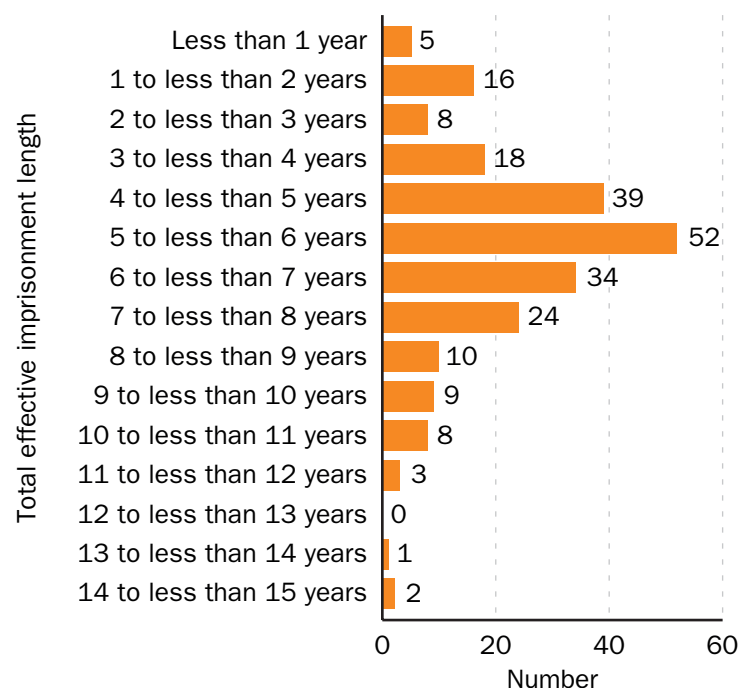
Figure 6 shows the number of people sentenced to imprisonment for causing serious injury intentionally from 2012–13 to 2016–17 by length of total effective imprisonment term. Total effective imprisonment terms ranged from 2 months and 24 days to 14 years and 6 months, while the median total effective imprisonment term was 5 years (meaning that half of the total effective imprisonment terms were below 5 years and half were above).

The most common total effective imprisonment term was 5 to less than 6 years (52 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 non-parole period. For terms of imprisonment of 2 years or more, the court must impose a non-parole

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



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 229 people who were sentenced to imprisonment for causing serious injury intentionally, 224 were eligible to have a non-parole period fixed.¹² Of these people, 210 were given a non-parole period (94%).¹³ Figure 7 shows the number of people sentenced to imprisonment for causing serious injury intentionally from 2012–13 to 2016–17 by length of non-parole period. Non-parole periods ranged from 7 months to 11 years and 6 months, while the median length of the non-parole period was 3 years, 3 months and 15 days (meaning that half of the non-parole periods were below 3 years, 3 months and 15 days and half were above).

The most common non-parole period imposed was 3 to less than 4 years (54 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 4 years and 8 months in 2015–16 to 5 years and 9 months in 2016–17. Over the same period, the average length of non-parole periods ranged from 3 years and 6 months in 2013–14 to 3 years and 10 months in 2014–15 and 2016–17.

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

Summary

From 2012–13 to 2016–17, 276 people were sentenced in the higher courts for causing serious injury intentionally. Of these people, 229 (83%) were given a principal sentence of imprisonment.

Both the median total effective imprisonment length and principal imprisonment length were 5 years.

Total effective imprisonment lengths ranged from 2 months and 24 days to 14 years and 6 months, and non-parole periods (where imposed) ranged from 7 months to 11 years and 6 months.

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

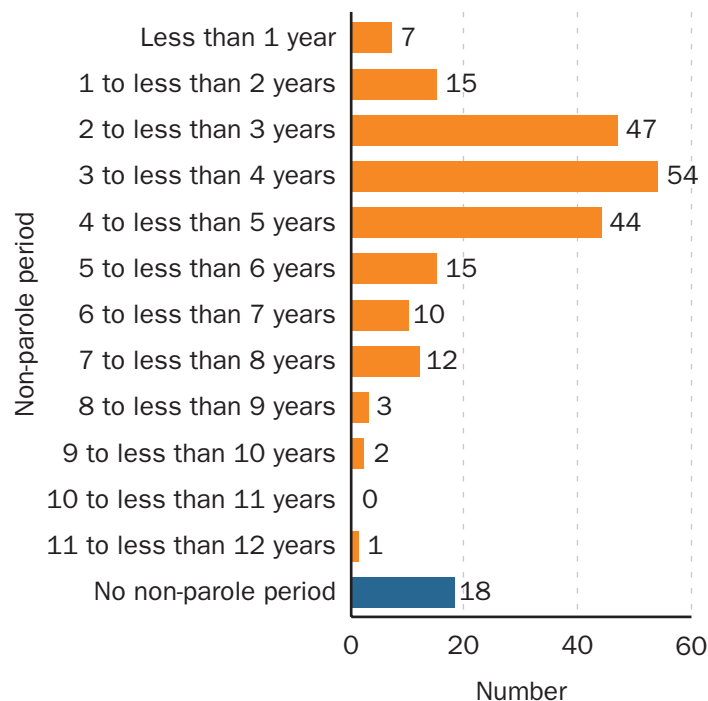
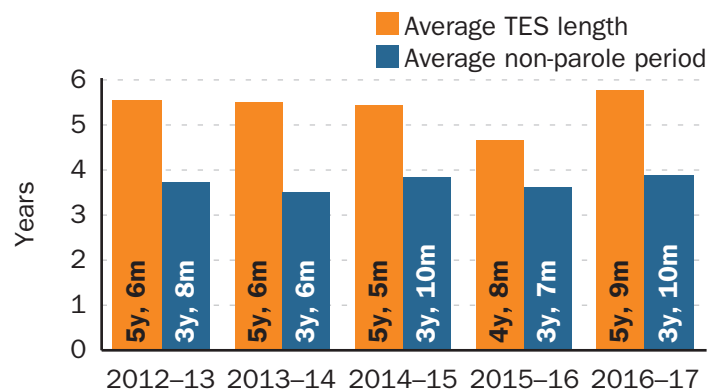


Figure 8: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for causing serious injury intentionally, 2012–13 to 2016–17



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. 187, which describes sentencing trends for causing serious 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. *Sentencing Act 1991* (Vic) ss 5(2H)–(2I).
4. *Crimes Act 1958* (Vic) s 16.
5. 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](#).
6. 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.
7. An *immediate custodial sentence* includes imprisonment, aggregate imprisonment, a youth justice centre order, imprisonment combined with a community correction order, a custodial supervision order, aggregate imprisonment combined with a community correction order, a partially suspended sentence and an aggregate youth justice centre order.
8. 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.
9. 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.
10. Refer to Endnote 6.
11. 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 serious injury intentionally. From 2012–13 to 2016–17, 10 people received an aggregate form of imprisonment.
12. A total of 5 people were not eligible to have a non-parole period fixed because they were given a total effective sentence length of less than one year.
13. 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 13 people who were eligible for a non-parole period.

SACStat Causing serious injury intentionally

http://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_6231_16.html

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Published by the Sentencing Advisory Council, Melbourne Victoria Australia.

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ISSN 1836-6384 (Online)

Authorised by the Sentencing Advisory Council, Level 3, 333 Queen Street, Melbourne.

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