

No. 28: Sentencing trends for manslaughter in the higher courts of Victoria, 2001-02 to 2005-06

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of manslaughter and details the age and gender² of people sentenced for this offence in the County and Supreme Courts of Victoria between 2001-02 and 2005-06³.

The offence of manslaughter applies where a person kills another in circumstances where the offender's culpability is less than that required to constitute murder⁴. Manslaughter is an indictable offence and carries a maximum penalty of 20 years' imprisonment⁵ and/or a fine of 1800 penalty units⁶.

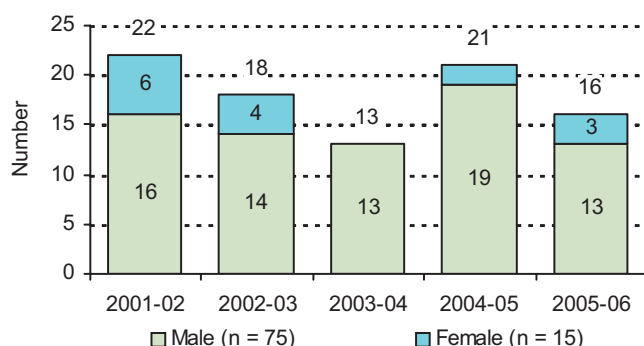
All manslaughter offences were heard in the County or Supreme Court. Manslaughter was the principal offence in 0.9% of cases sentenced in the higher courts between 2001-02 and 2005-06.

People sentenced

Figure 1 shows the number of people sentenced for manslaughter for the period 2001-02 to 2005-06. As shown, 90 people were sentenced for manslaughter over the five year period. There were 16 people sentenced for this offence in 2005-06, down by 5 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (83.3% or 75 of the 90 people), including 13 of the 16 people sentenced in 2005-06.

Figure 1: The number of people sentenced for manslaughter by gender, 2001-02 to 2005-06



Sentence types and trends

Figure 2 shows the total number of people sentenced for manslaughter and the number who received a custodial sentence. Custodial refers to sentences that involve at least some aspect of immediate imprisonment or detention⁷. Over the five year period, 91% of people were given a custodial sentence. This peaked at 100% (16 of 16) in 2005-06 after a low of 83% (15 of 18) in 2002-03.

Figure 2: The number of people sentenced for manslaughter and the number who received a custodial sentence, 2001-02 to 2005-06

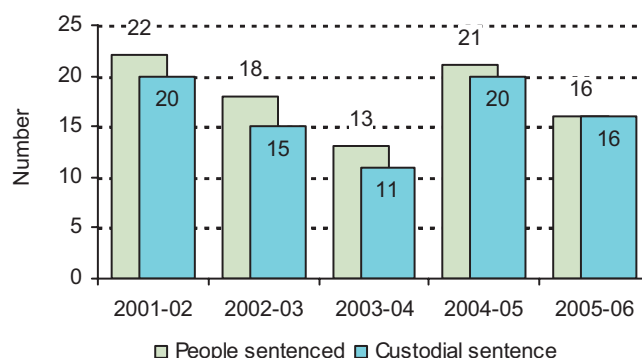


Figure 3 and Table 1 show the number of people sentenced for manslaughter from 2001-02 to 2005-06 by the types of sentences imposed.

Over the five year period, the majority of the people sentenced for manslaughter received a period of imprisonment (90% or 81 of 90 people). During 2005-06, all people sentenced for manslaughter received a period of imprisonment.

Figure 3: The number of people sentenced for manslaughter by sentence type, 2001-02 to 2005-06

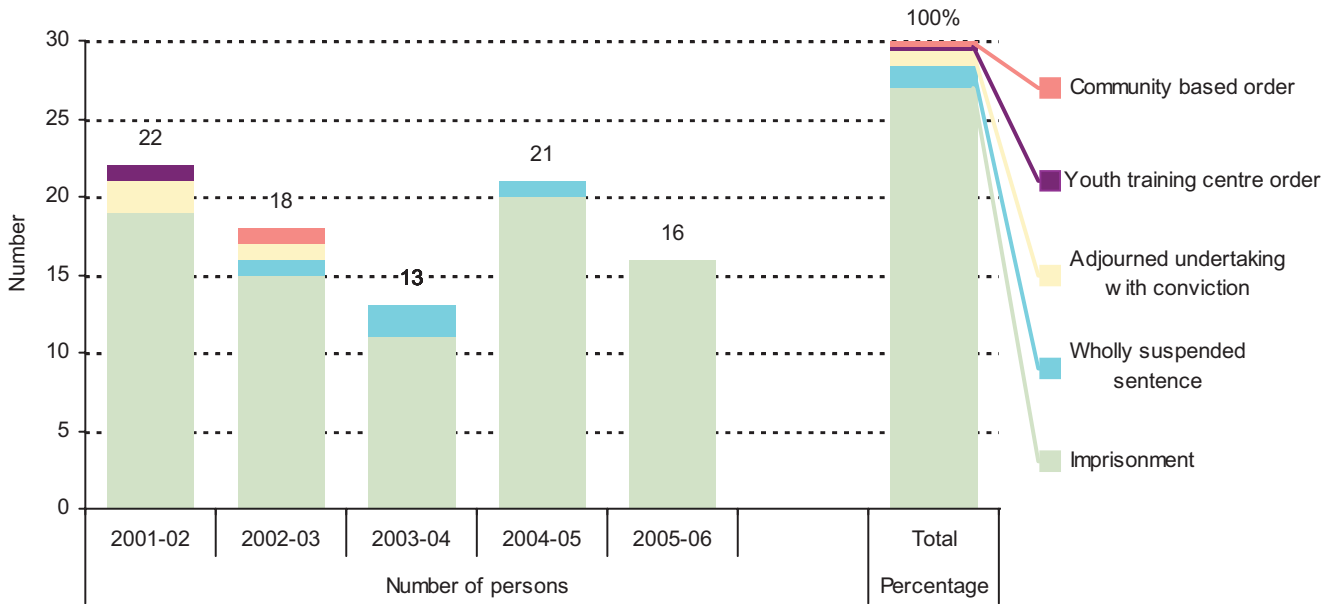
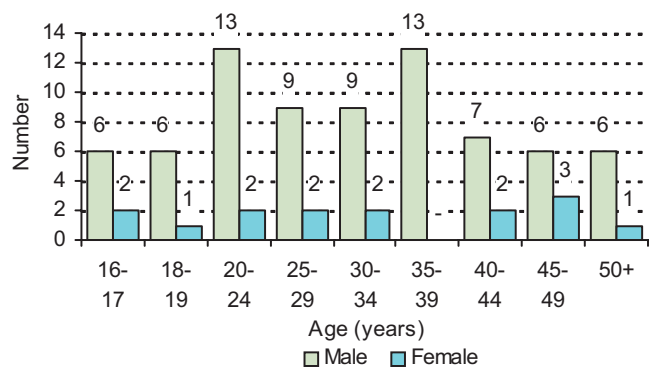


Table 1: The number and percentage of people sentenced for manslaughter by sentence type, 2001-02 to 2005-06

Sentence type	01-02	02-03	03-04	04-05	05-06
Imprisonment	19	15	11	20	16
	86%	83%	85%	95%	100%
Wholly suspended sentence	0	1	2	1	0
	-	6%	15%	5%	-
Adjoined undertaking with conviction	2	1	0	0	0
	9%	6%	-	-	-
Youth training centre order	1	0	0	0	0
	5%	-	-	-	-
Community based order	0	1	0	0	0
	-	6%	-	-	-
People sentenced	22	18	13	21	16

Figure 4: The number of people sentenced for manslaughter by gender and age, 2001-02 to 2005-06



Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for manslaughter grouped by their age⁸ between 2001-02 and 2005-06. The average age of people sentenced for manslaughter was thirty-two years and eight months. Women sentenced over this period were older than men (an average age of thirty-three years and seven months for women compared to thirty-two years and six months for men). Six male and two female juveniles were sentenced over this period.

Sentence types by gender

Figure 5 and Table 2 show the types of sentence imposed for manslaughter grouped by gender. As shown, a higher percentage of men received a period of imprisonment (96.0% compared to 60.0% of women). Conversely, a higher percentage of women received an adjourned undertaking with conviction (20.0% compared to no men), a wholly suspended sentence of imprisonment (13.3% compared to 2.7%) and a youth training centre order (6.7% compared to no men).

Figure 5: The percentage of people sentenced for manslaughter by sentence type and gender, 2001-02 to 2005-06

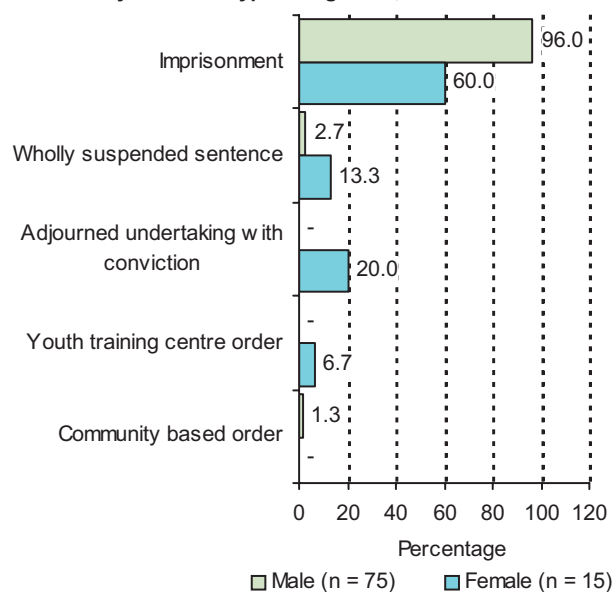


Table 2: The number and percentage breakdown of people sentenced for manslaughter by gender, 2001-02 to 2005-06

Sentence type	Male	Female	Total
Imprisonment	72 96%	9 60%	81 90%
Wholly suspended sentence	2 3%	2 13%	4 4%
Adjournd undertaking with conviction	0 -	3 20%	3 3%
Youth training centre order	0 -	1 7%	1 1%
Community based order	1 1%	0 -	1 1%
People sentenced	75	15	90

Sentence types by age

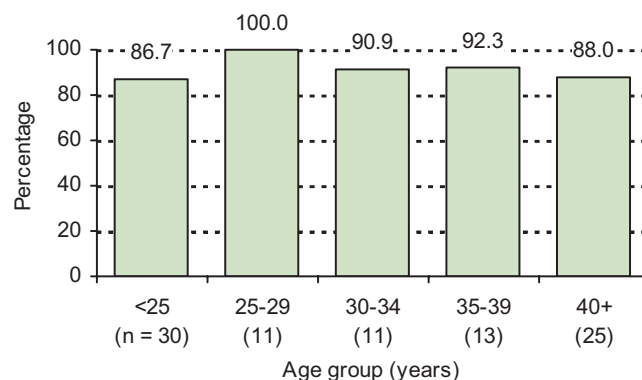
As shown in the table above, the most common sentence type was imprisonment. The following analysis examines this sentence type by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 25-29 years old (100% or 11 of the 11 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 25 years (87% or 26 of the 30 people in this age group).

Figure 6: The percentage of people who received a period of imprisonment for manslaughter by age group, 2001-02 to 2005-06



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.

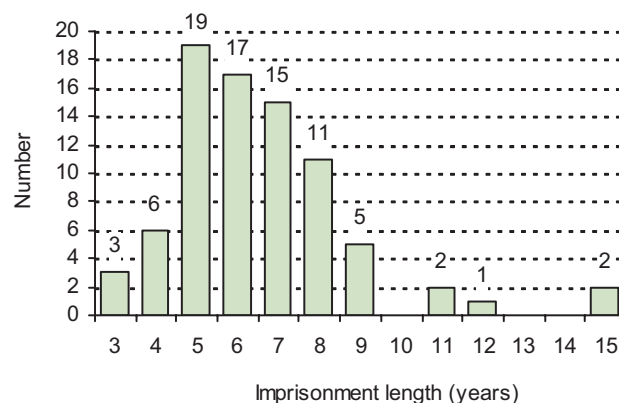
The total effective sentence imposed on a person may be longer than individual principal sentences. The following sections analyse the use of imprisonment for manslaughter over 2001-02 to 2005-06.

Principal sentence of imprisonment

Figure 7 shows the number of people sentenced to imprisonment for manslaughter between 2001-02 and 2005-06 by the length of the imprisonment term. Imprisonment terms ranged from 3 years to fifteen years, while the median length of imprisonment was six years (meaning that half of the imprisonment terms were shorter than six years and half were longer).

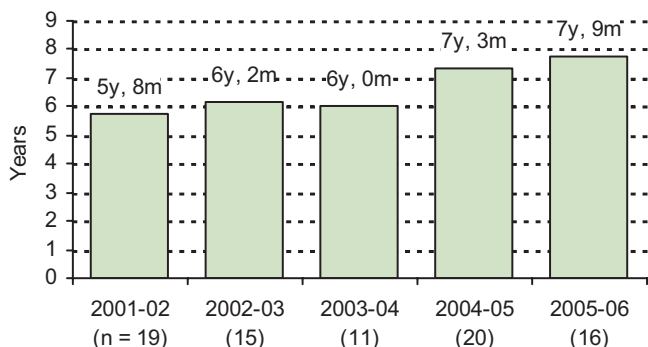
The most common length of imprisonment imposed was 5 years (19 people).

Figure 7: The number of people sentenced to imprisonment for manslaughter by length of imprisonment term, 2001-02 to 2005-06



As shown in Figure 8, the average length of imprisonment term imposed on people sentenced for manslaughter ranged from five years and eight months in 2001-02 to seven years and nine months in 2005-06.

Figure 8: The average length of imprisonment term imposed on people sentenced for manslaughter, 2001-02 to 2005-06

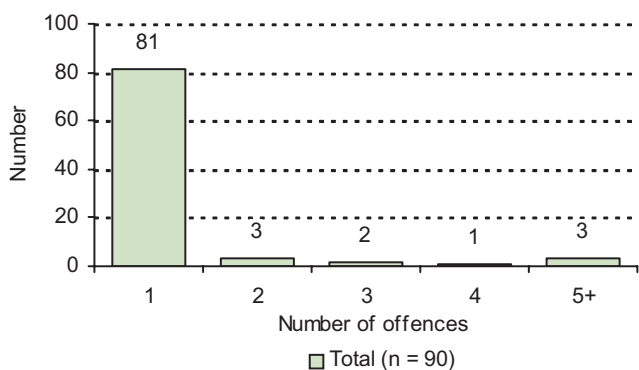


Other offences finalised at the same hearing

A person prosecuted for manslaughter may 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 manslaughter.

Figure 9 shows the number of people sentenced for the principal offence of manslaughter by the total number of offences for which sentences were set. There were 81 people (90.0%) sentenced for the single offence of manslaughter alone. The highest number of sentenced offences per person was 6 (1 person).

Figure 9: The number of people sentenced for the principal offence of manslaughter by the number of sentenced offences per person, 2001-02 to 2005-06



While Figure 9 presents the number of sentenced offences for those sentenced for manslaughter, Figure 10 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, 3 of the total 90 people (3.3%) also received sentences for theft. On average, they were sentenced for 1 count of theft.

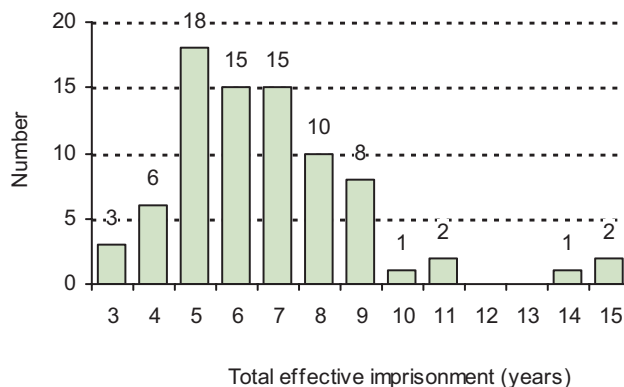
Figure 10: The number and percentage of people sentenced for the principal offence of manslaughter by the most common offences that were sentenced and the average number of those offences that were sentenced, 2001-02 to 2005-06

Offence	No.	%	Avg.
1 manslaughter	90	100.0	1.00
2 theft	3	3.3	1.00
3 aggravated burglary	3	3.3	1.00
4 causing serious injury intentionally	2	2.2	1.50
5 cultivate a narcotic plant	2	2.2	1.00
6 attempted armed robbery	2	2.2	1.00
7 conduct endangering life	1	1.1	4.00
8 obtain property by deception	1	1.1	2.00
9 false imprisonment	1	1.1	1.00
10 kidnapping	1	1.1	1.00
People sentenced	90	100.0	1.26

Total effective sentence of imprisonment

There were 81 people given a total effective sentence of imprisonment⁹. Figure 11 shows the number of people sentenced to imprisonment for manslaughter between 2001-02 and 2005-06 by the length of their total effective sentence. The length of total effective sentences ranged from three years to fifteen years, while the median total effective length of imprisonment was six years and six months (meaning that half of the total effective sentence lengths were below six years and six months and half were above).

Figure 11: The number of people sentenced to imprisonment for manslaughter by total effective length of imprisonment term, 2001-02 to 2005-06



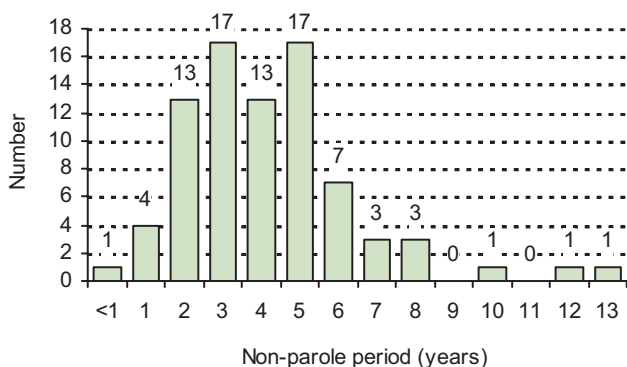
Non-parole period

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 s.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 lengthier than the individual principal sentence for manslaughter. Sentences and non-parole periods must be considered in this broader context.

Of the 81 people who were sentenced to imprisonment for manslaughter, all were given a non-parole period. Figure 12 shows the number of people sentenced to imprisonment for manslaughter between 2001-02 and 2005-06 by the length of their non-parole period. Non-parole periods ranged from three days to thirteen years, while the median length of the non-parole period was four years (meaning that half of the non-parole periods were below four years and half were above).

Figure 12: The number of people sentenced to imprisonment for manslaughter by length of non-parole period, 2001-02 to 2005-06

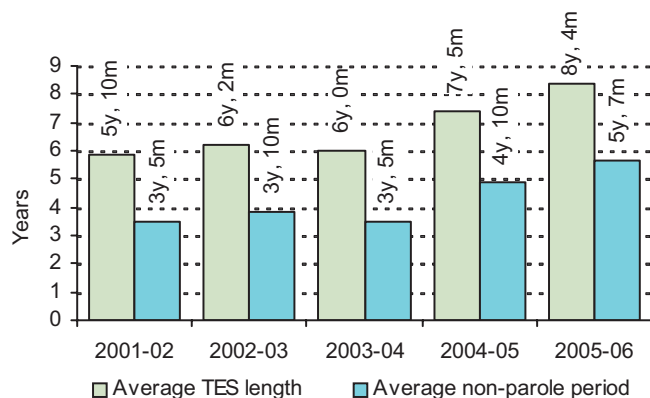


Total effective sentences of imprisonment and non-parole periods

Figure 13 presents the average length of total effective sentence of imprisonment compared to the average length of non-parole period for all people from 2001-02 to 2005-06¹⁰.

From 2001-02 to 2005-06, the average length of total effective sentence for all people ranged from five years and ten months in 2001-02 to eight years and four months in 2005-06. Over the same period, the average length of non-parole period ranged from three years and five months in 2001-02 and 2003-04 to five years and seven months in 2005-06.

Figure 13: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for manslaughter, 2001-02 to 2005-06

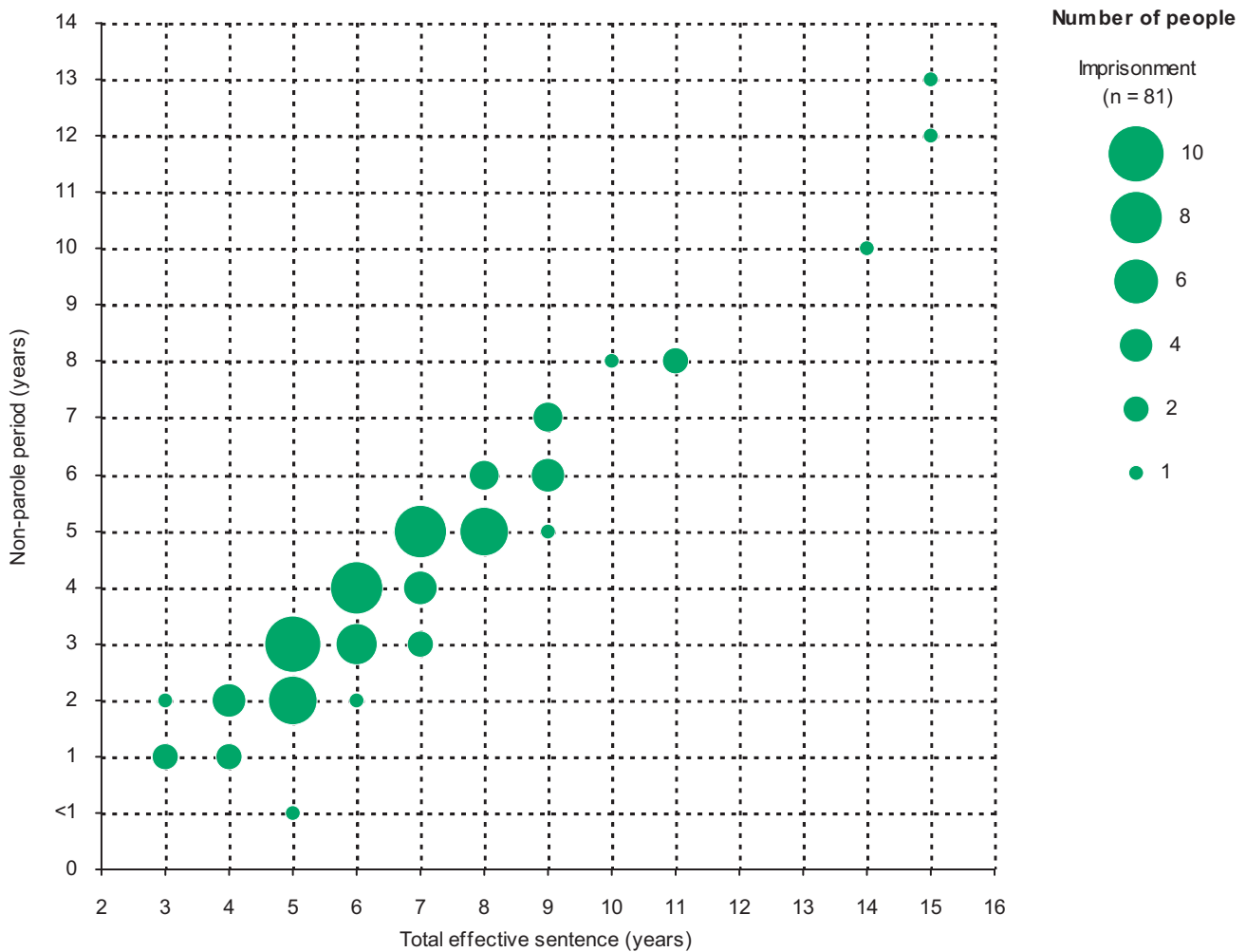


Total effective sentence of imprisonment by non-parole period

While Figure 11 and Figure 12 present the lengths of the total effective sentences and non-parole periods separately, Figure 14 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for manslaughter 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 combination¹¹. As shown, the most common combination of imprisonment length and non-parole period imposed was five years with a non-parole period of three years (10 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from three years with a non-parole period of one year to fifteen years with a non-parole period of thirteen years.

Figure 14: The number of people sentenced to imprisonment for manslaughter by the total effective sentence and the non-parole period imposed, 2001-02 to 2005-06¹²



Summary

Between 2001-02 and 2005-06, 90 people were sentenced for manslaughter in the higher courts. Over this period, the majority of those sentenced were men (83%), while 72% were between the age of 16 and 40 years.

The majority of the people sentenced for manslaughter received a period of imprisonment (90%).

Men were more likely than women to be sentenced to a period of imprisonment. Conversely, women were more likely to be sentenced to an adjourned undertaking with conviction, a wholly suspended sentence of imprisonment or a youth training centre order.

Imprisonment was more common for those aged between 25 and 40 years of age.

Of the 90 people sentenced for manslaughter, 81 people were sentenced for the single offence only. The highest number of sentenced offences per person was 6.

The number and range of offences for which people with a principal offence of manslaughter were sentenced helps explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was six years and six months, while the median principal imprisonment length was six years.

Total effective imprisonment lengths ranged from three years with a non-parole period of one year to fifteen years with a non-parole period of thirteen years. The most common sentence of imprisonment was five years with a three year non-parole period.

- 4 Deaths caused by the culpable driving of a motor vehicle are not covered by the offence of manslaughter.
- 5 *Crimes Act 1958* (Vic) s 5.
- 6 Manslaughter carries a maximum fine of 1800 penalty units. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette.
- 7 Custodial sentence includes imprisonment and youth training centre order.
- 8 Age is as at the time of sentencing.
- 9 All of the 81 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
- 10 Due to the low number of women (9) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
- 11 Sentence lengths that are longer than one year are rounded to the nearest year of imprisonment, while sentence lengths of less than one year are grouped into the '<1 year' category.
- 12 This graph includes the 81 people who were given a total effective sentence and a non-parole period that related to this case only.

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The Sentencing Advisory Council draws data for the Sentencing Snapshots from a variety of sources. All original data sources are noted. The Sentencing Advisory Council makes every effort to ensure that data used in the Sentencing Snapshots are accurate at the time of publishing.

1 This report presents sentencing outcomes for people sentenced for the principal offence of manslaughter in the County and 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 manslaughter who received a more serious sentence for another offence forming part of the same presentment. There were 91 people sentenced from 2001-02 to 2005-06 for manslaughter. Manslaughter was the principal proven offence for 90 of these people.

This Sentencing Snapshot is an update of Sentencing Snapshot No. 5, which described the sentencing trends for manslaughter in Victoria between 1998-99 and 2003-04. This report is available for download from the Sentencing Advisory Council website www.sentencingcouncil.vic.gov.au

2 The information source for sentencing outcomes for manslaughter 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). This report describes sentencing trends for manslaughter since 2001-02. Court Services advises that sentencing data from the higher courts prior to 2000-01 may be unreliable due to changed data collection processes and counting rules.

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