

Sentencing Snapshot

Sentencing trends
in the higher courts
of Victoria
2003–04 to 2007–08

June 2009
No. 84

Murder

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of murder and details the age and gender² of people sentenced for this offence in the Supreme Court of Victoria between 2003–04 and 2007–08.³

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 and carries a maximum penalty of life imprisonment.⁴

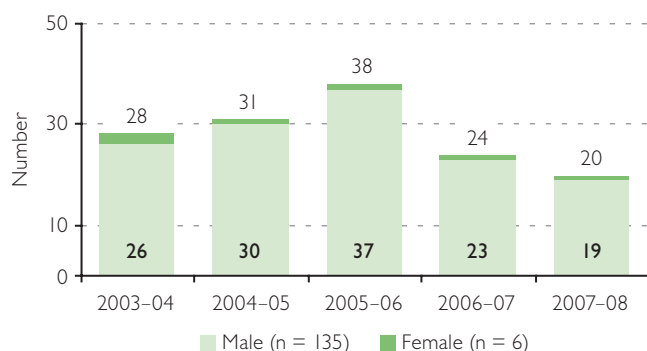
Murder was the principal offence in 1.3% of cases sentenced in the higher courts between 2003–04 and 2007–08.

People sentenced

Figure 1 shows the number of people sentenced for the principal proven offence of murder for the period 2003–04 to 2007–08. As shown, 141 people were sentenced for murder over the five-year period. There were 20 people sentenced for this offence in 2007–08, down by 4 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (95.7% or 135 of the 141 people), including 19 of the 20 people sentenced in 2007–08.⁵

Figure 1: The number of people sentenced for murder by gender, 2003–04 to 2007–08



Sentence types and trends

Table 1 shows the number of people sentenced for murder from 2003–04 to 2007–08 by the types of sentences imposed.

Over the five-year period, the majority of the people sentenced for murder received a period of imprisonment (91% or 129 of 141 people).

All people sentenced for murder 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.⁶

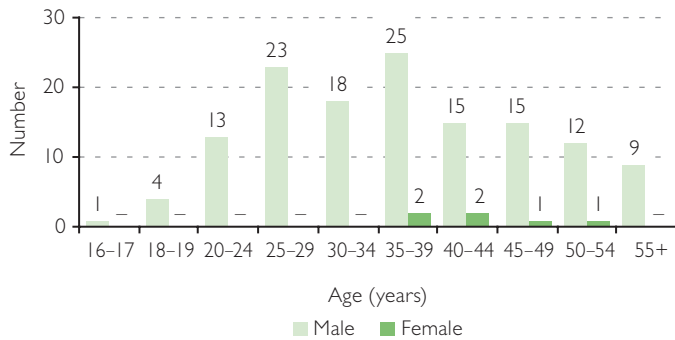
Table 1: The number and percentage of people sentenced for murder by sentence type, 2003–04 to 2007–08

Sentence type	2003–04	2004–05	2005–06	2006–07	2007–08
Imprisonment	27 (96%)	27 (87%)	34 (89%)	21 (88%)	20 (100%)
Custodial supervision order	1 (4%)	3 (10%)	4 (11%)	3 (13%)	0 (–)
Hospital security order	0 (–)	1 (3%)	0 (–)	0 (–)	0 (–)
People sentenced	28	31	38	24	20

Age and gender of people sentenced

Figure 2 shows the gender of people sentenced for murder grouped by their age⁷ between 2003–04 and 2007–08. The average age of people sentenced for murder was thirty-seven years and five months. One male juvenile was sentenced over this period.

Figure 2: The number of people sentenced for murder by gender and age, 2003–04 to 2007–08



Sentence types by gender

Table 2 shows the types of sentence imposed for murder grouped by gender. As shown, a higher percentage of men received a period of imprisonment (92.6% compared to 66.7% of women). Conversely, a higher percentage of women received a custodial supervision order (33.3% compared to 6.7% of men).

Table 2: The number and percentage breakdown of people sentenced for murder by gender, 2003–04 to 2007–08

Sentence type	Male	Female	Total
Imprisonment	125 (93%)	4 (67%)	129 (91%)
Custodial supervision order	9 (7%)	2 (33%)	11 (8%)
Hospital security order	1 (<1%)	0 (–)	1 (<1%)
People sentenced	135	6	141

Sentence types by age

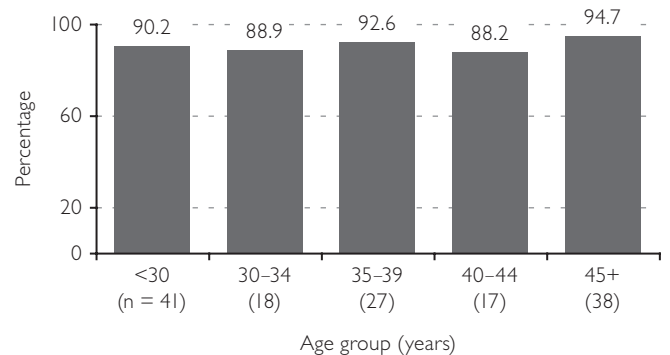
As shown in Table 2, the most common sentence type was imprisonment. The following analysis examines this sentence type by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 45 years and older (95% or 36 of the 38 people in this age group).

Conversely, sentences of imprisonment were least common for those aged 40–44 years old (88% or 15 of the 17 people in this age group).

Figure 3: The percentage of people who received a period of imprisonment for murder by age group, 2003–04 to 2007–08



Principal and total effective sentences

There are two methods for describing sentence types and lengths – the principal sentence and the total effective sentence.

The *principal sentence* is the individual sentence imposed for a single charge. When imposing a sentence for multiple charges, the court imposes a *total effective sentence*. The total effective sentence aggregates the principal sentence handed down for each charge and takes into account whether sentences are ordered by the court to be served concurrently (at the same time) or cumulatively.

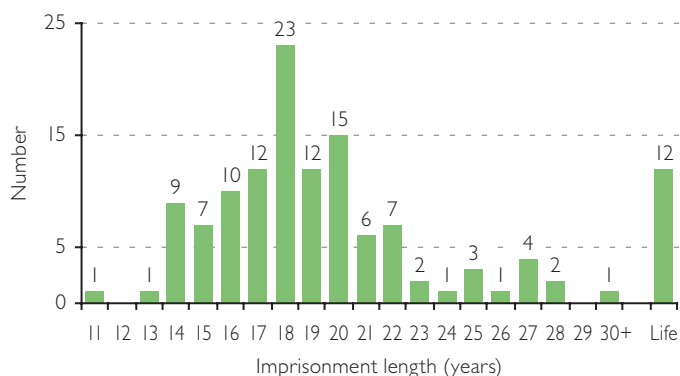
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for murder must be considered in this broader context. The following sections analyse the use of imprisonment for murder over 2003–04 to 2007–08.

Principal sentence of imprisonment

Figure 4 shows the number of people sentenced to imprisonment for murder between 2003–04 and 2007–08 by the length of the imprisonment term. Imprisonment terms ranged from eleven years to life, while the median length of imprisonment was nineteen years (meaning that half of the imprisonment terms were shorter than nineteen years and half were longer).

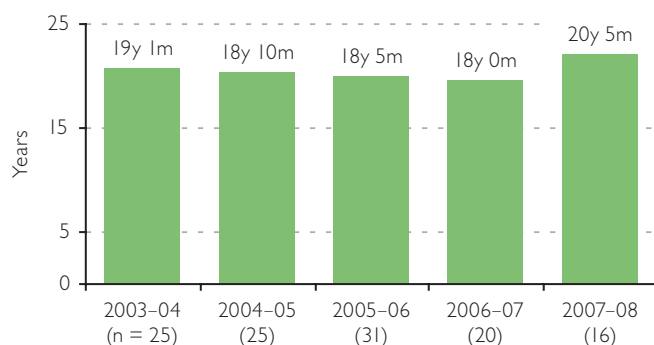
The most common length of imprisonment imposed was eighteen years (23 people).

Figure 4: The number of people sentenced to imprisonment for murder by length of imprisonment term, 2003–04 to 2007–08



As shown in Figure 5, the average length of imprisonment term imposed on people sentenced for murder ranged from eighteen years in 2006–07 to twenty years and five months in 2007–08.

Figure 5: The average length of imprisonment term imposed on people sentenced for murder, 2003–04 to 2007–08

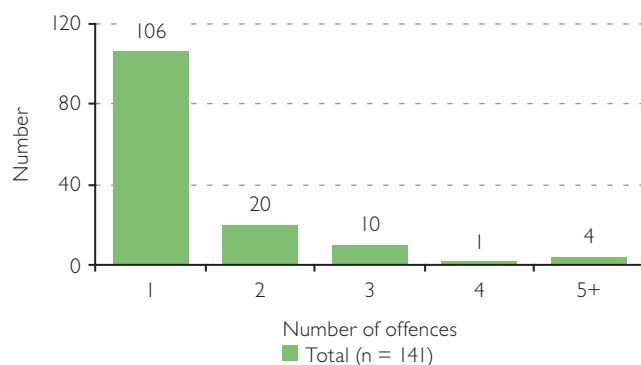


Other offences finalised at the same hearing

Often 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 6 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 one to 8, while the median was one offence. There were 106 people (75.2%) sentenced for the single offence of murder alone. The average number of offences per person sentenced for murder was 1.45.

Figure 6: The number of people sentenced for the principal offence of murder by the number of sentenced offences per person, 2003–04 to 2007–08



While Figure 6 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 ten most common offences. The last column sets out the average number of offences sentenced per person. For example, 4 of the total 141 people (2.8%) also received sentences for causing serious injury intentionally. On average, they were sentenced for 1.25 counts of causing serious injury intentionally.

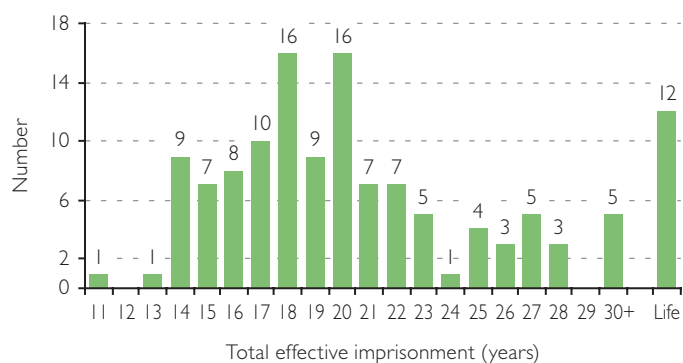
Table 3: The number and percentage of people sentenced for the principal offence of murder by the most common offences that were sentenced and the average number of those offences that were sentenced, 2003–04 to 2007–08

Offence	No.	%	Avg.
1 murder	141	100.0	1.12
2 causing serious injury intentionally	4	2.8	1.25
3 arson	4	2.8	1.00
4 theft	3	2.1	1.33
5 attempted murder	3	2.1	1.33
6 aggravated burglary	2	1.4	1.00
7 false imprisonment	2	1.4	1.00
8 rape	2	1.4	1.00
9 making a threat to kill	2	1.4	1.00
10 incest by sibling	1	0.7	4.00
People sentenced	141	100.0	1.45

Total effective sentence of imprisonment

There were 129 people given a total effective sentence of imprisonment.⁸ Figure 7 shows the number of people sentenced to imprisonment for murder between 2003–04 and 2007–08 by the length of their total effective sentence. The length of total effective sentences ranged from eleven years to life, while the median total effective length of imprisonment was nineteen years (meaning that half of the total effective sentence lengths were below nineteen years and half were above).

Figure 7: The number of people sentenced to imprisonment for murder by total effective length of imprisonment term, 2003–04 to 2007–08



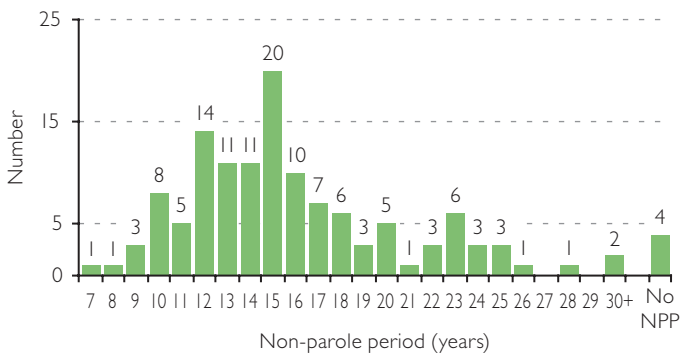
Non-parole period

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 some 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.

Of the 129 people who were sentenced to imprisonment for murder; all were eligible to have a non-parole period fixed. Of these people, 125 were given a non-parole period (97%). Figure 8 shows the number of people sentenced to imprisonment for murder between 2003–04 and 2007–08 by the length of their non-parole period. Non-parole periods ranged from seven years to thirty-three years, while the median length of the non-parole period was fifteen years (meaning that half of the non-parole periods were below fifteen years and half were above).

Figure 8: The number of people sentenced to imprisonment for murder by length of non-parole period, 2003–04 to 2007–08



Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

Total effective sentences of imprisonment and non-parole periods

Figure 9 presents the average length of total effective sentences of imprisonment compared to the average length of non-parole periods for all people from 2003–04 to 2007–08.⁹

From 2003–04 to 2007–08, the average length of total effective sentences for all people ranged from nineteen years and one month in 2003–04 to twenty-two years and three months in 2007–08. Over the same period, the average length of non-parole periods ranged from fourteen years and six months in 2006–07 to eighteen years and three months in 2007–08.

Figure 9: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for murder, 2003–04 to 2007–08



Sentences of life imprisonment

Between 2003–04 and 2007–08, there were 12 people sentenced to life imprisonment for murder. Of these 12 people, 8 were eligible to apply for parole (66.7%).

Non-parole periods ranged from nineteen years to thirty-three years with an average of twenty-five years and eleven months. Life sentences of imprisonment accounted for 8.5% of all sentences handed down for murder.

Summary

Between 2003–04 and 2007–08, 141 people were sentenced for the principal proven offence of murder in the higher courts.

The majority of the people sentenced for murder received a period of imprisonment (91%).

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.

Each of the 141 people was sentenced for an average of 1.45 offences, including 1.12 offences of murder. The most common offence finalised in conjunction with murder was causing serious injury intentionally (2.8% of all cases). The median total effective imprisonment length was nineteen years.

Total effective imprisonment lengths ranged from eleven years with a non-parole period of seven years to life with no non-parole period. The most common sentence of imprisonment was twenty years with a fifteen year non-parole period.

1. This report presents sentencing outcomes for people sentenced for the principal offence of murder in the Supreme Courts of Victoria. The principal offence describes the offence proven that attracted the most serious sentence according to the sentencing hierarchy. The analysis will therefore exclude people sentenced for murder who received a more serious sentence for another offence forming part of the same presentment. There were 141 people sentenced from 2003–04 to 2007–08 for murder. Murder was the principal proven offence for all of these people.

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 series as they are an important form of disposition of criminal charges.

This Sentencing Snapshot is an update of Sentencing Snapshot No. 27, which described sentencing trends for murder between 2001–02 and 2005–06.

2. The information source for sentencing outcomes for murder only contains information on age and gender characteristics. No other demographic analysis is possible.
3. The statistical information presented here was provided by Court Services, Department of Justice (Vic). 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. In 2007–08 one 41 year-old female was sentenced for the principal proven offence of murder, receiving a total effective sentence of 26 years.
6. Immediate custodial sentence includes imprisonment, partially suspended sentence, youth training centre order, hospital security order, custodial supervision order and aggregate imprisonment.
7. Age is as at the time of sentencing.
8. All of the 129 people who were given a principal sentence of imprisonment were also given a total effective sentence of imprisonment.
9. Due to the low number of women (4) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
10. Sentence lengths that are longer than one year are rounded down to the nearest year of imprisonment, while sentence lengths of less than one year are grouped into the '<1 year' category.
11. This graph includes the 129 people who were given a total effective sentence and a non-parole period that related to this case only.

Sentencing Snapshots is a series presenting summary information on sentencing trends in Victoria

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- 37 Burglary
- 36 Attempted armed robbery
- 35 Armed robbery
- 34 Robbery

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