

Introduction

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

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. The offence of burglary is aggravated if the person has with him or her a firearm, imitation firearm, offensive weapon, explosive or imitation explosive. Aggravated burglary also occurs if, at the time of entering the building, someone else was present and the offender knew, or was reckless as to the fact. Aggravated burglary³ is an indictable offence that carries a maximum penalty of 25 years' imprisonment and/or a fine of up to 3,000 penalty units.⁴ Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court. Aggravated burglary can also be tried summarily if it involves an intent to steal property that does not exceed a \$100,000 value, the Magistrates' Court considers it appropriate and the accused consents.

Aggravated burglary was the principal offence⁵ in 5.5% of cases sentenced in the higher courts between 2012–13 and 2016–17.

People sentenced

From 2012–13 to 2016–17, 499 people were sentenced in the higher courts for a principal offence of aggravated burglary.

Figure 1 shows the number of people sentenced for the principal offence of aggravated burglary by financial year. There were 92 people sentenced for this offence in 2016–17, down by 1 person from the previous year. The number of people sentenced was highest in 2012–13 (127 people).

Sentence types and trends

Figure 2 shows the total number of people sentenced for aggravated burglary 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.⁶ Over the five-year period, 86% of people were given an immediate custodial sentence.

Figure 1: The number of people sentenced for aggravated burglary by financial year, 2012–13 to 2016–17

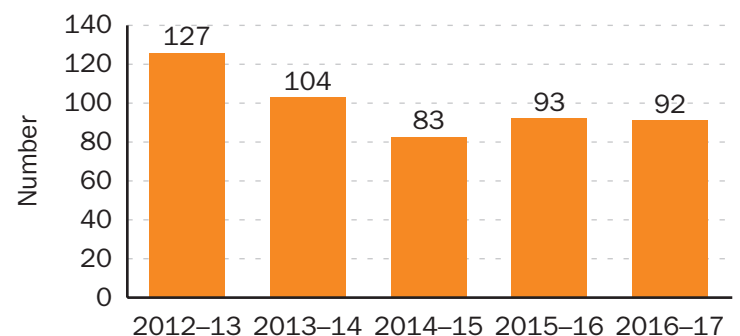


Figure 2: The number of people sentenced for aggravated burglary and the number receiving an immediate custodial sentence, 2012–13 to 2016–17

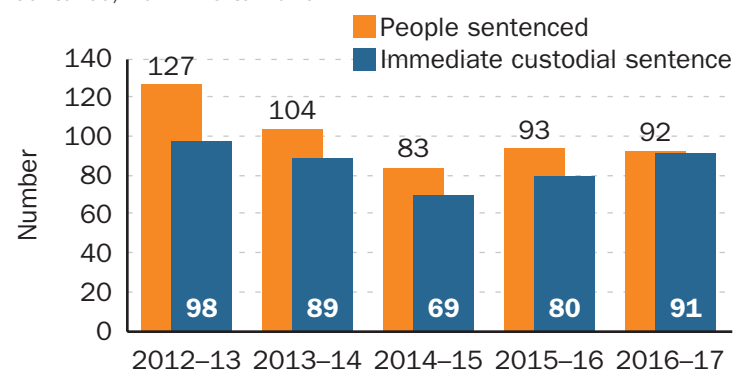


Table 1 shows the number of people sentenced for aggravated burglary from 2012–13 to 2016–17 by the type of sentence imposed. The availability of different sentence types has changed over time. Most notably, wholly and partially suspended sentences have now been abolished.⁷ Changes to community correction orders have also influenced sentencing trends over the five years covered by this Snapshot.⁸

Over the five-year period, the majority of the people sentenced for aggravated burglary received a sentence of imprisonment (72% or 360 of 499 people), while 9% received a sentence of imprisonment combined with a community correction order, and 11% received a community correction order.

A total of 409 people received a principal sentence of imprisonment for aggravated burglary. The *principal sentence* is the sentence imposed for the charge that is the principal offence.⁹ This total includes people in Table 1 who received a sentence of imprisonment, imprisonment combined with a community correction order, aggregate imprisonment and aggregate imprisonment combined with a community correction order. Of the total number of people receiving a principal sentence of imprisonment for aggravated burglary, 88% (360 of 409 people) received imprisonment, 11% (44 of 409 people) received imprisonment combined with a community correction order, and fewer than 1% received either aggregate imprisonment combined with a community correction order (3 of 409 people) or a standalone aggregate imprisonment sentence (2 of 409 people).

The percentage of people receiving a principal sentence of imprisonment (including a combined or an aggregate sentence) for aggravated burglary peaked at 96% in 2016–17 (88 of 92 people), while the number was highest in 2012–13 (70% or 89 of 127 people). However, 2012–13 was also the financial year in which the lowest percentage received imprisonment in the five-year period. The number receiving imprisonment was lowest in 2014–15 (80% or 66 of 83 people).

Table 1: The number and percentage of people sentenced for aggravated burglary 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	88 (69%)	87 (84%)	52 (63%)	59 (63%)	74 (80%)	360 (72%)
Imprisonment and community correction order (combined)	1 (<1%)	0 (–)	11 (13%)	18 (19%)	14 (15%)	44 (9%)
Youth justice centre order	5 (4%)	1 (<1%)	2 (2%)	1 (1%)	3 (3%)	12 (2%)
Adjourned undertaking without conviction	0 (–)	0 (–)	0 (–)	0 (–)	1 (1%)	1 (<1%)
Community correction order	16 (13%)	13 (13%)	12 (14%)	12 (13%)	0 (–)	53 (11%)
Wholly suspended sentence	11 (9%)	1 (<1%)	0 (–)	1 (1%)	0 (–)	13 (3%)
Partially suspended sentence	4 (3%)	1 (<1%)	0 (–)	0 (–)	0 (–)	5 (1%)
Aggregate imprisonment and community correction order (combined)	0 (–)	0 (–)	2 (2%)	1 (1%)	0 (–)	3 (<1%)
Aggregate imprisonment	0 (–)	0 (–)	1 (1%)	1 (1%)	0 (–)	2 (<1%)
Non-custodial supervision order	1 (<1%)	0 (–)	1 (1%)	0 (–)	0 (–)	2 (<1%)
Aggregate youth justice centre order	0 (–)	0 (–)	1 (1%)	0 (–)	0 (–)	1 (<1%)
Community correction order and fine (combined)	0 (–)	0 (–)	1 (1%)	0 (–)	0 (–)	1 (<1%)
Fine	1 (<1%)	0 (–)	0 (–)	0 (–)	0 (–)	1 (<1%)
Adjourned undertaking with conviction	0 (–)	1 (<1%)	0 (–)	0 (–)	0 (–)	1 (<1%)
People sentenced	127	104	83	93	92	499

Age and gender of people sentenced

Data on the age and gender of people sentenced for aggravated burglary 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 aggravated burglary must be considered in this broader context. The following sections analyse the use of imprisonment for the offence of aggravated burglary from 2012–13 to 2016–17.

Principal sentence of imprisonment

Of the 409 people who received a principal sentence of imprisonment, 404 people received a non-aggregate term of imprisonment.

Figure 3 shows the length of imprisonment for the people receiving a non-aggregate term.¹⁰ Imprisonment terms ranged from 2 months and 6 days to 8 years, while the median length of imprisonment was 2 years and 9 months (meaning that half of the imprisonment terms were shorter than 2 years and 9 months and half were longer).

The most common length of imprisonment imposed was 3 to less than 4 years (93 people).

As shown in Figure 4, the average (mean) length of imprisonment imposed on people sentenced for aggravated burglary ranged from 2 years and 6 months in 2012–13 to 3 years and 3 months in 2016–17.

Other offences finalised at the same hearing

Often people prosecuted for aggravated 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 aggravated burglary.

Figure 5 shows the number of people sentenced for the principal offence of aggravated burglary by the total number of offences for which sentences were imposed.

Figure 3: The number of people sentenced to imprisonment for aggravated burglary by length of imprisonment term, 2012–13 to 2016–17

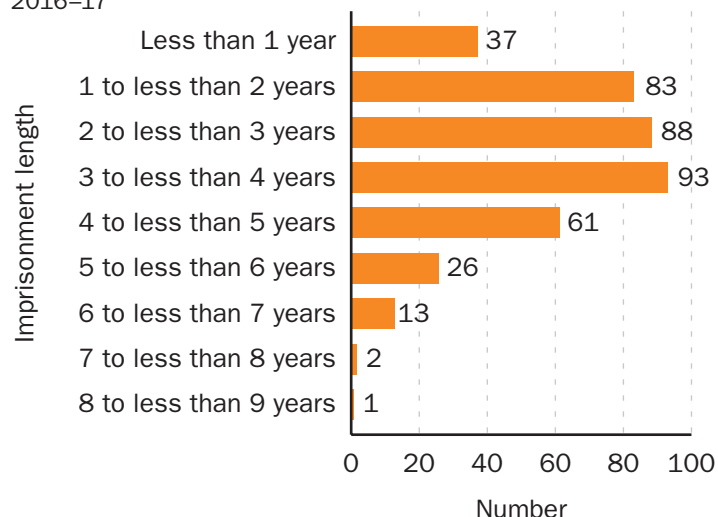


Figure 4: The average (mean) length of imprisonment imposed on people sentenced for aggravated burglary, 2012–13 to 2016–17

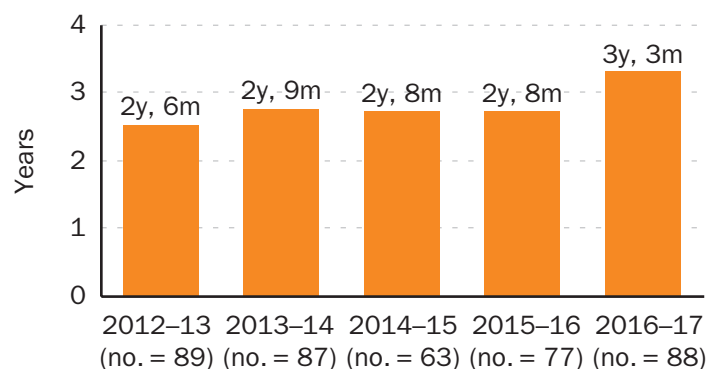
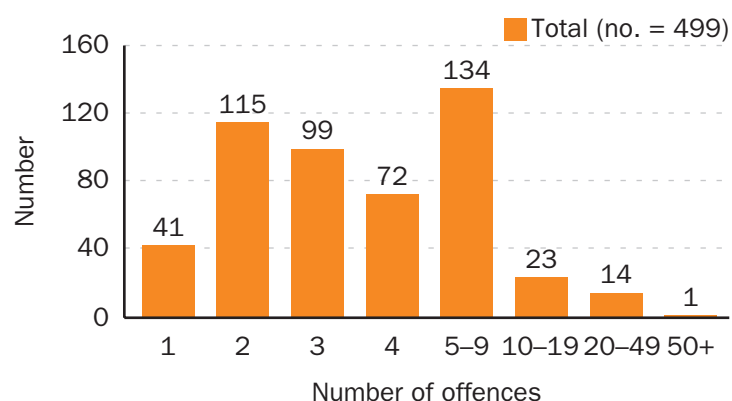


Figure 5: The number of people sentenced for the principal offence of aggravated burglary by the number of sentenced offences per person, 2012–13 to 2016–17



The number of sentenced offences per person ranged from 1 to 60, while the median was 3 offences. There were 41 people (8.2%) sentenced for the single offence of aggravated burglary. The average number of offences per person sentenced for aggravated burglary was 4.84.

Table 2 shows the 10 most common offences for people sentenced for aggravated burglary, by number and percentage. The last column sets out the average number of offences sentenced per person. For example, 158 of the total 499 people (31.7%) also received sentences for theft. On average, they were sentenced for 2.18 counts of theft.

Table 2: The number and percentage of people sentenced for the principal offence of aggravated burglary 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. Aggravated burglary	499	100.0%	1.10
2. Theft	158	31.7%	2.18
3. Intentionally destroy/damage property (criminal damage)	115	23.0%	1.22
4. Causing injury intentionally	104	20.8%	1.20
5. Common law assault	79	15.8%	1.33
6. Causing injury recklessly	54	10.8%	1.11
7. Unlawful assault	43	8.6%	1.40
8. Making a threat to kill	39	7.8%	1.23
9. Contravene family violence intervention order (interim/final)	39	7.8%	1.21
10. False imprisonment	36	7.2%	1.42
People sentenced	499	100.0%	4.84

Total effective imprisonment terms

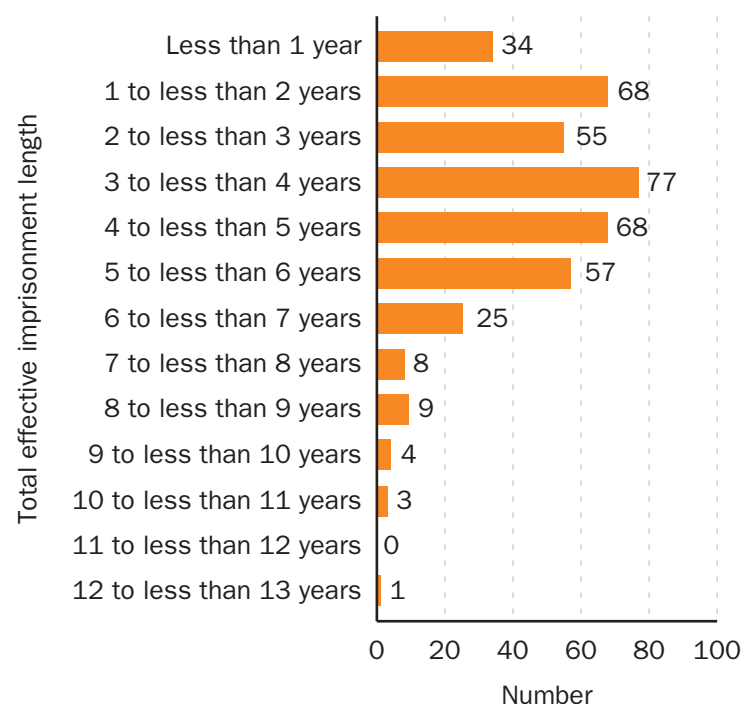
Figure 6 shows the number of people sentenced to imprisonment for aggravated burglary from 2012–13 to 2016–17 by length of total effective imprisonment term. Total effective imprisonment terms ranged from 2 months and 6 days to 12 years, while the median total effective imprisonment term was 3 years, 5 months and 16 days (meaning that half of the total effective imprisonment terms were below 3 years, 5 months and 16 days and half were above).

The most common total effective imprisonment term was 3 to less than 4 years (77 people).

Non-parole period

If a person is sentenced to a term of immediate imprisonment of less than one 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 period in most circumstances.

Figure 6: The number of people sentenced to imprisonment for aggravated burglary by length of total effective imprisonment term, 2012–13 to 2016–17



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 409 people who were sentenced to imprisonment for aggravated burglary, 375 were eligible to have a non-parole period fixed.¹¹ Of these people, 334 were given a non-parole period (89%).¹² Figure 7 shows the number of people sentenced to imprisonment for aggravated burglary from 2012–13 to 2016–17 by length of non-parole period. Non-parole periods ranged from 3 months to 9 years, while the median length of the non-parole period was 2 years and 3 months (meaning that half of the non-parole periods were below 2 years and 3 months and half were above).

The most common non-parole period imposed was 1 to less than 2 years (94 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 3 years and 3 months in 2014–15 and 2015–16 to 4 years and 3 months in 2016–17. Over the same period, the average length of non-parole periods ranged from 2 years and 1 month in 2012–13 to 3 years in 2016–17.

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

Summary

From 2012–13 to 2016–17, 499 people were sentenced in the higher courts for aggravated burglary. Of these people, 409 (82%) were given a principal sentence of imprisonment.

The number and range of offences for which people with a principal offence of aggravated 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, 5 months and 16 days, while the median principal imprisonment length was 2 years and 9 months.

Total effective imprisonment lengths ranged from 2 months and 6 days to 12 years, and non-parole periods (where imposed) ranged from 3 months to 9 years.

Figure 7: The number of people sentenced to imprisonment for aggravated burglary by length of non-parole period, 2012–13 to 2016–17

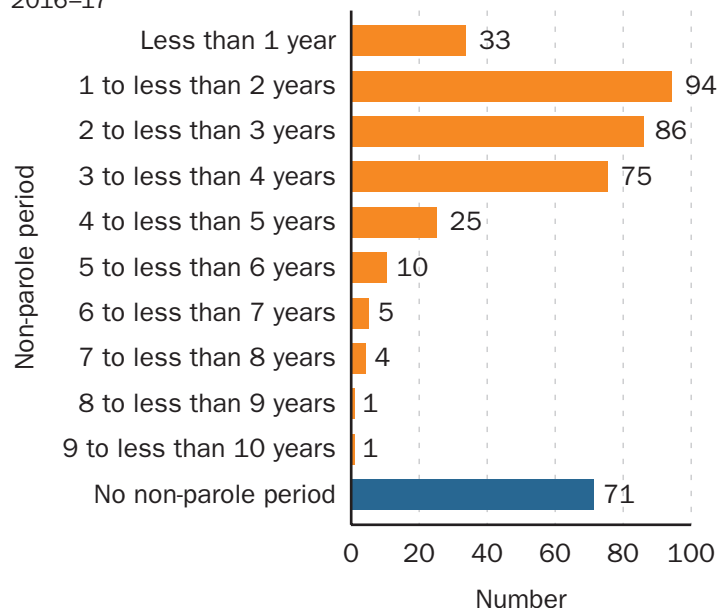
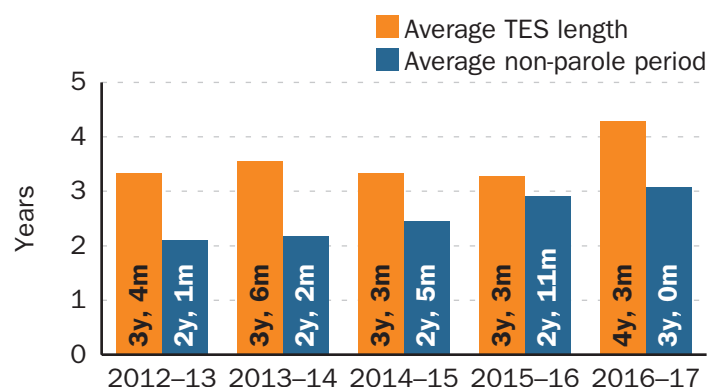


Figure 8: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for aggravated burglary, 2012–13 to 2016–17



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. 184, which describes sentencing trends for aggravated burglary 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. *Crimes Act 1958* (Vic) s 77.
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. An *immediate custodial sentence* includes imprisonment, imprisonment combined with a community correction order, a youth justice centre order, a partially suspended sentence, aggregate imprisonment combined with a community correction order, aggregate imprisonment and an aggregate youth justice centre order.
7. 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.
8. 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.
9. Refer to Endnote 5.
10. 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 aggravated burglary. From 2012–13 to 2016–17, 5 people received an aggregate form of imprisonment.
11. A total of 34 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.
12. Four 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 37 people who were eligible for a non-parole period.

SACStat Aggravated burglary

http://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_6231_77_1.html

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