

Chapter 8

Top 35 Offences

Causing Injury Intentionally

Over the period causing injury intentionally was the 7th most common principal proven offence. A person who, without lawful excuse, intentionally causes injury to another person is guilty of the offence of causing injury intentionally.⁶ Injury may include unconsciousness, hysteria, pain or any substantial impairment of bodily function.⁷

Causing injury intentionally is an indictable offence which carries a maximum penalty of 10 years imprisonment and/or fine of up to 1200 penalty units.⁸

The total number of all offences found proven for causing injury intentionally increased by 100% from 114 in 2001/02, to 229 in 2003/04, before decreasing to an overall increase of 63% in 2005/06 (Table 8.10.1).

Between 2001/02 and 2005/06:

- The number of principal proven offences for causing injury intentionally increased by 51% when comparing 2001/02 (39), to 2005/06 (59) (Table 8.10.1);
- The most common sentence type where the principal proven offence was causing injury intentionally were imprisonment, a suspended sentence or a community based order and an adjourned undertaking in 2005/06 only (Table 8.10.2);
- Where the sentence was imprisonment the average sentence length was between 13 and 18 months (Table 8.10.3);
- The average sentence length for a suspended sentence was 9 to 15 months (Table 10.8).

Table 8.10.1

Number of causing injury intentionally offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	114	181	229	154	186
Number of principle proven offences	39	47	83	56	59

⁶ *Crimes Act 1958* s.18

⁷ *Crimes Act 1958* s.15

⁸ Each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.

Causing Injury Intentionally, continued

Table 8.10.2

Number of each sentence type imposed where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	8	15	14	12	8
Intensive correction order	2	2	1	2	2
Suspended sentence	14	13	21	23	21
Youth training centre	1	-	1	1	-
Community based order	10	17	31	14	13
YSO/YAO	-	-	-	-	-
Fine	1	-	6	4	4
Adjourned undertaking	1	-	8	-	11
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	-	-	-	-
Other orders	2	-	1	-	-
<i>Total</i>	39	47	83	56	59

Table 8.10.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	5	5	5	1	2
1<2 years (12 - 23.9 months)	1	5	6	8	5
2<3 years (24 - 35.9 months)	2	2	1	2	1
3<4 years (36 - 47.9 months)	-	2	2	1	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	1	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	8	15	14	12	8
Minimum (months)	2	3	1	6	6
Maximum (months)	30	60	36	36	30
Average (months)	13	18	15	18	16
Median (months)	7	12	12	18	18
90th percentile (months)	30	36	36	24	30

Causing Injury Intentionally, continued

Table 8.10.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	5	3	5	-	1
1<2 years (12 - 23.9 months)	1	6	3	8	5
2<3 years (24 - 35.9 months)	1	2	3	2	2
3<4 years (36 - 47.9 months)	1	1	2	1	-
4<5 years (48 - 59.9 months)	-	1	-	1	-
5<10 years (60 - 119.9 months)	-	2	-	-	-
10<15 years (120 - 179.9 months)	-	-	1	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	8	15	14	12	8
Minimum (months)	3	3	1	12	6
Maximum (months)	40	81	168	54	30
Average (months)	14	26	28	23	19
Median (months)	7	18	18	20	18
90th percentile (months)	40	60	36	36	30

Table 8.10.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	3	3	7	5
1<2 years (12 - 23.9 months)	2	2	4	1	2
2<3 years (24 - 35.9 months)	1	2	-	1	-
3<4 years (36 - 47.9 months)	-	1	-	1	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	1	-	-	-
10<15 years (120 - 179.9 months)	-	-	1	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	1	-	-
<i>Total</i>	3	9	9	10	7
Minimum (months)	12	4	10	6	6
Maximum (months)	28	60	138	36	15
Average (months)	18	22	30	13	9
Median (months)	15	16	15	9	8
90th percentile (months)	28	60	138	36	15

Causing Injury Intentionally, continued

Table 8.10.6

Number of imprisonment orders made, by length of sentence, where the offence of causing injury intentionally was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	30	50	50	32	31
1<2 years (12 - 23.9 months)	11	25	34	24	29
2<3 years (24 - 35.9 months)	6	7	13	6	7
3<4 years (36 - 47.9 months)	-	5	2	3	1
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	1	1	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	47	88	100	65	68

Table 8.10.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	1
6<9 months	-	1	-	2	1
9<12 months	2	1	1	-	-
<i>Total</i>	2	2	1	2	2

Table 8.10.8

Number of defendants who received a suspended sentence, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	14	13	21	23	21
Average imprisonment length (months)	10	15	9	10	9
Average operational period (months)	21	24	24	21	20

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Causing Injury Intentionally, continued

Table 8.10.9

Number of defendants sentenced to be detained in a youth training centre, by term of order, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	1	-	-	-	-
7-12 months	-	-	1	-	-
13-18 months	-	-	-	1	-
19-24 months	-	-	-	-	-
25-30 months	-	-	-	-	-
31-36 months	-	-	-	-	-
<i>Total</i>	1	0	1	1	0

Table 8.10.10

Number of defendants sentenced to a community based order, by term of order, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	1	-	1	-
7-12 months	5	8	18	4	8
13-18 months	-	1	8	2	2
19-24 months	5	7	5	7	3
<i>Total</i>	10	17	31	14	13

Table 8.10.11

Number of defendants who received a fine, by amount, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
\$0<\$500	-	-	1	-	-
\$500<\$1,000	-	-	-	-	-
\$1,000<\$1,500	-	-	1	-	1
\$1,500<\$2,000	-	-	3	2	1
\$2,000<\$2,500	-	-	-	2	2
\$2,500<\$5,000	1	-	1	-	-
\$5,000<\$10,000	-	-	-	-	-
\$10,000<\$50,000	-	-	-	-	-
\$50,000<\$100,000	-	-	-	-	-
\$100,000+	-	-	-	-	-
<i>Total</i>	1	0	6	4	4

Causing Injury Intentionally, continued

Table 8.10.12

Number of defendants sentenced to an adjourned undertaking, by term of order, where the principal proven offence was causing injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-12 months	-	-	1	-	5
13-24 months	1	-	5	-	5
25-36 months	-	-	2	-	1
37-48 months	-	-	-	-	-
49-60 months	-	-	-	-	-
<i>Total</i>	1	0	8	0	11

Causing Injury Recklessly

Over the period causing injury recklessly was the 17th most common principal proven offence. A person who, without lawful excuse, recklessly causes injury to another person is guilty of the offence of causing injury recklessly.⁹ Recklessness requires foresight on the part of the accused of the probability that injury will occur as a consequence of his or her actions.¹⁰

Causing injury recklessly is an indictable offence which carries a maximum penalty of 5 years imprisonment and/or fine of up to 600 penalty units.¹¹

The total number of all offences found proven for causing injury recklessly fluctuated from year to year. There were 85 offences of causing injury recklessly found proven in 2005/06 which was the lowest over the period (Table 8.11.1).

Between 2001/02 and 2005/06:

- The number of principal proven offences for causing injury recklessly followed a downward trend from 2002/03 (42) to 2005/06 (24) (Table 8.11.1);
- As with causing injury intentionally, the most common sentence types handed down for causing injury recklessly was imprisonment, a suspended sentence or community based order, although in 2005/06 the majority of sentences were a suspended sentence (Table 8.11.2);
- Where the sentence was imprisonment the average sentence length was between 8 and 17 months (Table 8.11.3);
- Average sentence lengths where the sentence type imposed was a suspended sentence ranged from 6 to 11 months (Table 8.11.8).

Table 8.11.1

Number of causing injury recklessly offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	102	97	129	110	85
Number of principle proven offences	32	42	36	28	24

⁹ *Crimes Act 1958* s.18

¹⁰ *R v Campbell* [1997] 2 VR 585. See also *R v Crabbe* [1995] 156 CLR 464; *R v Nuri* [1990] VR 641.

¹¹ Each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.

Causing Injury Recklessly, continued

Table 8.11.2

Number of each sentence type imposed where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	4	10	7	7	1
Intensive correction order	1	2	1	-	-
Suspended sentence	6	11	11	7	14
Youth training centre	-	-	-	-	-
Community based order	12	5	11	7	3
YSO/YAO	-	-	-	-	-
Fine	3	6	3	4	5
Adjourned undertaking	5	8	3	3	1
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	-	-	-	-
Other orders	1	-	-	-	-
<i>Total</i>	32	42	36	28	24

Table 8.11.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	2	6	5	1	1
1<2 years (12 - 23.9 months)	1	1	2	3	-
2<3 years (24 - 35.9 months)	1	-	-	3	-
3<4 years (36 - 47.9 months)	-	3	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	4	10	7	7	1
Minimum (months)	3	1	-	7	9
Maximum (months)	24	42	18	24	9
Average (months)	14	16	8	17	9
Median (months)	14	11	6	14	9
90th percentile (months)	24	42	18	24	9

Causing Injury Recklessly, continued

Table 8.11.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	2	6	3	1	1
1<2 years (12 - 23.9 months)	1	-	3	3	-
2<3 years (24 - 35.9 months)	1	1	1	2	-
3<4 years (36 - 47.9 months)	-	2	-	1	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	1	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	4	10	7	7	1
Minimum (months)	3	2	-	7	9
Maximum (months)	30	144	31	36	9
Average (months)	17	29	13	20	9
Median (months)	17	11	12	21	9
90th percentile (months)	30	144	31	36	9

Table 8.11.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	2	3	-
1<2 years (12 - 23.9 months)	1	3	2	2	-
2<3 years (24 - 35.9 months)	-	-	-	1	-
3<4 years (36 - 47.9 months)	-	-	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	1	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	1	4	4	6	0
Minimum (months)	15	12	3	6	-
Maximum (months)	15	102	15	24	-
Average (months)	15	37	10	12	-
Median (months)	15	17	11	10	-
90th percentile (months)	15	102	15	24	-

Causing Injury Recklessly, continued

Table 8.11.6

Number of imprisonment orders made, by length of sentence, where the offence of causing injury recklessly was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	29	22	38	21	25
1<2 years (12 - 23.9 months)	8	10	13	16	7
2<3 years (24 - 35.9 months)	2	2	2	4	1
3<4 years (36 - 47.9 months)	-	3	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	39	37	53	41	33

Table 8.11.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	1	-	-	-	-
6<9 months	-	-	1	-	-
9<12 months	-	2	-	-	-
<i>Total</i>	1	2	1	0	0

Table 8.11.8

Number of defendants who received a suspended sentence, where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	6	11	11	7	14
Average imprisonment length (months)	6	8	11	7	8
Average operational period (months)	23	18	25	16	21

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Causing Injury Recklessly, continued

Table 8.11.9

Number of defendants sentenced to a community based order, by term of order, where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	-	2	-	-
7-12 months	7	1	8	4	3
13-18 months	1	2	-	1	-
19-24 months	4	2	1	2	-
<i>Total</i>	12	5	11	7	3

Table 8.11.10

Number of defendants who received a fine, by amount, where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
\$0<\$500	-	1	1	-	-
\$500<\$1,000	1	2	1	1	-
\$1,000<\$1,500	1	2	-	-	1
\$1,500<\$2,000	-	-	1	3	1
\$2,000<\$2,500	-	-	-	-	1
\$2,500<\$5,000	1	1	-	-	1
\$5,000<\$10,000	-	-	-	-	1
\$10,000<\$50,000	-	-	-	-	-
\$50,000<\$100,000	-	-	-	-	-
\$100,000+	-	-	-	-	-
<i>Total</i>	3	6	3	4	5

Table 8.11.11

Number of defendants sentenced to an adjourned undertaking, by term of order, where the principal proven offence was causing injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-12 months	3	4	3	-	1
13-24 months	2	3	-	2	-
25-36 months	-	-	-	1	-
37-48 months	-	-	-	-	-
49-60 months	-	1	-	-	-
<i>Total</i>	5	8	3	3	1

Causing Serious Injury Intentionally

Over the period causing serious injury intentionally was the 4th most common principal proven offence. A person who, without lawful excuse, intentionally causes injury to another person is guilty of causing serious injury intentionally.¹² The person must have intended to cause serious injury to the victim.¹³ Serious injury includes a combination of injuries some of which may involve unconsciousness, hysteria, pain and any substantial impairment of bodily function.

Causing serious injury intentionally is an indictable offence which carries a maximum penalty of 20 years imprisonment and/or fine of up to 2400 penalty units.¹⁴

The total number of all offences found proven for causing serious injury intentionally followed an upward trend from 116 in 2001/02, to 155 in 2005/06 (Table 8.12.1).

Between 2001/02 and 2005/06:

- The number of principal proven offences for causing serious injury intentionally fluctuated from year to year with there being 109 in 2005/06 (Table 8.12.1);
- Over half of all sentence types handed down were for imprisonment, apart from 2004/05 (Table 8.12.2);
- Where the sentence was imprisonment the average sentence length remained consistent throughout the period ranging between 36 and 44 months (Table 8.12.3);
- The maximum sentence of imprisonment varied significantly throughout the period, ranging from 96 to 192 months, or 8 to 16 years (Table 8.12.3).

Table 8.12.1

Number of causing serious injury intentionally offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	116	130	142	132	155
Number of principle proven offences	92	84	113	90	109

¹² *Crimes Act 1958* s.16

¹³ *R v Westaway* [1991] 52 A Crim R 336.

¹⁴ Each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.

Causing Serious Injury Intentionally, continued

Table 8.12.2

Number of each sentence type imposed where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	49	45	65	43	63
Intensive correction order	4	2	6	4	3
Suspended sentence	22	19	24	23	28
Youth training centre	4	5	7	14	9
Community based order	4	6	5	3	3
YSO/YAO	-	-	-	-	-
Fine	-	-	-	-	-
Adjourned undertaking	3	1	-	-	1
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	-	-	-	-
Other orders	6	6	6	3	2
<i>Total</i>	92	84	113	90	109

Table 8.12.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	1	1	3	1	1
1<2 years (12 - 23.9 months)	6	11	10	10	8
2<3 years (24 - 35.9 months)	11	12	16	7	13
3<4 years (36 - 47.9 months)	11	11	13	13	10
4<5 years (48 - 59.9 months)	6	3	8	7	12
5<10 years (60 - 119.9 months)	14	6	14	5	19
10<15 years (120 - 179.9 months)	-	-	1	-	-
15<20 years (180 - 239.9 months)	-	1	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	49	45	65	43	63
Minimum (months)	3	9	6	3	6
Maximum (months)	96	192	168	96	108
Average (months)	44	38	44	36	44
Median (months)	36	30	36	36	44
90th percentile (months)	78	72	88	60	66

Causing Serious Injury Intentionally, continued

Table 8.12.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	1	-	3	1	1
1<2 years (12 - 23.9 months)	5	9	9	5	5
2<3 years (24 - 35.9 months)	9	11	11	10	10
3<4 years (36 - 47.9 months)	12	12	17	10	8
4<5 years (48 - 59.9 months)	2	5	8	7	14
5<10 years (60 - 119.9 months)	20	7	13	9	23
10<15 years (120 - 179.9 months)	-	-	4	1	2
15<20 years (180 - 239.9 months)	-	1	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	49	45	65	43	63
Minimum (months)	3	12	6	3	6
Maximum (months)	111	192	168	120	132
Average (months)	49	44	49	43	52
Median (months)	42	42	38	40	48
90th percentile (months)	84	72	96	66	96

Table 8.12.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	6	11	7	10	8
1<2 years (12 - 23.9 months)	17	15	21	9	14
2<3 years (24 - 35.9 months)	8	10	14	14	14
3<4 years (36 - 47.9 months)	6	4	3	4	17
4<5 years (48 - 59.9 months)	7	1	5	3	2
5<10 years (60 - 119.9 months)	4	3	9	2	6
10<15 years (120 - 179.9 months)	-	1	1	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	2	-	1
<i>Total</i>	48	45	62	42	62
Minimum (months)	6	4	6	4	4
Maximum (months)	78	156	120	84	78
Average (months)	29	26	32	25	30
Median (months)	24	18	24	24	30
90th percentile (months)	54	48	72	54	54

Causing Serious Injury Intentionally, continued

Table 8.12.6

Number of imprisonment orders made, by length of sentence, where the offence of causing serious injury intentionally was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	2	6	4	5	6
1<2 years (12 - 23.9 months)	11	23	14	17	18
2<3 years (24 - 35.9 months)	15	21	25	12	23
3<4 years (36 - 47.9 months)	16	14	15	17	15
4<5 years (48 - 59.9 months)	8	5	9	8	16
5<10 years (60 - 119.9 months)	14	9	15	7	22
10<15 years (120 - 179.9 months)	-	-	2	-	-
15<20 years (180 - 239.9 months)	-	1	-	2	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	66	79	84	68	100

Table 8.12.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	2	2	1	-	-
9<12 months	2	-	5	4	3
<i>Total</i>	4	2	6	4	3

Table 8.12.8

Number of defendants who received a suspended sentence, where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	22	19	24	23	28
Average imprisonment length (months)	15	19	21	17	16
Average operational period (months)	26	26	26	26	26

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Causing Serious Injury Intentionally, continued

Table 8.12.9

Number of defendants sentenced to be detained in a youth training centre, by term of order, where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	1	-	-	1	1
7-12 months	-	-	1	-	1
13-18 months	1	3	4	3	3
19-24 months	1	1	-	5	-
25-30 months	1	1	1	2	-
31-36 months	-	-	1	3	2
<i>Total</i>	4	5	7	14	7

Table 8.12.10

Number of defendants sentenced to a community based order, by term of order, where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	1	-	1	-	-
7-12 months	1	1	1	1	2
13-18 months	-	2	-	1	-
19-24 months	2	3	3	1	1
<i>Total</i>	4	6	5	3	3

Table 8.12.11

Number of defendants sentenced to an adjourned undertaking, by term of order, where the principal proven offence was causing serious injury intentionally, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-12 months	-	1	-	-	1
13-24 months	1	-	-	-	-
25-36 months	-	-	-	-	-
37-48 months	1	-	-	-	-
49-60 months	1	-	-	-	-
<i>Total</i>	3	1	0	0	1

Causing Serious Injury Recklessly

Over the period causing serious injury recklessly was the 5th most common principal proven offence. A person who, without lawful excuse, recklessly causes injury to another person is guilty of causing serious injury recklessly.¹⁵ Recklessness requires foresight on the part of the accused of the probability that serious injury will occur as a consequence of his or her actions.¹⁶ The person must have intended to cause serious injury to the victim.¹⁷ Serious injury includes a combination of injuries some of which may involve unconsciousness, hysteria, pain and any substantial impairment of bodily function.

Causing serious injury recklessly is an indictable offence which carries a maximum penalty of 10 years imprisonment and/or fine of up to 1200 penalty units.¹⁸

The total number of all offences found proven for causing serious injury recklessly was highest in 2004/05 with 161 offences found proven (Table 8.13.1).

Between 2001/02 and 2005/06:

- The number of principal proven offences for causing serious injury recklessly fluctuated from a low of 78 in 2001/02 to a high in 2004/05 of 118 (Table 8.13.1);
- The most common sentence types were imprisonment, a suspended sentence and a community based order (Table 8.13.2);
- Where the sentence imposed was a suspended sentence the average sentence lengths ranged from 12 to 16 months and the average operational period was approximately 22 - 24 months (Table 8.13.8).

Table 8.13.1

Number of causing serious injury recklessly offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	108	125	125	161	135
Number of principle proven offences	78	91	97	118	99

¹⁵ *Crimes Act 1958* s.17

¹⁶ *R v Campbell*[1997] 2 VR 585. See also *R v Crabbe* [1995] 156 CLR 464; *R v Nuri*[1990] VR 641

¹⁷ *R v Westaway*[1991] 52 A Crim R 336.

¹⁸ Each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.

Causing Serious Injury Recklessly, continued

Table 8.13.2

Number of each sentence type imposed where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	21	34	36	30	42
Intensive correction order	-	3	7	4	9
Suspended sentence	28	34	35	54	26
Youth training centre	6	2	2	6	5
Community based order	17	12	13	21	13
YSO/YAO	-	-	-	-	-
Fine	4	3	-	-	1
Adjourned undertaking	1	1	3	2	2
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	-	-	-	-
Other orders	1	2	1	1	1
<i>Total</i>	78	91	97	118	99

Table 8.13.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	2	3	4	3	6
1<2 years (12 - 23.9 months)	5	9	12	11	12
2<3 years (24 - 35.9 months)	9	12	9	3	15
3<4 years (36 - 47.9 months)	3	6	6	7	9
4<5 years (48 - 59.9 months)	-	2	3	1	-
5<10 years (60 - 119.9 months)	2	1	2	5	-
10<15 years (120 - 179.9 months)	-	1	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	21	34	36	30	42
Minimum (months)	8	3	3	6	3
Maximum (months)	63	120	84	84	42
Average (months)	28	31	27	32	23
Median (months)	24	29	24	30	24
90th percentile (months)	45	48	48	60	36

Causing Serious Injury Recklessly, continued

Table 8.13.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	3	3	3	5
1<2 years (12 - 23.9 months)	6	7	9	9	11
2<3 years (24 - 35.9 months)	10	11	9	5	14
3<4 years (36 - 47.9 months)	2	7	8	3	12
4<5 years (48 - 59.9 months)	-	3	3	4	-
5<10 years (60 - 119.9 months)	3	2	3	6	-
10<15 years (120 - 179.9 months)	-	-	1	-	-
15<20 years (180 - 239.9 months)	-	1	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	21	34	36	30	42
Minimum (months)	14	3	3	6	3
Maximum (months)	84	180	132	84	45
Average (months)	31	36	33	36	26
Median (months)	24	30	28	32	26
90th percentile (months)	60	54	60	66	42

Table 8.13.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	8	9	7	7	12
1<2 years (12 - 23.9 months)	9	10	18	6	19
2<3 years (24 - 35.9 months)	-	5	4	6	5
3<4 years (36 - 47.9 months)	1	4	2	2	-
4<5 years (48 - 59.9 months)	1	-	1	2	-
5<10 years (60 - 119.9 months)	1	1	-	2	-
10<15 years (120 - 179.9 months)	-	1	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	1	1	1	-
<i>Total</i>	20	31	33	26	36
Minimum (months)	4	3	3	6	3
Maximum (months)	60	120	54	75	28
Average (months)	18	23	17	25	14
Median (months)	15	17	13	21	15
90th percentile (months)	48	36	34	50	24

Causing Serious Injury Recklessly, continued

Table 8.13.6

Number of imprisonment orders made, by length of sentence, where the offence of causing serious injury recklessly was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	8	5	7	5	11
1<2 years (12 - 23.9 months)	11	18	22	17	24
2<3 years (24 - 35.9 months)	13	16	13	9	22
3<4 years (36 - 47.9 months)	5	7	8	9	9
4<5 years (48 - 59.9 months)	-	2	3	4	-
5<10 years (60 - 119.9 months)	2	1	2	5	-
10<15 years (120 - 179.9 months)	-	1	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	39	50	55	49	66

Table 8.13.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	1
6<9 months	-	-	1	1	2
9<12 months	-	3	6	3	6
<i>Total</i>	0	3	7	4	9

Table 8.13.8

Number of defendants who received a suspended sentence, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	28	34	35	54	26
Average imprisonment length (months)	13	12	16	13	13
Average operational period (months)	22	22	24	23	22

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Causing Serious Injury Recklessly, continued

Table 8.13.9

Number of defendants sentenced to be detained in a youth training centre, by term of order, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	-	1	1	-
7-12 months	5	1	-	3	-
13-18 months	1	1	-	-	3
19-24 months	-	-	1	2	2
25-30 months	-	-	-	-	-
31-36 months	-	-	-	-	-
<i>Total</i>	6	2	2	6	5

Table 8.13.10

Number of defendants sentenced to a community based order, by term of order, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	1	-	-	1
7-12 months	8	4	4	9	6
13-18 months	2	5	1	1	1
19-24 months	7	2	8	11	5
<i>Total</i>	17	12	13	21	13

Table 8.13.11

Number of defendants who received a fine, by amount, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
\$0<\$500	-	-	-	-	-
\$500<\$1,000	-	-	-	-	-
\$1,000<\$1,500	-	-	-	-	-
\$1,500<\$2,000	2	-	-	-	-
\$2,000<\$2,500	1	-	-	-	-
\$2,500<\$5,000	-	3	-	-	-
\$5,000<\$10,000	1	-	-	-	1
\$10,000<\$50,000	-	-	-	-	-
\$50,000<\$100,000	-	-	-	-	-
\$100,000+	-	-	-	-	-
<i>Total</i>	4	3	0	0	1

Causing Serious Injury Recklessly, continued

Table 8.13.12

Number of defendants sentenced to an adjourned undertaking, by term of order, where the principal proven offence was causing serious injury recklessly, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-12 months	-	-	2	-	-
13-24 months	1	-	-	-	2
25-36 months	-	-	1	2	-
37-48 months	-	1	-	-	-
49-60 months	-	-	-	-	-
<i>Total</i>	1	1	3	2	2

Common Law Assault

Over the period common law assault was the 27th most common principal proven offence. A person who, causes a blow or other intentional application of physical force to the victim's body, in a hostile manner, without his or her consent, and without lawful justification or excuse, is guilty of common law assault.¹⁹

Common Law Assault is a common law offence which carries a maximum penalty of 5 years imprisonment.

The total number of all offences found proven for common law assault fluctuated year to year. The highest number of offences found proven was in 2003/04 with 186 and the lowest was in 2002/03 with 87 (Table 8.14.1).

Between 2001/02 and 2005/06:

- The number of principal proven offences for common law assault was relatively low compared to the total common law offences found proven;
- In 2005/06 there were 17 principal proven offences for common law assault (Table 8.14.1);
- The sentence outcomes where the principal proven offence is common law assault varied greatly;
- The most severe sentence was imprisonment of 36 months in 2001/02 (Table 8.14.3);

Table 8.14.1

Number of common law assault offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	118	87	186	158	132
Number of principle proven offences	19	12	22	18	17

¹⁹ *R v Holzer* [1968] VR 481, 484.

Common Law Assault, continued

Table 8.14.2

Number of each sentence type imposed where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	3	4	1	2	4
Intensive correction order	-	-	2	-	1
Suspended sentence	3	-	6	5	5
Youth training centre	-	-	-	-	-
Community based order	7	7	1	6	2
YSO/YAO	-	-	-	-	-
Fine	2	1	6	3	2
Adjourned undertaking	4	-	6	2	3
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	-	-	-	-
Other orders	-	-	-	-	-
<i>Total</i>	19	12	22	18	17

Table 8.14.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	1	3	1	2	3
1<2 years (12 - 23.9 months)	1	1	-	-	1
2<3 years (24 - 35.9 months)	-	-	-	-	-
3<4 years (36 - 47.9 months)	1	-	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	3	4	1	2	4
Minimum (months)	3	2	4	3	4
Maximum (months)	36	12	4	6	14
Average (months)	17	7	4	5	8
Median (months)	12	6	4	5	6
90th percentile (months)	36	12	4	6	14

Common Law Assault, continued

Table 8.14.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	1	1	1	2	2
1<2 years (12 - 23.9 months)	-	2	-	-	1
2<3 years (24 - 35.9 months)	1	1	-	-	-
3<4 years (36 - 47.9 months)	1	-	-	-	1
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	3	4	1	2	4
Minimum (months)	3	2	6	6	4
Maximum (months)	36	24	6	6	36
Average (months)	21	13	6	6	15
Median (months)	24	13	6	6	10
90th percentile (months)	36	24	6	6	36

Table 8.14.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	1	-	-	1
1<2 years (12 - 23.9 months)	1	1	-	-	1
2<3 years (24 - 35.9 months)	1	-	-	-	-
3<4 years (36 - 47.9 months)	-	-	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	2	2	0	0	2
Minimum (months)	12	7	-	-	8
Maximum (months)	24	12	-	-	12
Average (months)	18	10	-	-	10
Median (months)	18	10	-	-	10
90th percentile (months)	24	12	-	-	12

Common Law Assault, continued

Table 8.14.6

Number of imprisonment orders made, by length of sentence, where the offence of common law assault was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	38	40	63	68	62
1<2 years (12 - 23.9 months)	8	5	26	10	9
2<3 years (24 - 35.9 months)	4	4	14	2	1
3<4 years (36 - 47.9 months)	1	2	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	1	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	51	51	103	81	72

Table 8.14.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	-	-	1	-	1
6<9 months	-	-	-	-	-
9<12 months	-	-	1	-	-
<i>Total</i>	0	0	2	0	1

Table 8.14.8

Number of defendants who received a suspended sentence, where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	3	-	6	5	5
Average imprisonment length (months)	18	-	6	5	11
Average operational period (months)	32	-	18	16	20

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Common Law Assault, continued

Table 8.14.9

Number of defendants sentenced to a community based order, by term of order, where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	1	-	2	-
7-12 months	4	3	1	1	1
13-18 months	-	2	-	1	-
19-24 months	3	1	-	2	1
<i>Total</i>	7	7	1	6	2

Table 8.14.10

Number of defendants who received a fine, by amount, where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
\$0<\$500	-	-	-	1	2
\$500<\$1,000	1	-	4	1	-
\$1,000<\$1,500	-	-	1	-	-
\$1,500<\$2,000	-	1	1	-	-
\$2,000<\$2,500	-	-	-	1	-
\$2,500<\$5,000	-	-	-	-	-
\$5,000<\$10,000	-	-	-	-	-
\$10,000<\$50,000	1	-	-	-	-
\$50,000<\$100,000	-	-	-	-	-
\$100,000+	-	-	-	-	-
<i>Total</i>	2	1	6	3	2

Table 8.14.11

Number of defendants sentenced to an adjourned undertaking, by term of order, where the principal proven offence was common law assault, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-12 months	2	-	4	1	1
13-24 months	1	-	-	1	1
25-36 months	1	-	2	-	1
37-48 months	-	-	-	-	-
49-60 months	-	-	-	-	-
<i>Total</i>	4	0	6	2	3

Conduct Endangering Life

Over the period conduct endangering life was the 30th most common principal proven offence. A person who, without lawful excuse, recklessly engages in conduct that places or may place another person in danger of death is guilty of conduct endangering life.²⁰ Recklessness requires foresight on the part of the accused of the probability that serious injury will occur as a consequence of his or her actions.²¹

Conduct endangering life is an indictable offence which carries a maximum penalty of 10 years imprisonment.

The total number of all offences found proven for conduct endangering life was consistently between 20 and 31 offences until 2004/05. In 2005/06 there was a significant increase the number of offences found proven with 67 (Table 8.15.1).

Between 2001/02 and 2005/06:

- The number of principal proven offences for conduct endangering life increased from 8 in 2001/02, to 18 in 2004/05 (Table 8.15.1);
- Due to the low numbers, sentence types were varied from year to year although imprisonment was the only sentence type handed down in each year (Table 8.15.2);
- Where the sentence was imprisonment the average sentence length was consistent ranging from 18 to 27 months (Table 8.15.3).

Table 8.15.1

Number of conduct endangering life offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	22	20	31	20	67
Number of principle proven offences	8	7	11	11	18

²⁰ *Crimes Act 1958* s.22

²¹ *R v Campbell* [1997] 2 VR 585. See also *R v Crabbe* [1995] 156 CLR 464; *R v Nuri* [1990] VR 641

Conduct Endangering Life, continued

Table 8.15.2

Number of each sentence type imposed where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	3	3	7	4	8
Intensive correction order	-	-	-	1	-
Suspended sentence	-	3	2	4	7
Youth training centre	-	-	-	1	2
Community based order	1	-	2	-	-
YSO/YAO	-	-	-	-	-
Fine	-	-	-	-	-
Adjourned undertaking	3	-	-	1	-
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	-	-	-	-
Other orders	1	1	-	-	1
<i>Total</i>	8	7	11	11	18

Table 8.15.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	1	-	2
1<2 years (12 - 23.9 months)	1	1	4	3	2
2<3 years (24 - 35.9 months)	2	1	1	-	2
3<4 years (36 - 47.9 months)	-	1	1	1	1
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	1
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	3	3	7	4	8
Minimum (months)	20	18	3	15	6
Maximum (months)	30	36	36	36	72
Average (months)	25	26	18	20	27
Median (months)	24	24	18	15	21
90th percentile (months)	30	36	36	36	72

Conduct Endangering Life, continued

Table 8.15.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	1	-	1
1<2 years (12 - 23.9 months)	-	1	2	3	3
2<3 years (24 - 35.9 months)	1	-	3	-	-
3<4 years (36 - 47.9 months)	1	2	-	-	2
4<5 years (48 - 59.9 months)	1	-	-	1	1
5<10 years (60 - 119.9 months)	-	-	1	-	1
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	3	3	7	4	8
Minimum (months)	30	21	3	17	7
Maximum (months)	48	42	60	48	72
Average (months)	38	33	25	25	34
Median (months)	36	36	24	18	31
90th percentile (months)	48	42	60	48	72

Table 8.15.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	1	-	1	1
1<2 years (12 - 23.9 months)	2	1	3	2	3
2<3 years (24 - 35.9 months)	1	1	-	1	2
3<4 years (36 - 47.9 months)	-	-	1	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	1
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	1	-	-
<i>Total</i>	3	3	5	4	7
Minimum (months)	18	11	12	6	6
Maximum (months)	24	24	42	30	48
Average (months)	20	18	20	15	22
Median (months)	18	18	13	12	18
90th percentile (months)	24	24	42	30	48

Conduct Endangering Life, continued

Table 8.15.6

Number of imprisonment orders made, by length of sentence, where the offence of conduct endangering life was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	4	1	2	1	7
1<2 years (12 - 23.9 months)	2	8	12	3	10
2<3 years (24 - 35.9 months)	7	2	4	1	6
3<4 years (36 - 47.9 months)	-	1	4	2	5
4<5 years (48 - 59.9 months)	1	1	-	-	4
5<10 years (60 - 119.9 months)	-	-	4	-	2
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	14	13	26	7	34

Table 8.15.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	-	-	-	1	-
6<9 months	-	-	-	-	-
9<12 months	-	-	-	-	-
<i>Total</i>	0	0	0	1	0

Table 8.15.8

Number of defendants who received a suspended sentence, where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	-	3	2	4	7
Average imprisonment length (months)	-	28	13	12	14
Average operational period (months)	-	32	30	23	27

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Conduct Endangering Life, continued

Table 8.15.9

Number of defendants sentenced to be detained in a youth training centre, by term of order, where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	-	-	-	-
7-12 months	-	-	-	-	-
13-18 months	-	-	-	1	-
19-24 months	-	-	-	-	2
25-30 months	-	-	-	-	-
31-36 months	-	-	-	-	-
<i>Total</i>	0	0	0	1	2

Table 8.15.10

Number of defendants sentenced to a community based order, by term of order, where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	-	-	-	-
7-12 months	1	-	2	-	-
13-18 months	-	-	-	-	-
19-24 months	-	-	-	-	-
<i>Total</i>	1	0	2	0	0

Table 8.15.11

Number of defendants sentenced to an adjourned undertaking, by term of order, where the principal proven offence was conduct endangering life, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-12 months	-	-	-	-	-
13-24 months	1	-	-	1	-
25-36 months	2	-	-	-	-
37-48 months	-	-	-	-	-
49-60 months	-	-	-	-	-
<i>Total</i>	3	0	0	1	0

Conduct Endangering Persons

Over the period conduct endangering persons was the 31st most common principal proven offence. A person who, without lawful excuse, recklessly engages in conduct that places or may place another person in danger of serious injury is guilty of conduct endangering persons.²² Recklessness requires foresight on the part of the accused of the probability that serious injury will occur as a consequence of his or her actions.²³

Conduct endangering persons is an indictable offence which carries a maximum penalty of 5 years imprisonment.

Where the offence of conduct endangering persons was the principal proven offence:

- Between 2002/03 and 2004/05, the majority of sentences were for imprisonment or a suspended sentence (Table 8.16.2);
- The average sentence length for imprisonment varied significantly from 14 months to 29 months (Table 8.16.3);
- A suspended sentence imprisonment length was on average between 8 and 24 months (Table 8.16.8);
- The average operational period was consistent across the period ranging between 22 and 24 months (Table 8.16.8).

Table 8.16.1

Number of conduct endangering persons offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	30	32	56	48	16
Number of principle proven offences	11	6	16	20	1

²² *Crimes Act 1958* s.23

²³ *R v Campbell* [1997] 2 VR 585. See also *R v Crabbe* [1995] 156 CLR 464; *R v Nuri* [1990] VR 641

Conduct Endangering Persons, continued

Table 8.16.2

Number of each sentence type imposed where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	3	5	7	6	-
Intensive correction order	-	-	1	3	-
Suspended sentence	2	1	7	8	-
Youth training centre	-	-	-	-	-
Community based order	3	-	1	1	1
YSO/YAO	-	-	-	-	-
Fine	1	-	-	-	-
Adjourned undertaking	1	-	-	1	-
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	-	-	-	-
Other orders	1	-	-	1	-
<i>Total</i>	11	6	16	20	1

Table 8.16.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	1	1	1	-
1<2 years (12 - 23.9 months)	1	3	1	4	-
2<3 years (24 - 35.9 months)	2	1	3	1	-
3<4 years (36 - 47.9 months)	-	-	-	-	-
4<5 years (48 - 59.9 months)	-	-	1	-	-
5<10 years (60 - 119.9 months)	-	-	1	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	3	5	7	6	0
Minimum (months)	12	9	8	4	-
Maximum (months)	24	24	60	24	-
Average (months)	20	14	29	14	-
Median (months)	24	12	24	12	-
90th percentile (months)	24	24	60	24	-

Conduct Endangering Persons, continued

Table 8.16.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	-	1	-
1<2 years (12 - 23.9 months)	1	1	2	2	-
2<3 years (24 - 35.9 months)	1	2	2	2	-
3<4 years (36 - 47.9 months)	1	1	1	-	-
4<5 years (48 - 59.9 months)	-	-	-	1	-
5<10 years (60 - 119.9 months)	-	-	2	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	3	4	7	6	0
Minimum (months)	18	12	18	5	-
Maximum (months)	36	36	102	49	-
Average (months)	26	28	45	23	-
Median (months)	24	32	34	21	-
90th percentile (months)	36	36	102	49	-

* The total does not match the total for the table relating to the principal proven offence due to counting rules relating to the sentence hierarchy (see Appendix A – paragraphs 39 - 41).

Conduct Endangering Persons, continued

Table 8.16.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	2	1	3	1	-
1<2 years (12 - 23.9 months)	-	3	1	2	-
2<3 years (24 - 35.9 months)	1	-	2	1	-
3<4 years (36 - 47.9 months)	-	-	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	1	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	3	4	7	4	0
Minimum (months)	6	6	6	6	-
Maximum (months)	24	20	72	30	-
Average (months)	13	16	25	16	-
Median (months)	10	18	20	14	-
90th percentile (months)	24	20	72	30	-

Conduct Endangering Persons, continued

Table 8.16.6

Number of imprisonment orders made, by length of sentence, where the offence of conduct endangering persons was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	8	7	18	4	8
1<2 years (12 - 23.9 months)	6	12	11	12	3
2<3 years (24 - 35.9 months)	3	6	4	7	2
3<4 years (36 - 47.9 months)	1	1	-	1	-
4<5 years (48 - 59.9 months)	-	-	1	-	-
5<10 years (60 - 119.9 months)	-	-	1	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	18	26	35	24	13

Table 8.16.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	-	-	2	-
9<12 months	-	-	1	1	-
<i>Total</i>	0	0	1	3	0

Table 8.16.8

Number of defendants who received a suspended sentence, where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	2	1	7	8	-
Average imprisonment length (months)	8	24	15	14	-
Average operational period (months)	24	24	22	20	-

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Conduct Endangering Persons, continued

Table 8.16.9

Number of defendants sentenced to a community based order, by term of order, where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	-	-	-	-
7-12 months	1	-	1	1	-
13-18 months	-	-	-	-	1
19-24 months	2	-	-	-	-
<i>Total</i>	3	0	1	1	1

Table 8.16.10

Number of defendants who received a fine, by amount, where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
\$0<\$500	-	-	-	-	-
\$500<\$1,000	1	-	-	-	-
\$1,000<\$1,500	-	-	-	-	-
\$1,500<\$2,000	-	-	-	-	-
\$2,000<\$2,500	-	-	-	-	-
\$2,500<\$5,000	-	-	-	-	-
\$5,000<\$10,000	-	-	-	-	-
\$10,000<\$50,000	-	-	-	-	-
\$50,000<\$100,000	-	-	-	-	-
\$100,000+	-	-	-	-	-
<i>Total</i>	1	0	0	0	0

Table 8.16.11

Number of defendants sentenced to an adjourned undertaking, by term of order, where the principal proven offence was conduct endangering persons, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-12 months	1	-	-	-	-
13-24 months	-	-	-	1	-
25-36 months	-	-	-	-	-
37-48 months	-	-	-	-	-
49-60 months	-	-	-	-	-
<i>Total</i>	1	0	0	1	0

Culpable Driving

Over the period culpable driving was the 20th most common principal proven offence. A person who drives a motor vehicle negligently, recklessly, or whilst under the influence of drugs and/or alcohol, resulting in the death of another person, is guilty of culpable driving.²⁴

Culpable driving is an indictable offence which carries a maximum penalty of 20 years imprisonment.

The total number of all offences found proven for culpable driving was consistently between 29 and 33 offences throughout the period (Table 8.15.1).

Between 2001/02 and 2005/06:

- In over 78% of instances, culpable driving is the principal proven offence;
- The number of principal proven offence's for culpable driving remained stable over the period with 27 in 2005/06 (Table 8.17.1);
- On average, in 81% of instances a period of imprisonment was imposed (Table 8.17.2);
- The average length of imprisonment ranged between 58 and 69 months, or 4.8 and 5.7 years (Table 8.17.3);
- The maximum sentence length was 147 months (12.2 years) in 2002/03 (Table 8.17.3);
- The other sentence types handed down were a suspended sentence and detention in a youth training centre (Table 8.17.2);
- One defendant received a non custodial supervision order in 2001/02.

Table 8.17.1

Number of culpable driving offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	30	33	29	31	33
Number of principle proven offences	27	26	27	27	27

²⁴ *Crimes Act 1958* s.318

Culpable Driving, continued

Table 8.17.2

Number of each sentence type imposed where the principal proven offence was culpable driving, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	22	22	21	23	21
Intensive correction order	-	-	-	-	-
Suspended sentence	3	-	4	1	1
Youth training centre	1	4	2	3	5
Community based order	-	-	-	-	-
YSO/YAO	-	-	-	-	-
Fine	-	-	-	-	-
Adjourned undertaking	-	-	-	-	-
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	-	-	-	-
Other orders	1	-	-	-	-
<i>Total</i>	27	26	27	27	27

Table 8.17.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was culpable driving, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	-	-	-
1<2 years (12 - 23.9 months)	1	-	-	-	-
2<3 years (24 - 35.9 months)	-	1	1	-	-
3<4 years (36 - 47.9 months)	3	-	-	2	-
4<5 years (48 - 59.9 months)	7	5	7	4	5
5<10 years (60 - 119.9 months)	10	15	13	17	16
10<15 years (120 - 179.9 months)	1	1	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	22	22	21	23	21
Minimum (months)	12	30	24	36	48
Maximum (months)	120	147	84	96	96
Average (months)	58	69	60	66	66
Median (months)	57	60	60	72	72
90th percentile (months)	84	90	78	84	81

Culpable Driving, continued

Table 8.17.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was culpable driving, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	-	-	-
1<2 years (12 - 23.9 months)	1	-	-	-	-
2<3 years (24 - 35.9 months)	-	-	-	-	-
3<4 years (36 - 47.9 months)	3	1	-	2	-
4<5 years (48 - 59.9 months)	7	3	6	2	3
5<10 years (60 - 119.9 months)	10	15	15	16	18
10<15 years (120 - 179.9 months)	1	3	-	3	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	22	22	21	23	21
Minimum (months)	12	36	48	36	48
Maximum (months)	120	168	102	156	108
Average (months)	62	82	70	79	74
Median (months)	58	69	66	78	72
90th percentile (months)	84	120	90	120	96

Table 8.17.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was culpable driving, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	2	-	-	-	-
1<2 years (12 - 23.9 months)	2	2	1	2	1
2<3 years (24 - 35.9 months)	9	5	7	5	3
3<4 years (36 - 47.9 months)	4	4	5	5	6
4<5 years (48 - 59.9 months)	2	2	4	4	7
5<10 years (60 - 119.9 months)	3	8	4	6	4
10<15 years (120 - 179.9 months)	-	1	-	1	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	22	22	21	23	21
Minimum (months)	6	15	18	12	19
Maximum (months)	84	123	66	120	84
Average (months)	35	51	41	50	46
Median (months)	30	45	39	45	48
90th percentile (months)	60	84	60	84	72

Culpable Driving, continued

Table 8.17.6

Number of imprisonment orders made, by length of sentence, where the offence of culpable driving was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	-	-	-
1<2 years (12 - 23.9 months)	2	-	-	-	-
2<3 years (24 - 35.9 months)	-	1	2	-	-
3<4 years (36 - 47.9 months)	3	-	-	2	1
4<5 years (48 - 59.9 months)	8	6	7	4	5
5<10 years (60 - 119.9 months)	11	21	14	21	18
10<15 years (120 - 179.9 months)	1	1	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	25	29	23	27	24

Table 8.17.7

Number of defendants who received a suspended sentence, where the principal proven offence was culpable driving, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	3	-	4	1	1
Average imprisonment length (months)	28	-	26	36	36
Average operational period (months)	28	-	33	36	36

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Table 8.17.8

Number of defendants sentenced to be detained in a youth training centre, by term of order, where the principal proven offence was culpable driving, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	-	-	-	-
7-12 months	-	-	-	-	-
13-18 months	-	-	-	-	-
19-24 months	1	-	-	-	-
25-30 months	-	2	-	-	-
31-36 months	-	2	2	3	5
<i>Total</i>	1	4	2	3	5

Cultivate a Narcotic Plant (incl. Commercial Quantity)

Over the period cultivate a narcotic plant (incl. commercial quantity) was the 8th most common principal proven offence. The offences of cultivate a narcotic plant and cultivate a narcotic plant (commercial quantity) have been combined for the purposes of this publication. When using the associated sentence lengths be aware that these offences carry different maximum sentence lengths as outlined below.

A person who without being authorised by or licensed to do so cultivates or attempts to cultivate a narcotic plant is guilty of this offence.²⁵ Cultivate relates to sowing a seed, planting, growing, tending, nurturing or harvesting a narcotic plant.²⁶ A commercial quantity will differ depending on the type of narcotic plant which was cultivated.

Cultivate a narcotic plant is an indictable offence. Where the court is satisfied, on the balance of probabilities, that the offence was not committed by the person for any purpose related to trafficking the plant, there is a maximum penalty of 1 year imprisonment and/or 20 penalty units.²⁷ In any other circumstances, the maximum penalty is 15 years imprisonment, and/or 1000 penalty units.

Cultivate a narcotic plant (commercial quantity) is an indictable offence which carries a maximum penalty of 25 years imprisonment.

The total number of all offences found proven for cultivate a narcotic plant (incl. commercial quantity) have increased over the period from 30 in 2001/02, to 111 in 2005/06 (Table 8.18.1).

Between 2001/02 and 2005/06:

- There was a substantial increase of principal proven offences for cultivate a narcotic plant (incl. commercial quantity) from 18 to 77 (Table 8.18.1);
- The most common sentence type was a suspended sentence followed by imprisonment (Table 8.18.2);
- Where the sentence was a suspended sentence, the average length was between 15 and 21 months (Table 8.18.8);

²⁵ *Crimes Act 1958* s.72

²⁶ *Crimes Act 1958* s.72.2

²⁷ Each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.

Cultivate a Narcotic Plant (incl. Commercial Quantity), cont

Table 8.18.1

Number of cultivate a narcotic plant (incl. commercial qty) offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Total of all offences found proven	30	42	97	111	111
Number of principle proven offences	18	28	74	83	77

Table 8.18.2

Number of each sentence type imposed where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	4	4	31	21	24
Intensive correction order	-	1	2	-	2
Suspended sentence	13	19	36	59	49
Youth training centre	-	-	-	-	-
Community based order	1	2	2	-	1
YSO/YAO	-	-	-	-	-
Fine	-	1	2	1	-
Adjourned undertaking	-	1	1	1	1
Discharge/Dismissal	-	-	-	1	-
CWLTH bonds	-	-	-	-	-
Other orders	-	-	-	-	-
<i>Total</i>	18	28	74	83	77

Cultivate a Narcotic Plant (incl. Commercial Quantity), cont

Table 8.18.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	1	-	1	-	1
1<2 years (12 - 23.9 months)	-	1	12	5	11
2<3 years (24 - 35.9 months)	3	2	12	10	8
3<4 years (36 - 47.9 months)	-	1	5	4	3
4<5 years (48 - 59.9 months)	-	-	1	2	-
5<10 years (60 - 119.9 months)	-	-	-	-	1
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	4	4	31	21	24
Minimum (months)	9	21	9	12	7
Maximum (months)	30	42	48	54	72
Average (months)	22	32	25	30	25
Median (months)	24	32	25	30	22
90th percentile (months)	30	42	36	36	36

Table 8.18.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	1	-	-	-	-
1<2 years (12 - 23.9 months)	-	1	12	4	10
2<3 years (24 - 35.9 months)	1	2	12	7	7
3<4 years (36 - 47.9 months)	1	1	5	8	4
4<5 years (48 - 59.9 months)	1	-	2	2	1
5<10 years (60 - 119.9 months)	-	-	-	-	2
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	4	4	31	21	24
Minimum (months)	9	21	12	12	13
Maximum (months)	54	42	54	58	72
Average (months)	32	32	28	32	31
Median (months)	32	32	30	35	26
90th percentile (months)	54	42	39	39	48

Cultivate a Narcotic Plant (incl. Commercial Quantity), cont

Table 8.18.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	8	5	7
1<2 years (12 - 23.9 months)	3	2	18	10	10
2<3 years (24 - 35.9 months)	-	1	3	5	4
3<4 years (36 - 47.9 months)	-	-	1	1	2
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	3	3	30	21	23
Minimum (months)	12	15	6	6	6
Maximum (months)	15	24	36	36	45
Average (months)	13	19	15	17	17
Median (months)	12	18	14	18	12
90th percentile (months)	15	24	27	24	27

Table 8.18.6

Number of imprisonment orders made, by length of sentence, where the offence of cultivate a narcotic plant (incl. commercial qty) was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	4	6	8	10	5
1<2 years (12 - 23.9 months)	1	1	15	7	13
2<3 years (24 - 35.9 months)	6	2	12	12	12
3<4 years (36 - 47.9 months)	-	1	5	5	4
4<5 years (48 - 59.9 months)	-	-	1	2	2
5<10 years (60 - 119.9 months)	-	-	1	-	1
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	11	10	42	36	37

Cultivate a Narcotic Plant (incl. Commercial Quantity), cont

Table 8.18.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	-	-	-	1
9<12 months	-	1	2	-	1
<i>Total</i>	-	1	2	-	2

Table 8.18.8

Number of defendants who received a suspended sentence, where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	13	19	36	59	49
Average imprisonment length (months)	21	20	15	18	17
Average operational period (months)	25	27	24	27	27

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.

Table 8.18.9

Number of defendants sentenced to a community based order, by term of order, where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-6 months	-	-	1	-	-
7-12 months	-	-	-	-	-
13-18 months	-	1	-	-	-
19-24 months	1	1	1	-	1
<i>Total</i>	1	2	2	-	1

Cultivate a Narcotic Plant (incl. Commercial Quantity), cont

Table 8.18.10

Number of defendants who received a fine, by amount, where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
\$0<\$500	-	-	-	-	-
\$500<\$1,000	-	-	1	-	-
\$1,000<\$1,500	-	-	-	1	-
\$1,500<\$2,000	-	-	-	-	-
\$2,000<\$2,500	-	-	1	-	-
\$2,500<\$5,000	-	1	-	-	-
\$5,000<\$10,000	-	-	-	-	-
\$10,000<\$50,000	-	-	-	-	-
\$50,000<\$100,000	-	-	-	-	-
\$100,000+	-	-	-	-	-
<i>Total</i>	-	1	2	1	-

Table 8.18.11

Number of defendants sentenced to an adjourned undertaking, by term of order, where the principal proven offence was cultivate a narcotic plant (incl. commercial qty), 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0-12 months	-	1	1	-	-
13-24 months	-	-	-	1	-
25-36 months	-	-	-	-	1
37-48 months	-	-	-	-	-
49-60 months	-	-	-	-	-
<i>Total</i>	-	1	1	1	1

Defraud the Commonwealth

Over the period defraud the commonwealth was the 28th most common principal proven offence. A person who defrauds the Commonwealth or a public authority under the Commonwealth is guilty of this offence.

Defraud the commonwealth is an indictable offence which carries a maximum penalty of 10 years imprisonment and/or 1,000 penalty units.²⁸

The total number of all offences found proven for defraud the commonwealth have decreased by 40% over the period. In 2005/06 there were 57 offences found proven (Table 8.19.1).

Between 2001/02 and 2005/06:

- The number of principal proven offences for defraud the commonwealth remained low but steady (Table 8.19.1);
- The most common sentence type was a suspended sentence (Table 8.19.2);
- The suspended sentence includes partially and wholly suspended sentences with a recognisance release order, the Commonwealth equivalent to a suspended sentence under the Sentencing Act 1991;
- The average length of the suspended sentence was between 14 and 18 months with an operational period of between 24 and 31 months (Table 8.19.8).

Table 8.19.1

Number of defraud the commonwealth offences found proven, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
			<i>Number</i>		
Total of all offences found proven	96	45	55	58	57
Number of principle proven offences	19	21	15	16	16

²⁸ Each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.

Defraud the Commonwealth, continued

Table 8.19.2

Number of each sentence type imposed where the principal proven offence was defraud the commonwealth, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Imprisonment	1	3	3	-	5
Intensive correction order	1	-	-	-	-
Suspended sentence	17	15	11	16	11
Youth training centre	-	-	-	-	-
Community based order	-	-	-	-	-
YSO/YAO	-	-	-	-	-
Fine	-	-	-	-	-
Adjourned undertaking	-	-	-	-	-
Discharge/Dismissal	-	-	-	-	-
CWLTH bonds	-	3	1	-	-
Other orders	-	-	-	-	-
<i>Total</i>	19	21	15	16	16

Table 8.19.3

Number of defendants sentenced to imprisonment, by length of term of imprisonment, where the principal proven offence was defraud the commonwealth, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	1	1	1	-	1
1<2 years (12 - 23.9 months)	-	-	2	-	3
2<3 years (24 - 35.9 months)	-	1	-	-	1
3<4 years (36 - 47.9 months)	-	1	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	1	3	3	0	5
Minimum (months)	6	6	3	-	11
Maximum (months)	6	36	18	-	30
Average (months)	6	24	11	-	16
Median (months)	6	30	12	-	12
90th percentile (months)	6	36	18	-	30

Defraud the Commonwealth, continued

Table 8.19.4

Number of defendants sentenced to imprisonment, by Total Effective Sentence, where the principal proven offence was defraud the commonwealth, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	1	-	1
1<2 years (12 - 23.9 months)	-	-	1	-	1
2<3 years (24 - 35.9 months)	-	-	-	-	-
3<4 years (36 - 47.9 months)	-	1	1	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	1	-	-	1
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	0	2	3	0	3
Minimum (months)	-	36	3	-	11
Maximum (months)	-	74	38	-	66
Average (months)	-	55	18	-	30
Median (months)	-	55	12	-	12
90th percentile (months)	-	74	38	-	66

* The total does not match the total for the table relating to the principal proven offence due to counting rules relating to the sentence hierarchy (see Appendix A).

Table 8.19.5

Number of defendants with a Non-Parole Period fixed, by length, where the principal proven offence was defraud the commonwealth, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	-	-	-	-	-
1<2 years (12 - 23.9 months)	-	-	-	-	-
2<3 years (24 - 35.9 months)	-	1	1	-	-
3<4 years (36 - 47.9 months)	-	1	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	1
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	0	2	1	0	1

Defraud the Commonwealth, continued

Table 8.19.6

Number of imprisonment orders made, by length of sentence, where the offence of defraud the commonwealth was found proven, but it was not the principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<1 year (0 - 11.9 months)	3	5	12	5	3
1<2 years (12 - 23.9 months)	-	4	5	3	7
2<3 years (24 - 35.9 months)	1	1	-	11	6
3<4 years (36 - 47.9 months)	1	1	-	-	-
4<5 years (48 - 59.9 months)	-	-	-	-	-
5<10 years (60 - 119.9 months)	-	-	-	-	-
10<15 years (120 - 179.9 months)	-	-	-	-	-
15<20 years (180 - 239.9 months)	-	-	-	-	-
20<25 years (240 - 299.9 months)	-	-	-	-	-
25+ years (300+ months)	-	-	-	-	-
Life	-	-	-	-	-
<i>Total</i>	5	11	17	19	16

Table 8.19.7

Number of defendants sentenced to an intensive corrections order, by term of order, where the principal proven offence was defraud the commonwealth, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	-	-	-	-
9<12 months	1	-	-	-	-
<i>Total</i>	1	0	0	0	0

Table 8.19.8

Number of defendants who received a suspended sentence, where the principal proven offence was defraud the commonwealth, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Number of orders made	17	15	11	16	11
Average imprisonment length (months)	17	17	14	18	18
Average operational period (months)	31	25	29	24	27

* The average imprisonment length (months) is not the length of time spent in custody, but the overall length of imprisonment imposed. Only where the sentence was a partially suspended sentence would some of this time be spent in custody.