

## No. 21: Sentencing trends for attempted murder in the higher courts of Victoria, 2001-02 to 2005-06

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of attempted murder and details the age and gender<sup>2</sup> of people sentenced for this offence in the Supreme Court of Victoria between 2001-02 and 2005-06<sup>3</sup>.

A person who attempts to murder another is guilty of an indictable offence punishable by 25 years' imprisonment<sup>4</sup> and/or a fine of 3000 penalty units<sup>5</sup>.

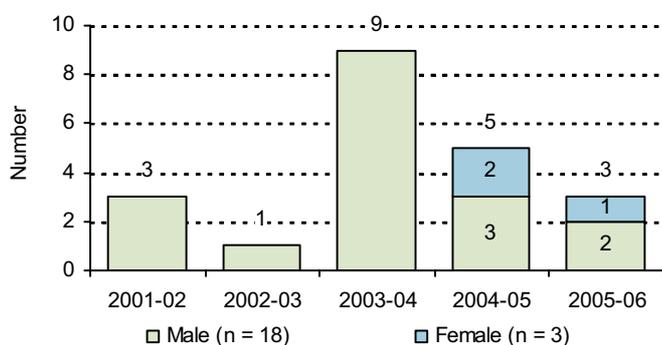
The offence of attempted murder can only be heard in the Supreme Court.

### People sentenced

Figure 1 shows the number of people sentenced for attempted murder for the period 2001-02 to 2005-06. As shown, 21 people were sentenced for attempted murder over the five year period. There were 3 people sentenced for this offence in 2005-06, down by 2 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (18 of 21 people), including 2 of the 3 people sentenced in 2005-06.

**Figure 1: The number of people sentenced for attempted murder by gender, 2001-02 to 2005-06**



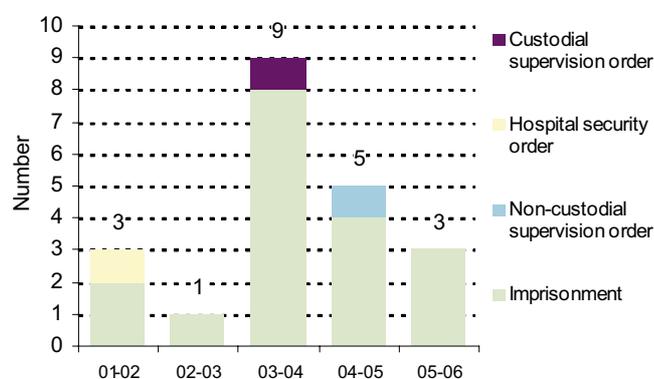
### Sentence types and trends

Figure 2 and Table 1 show the number of people sentenced for attempted murder from 2001-02 to 2005-06 by the types of sentences imposed.

Over the five year period, the majority of the people sentenced for attempted murder received a period of imprisonment (18 of 21 people).

Other sentence types imposed for this offence included a hospital security order in 2001-02, a custodial supervision order in 2003-04 and a non-custodial supervision order in 2004-05<sup>6</sup>.

**Figure 2: The number of people sentenced for attempted murder by sentence type, 2001-02 to 2005-06**



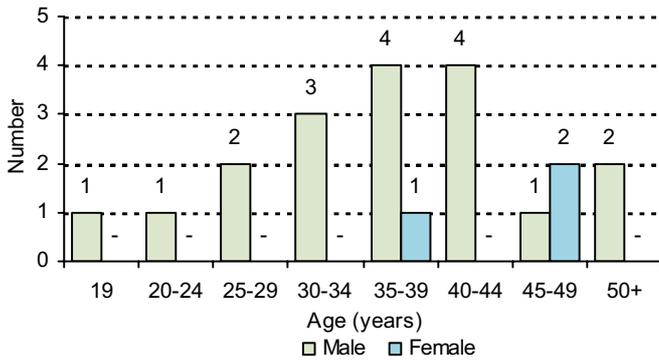
**Table 1: The number and percentage of people sentenced for attempted murder by sentence type, 2001-02 to 2005-06**

| Sentence type                   | 01-02    | 02-03     | 03-04    | 04-05    | 05-06     |
|---------------------------------|----------|-----------|----------|----------|-----------|
| Imprisonment                    | 2<br>67% | 1<br>100% | 8<br>89% | 4<br>80% | 3<br>100% |
| Non-custodial supervision order | 0<br>-   | 0<br>-    | 0<br>-   | 1<br>20% | 0<br>-    |
| Hospital security order         | 1<br>33% | 0<br>-    | 0<br>-   | 0<br>-   | 0<br>-    |
| Custodial supervision order     | 0<br>-   | 0<br>-    | 1<br>11% | 0<br>-   | 0<br>-    |
| <b>People sentenced</b>         | <b>3</b> | <b>1</b>  | <b>9</b> | <b>5</b> | <b>3</b>  |

### Age and gender of people sentenced

Figure 3 shows the gender of people sentenced for attempted murder grouped by their age<sup>7</sup> between 2001-02 and 2005-06. The average age of people sentenced for attempted murder was 37 years and six months. Women sentenced over this period were much older than men (an average age of 42 years and seven months for women compared to 36 years and seven months for men). There were no juveniles sentenced over this period.

**Figure 3: The number of people sentenced for attempted murder by gender and age, 2001-02 to 2005-06**



### Sentence types by gender

Table 2 shows the types of sentence imposed for attempted murder grouped by gender. As shown, a higher percentage of men received a period of imprisonment (89% compared to 67% of women).

**Table 2: The number and percentage of people sentenced for attempted murder by sentence type and gender, 2001-02 to 2005-06**

| Sentence type                   | Male      | Female   | Total     |
|---------------------------------|-----------|----------|-----------|
| Imprisonment                    | 16<br>89% | 2<br>67% | 18<br>86% |
| Non-custodial supervision order | 0<br>-    | 1<br>33% | 1<br>5%   |
| Hospital security order         | 1<br>6%   | 0<br>-   | 1<br>5%   |
| Custodial supervision order     | 1<br>6%   | 0<br>-   | 1<br>5%   |
| <b>People sentenced</b>         | <b>18</b> | <b>3</b> | <b>21</b> |

### 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 attempted murder must be considered in this broader context. The following sections analyse the use of imprisonment for attempted murder over 2001-02 to 2005-06.

### Principal sentence of imprisonment

Figure 4 shows the number of people sentenced to imprisonment for attempted murder between 2001-02 and 2005-06 by the length of the imprisonment term. Imprisonment terms ranged from six years to 18 years<sup>8</sup>, while the median total effective length of imprisonment was ten years and six months (meaning that half of the total effective sentence lengths were below ten years and six months and half were above).

The most common lengths of imprisonment were 11 years and 8 years (4 people each).

**Figure 4: The number of people sentenced to imprisonment for attempted murder by length of imprisonment term, 2001-02 to 2005-06**

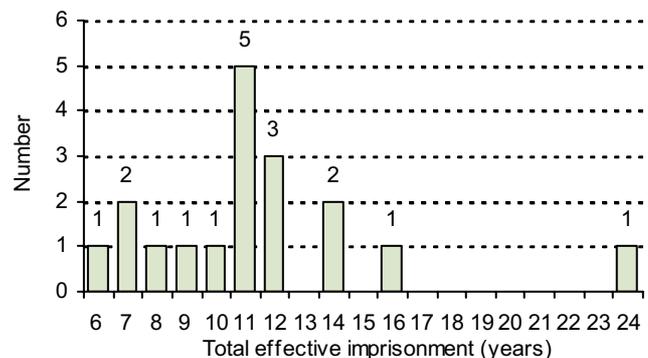


### Total effective sentence of imprisonment

There were 18 people given a total effective sentence of imprisonment. Figure 5 shows the number of people sentenced to imprisonment for attempted murder between 2001-02 and 2005-06 by the length of their total effective sentence. Total effective imprisonment lengths ranged from six years to 24 years<sup>9</sup>, while the median total effective length of imprisonment was 11 years (meaning that half of the total effective sentence lengths were below 11 years and half were above).

The most common total effective imprisonment length was 11 years (5 people).

**Figure 5: The number of people sentenced to imprisonment for attempted murder by total effective length of imprisonment term, 2001-02 to 2005-06**



### Non-parole period

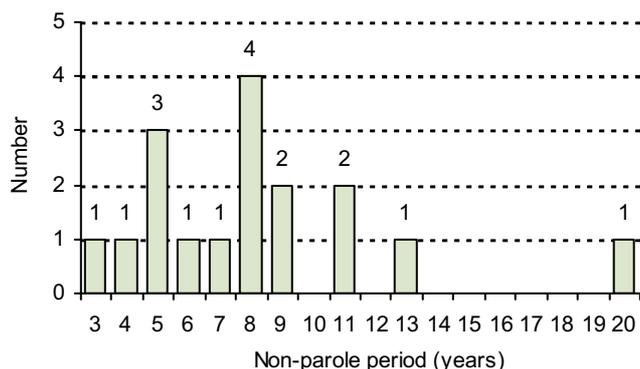
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person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

All of the 18 people who were given a total effective sentence of imprisonment were given a non-parole period. The non-parole period of one person also related to another case and this person is excluded from the following analysis. Figure 6 shows the number of people sentenced to imprisonment for attempted murder between 2001-02 and 2005-06 by the length of their non-parole period. Non-parole periods ranged from three years to 20 years, while the median non-parole period was eight years (meaning that half of the non-parole periods were below eight years and half were above).

The most common non-parole period length was 8 years (4 people).

**Figure 6: The number of people sentenced to imprisonment for attempted murder by length of non-parole period, 2001-02 to 2005-06**



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

## Summary

Between 2001-02 and 2005-06, 21 people were sentenced for attempted murder in the higher courts. Over this period, the majority of those sentenced were men (86%), while 76% were between the age of 19 and 45 years.

Over the five year period, the majority of the people sentenced for attempted murder received a period of imprisonment (86% or 18 of 21 people).

The median length of imprisonment term imposed was 11 years, while the median length of non-parole period was eight years.

1 This report presents sentencing outcomes for people sentenced for the principal offence of attempted murder in the 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 attempted murder who received a more serious sentence for another offence forming part of the same presentment. Between 2001-02 and 2005-06, 25 people were sentenced for attempted murder. Attempted murder was the principal offence for 21 of the 25 people.

Due to the relatively low number of people sentenced for attempted murder over the five year period, certain analyses that are usually presented in a Sentencing Snapshot have been omitted.

2 The information source for sentencing outcomes for attempted murder 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 attempted murder since 2001-02. Court Services advises that sentencing data from the higher courts prior to 2000-01 may be unreliable due to changed data collection processes and counting rules.

4 *Crimes Act 1958* s 3 and s 321M.

5 Attempted murder carries a maximum fine of 3000 penalty units and each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.

6 Under s 93A of the *Sentencing Act 1991* (Vic), if the defendant is found guilty and the person appears to be mentally ill, the court can order the person to be sentenced to a hospital security order. A hospital security order is an order of the court where a person who appears to be mentally ill and requiring treatment is, after the consideration of appropriate reports, admitted and detained in an approved mental health service as a security patients.

Under s 20 and s 23 of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic), if the defence of mental impairment is established a person charged with an offence must be found not guilty because of mental impairment and the court must declare the defendant liable to supervision under Part 5 (ie supervision order or released unconditionally). A custodial supervision order is an order committing the defendant to custody in an appropriate place or in a prison under supervision for an indefinite term, with a nominal period specified by statute (25 years for attempted murder). A non-custodial supervision order is an order releasing the person on conditions specified by the court and specified in the order.

7 Age is as at the time of sentencing.

8 In 2003-04, a man aged 34 years was sentenced to a total effective sentence of 24 years with a non-parole period of 20 years for two counts of attempted murder and one count of armed robbery. To each count of attempted murder, he was sentenced to 18 years' imprisonment.

9 Refer fn. 8.

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Published by the Sentencing Advisory Council, Melbourne Victoria Australia, January, 2007.

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ISSN 1832-6153

Authorised by Sentencing Advisory Council, 4/436 Lonsdale Street, Melbourne. Printed by Bigprint, 50 Lonsdale Street, Melbourne.

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