

Intentionally causing serious injury

Sentencing trends in the higher courts of Victoria 2018–19 to 2022–23

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of intentionally causing serious injury in the County and Supreme Courts of Victoria (the higher courts) from 2018–19 to 2022–23.² Adjustments made by the Court of Appeal to sentence or conviction as at June 2023 have been incorporated into the data in this Snapshot.

Detailed data on intentionally causing serious injury and other offences is also available on [SACStat](#).

A person who intentionally causes serious injury to another person without lawful excuse is guilty of this offence. Intentionally causing serious injury is an indictable offence that carries a maximum penalty of 20 years' imprisonment and/or a fine of 2,400 penalty units.³

If the offence was committed between 20 March 2017 and 27 October 2018, it is a category 2 offence. If the offence was committed on or after 28 October 2018, then it is either a category 1 offence (if the victim was on duty as an emergency worker, custodial officer or youth justice worker) or a category 2 offence (if the victim was not). For category 1 offences, courts must almost always impose a custodial sentence.⁴ For category 2 offences, courts must impose a custodial sentence except in particular circumstances.⁵

This Snapshot focuses on cases where intentionally causing serious injury was the principal offence, that is, cases where intentionally causing serious injury was the offence that received the most severe sentence.⁶

Intentionally causing serious injury was the principal offence in 1.3% of cases sentenced in the higher courts between 2018–19 and 2022–23.

Effect of COVID-19 on sentencing data

The data in this Snapshot is likely to have been affected by the COVID-19 pandemic – particularly in the 2020–21 and 2021–22 financial years. For instance:

- the number of people sentenced in the period after March 2020 may be lower than in other years because the pandemic caused delays in court proceedings
- court backlogs may have led to prioritisation of more serious cases in that period and therefore higher imprisonment rates than in other years
- prison sentences may be shorter during that period than in other years to reflect the combined effect of:
 - a. guilty pleas having an 'augmented mitigatory effect' (*Worboyes v The Queen* [2021] VSCA 169) because they help to relieve the strain on the justice system and
 - b. the experience of prison being more burdensome due to increased stress on prisoners and their families and changes in custodial conditions.

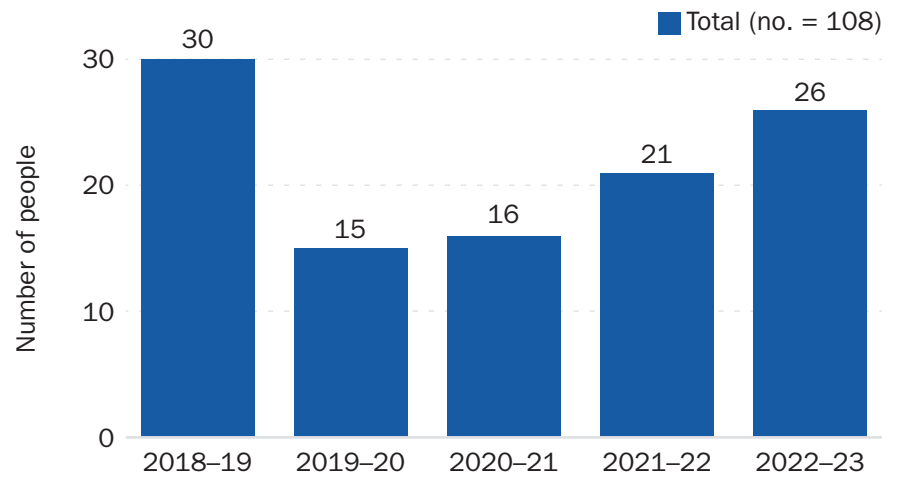
People sentenced

From 2018–19 to 2022–23, 108 people were sentenced in the higher courts for a principal offence of intentionally causing serious injury.

Figure 1 shows the number of people sentenced for the principal offence of intentionally causing serious injury by financial year. There were 26 people sentenced for this offence in 2022–23, up from 21 in the previous year. The number of people sentenced was highest in 2018–19 (30 people) and lowest in 2019–20 (15 people).

There was also 1 person who received an unconditional release order and 6 people who received a non-custodial supervision order for the principal offence of intentionally causing serious injury during the five-year period. They are not included in this Snapshot.⁷

Figure 1: The number of people sentenced for intentionally causing serious injury, by financial year



Sentence types and trends

Figure 2 shows the proportion of people who received an immediate custodial sentence or non-custodial sentence for the principal offence of intentionally causing serious injury. An immediate custodial sentence involves at least some element of immediate imprisonment or detention.⁸ The rate of immediate custodial sentences was lowest in 2020–21 (93.8%) and highest in 2018–19, 2019–20 and 2021–22 (100%). Over the five-year period, 98.1% of people were given an immediate custodial sentence.

Figure 2: The percentage of people who received an immediate custodial sentence or non-custodial sentence for intentionally causing serious injury, by financial year

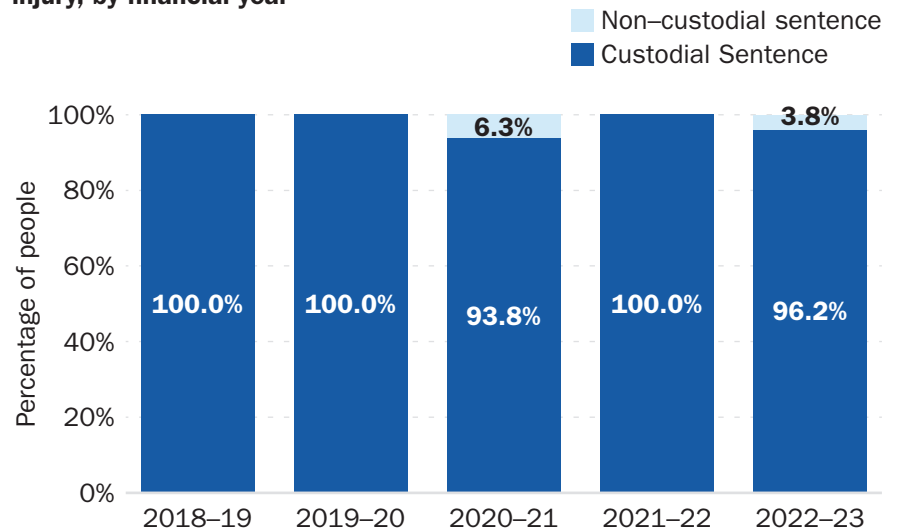


Table 1 shows the principal sentence types imposed for intentionally causing serious injury from 2018–19 to 2022–23. The *principal sentence* is the most serious sentence imposed for the charge that is the principal offence.⁹

Over the five-year period, most people sentenced for intentionally causing serious injury received a principal sentence of imprisonment (94.4% or 102 of 108 people). The remaining people received a youth justice centre order (3.7% or 4 people), and a community correction order (1.9% or 2 people).¹⁰

Table 1: The number and percentage of people sentenced for intentionally causing serious injury, by principal sentence type and financial year

Sentence type	2018–19	2019–20	2020–21	2021–22	2022–23	Total
Imprisonment	28 (93.3%)	14 (93.3%)	15 (93.8%)	21 (100.0%)	24 (92.3%)	102 (94.4%)
Youth justice centre order	2 (6.7%)	1 (6.7%)	0 (0.0%)	0 (0.0%)	1 (3.8%)	4 (3.7%)
Community correction order	0 (0.0%)	0 (0.0%)	1 (6.3%)	0 (0.0%)	1 (3.8%)	2 (1.9%)
Total	30	15	16	21	26	108

Principal and total effective sentences of imprisonment

The following sections analyse the use of imprisonment for the principal offence of intentionally causing serious injury from 2018–19 to 2022–23.

The principal sentence describes the sentences for the offence at a *charge* level.

The total effective sentence is the sentence imposed for all charges in a case and applies at a case level. Where a case involves multiple charges, the total effective sentence will be either the same as or longer than the principal sentence.

Principal sentences of imprisonment

There were 102 principal sentences of imprisonment for intentionally causing serious injury. Table 2 shows that all were non-aggregate imprisonment terms.¹¹ There were 3 people who received a community correction order in addition to their imprisonment term.

Table 2: The number and percentage of people sentenced to imprisonment for intentionally causing serious injury, by sentence type and financial year

Imprisonment type	2018–19	2019–20	2020–21	2021–22	2022–23	Total
Imprisonment	28 (100.0%)	14 (100.0%)	14 (93.3%)	20 (95.2%)	23 (95.8%)	99 (97.1%)
Imprisonment and community correction order	0 (0.0%)	0 (0.0%)	1 (6.7%)	1 (4.8%)	1 (4.2%)	3 (2.9%)
Total non-aggregate imprisonment	28	14	15	21	24	102

Figure 3 shows the imprisonment lengths for the 102 non-aggregate imprisonment terms for the principal offence of intentionally causing serious injury. Imprisonment lengths ranged from 45 days¹² to 13 years and 9 months,¹³ while the median imprisonment length was 5 years and 6 months.

The most common range of imprisonment lengths was 5 to less than 6 years (21 principal sentences).

Figure 3: The number of principal sentences of imprisonment for intentionally causing serious injury, by range of imprisonment lengths, 2018–19 to 2022–23

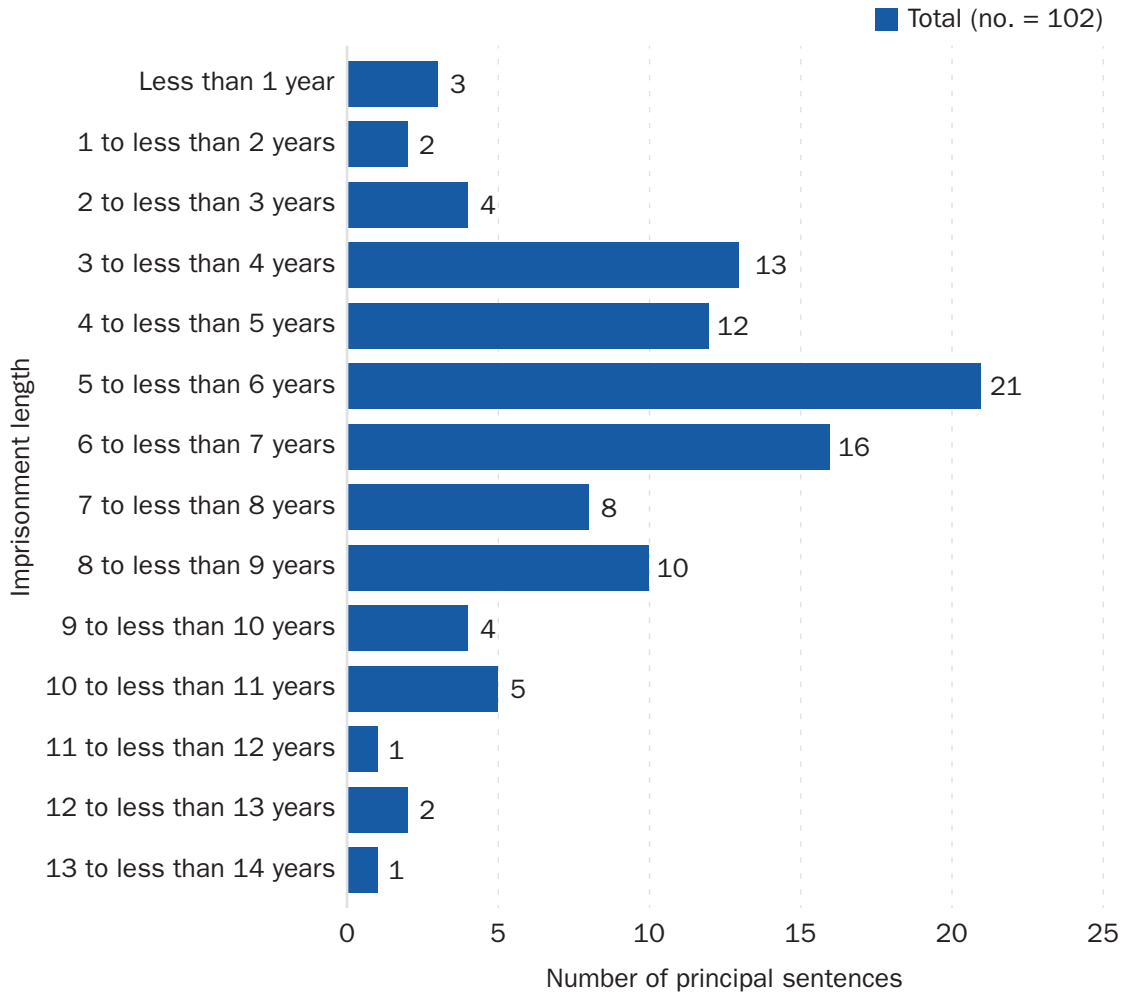
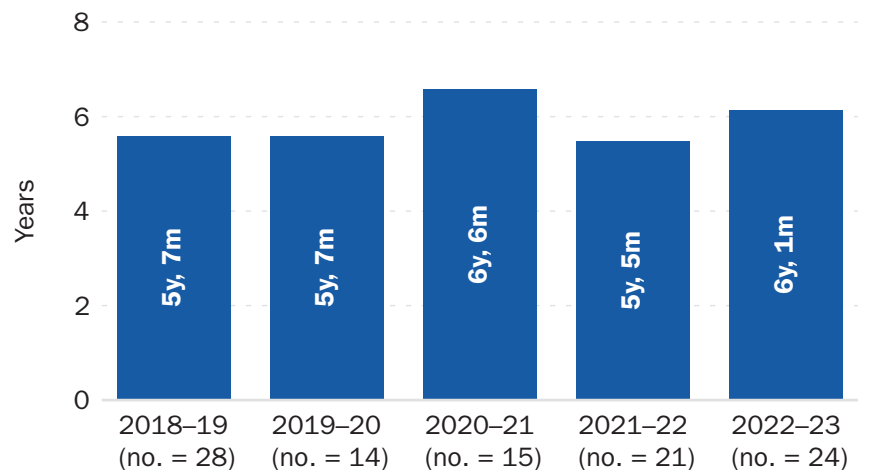


Figure 4 shows the average lengths of the 102 non-aggregate imprisonment terms for the principal offence of intentionally causing serious injury each financial year. The average imprisonment length ranged from 5 years and 5 months in 2021–22 to 6 years and 6 months in 2020–21. Over the five-year period, the average imprisonment length for intentionally causing serious injury was 5 years and 10 months.

Figure 4: The average imprisonment length imposed for intentionally causing serious injury, by financial year

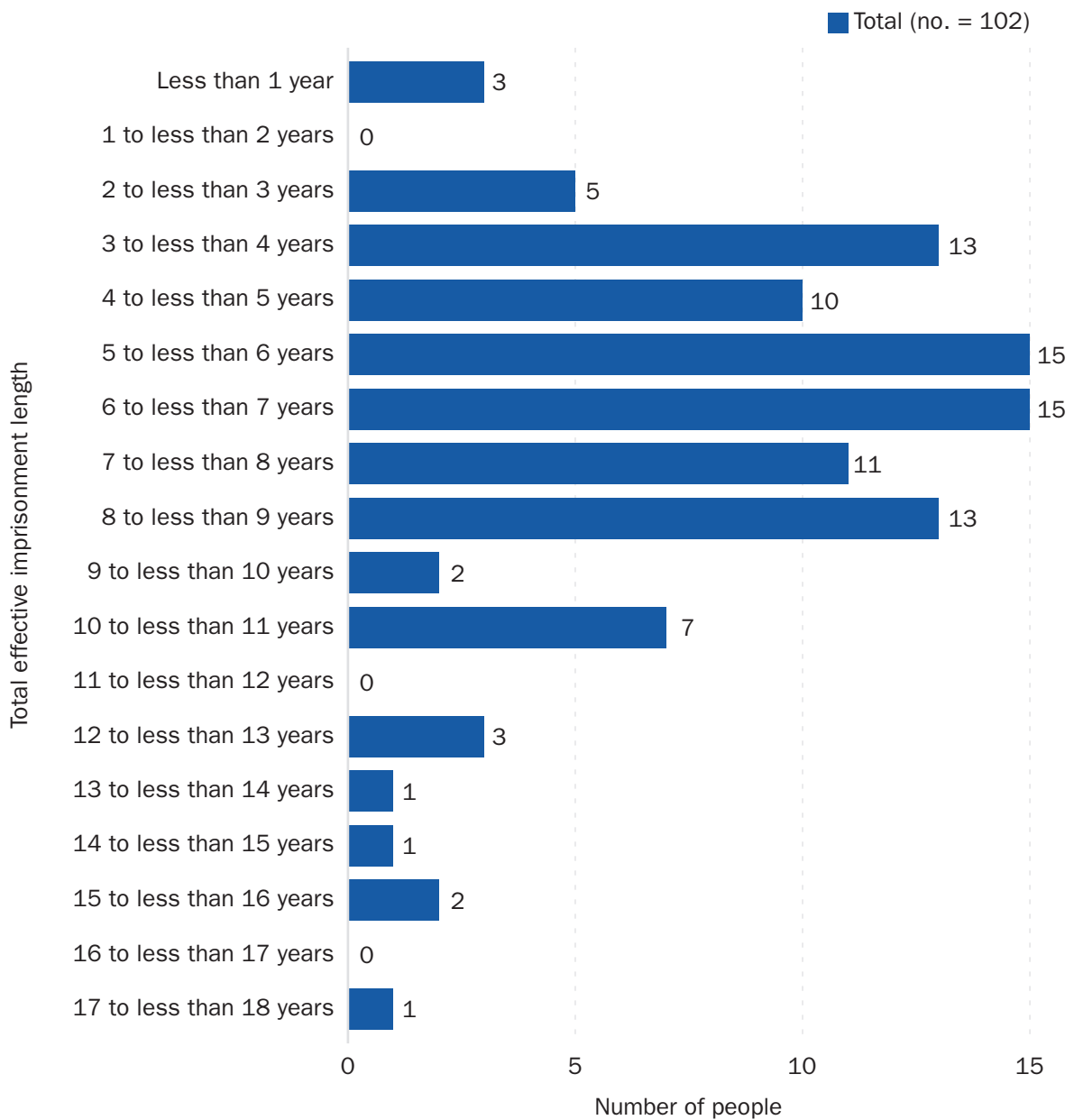


Total effective sentences of imprisonment

Figure 5 shows the lengths of total effective sentences of imprisonment in cases where intentionally causing serious injury was the principal offence. Total effective sentences ranged from 45 days to 17 years,¹⁴ while the median total effective sentence was 6 years.

The most common ranges of total effective sentences were 5 to less than 6 years and 6 to less than 7 years (15 cases each).

Figure 5: The number of people sentenced to imprisonment for intentionally causing serious injury, by range of total effective sentences, 2018–19 to 2022–23



Non-parole periods

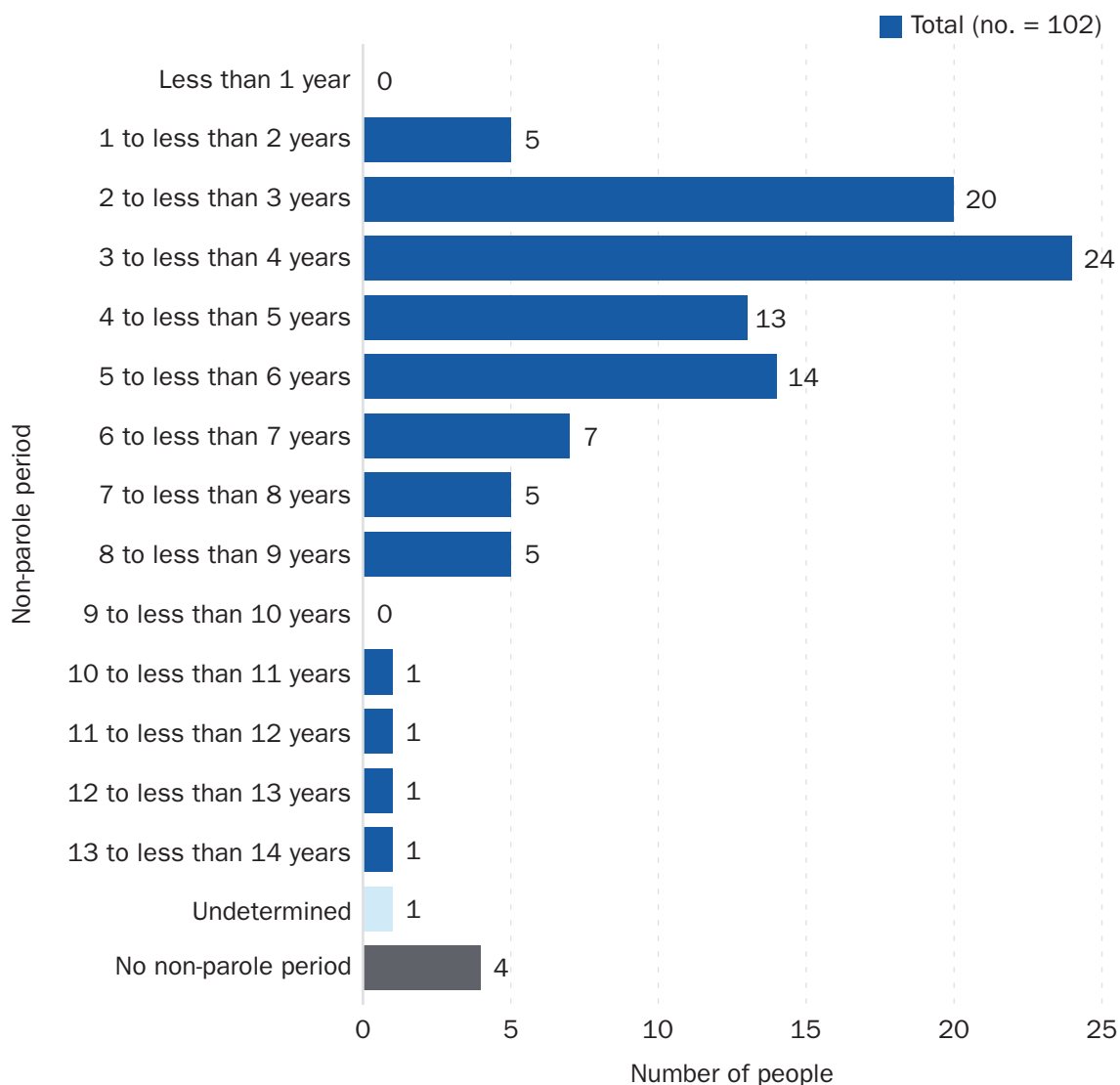
If a person is sentenced to an imprisonment term of less than 1 year, the court cannot impose a non-parole period. For imprisonment terms between 1 year and less than 2 years, the court has the discretion to fix a non-parole period. For imprisonment terms of 2 years or more, the court must impose a non-parole period in most circumstances. If the court fixes a non-parole period, the person must serve that period before becoming eligible for parole. If the court does not set a non-parole period, the person must serve the entirety of their imprisonment term in custody.

Of the 102 people who were sentenced to imprisonment for the principal offence of intentionally causing serious injury, 99 were eligible to have a non-parole period fixed.¹⁵ Of these people, 98 were given a non-parole period (99.0%).¹⁶ It was not possible to determine the non-parole period for 1 of those people.¹⁷

Figure 6 shows the lengths of the 97 non-parole periods for people sentenced to imprisonment for intentionally causing serious injury. Non-parole periods ranged from 1 year and 1 month to 13 years, while the median non-parole period was 3 years and 10 months.

The most common range of non-parole periods was 3 to less than 4 years (24 cases).

Figure 6: The number of people sentenced to imprisonment for intentionally causing serious injury, by range of non-parole periods, 2018–19 to 2022–23

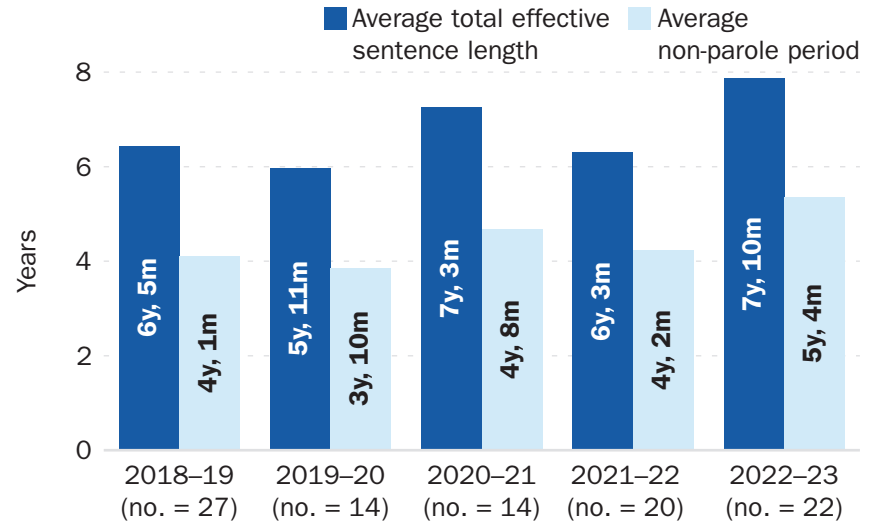


Average total effective sentences of imprisonment and non-parole periods

Figure 7 represents the average total effective sentences and average non-parole periods each year for the 97 people who were sentenced to imprisonment for the principal offence of intentionally causing serious injury and who received a non-parole period that could be determined.

The average total effective sentence ranged from 5 years and 11 months in 2019–20 to 7 years and 10 months in 2022–23. Over the same period, the average non-parole period ranged from 3 years and 10 months in 2019–20 to 5 years and 4 months in 2022–23.

Figure 7: The average total effective sentences and non-parole periods for people sentenced to imprisonment with a non-parole period for intentionally causing serious injury, by financial year



Other offences finalised at the same hearing

Sometimes people prosecuted for intentionally causing serious injury face multiple charges, which are finalised at the same hearing. This section looks at the range of offences that offenders were sentenced for alongside the principal offence of intentionally causing serious injury.

Figure 8 shows the number of people sentenced for the principal offence of intentionally causing serious injury by the total number of sentenced offences per person. The number of sentenced offences per person ranged from 1 to 25, and the median was 2 offences. There were 48 people (44.4%) sentenced for the single offence of intentionally causing serious injury. The average number of offences per person was 3.3.

Figure 8: The number of people sentenced for the principal offence of intentionally causing serious injury, by the number of sentenced offences per person, 2018–19 to 2022–23

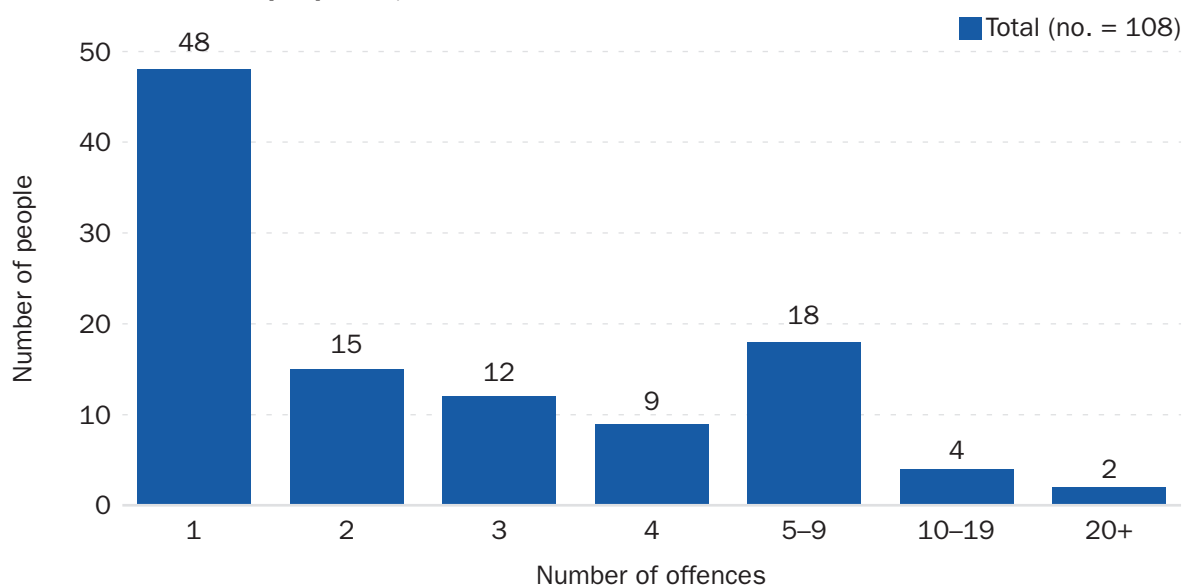


Table 3 shows the 10 most common offences co-sentenced alongside intentionally causing serious injury. The last column sets out the average number of offences sentenced per person. For example, 17 of the total 108 people (15.7%) were also sentenced for committing an indictable offence while on bail. On average, those 17 people were sentenced for 1.2 charges of committing an indictable offence while on bail per case.

Table 3: The number and percentage of people sentenced for the principal offence of intentionally causing serious injury, by the most common offences that were sentenced alongside intentionally causing serious injury, 2018–19 to 2022–23

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
Intentionally causing serious injury	108	100.0%	1.0
Commit an indictable offence while on bail	17	15.7%	1.2
Intentionally causing injury	12	11.1%	1.3
Aggravated burglary	10	9.3%	1.1
Intentionally destroy or damage property	9	8.3%	2.0
Common law assault	8	7.4%	1.5
Theft	8	7.4%	2.0
False imprisonment	7	6.5%	1.1
Prohibited person possess, carry or use a firearm	7	6.5%	1.1
Contravene a family violence intervention order	5	4.6%	1.4
Total	108	100.0%	3.3

Summary

From 2018–19 to 2022–23, 108 people were sentenced in the higher courts for the principal offence of intentionally causing serious injury. Of those 108 people, 102 (94.4%) received a principal sentence of imprisonment.

Total effective sentences of imprisonment ranged from 45 days to 17 years, and non-parole periods ranged from 1 year and 1 month to 13 years. The median total effective sentence was 6 years, while the median non-parole period was 3 years and 10 months.

On average, people sentenced for the principal offence of intentionally causing serious injury were sentenced for 3.3 offences each, with a maximum of 25 offences.

Further data on intentionally causing serious injury is available on [SACStat](https://www.sentencingcouncil.vic.gov.au/sacstat/index.html):
<https://www.sentencingcouncil.vic.gov.au/sacstat/index.html>

Endnotes

1. This Sentencing Snapshot is an update of [Sentencing Snapshot no. 263](#), which describes sentencing trends for intentionally causing serious injury between 2016–17 and 2020–21.
2. Data on first-instance sentencing 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 Snapshot is accurate, the data is subject to revision.
3. *Crimes Act 1958* (Vic) s 16. The value of a penalty unit changes each year and can be found on the [Council's website](#).
4. *Sentencing Act 1991* (Vic) ss 3(c) (definition of *category 2 offence*), ss 5(2H)–(2I).
5. *Sentencing Act 1991* (Vic) ss 3(ca) (definition of *category 1 offence*), 5(2G). If the court finds that a *special reason* exists under section 10A, the court may alternatively impose a mandatory treatment and monitoring order: *Sentencing Act 1991* (Vic) s 5(2GA).
6. If a person is sentenced for a case with a single charge, that offence is the principal offence. If a person is sentenced for more than one charge in a single case, the principal offence is the offence that attracted the most serious sentence according to the sentencing hierarchy.
7. Custodial and non-custodial supervision orders are not sentencing orders as they are imposed in cases in which the accused is found unfit to stand trial or not guilty because of mental impairment. However, they are mentioned in this Snapshot as they are an important form of disposition of criminal charges.
8. Immediate custodial sentences are mostly imprisonment, but they can also include partially suspended sentences, youth justice centre orders, hospital security orders, residential treatment orders, and combined custody and treatment orders.
9. For example, if the principal offence receives a combined order of imprisonment and a community correction order pursuant to section 44 of the *Sentencing Act 1991* (Vic), imprisonment is recorded as the principal sentence.
10. One of the cases in which a CCO was imposed is publicly available: *DPP v Jackson* [2022] VCC 1643.
11. A court may impose an *aggregate* sentence of imprisonment on multiple charges sentenced at the same time. These sentences are a single imprisonment term, but the sentences imposed on individual charges are not specified. A case may include a combination of aggregate and non-aggregate sentences.
12. The 45-day prison sentence was part of a combined order of imprisonment and a community correction order, and the case is not publicly available. The second-shortest prison sentence was 50 days, also combined with a community correction order, and the case is publicly available: *DPP v Golding* [2022] VCC 899.
13. *DPP v LH* [2020] VCC 282.
14. *DPP v Barati* [2023] VCC 1096 (total effective sentence of 17 years' imprisonment for 6 offences, including 3 charges of intentionally causing serious injury).
15. 3 people were not eligible to have a non-parole period fixed because they were given a total effective sentence of less than 1 year.
16. 1 person was eligible to have a non-parole period fixed but did not receive one.
17. 1 person was given a non-parole period that related to more than 1 case (for example, they may have already been serving a prison sentence at the time). It was not possible to separately determine the non-parole periods that related to each individual case.

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