

Sentencing Snapshot

Sentencing trends for murder in Victoria



Introduction

This *Sentencing Snapshot* describes sentencing outcomes¹ for murder and details of the age and gender² of persons sentenced for this offence in the Supreme Court of Victoria between 1998/99 and 2003/04³.

The offence of murder applies to the most serious types of homicide – when a person intentionally or recklessly kills another or inflicts severe injury on another person who dies as a result. Under the *Crimes Act 1958* (Vic), murder carries a maximum penalty of life imprisonment⁴. The term “sentenced for murder” includes persons who plead guilty, those sentenced after a trial and people dealt with by the court after a finding of not guilty due to mental impairment⁵.

Murders are committed in a wide array of different circumstances. Sentences for murder take account of the particular circumstances of the offence and offender, and a variety of legal principles.

Number and gender of persons sentenced

Figure 1 shows the number of persons sentenced for murder and their gender between 1998/99 and 2003/04. Over this period, numbers ranged from 22 in 2001/02 to 36 in 1998/99.⁶

As Figure 1 shows, the majority of people sentenced for murder over this period were male (90% or 156 persons).

¹ This report presents sentencing outcomes for persons sentenced for murder in the Supreme Court of Victoria. Where a person was sentenced for multiple counts of murder, the person is only reported once.

² The information source for sentencing outcomes for murder only contains information on age and gender characteristics.

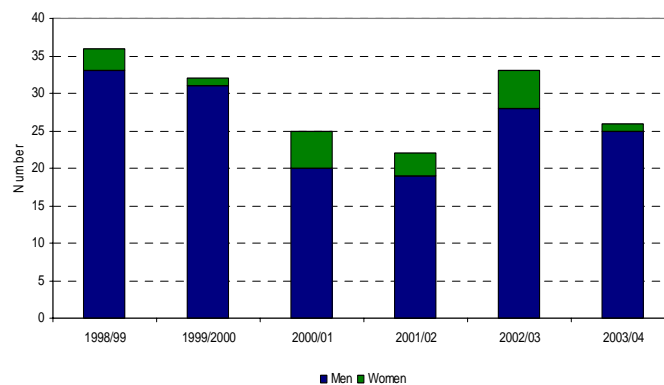
³ The statistical information presented here was provided by Court Services, Department of Justice (Vic). This report describes sentencing trends for murder since 1998/99. Court Services advises that sentencing information from the higher courts prior to this period was not recorded in sufficient detail to enable the Council to undertake a detailed analysis of earlier trends.

⁴ Crimes Act 1958 (Vic) s 3.

⁵ Under s.20 (2) and s.23 *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic), if the defence of mental impairment is established the person must be found not guilty because of mental impairment and the court must declare the defendant liable to supervision under Part 5 (ie Custodial Supervision Order). A custodial supervision order is an order committing the defendant to custody in an appropriate place or in a prison under supervision for an indefinite term, with a nominal period specified by statute (25 years for murder).

⁶ Caution should be exercised when interpreting this trend as the lower numbers in some more recent years may in part reflect backlogs in case processing and time lags in sentencing information being provided to Court Services, from where these data are drawn.

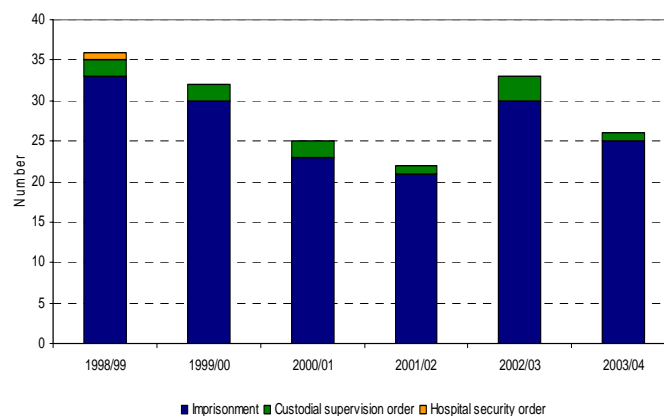
Figure 1: Persons sentenced for murder by gender, 1998/99 to 2003/04 (Victoria)



Sentence types

Figure 2 shows the number of persons sentenced for murder between 1998/99 and 2003/04, according to the type of sentence imposed.

Figure 2: Persons sentenced for murder by sentence type, 1998/99 to 2003/04 (Victoria)



As Figure 2 illustrates, 93% of persons sentenced for murder between 1998/99 and 2003/04 attracted a sentence of immediate imprisonment (162 out of 174 persons). The court did not suspend any sentences for murder over this period.

The remaining 7% of persons received an outcome that reflected their mental disorder: custodial supervision orders were imposed on 11 people, while one person was sentenced to a hospital security order⁷ (refer Table 1).

⁷ Under s.90 *Sentencing Act 1991* (Vic), if the defendant is found guilty and the person appears to be mentally ill, the court can order the person be sentenced

Table 1: Persons sentenced for murder by sentence type, 1998/99 to 2003/04 (Victoria)

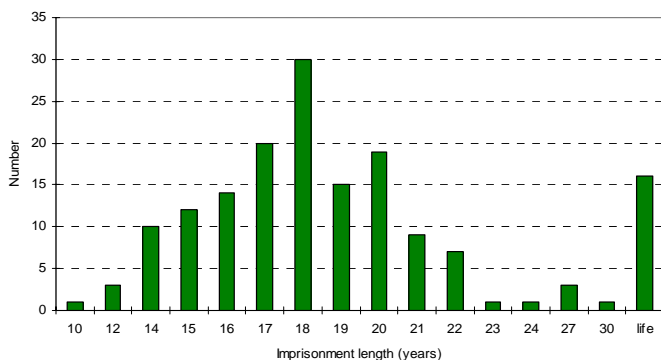
Sentence type	98/99	99/00	00/01	01/02	02/03	03/04
Imprisonment	33 91.7%	30 94%	23 92%	21 95%	30 91%	25 96%
Custodial supervision order	2 5.6%	2 6%	2 8%	1 5%	3 9%	1 4%
Hospital security order	1 2.8%	-	-	-	-	-
Persons sentenced	36 100%	32 100%	25 100%	22 100%	33 100%	26 100%

Sentences of imprisonment

Between 1998/99 and 2003/04, the proportion of people sentenced to imprisonment for murder ranged from 91% (30 out of 33 persons) in 2002/03 to 96% (25 out of 26 persons) in 2003/04 (refer Table 1).

Figure 3 shows the number of persons sentenced to imprisonment for murder between 1998/99 and 2003/04, by the length of the imprisonment term they received. Over this period, imprisonment terms ranged from 10 years to life imprisonment, and the average imprisonment length was 18.1 years (excluding life sentences)⁸.

Figure 3: Persons sentenced to imprisonment for murder by length of imprisonment term handed down, 1998/99 to 2003/04 (Victoria)



Between 1998/99 and 2003/04, 16 persons were sentenced to life imprisonment for murder, accounting for 9% of all sentences for this offence. All life sentences of imprisonment for murder were handed down to men.

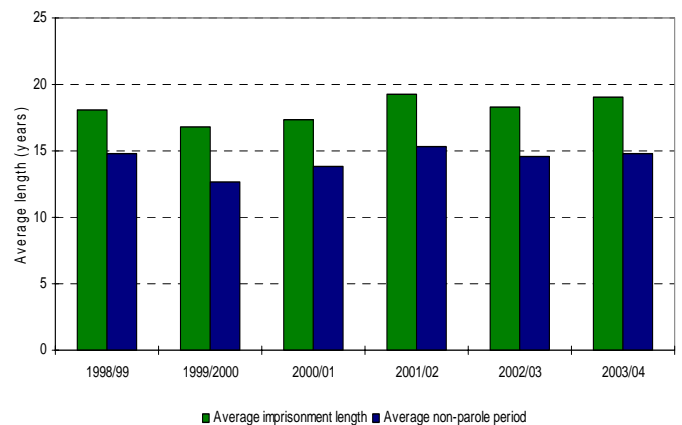
Figure 4 shows the average imprisonment length and average non-parole period for murder between 1998/99 and 2003/04⁹. Over this period, the average imprisonment term ranged from 16.8 years in 1999/00 to 19.3 years in 2001/02 (excluding life sentences).

to a hospital security order. A hospital security order is an order of the court where a person who appears to be mentally ill and requiring treatment is, after the consideration of appropriate reports, admitted and detained in an approved mental health service as a security patient for a specified period of time.

⁸ The description of average imprisonment lengths excludes 16 men sentenced to life imprisonment. This is because the qualitative life sentence cannot be used to calculate an average.

⁹ Refer fn.8. To enable a proper comparison of average imprisonment and non-parole lengths, the description of average non-parole lengths excludes 13 men sentenced to life imprisonment and eligible for parole. These non-parole periods were not used to calculate an average non-parole period because the corresponding imprisonment length (a qualitative life sentence) could not be used to calculate an average imprisonment length.

Figure 4: Persons sentenced to imprisonment for murder by average imprisonment term and average non-parole period, 1998/99 to 2003/04 (Victoria)



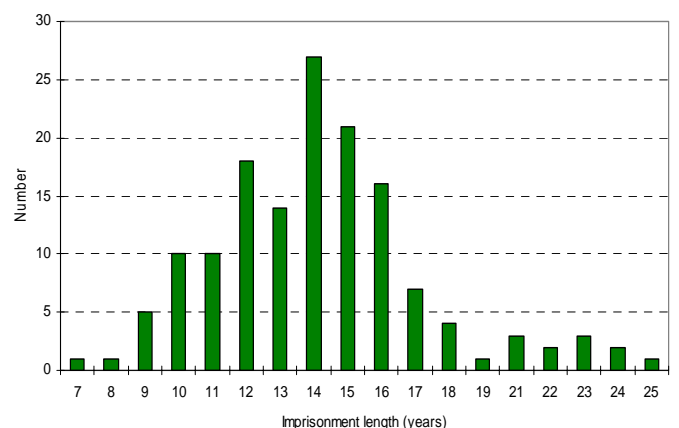
Non-parole periods

Where a person is sentenced to a term of imprisonment of 1 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 in prison before they are eligible to apply for parole. Where no non-parole period is set by the court, the person must serve the entirety of the imprisonment term.

Between 1998/99 and 2003/04, the court fixed a non-parole period for 98% (159 out of 162) of sentences of imprisonment for murder. The average non-parole period ranged from 12.6 years in 1999/00 to 15.3 years in 2001/02 (excluding life sentences) (refer Figure 4)¹⁰.

Figure 5 shows the number of non-parole periods for murder between 1998/99 and 2003/04, by the length of the non-parole period. Over this period, non-parole periods ranged from 7 to 25 years, with an average of 14.3 years (excluding life sentences)¹¹.

Figure 5: Persons sentenced to imprisonment for murder by length of non-parole period, 1998/99 to 2003/04 (Victoria)



¹⁰ Refer fn.9

¹¹ Refer fn.9

Gender comparison: Sentences of imprisonment and non-parole periods

Figures 6 and 7 show the average imprisonment period and non-parole period imposed on men and women sentenced for murder between 1998/99 and 2003/04.

Figure 6: Men sentenced to imprisonment for murder, by average imprisonment and non-parole period 1998/99 to 2003/04 (Victoria)¹²

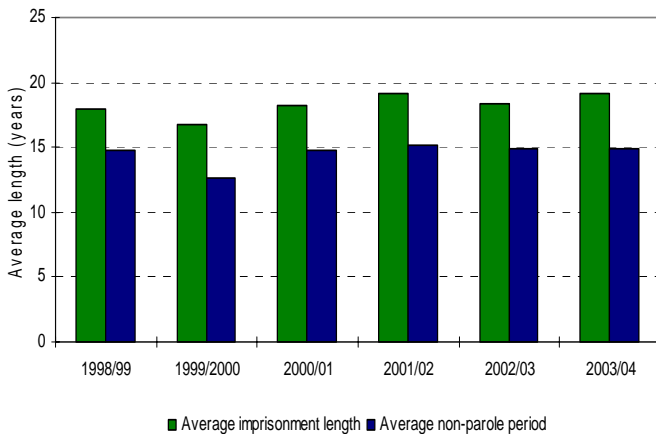
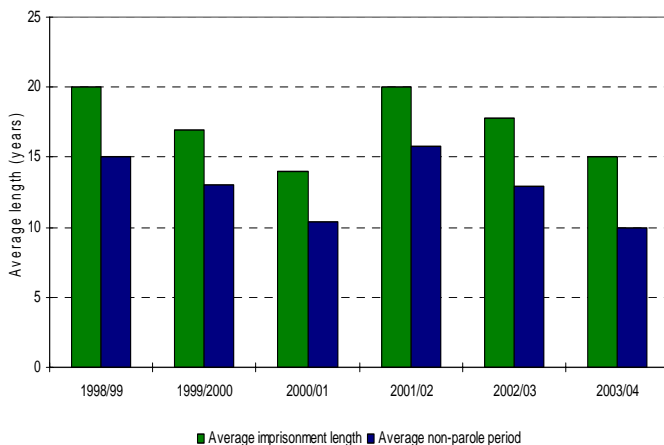


Figure 7: Women sentenced to imprisonment for murder, by average imprisonment and non-parole period 1998/99 to 2003/04 (Victoria)¹³



Between 1998/99 and 2003/04, 144 out of the 147 men sentenced to imprisonment for murder were eligible to apply for parole. The average length of sentence for men was 18.2 years. The average non-parole period was 14.4 years.

Between 1998/99 and 2003/04, the court fixed non-parole periods for all 15 women sentenced to imprisonment for murder. The average length of sentence for women was 17.3 years. The average non-parole period was 12.9 years.

Life imprisonment

Between 1998/99 and 2003/04, 16 men were sentenced to life imprisonment for murder. These men were aged from 20 to 56 years at the time of sentencing. No women received life imprisonment for murder.

The majority of men sentenced to life imprisonment were eligible to apply for parole (13 out of 16 men, or 81%). Non-parole periods ranged from 14.5 to 35 years, with an average of 26 years.

The court declined to fix a non-parole period for three of the 16 men (19%). These men were aged 29, 47 and 49 years at the time of sentencing.

Life sentences of imprisonment accounted for 9% of all sentences handed down for murder.

Sentences other than imprisonment

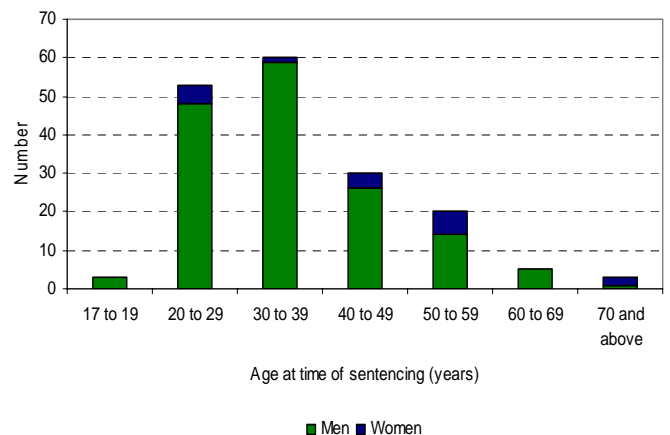
Between 1998/99 and 2003/04 12 persons (7%) attracted a sentence other than imprisonment for murder (refer Figure 2 and Table 1). 11 people received custodial supervision orders, all of which were for a period of 25 years without parole. Of these 11 people, three were female (ranging from 51 to 56 years of age) and eight were male (ranging from 20 to 63 years of age).

One 23 year old man received a hospital security order for 11 years, with a 7 year non-parole period.

Age & gender

Figure 8 shows the distribution of persons sentenced for murder by their gender and age at the time of sentencing.

Figure 8: Persons sentenced for murder by age at time of sentencing and gender, 1998/99 to 2003/04 (Victoria)



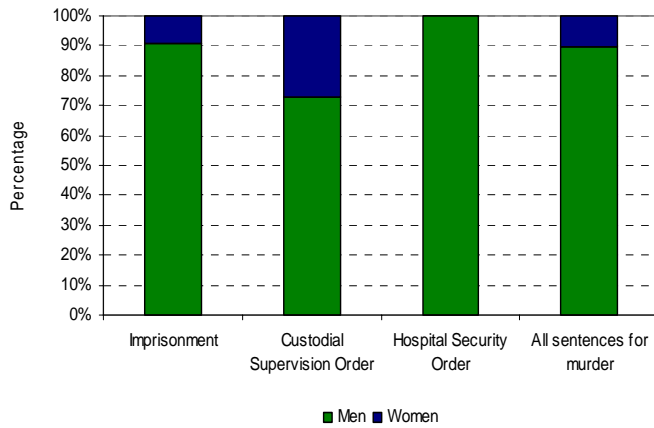
Between 1998/99 and 2003/04 the average age of people sentenced for murder was 36.4 years. Women sentenced for murder were on average older than their male counterparts: the average age (at the time of sentencing) of women was 44.2 years, and for men was 35.7 years.

Figure 9 shows the distribution of persons sentenced for murder between 1998/99 and 2003/04, according to their gender and sentence imposed.

¹² Refer fn.9

¹³ Refer fn.9

Figure 9: Persons sentenced for murder by gender and sentence, 1998/99 to 2003/04 (Victoria)



As Figure 9 illustrates, men accounted for 91% of all imprisonment terms for murder. Women accounted for 27% of all custodial supervision orders imposed for murder (refer Table 2).

Table 2: Persons sentenced for murder by gender and sentence, 1998/99 to 2003/04 (Victoria)

Sentence type	Imprisonment	Custodial Supervision Order	Hospital Security Order
Female	15 9%	3 27%	- -
Male	147 91%	8 73%	1 100%
Persons sentenced	162 100%	11 100%	1 100%

Conclusion

The circumstances in which murders are committed vary widely as illustrated by the broad range of custodial sentence lengths imposed (from 10 years to life imprisonment without parole).

All persons sentenced for murder between 1998/99 and 2003/04 received a custodial sentence. 9% of all persons were sentenced to life imprisonment. Those people not imprisoned for life were on average sentenced to approximately 18 years' imprisonment with an average non-parole period of around 14 years. Where imprisonment was not the sentencing outcome, the courts imposed either a custodial supervision order or a hospital security order, as a result of the offenders' mental health issues.