

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

June 2018  
No. 214

## Causing serious injury recklessly

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of causing serious injury recklessly in the County and Supreme Courts of Victoria from 2012–13 to 2016–17.<sup>2</sup> 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 recklessly and other offences is available on [Sentencing Advisory Council Statistics Online \(SACStat\)](#).

A person who recklessly causes serious injury to another person without lawful excuse is guilty of this offence. Recklessness requires foresight on the part of the accused of the probability that injury will occur as a consequence of his or her actions. *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 recklessly<sup>3</sup> is an indictable offence that carries a maximum penalty of 15 years' imprisonment and/or a fine of 1,800 penalty units.<sup>4</sup> Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court. Causing serious injury recklessly is also triable summarily by the Magistrates' Court if the Magistrates' Court considers it appropriate and the accused consents.

Causing serious injury recklessly was the principal offence<sup>5</sup> in 4.0% of cases sentenced in the higher courts between 2012–13 and 2016–17.

### People sentenced

From 2012–13 to 2016–17, 357 people were sentenced in the higher courts for a principal offence of causing serious injury recklessly.

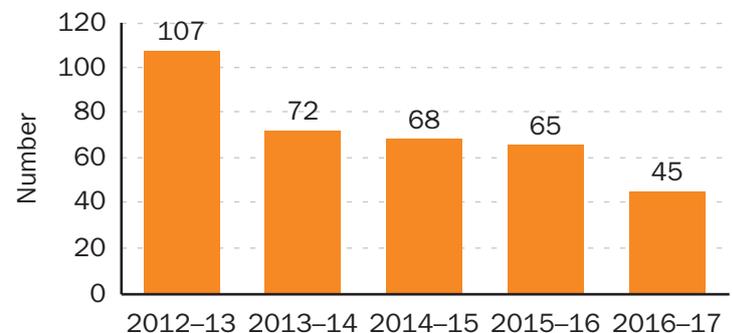
Figure 1 shows the number of people sentenced for the principal offence of causing serious injury recklessly by financial year. There were 45 people sentenced for this offence in 2016–17, down by 20 people from the previous year. The number of people sentenced was highest in 2012–13 (107 people).

### Sentence types and trends

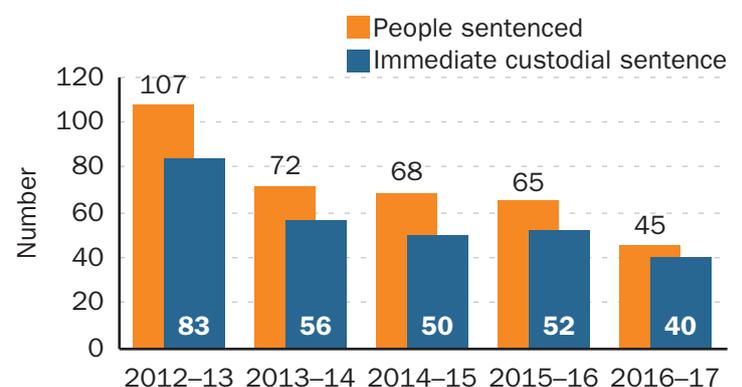
Figure 2 shows the total number of people sentenced for causing serious injury recklessly and the number receiving an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate imprisonment or detention.<sup>6</sup> Over the five-year period, 79% of people were given an immediate custodial sentence.

Table 1 shows the number of people sentenced for causing serious injury recklessly from 2012–13 to 2016–17 by the type of sentence imposed.

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



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



The availability of different sentence types has changed over time. Most notably, wholly and partially suspended sentences have now been abolished.<sup>7</sup> Changes to community correction orders have also influenced sentencing trends over the five years covered by this Snapshot.<sup>8</sup>

Over the five-year period, around half of the people sentenced for causing serious injury recklessly received a sentence of imprisonment (51% or 182 of 357 people), while 16% received a sentence of imprisonment combined with a community correction order and 16% received a community correction order.

A total of 258 people received a principal sentence of imprisonment for causing serious injury recklessly. The *principal sentence* is the sentence imposed for the charge that is the principal offence.<sup>9</sup> This total includes the 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 causing serious injury recklessly, 71% (182 of 258 people) received imprisonment, 22% (57 of 258 people) received imprisonment combined with a community correction order, 5% (13 of 258 people) received aggregate imprisonment combined with a community correction order and 2% (6 of 258 people) received an aggregate imprisonment sentence.

The percentage of people who received a principal sentence of imprisonment (including a combined or an aggregate sentence) for causing serious injury recklessly peaked in 2016–17 at 84%, although this was also the financial year in which the lowest number was imprisoned (38 of 45 people). The number of people receiving a principal sentence of imprisonment was highest in 2012–13 (68 of 107 people), although this financial year had the lowest percentage of people receiving imprisonment (64%).

A total of 57 people received a community correction order as their principal sentence. This total includes the people in Table 1 who received a community correction order or a community correction order combined with a fine. Of the total number of people receiving a community correction order, 98% (56 of 57 people) received a community correction order and 2% (1 of 57 people) received a community correction order combined with a fine.

The percentage and number of people receiving a community correction order as their principal sentence peaked in 2014–15 at 25% (17 of 68 people), while the number and percentage were lowest in 2016–17 (9% or 4 of 45 people).

**Table 1:** The number and percentage of people sentenced for causing serious injury recklessly by sentence type, 2012–13 to 2016–17 (in descending order of numbers for 2016–17)

<b>Sentence type</b>	<b>2012–13</b>	<b>2013–14</b>	<b>2014–15</b>	<b>2015–16</b>	<b>2016–17</b>	<b>Total</b>
Imprisonment	63 (59%)	51 (71%)	27 (40%)	19 (29%)	22 (49%)	182 (51%)
Imprisonment and community correction order (combined)	2 (2%)	1 (1%)	18 (26%)	24 (37%)	12 (27%)	57 (16%)
Community correction order	12 (11%)	12 (17%)	17 (25%)	12 (18%)	3 (7%)	56 (16%)
Aggregate imprisonment and community correction order (combined)	0 (–)	0 (–)	2 (3%)	8 (12%)	3 (7%)	13 (4%)
Youth justice centre order	12 (11%)	1 (1%)	2 (3%)	1 (2%)	1 (2%)	17 (5%)
Aggregate imprisonment	3 (3%)	2 (3%)	0 (–)	0 (–)	1 (2%)	6 (2%)
Non-custodial supervision order	1 (<1%)	0 (–)	0 (–)	1 (2%)	1 (2%)	3 (<1%)
Custodial supervision order	0 (–)	1 (1%)	0 (–)	0 (–)	1 (2%)	2 (<1%)
Community correction order and fine (combined)	0 (–)	0 (–)	0 (–)	0 (–)	1 (2%)	1 (<1%)
Wholly suspended sentence	11 (10%)	4 (6%)	0 (–)	0 (–)	0 (–)	15 (4%)
Partially suspended sentence	3 (3%)	0 (–)	0 (–)	0 (–)	0 (–)	3 (<1%)
Aggregate youth justice centre order	0 (–)	0 (–)	1 (1%)	0 (–)	0 (–)	1 (<1%)
Aggregate wholly suspended sentence	0 (–)	0 (–)	1 (1%)	0 (–)	0 (–)	1 (<1%)
<b>People sentenced</b>	<b>107</b>	<b>72</b>	<b>68</b>	<b>65</b>	<b>45</b>	<b>357</b>

## Age and gender of people sentenced

Data on the age and gender of people sentenced for causing serious injury recklessly is available on [SACStat](#).

## Sentence length

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 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 recklessly must be considered in this broader context. The following sections analyse the use of imprisonment for the offence of causing serious injury recklessly from 2012–13 to 2016–17.

### Principal sentence of imprisonment

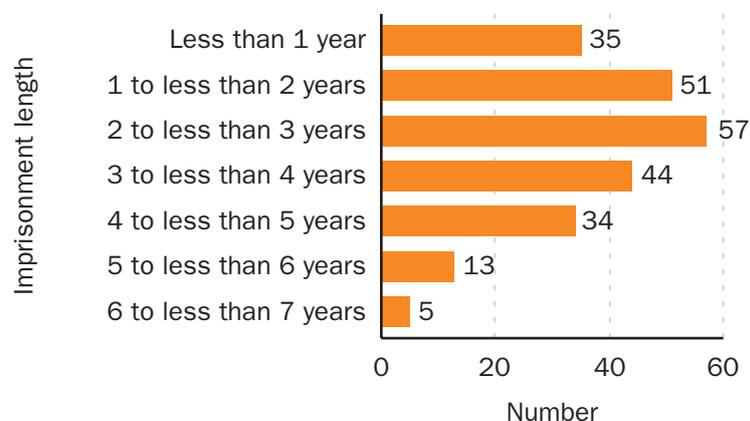
Of the 258 people who received a principal sentence of imprisonment, 239 people received a non-aggregate term of imprisonment.

Figure 3 shows the length of imprisonment for the people receiving a non-aggregate term.<sup>10</sup> Imprisonment terms ranged from 14 days (combined with a community correction order) to 6 years, while the median length of imprisonment was 2 years and 6 months (meaning that half of the imprisonment terms were shorter than 2 years and 6 months and half were longer).

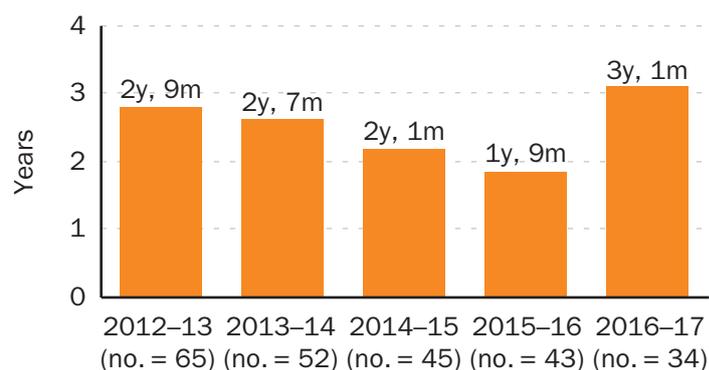
The most common length of imprisonment imposed was 2 to less than 3 years (57 people).

As shown in Figure 4, the average (mean) length of imprisonment imposed on people sentenced for causing serious injury recklessly ranged from 1 year and 9 months in 2015–16 to 3 years and 1 month in 2016–17.

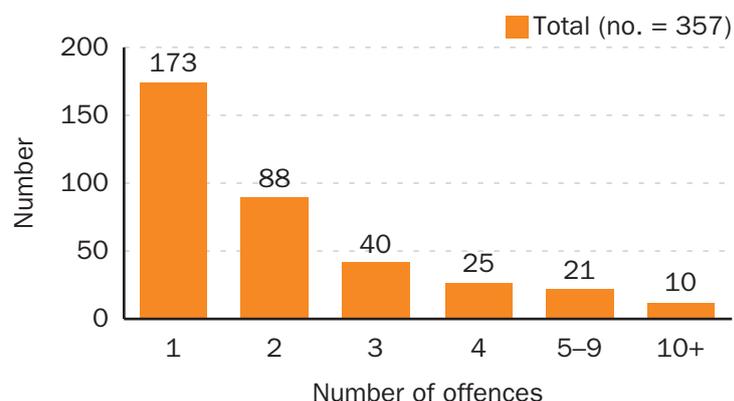
**Figure 3:** The number of people sentenced to imprisonment for causing serious injury recklessly by length of imprisonment term, 2012–13 to 2016–17



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



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



## Other offences finalised at the same hearing

Often people prosecuted for causing serious injury recklessly 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 recklessly.

Figure 5 (page 3) shows the number of people sentenced for the principal offence of causing serious injury recklessly by the total number of offences for which sentences were imposed. The number of sentenced offences per person ranged from 1 to 18, while the median was 2 offences. There were 173 people (48.5%) sentenced for the single offence of causing serious injury recklessly. The average number of offences per person sentenced for causing serious injury recklessly was 2.37.

Table 2 shows the 10 most common offences for people sentenced for causing serious injury recklessly, by number and percentage. The last column sets out the average number of offences sentenced per person. For example, 26 of the total 357 people (7.3%) also received sentences for affray. On average, they were sentenced for 1 count of affray.

**Table 2:** The number and percentage of people sentenced for the principal offence of causing serious injury recklessly by the most common offences that were sentenced and the average number of those offences that were sentenced, 2012–13 to 2016–17

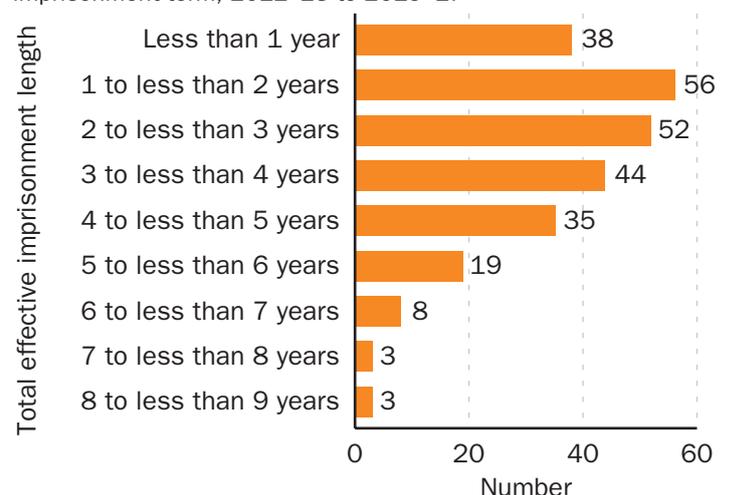
Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Causing serious injury recklessly	357	100.0%	1.04
2. Affray	26	7.3%	1.00
3. Aggravated burglary	23	6.4%	1.04
4. Theft	22	6.2%	1.59
5. Causing injury recklessly	20	5.6%	1.15
6. Intentionally destroy/damage property (criminal damage)	18	5.0%	1.44
7. Common law assault	17	4.8%	1.29
8. Fail to answer bail	15	4.2%	1.60
9. Making a threat to kill	15	4.2%	1.20
10. Armed robbery	14	3.9%	1.36
<b>People sentenced</b>	<b>357</b>	<b>100.0%</b>	<b>2.37</b>

## Total effective imprisonment terms

Figure 6 shows the number of people sentenced to imprisonment for causing serious injury recklessly from 2012–13 to 2016–17 by length of total effective imprisonment term. Total effective imprisonment terms ranged from 14 days (combined with a community correction order) to 8 years and 8 months, while the median total effective imprisonment term was 2 years and 6 months (meaning that half of the total effective imprisonment terms were below 2 years and 6 months and half were above).

The most common total effective imprisonment term was 1 to less than 2 years (56 people).

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



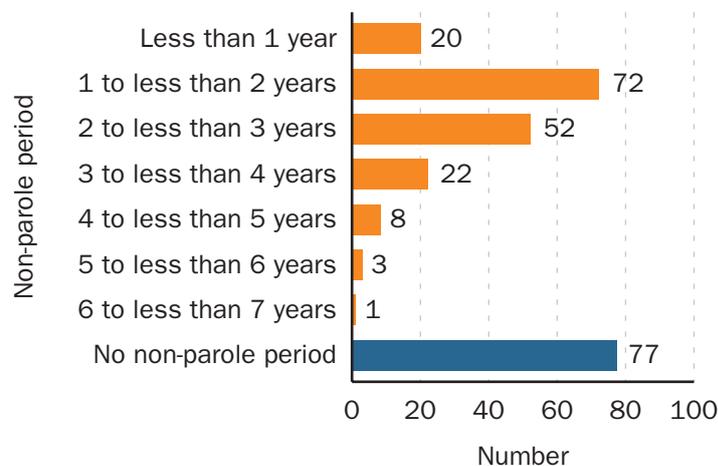
## Non-parole period

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 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.

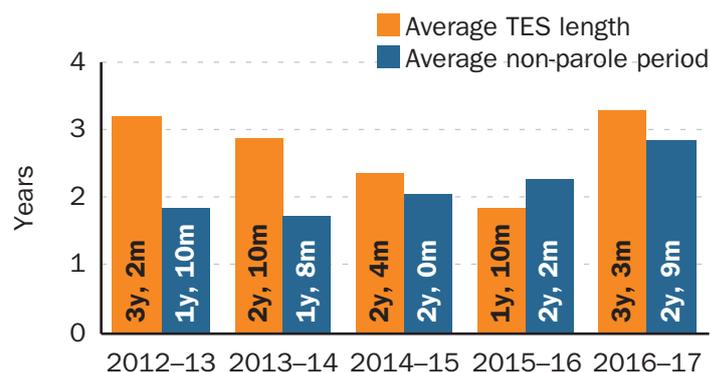
Of the 258 people who were sentenced to imprisonment for causing serious injury recklessly, 220 were eligible to have a non-parole period fixed.<sup>11</sup> Of these people, 178 were given a non-parole period (81%).<sup>12</sup> Figure 7 shows the number of people sentenced to imprisonment for causing serious injury recklessly from 2012–13 to 2016–17 by length of non-parole period. Non-parole periods ranged from 3 months to 6 years, while the median length of the non-parole period was 1 year and 9 months (meaning that half of the non-parole periods were below 1 year and 9 months and half were above).

The majority of people did not receive a non-parole period (77 people).

**Figure 7:** The number of people sentenced to imprisonment for causing serious injury recklessly 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 recklessly, 2012–13 to 2016–17



## 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 1 year and 10 months in 2015–16 to 3 years and 3 months in 2016–17. Over the same period, the average length of non-parole periods ranged from 1 year and 8 months in 2013–14 to 2 years and 9 months in 2016–17.<sup>13</sup>

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

## Summary

From 2012–13 to 2016–17, 357 people were sentenced in the higher courts for causing serious injury recklessly. Of these people, 258 (72%) were given a principal sentence of imprisonment.

Both the median total effective imprisonment length and principal imprisonment length were 2 years and 6 months.

Total effective imprisonment lengths ranged from 14 days (combined with a community correction order) to 8 years and 8 months, and non-parole periods (where imposed) ranged from 3 months to 6 years.

## 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. 188, which describes sentencing trends for causing serious injury recklessly 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 17.
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, aggregate imprisonment combined with a community correction order, a youth justice centre order, aggregate imprisonment, a custodial supervision order, a partially suspended sentence 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 causing serious injury recklessly. From 2012–13 to 2016–17, 19 people received an aggregate form of imprisonment.
11. A total of 38 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. Three 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 39 people who were eligible for a non-parole period.
13. In 2015–16, the average total effective imprisonment length was lower than the average non-parole period. This occurs when a large portion of cases involve offending attracting sentences of less than 1 year's imprisonment, which are too low to be eligible for a non-parole period.

## SACStat Causing serious injury recklessly

[http://www.sentencingcouncil.vic.gov.au/sacstat/higher\\_courts/HC\\_6231\\_17.html](http://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_6231_17.html)

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