

Sentencing Snapshot

Sentencing trends for manslaughter in Victoria



Introduction

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

The offence of manslaughter applies where a person kills another in circumstances where the offender's culpability is less than that required to constitute murder.⁴ Under the *Crimes Act 1958* (Vic), manslaughter carries a maximum penalty of 20 years' imprisonment. The term "persons sentenced for manslaughter" includes persons who plead guilty and those sentenced after a trial.

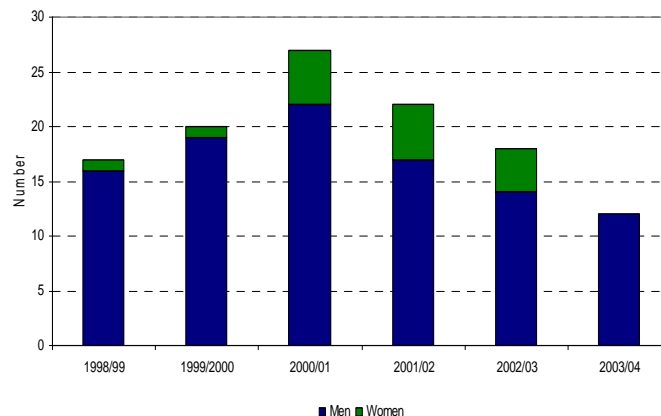
The circumstances in which manslaughter occurs vary widely from case to case and sentencing for this offence takes into account the particular circumstances of the offence and offender, and a variety of legal principles.

Number and gender of persons sentenced

Figure 1 shows the number of persons sentenced for manslaughter and their gender between 1998/99 and 2003/04. Over this period, the number of people sentenced ranged from 12 in 2003/04 to 27 in 2000/01.⁵

As Figure 1 shows, the majority of persons sentenced for manslaughter were male (86%).

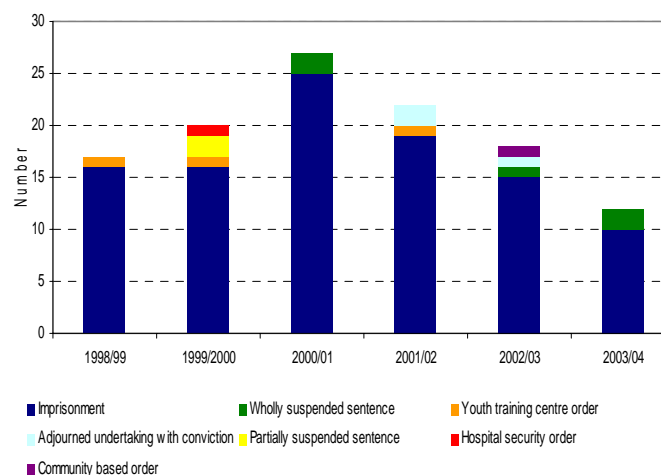
Figure 1: Persons sentenced for manslaughter by gender, 1998/99 to 2003/04 (Victoria)



Sentence types

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

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



As Figure 2 illustrates, 87% of persons sentenced for manslaughter attracted a sentence of immediate imprisonment (101 out of 116 people). The remainder received the following sentences: wholly suspended sentences (4%), detention in a youth training centre (3%), adjourned undertakings (3%), partially suspended sentences (2%), a hospital security order (1 person) and a community based order (1 person) (refer Table 1).

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

² The information source for sentencing outcomes for manslaughter 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 manslaughter 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 Deaths caused by the culpable driving of a motor vehicle are not covered by the offence of manslaughter.

⁵ Caution should be exercised when interpreting this trend as the lower numbers in more recent years may in part reflect backlog in case processing and time lags in sentencing information being provided to Court Services, from where these data are drawn.

Table 1: Persons sentenced for manslaughter by sentence type, 1998/99 to 2003/04 (Victoria)⁶

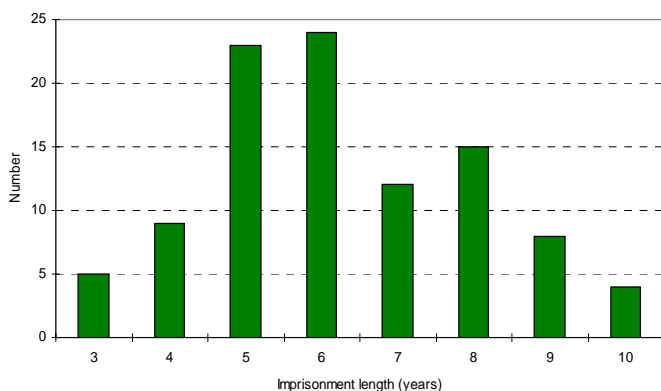
| Sentence type | 98/99 | 99/00 | 00/01 | 01/02 | 02/03 | 03/04 |
|---------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Imprisonment | 16 94% | 16 80% | 25 93% | 19 86% | 15 83% | 10 83% |
| Wholly suspended sentence | - - | - - | 2 7% | - - | 1 6% | 2 17% |
| Partially suspended sentence | - - | 2 10% | - - | - - | - - | - - |
| Youth training centre | 1 6% | 1 5% | - - | 1 5% | - - | - - |
| Adjourned undertaking with conviction | - - | - - | - - | 2 9% | 1 6% | - - |
| Community based order | - - | - - | - - | - - | 1 6% | - - |
| Hospital security order | - - | 1 5% | - - | - - | - - | - - |
| Persons sentenced | 17 100% | 20 100% | 27 100% | 22 100% | 18 100% | 12 100% |

Sentences of imprisonment

Between 1998/99 and 2003/04, the proportion of people sentenced to immediate imprisonment for manslaughter ranged from 80% (16 out of 20 people) in 1999/00 to 94% (16 out of 17 people) in 1998/99 (refer Table 1).

Figure 3 shows the number of people sentenced to immediate imprisonment for manslaughter between 1998/99 and 2003/04, by the length of the imprisonment term they received. Over this period, imprisonment terms for manslaughter ranged from 3 to 10 years' imprisonment⁷. The average imprisonment sentence was 6.3 years⁸.

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



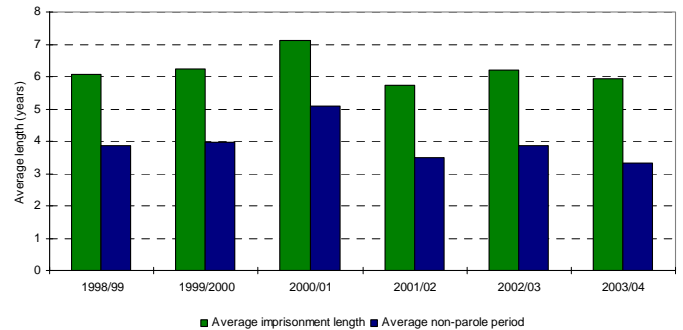
⁶ Figures may not sum to 100 due to rounding.

⁷ The lowest imprisonment terms involved two 22 year old women sentenced to 3 years' imprisonment (6 month and 1 year non-parole period), and one 24 year old man sentenced to 3 years' imprisonment (4 month non-parole period).

⁸ The description of average imprisonment and non-parole lengths excludes one woman sentenced to 4 years' imprisonment without parole.

Figure 4 shows the average imprisonment length and average non-parole period for manslaughter between 1998/99 and 2003/04. Over this period, the average imprisonment sentence ranged from 5.7 years in 2001/02 to 7.1 years in 2000/01⁹.

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



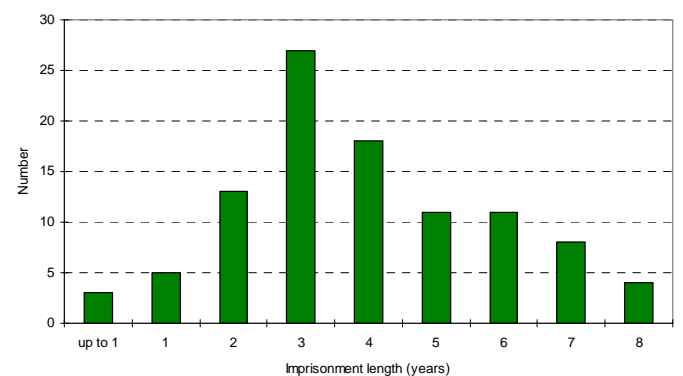
Non-parole periods

Where a person is sentenced to a term of immediate 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 99% (100 out of 101) of people sentenced to imprisonment for manslaughter¹⁰. The average non-parole period ranged from 3.3 years in 2003/04 to 5.1 years in 2000/01 (refer Figure 4)¹¹.

Figure 5 shows the number of non-parole periods handed down for manslaughter between 1998/99 and 2003/04, by the length of the non-parole period. Over this period non-parole periods ranged from 3 days to 8 years, with an average of 4.1 years¹².

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



⁹ Refer fn.8

¹⁰ In 2000/01, a 42 year old woman was sentenced to 4 years' imprisonment without parole.

¹¹ Refer fn.8

¹² Refer fn.8. A 21 year old man sentenced to 5 years' imprisonment received a 3 day non-parole period due to time already served. The 4 people sentenced to non-parole periods of 8 years were sentenced to imprisonment terms up to 10 years.

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 manslaughter between 1998/99 and 2003/04.¹³

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

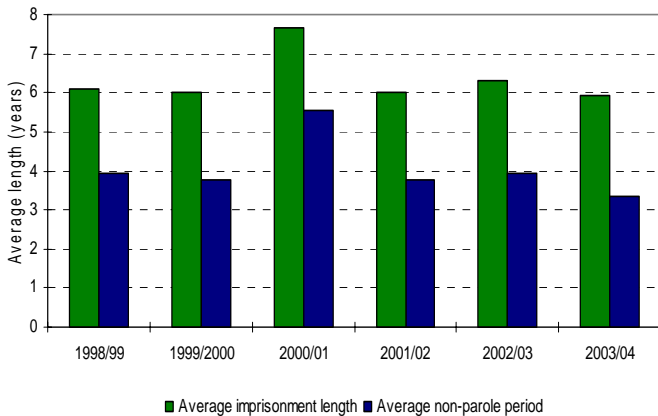
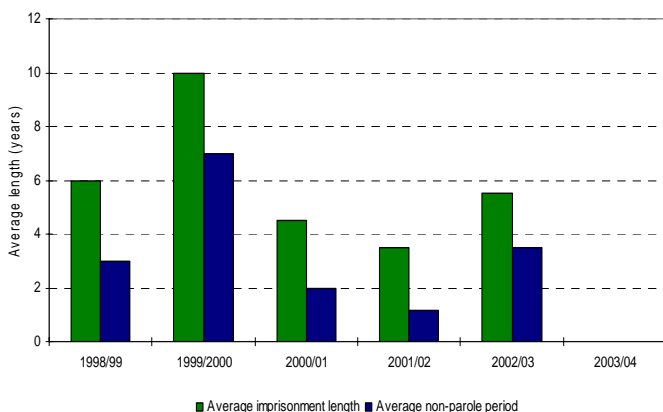


Figure 7: Women sentenced to imprisonment for manslaughter, by average imprisonment and non-parole period 1998/99 to 2003/04 (Victoria)



Between 1998/99 and 2003/04, all 91 men sentenced for manslaughter and sentenced to imprisonment were eligible to apply for parole. The average length of sentence for men was 6.4 years. The average non-parole period was 4.2 years.

Between 1998/99 and 2003/04, 9 of the 10 women sentenced to imprisonment for manslaughter were eligible to apply for parole¹⁴. The average length of sentence for women was 5.3 years. The average non-parole period was 2.8 years.

Sentences other than imprisonment

Between 1998/99 and 2003/04, 13% (15 out of 116) of people sentenced for manslaughter attracted a sentence other than immediate imprisonment (refer Figure 2 and Table 1). Figure 9 shows the distribution of these people according to their gender and the sentence imposed.

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

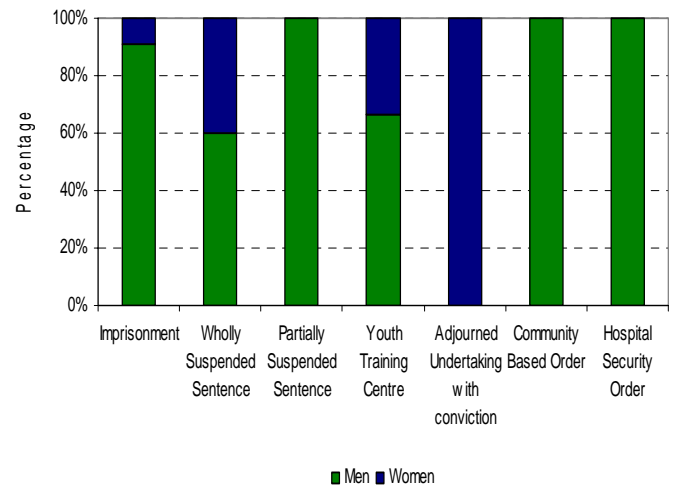


Table 2: Persons sentenced for manslaughter by gender and sentence, 1998/99 to 2003/04 (Victoria)

| Sentence type | Male | | Female | | Total persons | |
|--------------------------------------|------------|------------|-----------|------------|---------------|-------------|
| Imprisonment | 91 | 91% | 10 | 9% | 101 | 100% |
| Wholly Suspended Sentence | 3 | 60% | 2 | 40% | 5 | 100% |
| Partially Suspended Sentence | 2 | 100% | - | 0% | 2 | 100% |
| Adjudged Undertaking with conviction | - | 0% | 3 | 100% | 3 | 100% |
| Youth Training Centre | 2 | 67% | 1 | 33% | 3 | 100% |
| Community Based Order | 1 | 100% | - | 0% | 1 | 100% |
| Hospital Security Order | 1 | 100% | - | 0% | 1 | 100% |
| Persons sentenced | 100 | 87% | 16 | 13% | 116 | 100% |

¹³ Refer fn.8

¹⁴ Refer fn.10

Of the 15 people sentenced for manslaughter who were not sentenced to immediate imprisonment between 1998/99 and 2003/04 (refer Table 2):

- five people (three men and two women) received a **wholly suspended sentence** of imprisonment¹⁵
- two men attracted a **partially suspended sentence**¹⁶
- three women received an **adjourned undertaking with conviction**¹⁷
- three people were sentenced to detention in a **youth training centre**¹⁸
- one man aged 24 years attracted a 2 year **community based order**
- one man aged 26 years was sentenced to a **hospital security order**¹⁹

Conclusion

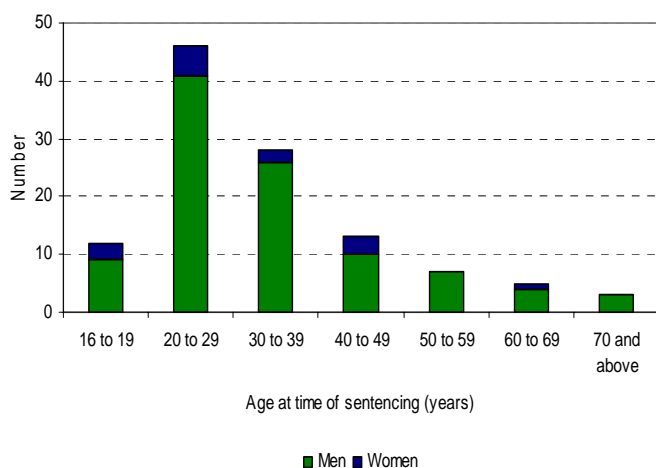
Between 1998/99 and 2003/04, the majority (92%) of people sentenced for manslaughter received a custodial sentence (including imprisonment, detention in a youth training centre, hospital security orders and partially suspended sentences). On average, women attracted slightly shorter imprisonment terms and shorter non-parole periods than men.

Where a sentence other than immediate imprisonment or detention was imposed and the offender did not have a mental disorder, the court sentenced the person to either a suspended sentence of imprisonment, a community based order or an adjourned undertaking with conviction.

Age & gender

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

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



Over the reference period, the average age of persons sentenced for manslaughter was 33 years. Women sentenced for manslaughter were on average younger than their male counterparts: the average age of women was 31 years and for men it was 33 years (at time of sentencing).

¹⁵ Two men aged 37 and 54 years had their 3 year imprisonment term wholly suspended by the court, with a 3 year operational period. One 77 year old man had a 2 year imprisonment term wholly suspended by the court, with an operational period of 2 years. Two women, aged 42 and 61 years had their 3 year imprisonment terms wholly suspended by the court, with an operational period of 3 years.

¹⁶ One man aged 24 was sentenced to 3 years' imprisonment; the sentence was partially suspended for 2.5 years, with an operational period of 2.5 years (time served in gaol was 6 months). One man aged 28 years was sentenced to 3 years' imprisonment; the sentence was partially suspended for 2.6 years, with an operational period of 2.5 years (time served in gaol was 5 months).

¹⁷ Two women, aged 16 and 17 years, attracted an adjourned undertaking for a 3 year period, and a 69 year old woman attracted an adjourned undertaking for a 2 year period.

¹⁸ Two men aged 19 and 20 years and one woman aged 19 years were sentenced to 3 years' detention in a youth training centre.

¹⁹ The sentence was for 9 years' with a non-parole period of 6.5 years.