

# Sentencing Snapshot

Sentencing trends in  
the higher courts of  
Victoria  
2007–08 to 2011–12

May 2013  
No. 140

## Murder

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of murder and details the age and gender<sup>2</sup> of people sentenced for this offence in the Supreme Court of Victoria between 2007–08 and 2011–12.<sup>3</sup> Except where otherwise noted, the data represent sentences imposed at first instance.

The offence of murder applies to the most serious homicides – when a person intentionally or recklessly kills another or inflicts severe injury on another person who dies as a result. Murder is an indictable offence that carries a maximum penalty of life imprisonment.<sup>4</sup>

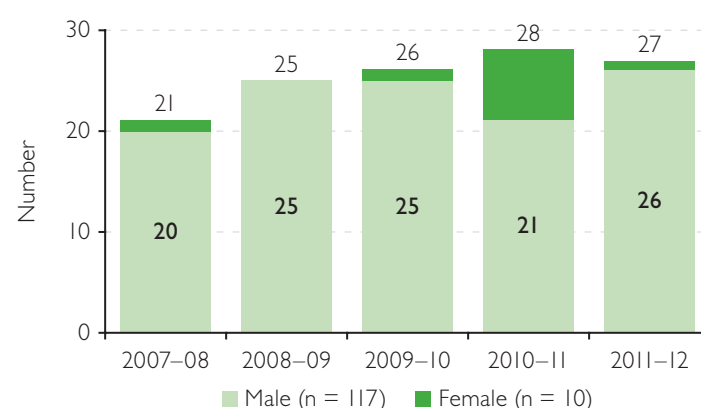
Murder was the principal offence<sup>5</sup> in 1.3% of cases sentenced in the higher courts between 2007–08 and 2011–12.

### People sentenced

From 2007–08 to 2011–12, 127 people were sentenced in the higher courts for a principal offence of murder. These people are the focus of this Snapshot. There were no people sentenced in cases that involved murder but where some other offence was the principal offence. In total, 127 people were sentenced in the higher courts for 137 charges of murder.

Figure 1 shows the number of people sentenced for the principal offence of murder by their gender. Over the five years depicted, the majority of those sentenced were men (92.1% or 117 of the 127 people), including 26 of the 27 people sentenced in 2011–12.

Figure 1: The number of people sentenced for murder by gender, 2007–08 to 2011–12



### Sentence types and trends

Figure 2 shows the total number of people sentenced for murder and the number who received an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate (as opposed to wholly suspended) imprisonment or detention.<sup>6</sup> Over the five-year period, 98% of people were given an immediate custodial sentence. Custodial sentences made up 100% of the sentences given for murder during 2007–08, 2008–09 and 2009–10, before slightly decreasing to 96% in 2010–11 and 2011–12.

Figure 2: The number of people sentenced for murder and the number who received an immediate custodial sentence, 2007–08 to 2011–12

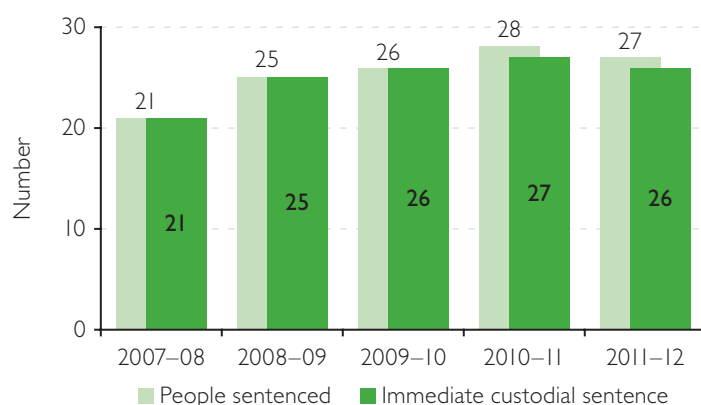


Table 1 shows the number of people sentenced for murder from 2007–08 to 2011–12 by the types of sentences imposed. Over the five-year period, the majority of the people sentenced for murder received a period of imprisonment (94% or 119 of 127 people).

The number of people sentenced to imprisonment for murder was lowest in 2007–08 (21 people) and highest during both 2008–09 and 2011–12 (25 people each). The percentage of people receiving imprisonment was lowest during 2010–11 (86%, or 24 of 28 people) and highest during 2007–08 and 2008–09 (100% each).

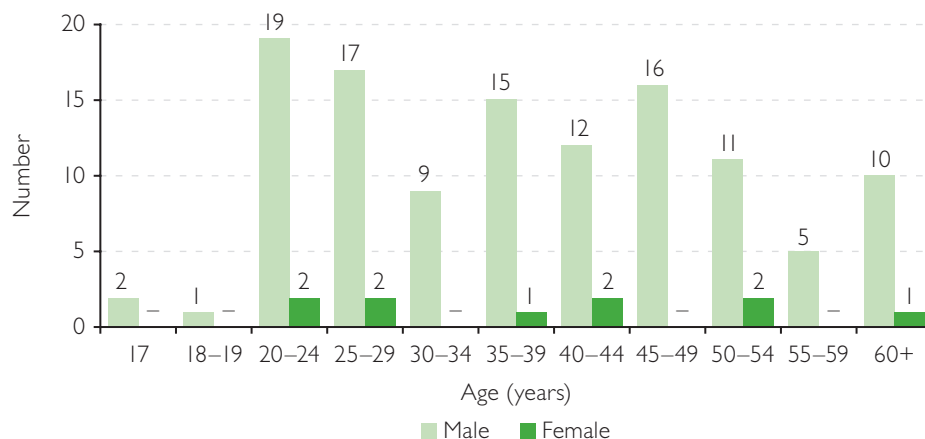
**Table 1:** The number and percentage of people sentenced for murder by sentence type, 2007–08 to 2011–12

Sentence type	2007–08	2008–09	2009–10	2010–11	2011–12	Total
Imprisonment	21 (100%)	25 (100%)	24 (92%)	24 (86%)	25 (93%)	119 (94%)
Custodial supervision order	0 (–)	0 (–)	2 (8%)	3 (11%)	1 (4%)	6 (5%)
Non-custodial supervision order	0 (–)	0 (–)	0 (–)	1 (4%)	1 (4%)	2 (2%)
<b>People sentenced</b>	<b>21</b>	<b>25</b>	<b>26</b>	<b>28</b>	<b>27</b>	<b>127</b>

## Age and gender of people sentenced

Figure 3 shows the gender of people sentenced for murder grouped by their age<sup>7</sup> between 2007–08 and 2011–12. The average age of people sentenced for murder was 38 years and 10 months. Men sentenced over this period were slightly older than women (an average age of 38 years and 10 months for men compared with 38 years and 7 months for women). Two male juveniles were sentenced over this period.<sup>8</sup>

**Figure 3:** The number of people sentenced for murder by gender and age, 2007–08 to 2011–12



Sentence types by gender

Table 2 shows the types of sentences imposed for murder grouped by gender. As shown, a higher percentage of men received a period of imprisonment (94.9% compared with 80.0% of women). Conversely, a higher percentage of women received a custodial supervision order (20.0% compared with 3.4% of men).

Table 2: The number and percentage of people sentenced for murder by sentence type and gender, 2007–08 to 2011–12

Sentence type	Male		Female	
Imprisonment	111	(95%)	8	(80%)
Custodial supervision order	4	(3%)	2	(20%)
Non custodial supervision order	2	(2%)	0	(0%)
Total	117		10	

Sentence types by age

As shown in Table 2, the most common sentence type was imprisonment. The following analysis examines this sentence type by the offender’s age group.

Imprisonment

As shown in Figure 4, sentences of imprisonment were most likely to be given to people aged 35 to 44 years (100% of the people in this age group). Conversely, sentences of imprisonment were least common for those aged under 25 years (88% or 21 of the 24 people in this age group).

Figure 4: The percentage of people who received a period of imprisonment for murder by age group, 2007–08 to 2011–12



## Principal and total effective sentences

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 the individual sentence imposed for the charge that is the principal offence.<sup>9</sup>

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 will be longer than the principal sentence. Principal sentences for murder must be considered in this broader context. The following sections analyse the use of imprisonment for the offence of murder from 2007–08 to 2011–12.

### Principal sentence of imprisonment

A total of 119 people received a principal sentence of imprisonment for murder between 2007–08 and 2011–12.

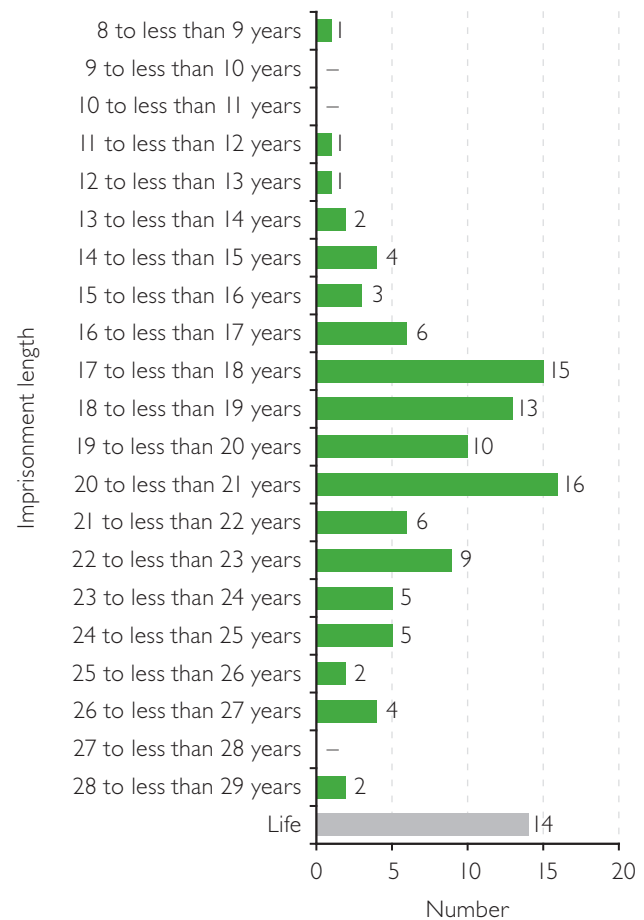
Figure 5 shows these people by the length of their imprisonment term. Imprisonment terms ranged from 8 years to life, while the median length of imprisonment for non-life sentences was 19 years (meaning that half of the non-life imprisonment terms were shorter than 19 years and half were longer).

The most common length of imprisonment imposed was 20 to less than 21 years (16 people).

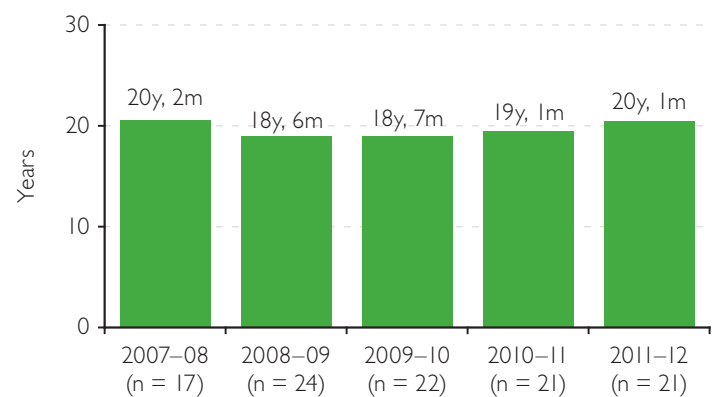
Expanding the analysis from principal sentences of imprisonment to all charges that received imprisonment, there were 128 charges of murder sentenced to imprisonment between 2007–08 and 2011–12. Imprisonment lengths for murder ranged from 8 years to life sentences. The median non-life sentence was 19 years while the most common non-life sentence was 17 years (17 of 128 charges, or 13.3%). However, among all imprisonment sentences, a life sentence was the most common (19 of 128 charges, or 14.8%).

Returning to principal sentences of imprisonment, as shown in Figure 6, the average length of imprisonment term for non-life sentences for murder ranged from 18 years and 6 months in 2008–09 to 20 years and 2 months in 2007–08.

**Figure 5:** The number of people sentenced to imprisonment for murder by length of imprisonment term, 2007–08 to 2011–12



**Figure 6:** The average length of imprisonment term imposed on people sentenced for murder, 2007–08 to 2011–12



From 2007–08 to 2011–12, the majority of people who received a term of imprisonment for murder were men (97 people or 92.4%). Over the five-year period, men who were serving non-life sentences received a slightly higher average term of imprisonment compared with women serving non-life sentences (19 years and 4 months for men compared with 18 years and 6 months for women). Figure 7 shows that the average non-life imprisonment length for men ranged from 18 years and 6 months in 2008–09 to 20 years and 3 months in 2007–08. The average non-life imprisonment length for women ranged from 16 years in 2009–10 to 26 years in 2011–12.

### Other offences finalised at the same hearing

Sometimes people prosecuted for murder 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 murder.

Figure 8 shows the number of people sentenced for the principal offence of murder by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 8, while the median was 1 offence. There were 93 people (73.2%) sentenced for the single offence of murder. The average number of offences per person sentenced for murder was 1.56.

While Figure 8 presents the number of sentenced offences for those sentenced for murder, Table 3 shows what the accompanying offences were. It shows the number and percentage of people sentenced for the 10 most common offences. The last column sets out the average number of offences sentenced per person. For example, 6 of the total 127 people (4.7%) also received sentences for causing serious injury intentionally. On average, they were sentenced for 1.17 counts of causing serious injury intentionally.

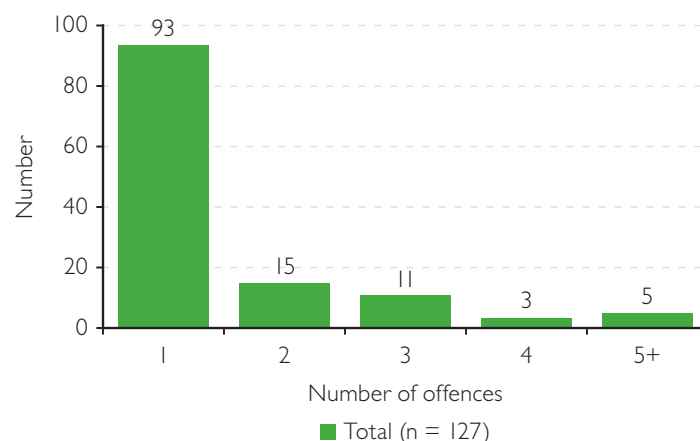
**Table 3:** The number and percentage of people sentenced for the principal offence of murder by the most common offences that were sentenced and the average number of those offences that were sentenced, 2007–08 to 2011–12

	Offence	No.	%	Avg
1	Murder	127	100.0	1.08
2	Causing serious injury intentionally	6	4.7	1.17
3	Theft	3	2.4	1.67
4	False imprisonment	3	2.4	1.00
5	Kidnapping (common law)	3	2.4	1.00
6	Arson	2	1.6	2.00
7	Indecent act with a child under 16	2	1.6	2.00
8	Robbery	2	1.6	2.00
9	Attempted murder	2	1.6	1.50
10	Armed robbery	2	1.6	1.50
	People sentenced	127	100.0	1.56

**Figure 7:** The average period of imprisonment imposed on people sentenced for murder by gender, 2007–08 to 2011–12



**Figure 8:** The number of people sentenced for the principal offence of murder by the number of sentenced offences per person, 2007–08 to 2011–12



## Total effective sentence of imprisonment

There were 119 people given a total effective sentence of imprisonment.<sup>10</sup> Figure 9 shows the number of people sentenced to imprisonment for murder between 2007–08 and 2011–12 by length of total effective sentence. The length of total effective sentences ranged from 10 years and 6 months to life imprisonment, while the median total effective length of imprisonment for non-life sentences was 20 years (meaning that half of the total effective sentence lengths for non-life sentences were below 20 years and half were above).

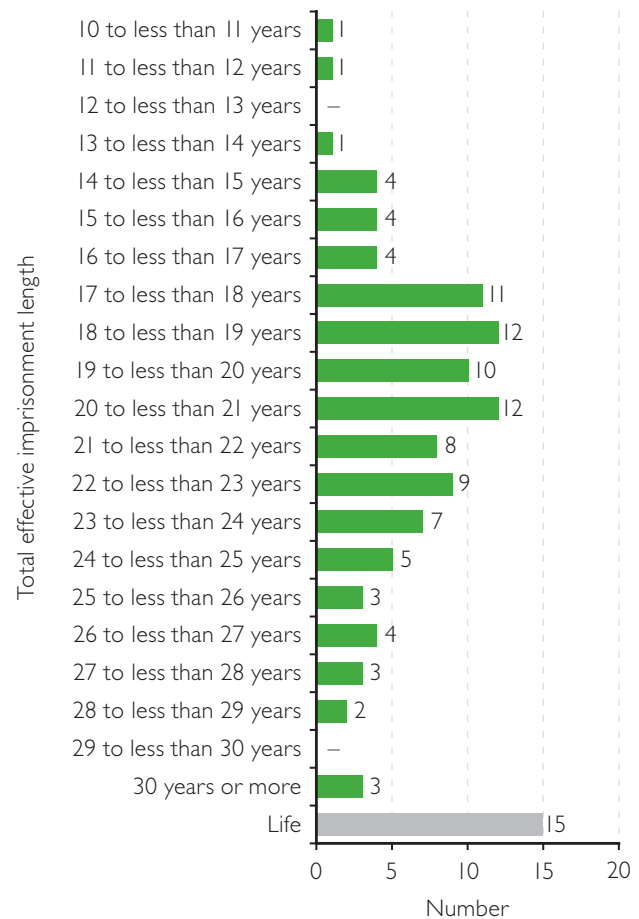
The most common total effective imprisonment length was life (15 people).

## Non-parole period

When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person must serve the entirety of the imprisonment term.

Under section 11(4) of the *Sentencing Act 1991* (Vic), if a court sentences an offender to imprisonment in respect of more than one offence, the non-parole period set by the court must be in respect of the total effective sentence of imprisonment that the offender is liable to serve under all the sentences imposed. In many cases, the non-parole period will be longer than the individual principal sentence for murder. Sentences and non-parole periods must be considered in this broader context.

**Figure 9:** The number of people sentenced to imprisonment for murder by length of total effective imprisonment term, 2007–08 to 2011–12



Of the 119 people who were sentenced to imprisonment for murder, all were eligible to have a non-parole period fixed. Of these people, 113 were given a non-parole period (95%).<sup>11</sup> Figure 10 shows the number of people sentenced to imprisonment for murder between 2007–08 and 2011–12 by length of non-parole period. Non-parole periods ranged from 6 years to 35 years, while the median length of the non-parole period was 16 years (meaning that half of the non-parole periods were below 16 years and half were above).

The most common non-parole periods imposed were 16 years to less than 17 years and 17 years to less than 18 years (12 people each).

### Total effective sentences of imprisonment and non-parole periods

Figure 11 presents the average length of total effective sentences of imprisonment compared with the average length of non-parole periods for all people from 2007–08 to 2011–12. Note that it excludes people who received a life sentence and people who received no non-parole period.

From 2007–08 to 2011–12, the average length of total effective sentences for all people ranged from 19 years and 1 month in 2008–09 to 22 years and 2 months in 2007–08. Over the same period, the average length of non-parole periods ranged from 15 years and 9 months in 2009–10 to 18 years and 6 months in 2011–12.

### Sentences of life imprisonment

Between 2007–08 and 2011–12, there were 15 people sentenced to life imprisonment for murder. Of the 15 people who were sentenced to life imprisonment, 10 were eligible to apply for parole (66.7%).

Non-parole periods for these people ranged from 23 years to 35 years with an average of 30 years and 9 months. Life sentences of imprisonment accounted for 11.8% of all sentences handed down for murder.

Figure 10: The number of people sentenced to imprisonment for murder by length of non-parole period, 2007–08 to 2011–12

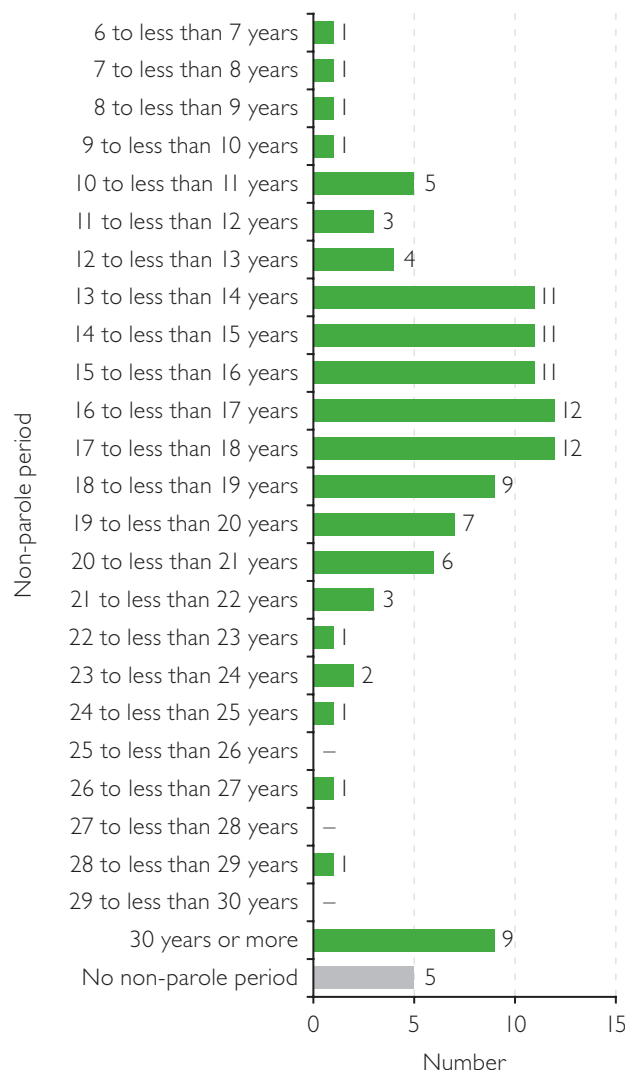
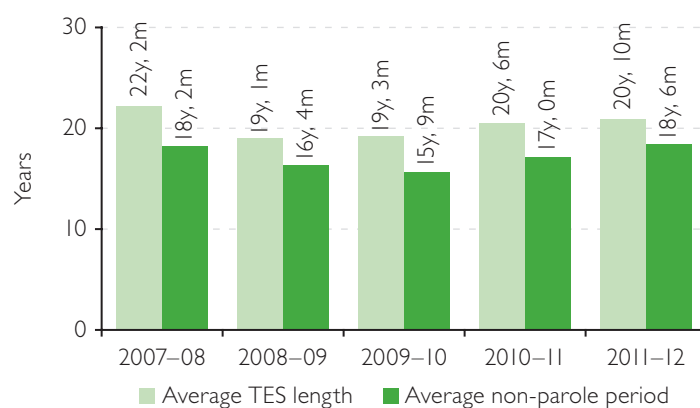


Figure 11: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for murder, 2007–08 to 2011–12



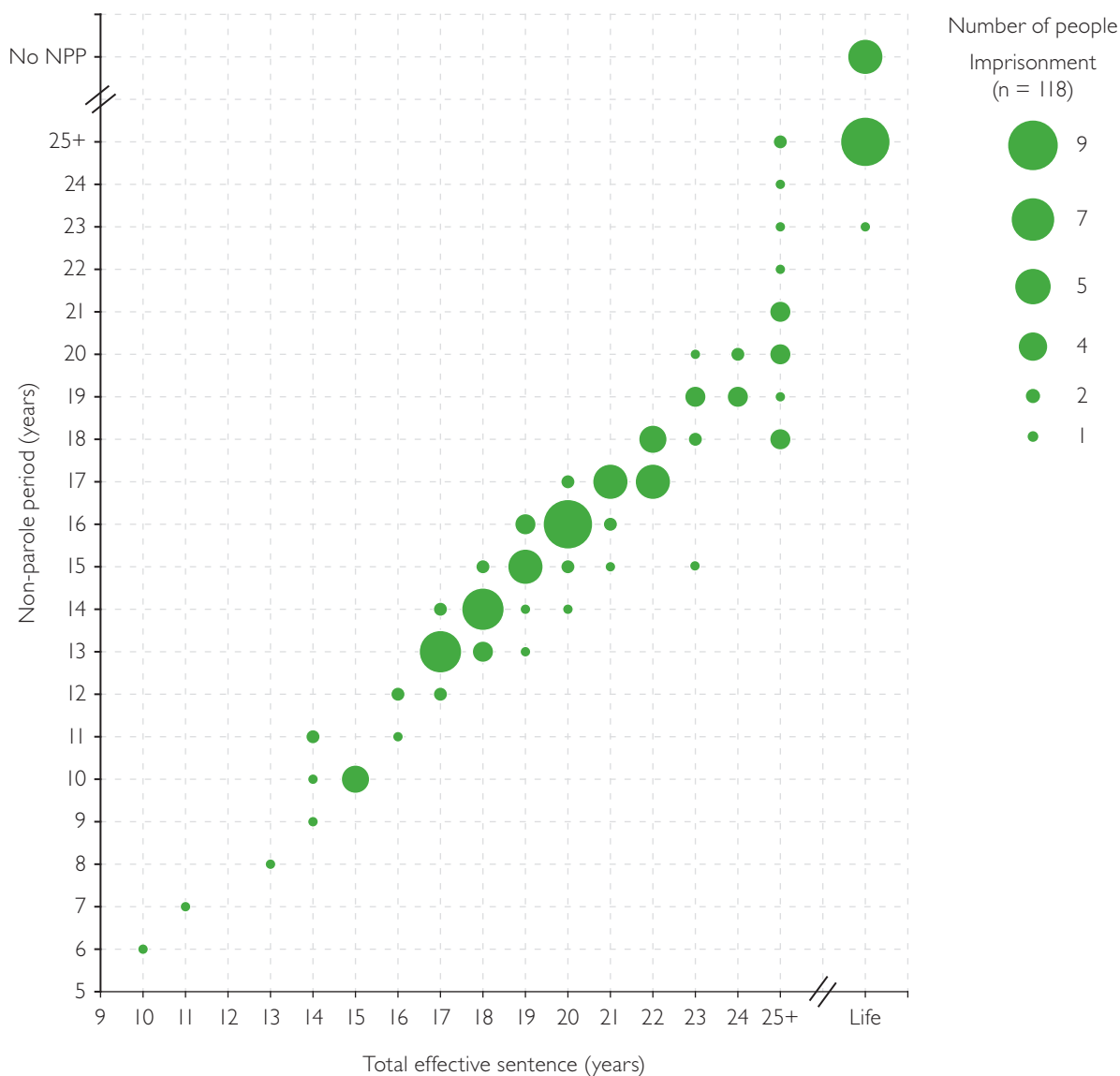
### Total effective sentence of imprisonment by non-parole period

While Figures 9 and 10 present the lengths of the total effective sentences and non-parole periods separately, Figure 12 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for murder for each individual person.

The centre of each 'bubble' on the chart represents a combination of imprisonment length and non-parole period, while the size of the bubble reflects the number of people who received that particular combination. Sentence lengths and non-parole periods that are longer than one year are rounded down to the nearest year of imprisonment, while sentence lengths and non-parole periods of less than one year are grouped into the '<1 year' category. For example, a sentence length of 2 years and 6 months would be included as a sentence length of 2 years for the purposes of Figure 12.

As shown, the most common combination of imprisonment length and non-parole period imposed was a life sentence with a non-parole period of 25 years or more (9 people – as represented by the largest bubble on the chart). The length of imprisonment ranged from 10 years and 6 months with a non-parole period of 6 years<sup>12</sup> to life with no non-parole period.

**Figure 12:** The number of people sentenced to imprisonment for murder by the total effective sentence and the non-parole period imposed, 2007–08 to 2011–12



Note: No NPP refers to no non-parole period.



## Appeals

A sentence imposed on a person may be appealed<sup>13</sup> by that person or by the Crown. A person sentenced may also appeal against their conviction. All appeals made in relation to people sentenced in the higher courts are determined by the Court of Appeal.

Up to June 2012, 4 people sentenced for a principal offence of murder in the period 2007–08 to 2011–12 successfully appealed their conviction. One person was acquitted of murder but resentenced on the alternative charge of manslaughter; 2 people were granted a retrial, and 1 person was acquitted of murder and granted a retrial for manslaughter. Thus, the number of people sentenced from 2007–08 to 2011–12 for a principal offence of murder was reduced to 123 people once appeals are considered.

As a result of successful appeals against sentence, the total effective sentence and/or the non-parole period changed for 5 people. All of these appeals were made by the person sentenced and resulted in a sentence reduction. The longest total effective imprisonment term to be reduced was a sentence of 28 years with a non-parole of 24 years, which was resentenced to 24 years with a non-parole of 20 years on appeal. There were no successful appeals by the Crown during 2007–08 to 2011–12.

The principal sentence changed for 3 people as a result of a successful appeal. The longest principal sentence of imprisonment reduced was 28 years, which decreased to 24 years on appeal. There were no principal sentences that increased as a result of an appeal.

With the original sentencing data revised to incorporate appeal outcomes, the adjusted longest total effective imprisonment term was unchanged at life imprisonment with no parole.

The adjusted longest principal sentence of imprisonment was unchanged at life imprisonment.

## Summary

Between 2007–08 and 2011–12, 127 people were sentenced for murder in the higher courts. Over this period, the majority of people sentenced were men (92%), while 85% were aged between 20 and 54 years.

The majority of the people sentenced for murder received a period of imprisonment (94%).

Men were more likely than women to be sentenced to a period of imprisonment. Conversely, women were more likely to be given a custodial supervision order.

Imprisonment was most common for people aged between 35 and 44 years; however, almost everyone from each age group was likely to receive imprisonment for this offence.

Each of the 127 people was sentenced for an average of 1.56 offences, including 1.08 offences of murder. The most common offence finalised in conjunction with murder was causing serious injury intentionally (4.7% of all cases). The number and range of offences for which people with a principal offence of murder were sentenced help explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was 20 years, while the median principal imprisonment length was 19 years.

Total effective imprisonment lengths ranged from 10 years and 6 months with a non-parole period of 6 years to life with no non-parole period. The most common sentence of imprisonment was a life sentence with a non-parole period of 25 years or more.

A small number of people were able to successfully appeal against their sentences. When the results of the appeal outcomes are incorporated into the original sentencing data, the range of total effective imprisonment lengths and principal imprisonment lengths remains unchanged.

## 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 defendant is 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. 109, which describes sentencing trends for murder between 2005–06 and 2009–10.
2. The information source for sentencing outcomes for murder only contains information on age and gender characteristics. No other demographic analysis is possible using this data source.
3. The source data for the statistical information presented in this Snapshot were provided by the Business Intelligence area of the Courts and Tribunals unit within the Department of Justice (Vic). 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 are accurate, the data are subject to revision.
4. *Crimes Act 1958* (Vic) s 3.
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. Immediate custodial sentence includes imprisonment and custodial supervision order.
7. Age is at the time of sentencing.
8. Defendants who were under the age of 18 at the time of committing the alleged offence and who were not 19 years or older at the time proceedings commenced usually have their cases dealt with in the Children's Court of Victoria. However, the Children's Court is not able to hear cases involving murder.
9. Refer to endnote 5.
10. All of the 119 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
11. One person was 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 this case. The non-parole period for this person is excluded from the analysis. A non-parole period was not set for 5 people who were eligible for a non-parole period.
12. One person in 2009–10 received a total effective sentence of 10 years and 6 months with a non-parole period of 6 years. The judge remarked that '[a]t 16 years of age ... you could not be expected to be as mature as someone four or five years older ... And because of your youth, the community has a particular interest in your rehabilitation'. The judge also mentioned that '[t]he Director of Public Prosecutions chose not to allege an intention either to kill or to cause really serious injury ... it has the result that you must be sentenced on the basis that you did not intend [the victim's] death'.
13. Appeals data were collected by the Sentencing Advisory Council from transcripts of sentencing remarks of criminal appeals on the Australasian Legal Information Institute's website <[www.austlii.gov.au](http://www.austlii.gov.au)>.

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