

Sentencing Snapshot

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

June 2009
No. 85

Manslaughter

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 2003–04 and 2007–08.³

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 Manslaughter is an indictable offence and carries a maximum penalty of 20 years' imprisonment⁵ and/or a fine of 1800 penalty units.⁶

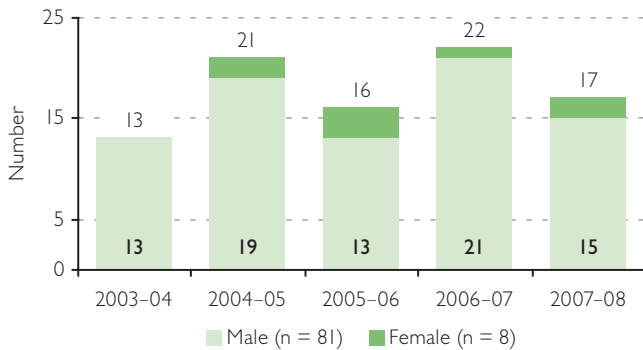
Manslaughter was the principal offence in 0.8% of cases sentenced in the higher courts between 2003–04 and 2007–08.

People sentenced

Figure 1 shows the number of people sentenced for the principal proven offence of manslaughter for the period 2003–04 to 2007–08. As shown, 89 people were sentenced for manslaughter over the five-year period. There were 17 people sentenced for this offence in 2007–08, down by 5 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (91.0% or 81 of the 89 people), including 15 of the 17 people sentenced in 2007–08.⁷

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



Sentence types and trends

Figure 2 shows the total number of people sentenced for manslaughter 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.⁸ Over the five-year period, 96% of people were given an immediate custodial sentence. This peaked at 100% (16 of 16) in 2005–06 and 100% (17 of 17) in 2007–08 after a low of 85% (11 of 13) in 2003–04.

Figure 2: The number of people sentenced for manslaughter and the number who received an immediate custodial sentence, 2003–04 to 2007–08

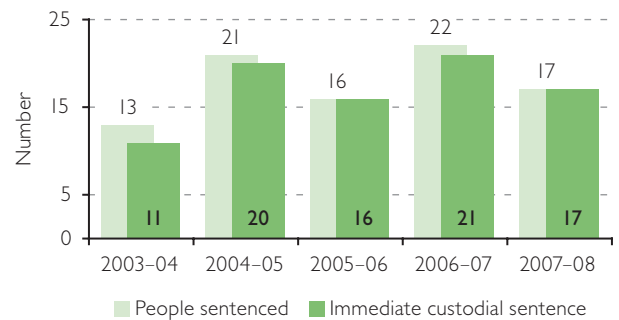


Table 1 shows the number of people sentenced for manslaughter from 2003–04 to 2007–08 by the types of sentences imposed.⁹

Over the five-year period, the majority of the people sentenced for manslaughter received a period of imprisonment (96% or 85 of 89 people).

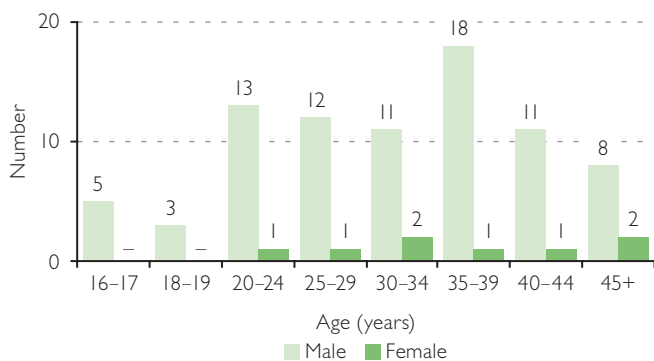
Table 1: The number and percentage of people sentenced for manslaughter by sentence type, 2003–04 to 2007–08

Sentence type	2003–04	2004–05	2005–06	2006–07	2007–08
Imprisonment	11 (85%)	20 (95%)	16 (100%)	21 (95%)	17 (100%)
Wholly suspended sentence	2 (15%)	1 (5%)	0 (–)	1 (5%)	0 (–)
People sentenced	13	21	16	22	17

Age and gender of people sentenced

Figure 3 shows the gender of people sentenced for manslaughter grouped by their age¹⁰ between 2003–04 and 2007–08. The average age of people sentenced for manslaughter was thirty-two years and five months. Five male juveniles were sentenced over this period.

Figure 3: The number of people sentenced for manslaughter by gender and age, 2003–04 to 2007–08



Sentence types by gender

Table 2 shows the types of sentence imposed for manslaughter grouped by gender. As shown, a higher percentage of men received a period of imprisonment (96.3% compared to 87.5% of women). Conversely, a higher percentage of women received a wholly suspended sentence of imprisonment (12.5% compared to 3.7% of men).

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

Sentence type	Male	Female	Total
Imprisonment	78 (96%)	7 (88%)	85 (96%)
Wholly suspended sentence	3 (4%)	1 (13%)	4 (4%)
People sentenced	81	8	89

Sentence types by age

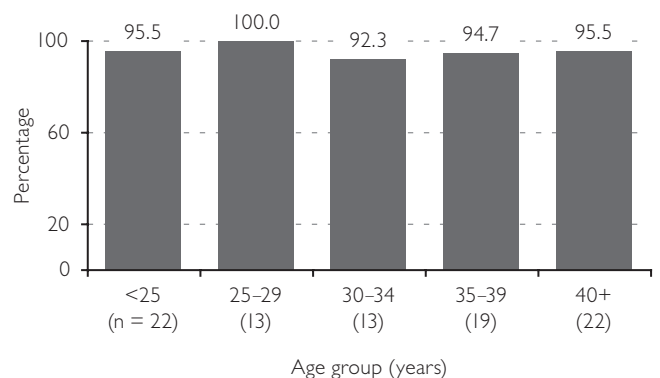
As shown in Table 2, the most common sentence type was imprisonment. The following analysis examines this sentence type by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 25–29 years old (100% or 13 of the 13 people in this age group).

Conversely, sentences of imprisonment were least common for those aged 30–34 years old (92% or 12 of the 13 people in this age group).

Figure 4: The percentage of people who received a period of imprisonment for manslaughter 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.

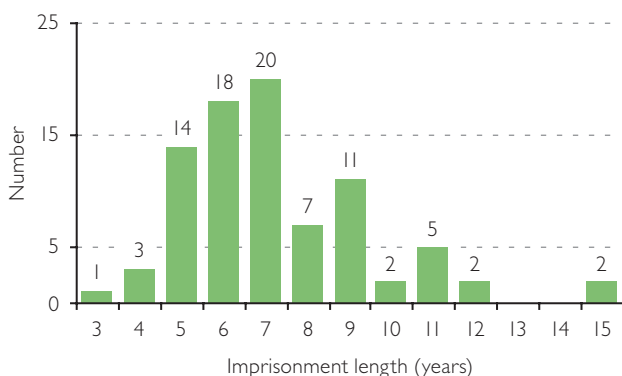
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for manslaughter must be considered in this broader context. The following sections analyse the use of imprisonment for manslaughter over 2003–04 to 2007–08.

Principal sentence of imprisonment

Figure 5 shows the number of people sentenced to imprisonment for manslaughter between 2003–04 and 2007–08 by the length of the imprisonment term. Imprisonment terms ranged from three years to fifteen years, while the median length of imprisonment was seven years (meaning that half of the imprisonment terms were shorter than seven years and half were longer).

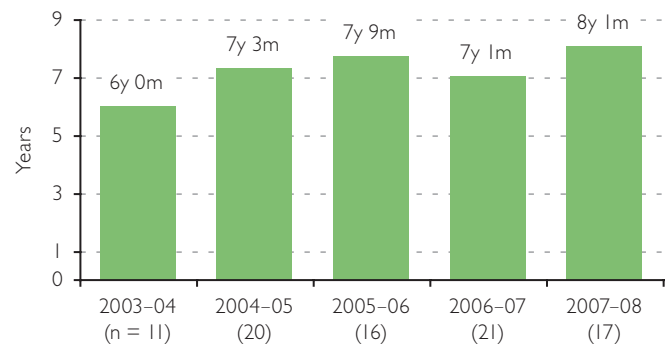
The most common length of imprisonment imposed was seven years (20 people).

Figure 5: The number of people sentenced to imprisonment for manslaughter by length of imprisonment term, 2003–04 to 2007–08



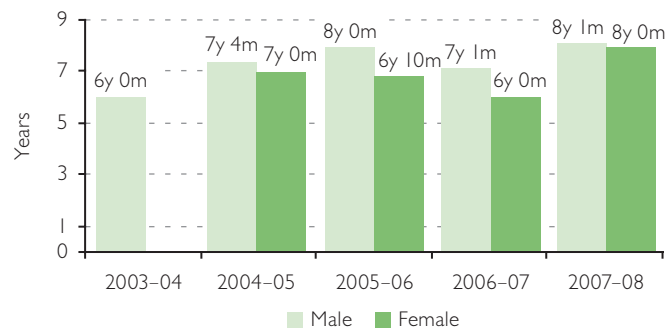
As shown in Figure 6, the average length of imprisonment term imposed on people sentenced for manslaughter ranged from six years in 2003–04 to eight years and one month in 2007–08.

Figure 6: The average length of imprisonment term imposed on people sentenced for manslaughter, 2003–04 to 2007–08



From 2003–04 to 2007–08, the majority of those people who received a term of imprisonment for manslaughter were men (78 people or 91.8%). Figure 7 shows that over the five-year period, men and women received a similar average term of imprisonment (seven years and four months for men compared to seven years for women).

Figure 7: The average period of imprisonment imposed on people sentenced for manslaughter by gender, 2003–04 to 2007–08

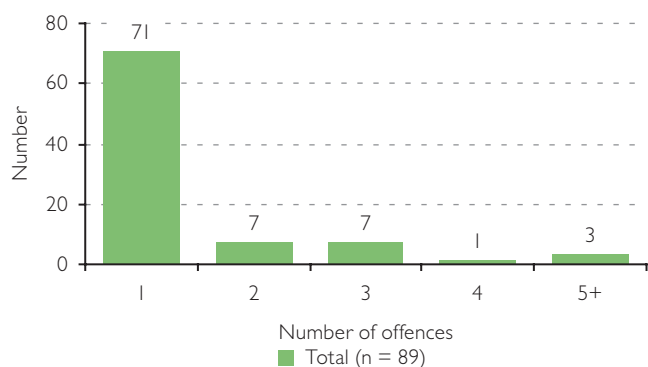


Other offences finalised at the same hearing

Often people prosecuted for manslaughter 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 8 shows the number of people sentenced for the principal offence of manslaughter 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 71 people (79.8%) sentenced for the single offence of manslaughter alone. The average number of offences per person sentenced for manslaughter was 1.45.

Figure 8: The number of people sentenced for the principal offence of manslaughter by the number of sentenced offences per person, 2003–04 to 2007–08



While Figure 8 presents the number of sentenced offences for those sentenced for manslaughter, 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, 6 of the total 89 people (6.7%) also received sentences for aggravated burglary. On average, they were sentenced for one count of aggravated burglary.

Table 3: 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, 2003–04 to 2007–08

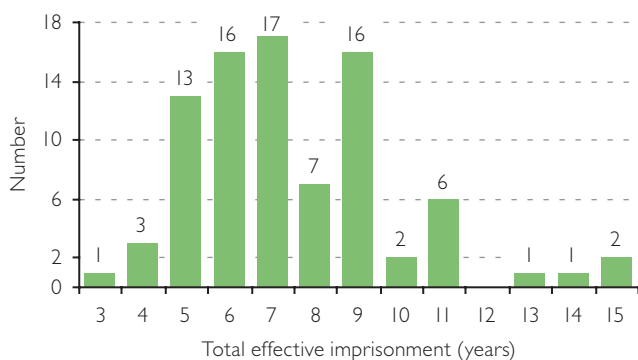
Offence	No.	%	Avg.
1 manslaughter	89	100.0	1.00
2 aggravated burglary	6	6.7	1.00
3 theft	6	6.7	1.00
4 causing serious injury intentionally	4	4.5	1.25
5 attempted armed robbery	3	3.4	1.00
6 causing injury	2	2.2	1.50
7 cultivate a narcotic plant	2	2.2	1.00
8 making a threat to kill	2	2.2	1.00
9 conduct endangering life	1	1.1	4.00
10 armed robbery	1	1.1	2.00
People sentenced	89	100.0	1.45

Total effective sentence of imprisonment

There were 85 people given a total effective sentence of imprisonment.¹¹ Figure 9 shows the number of people sentenced to imprisonment for manslaughter between 2003–04 and 2007–08 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 seven years (meaning that half of the total effective sentence lengths were below seven years and half were above).

The most common total effective imprisonment length was seven years (17 people).

Figure 9: The number of people sentenced to imprisonment for manslaughter by total effective length of imprisonment term, 2003–04 to 2007–08



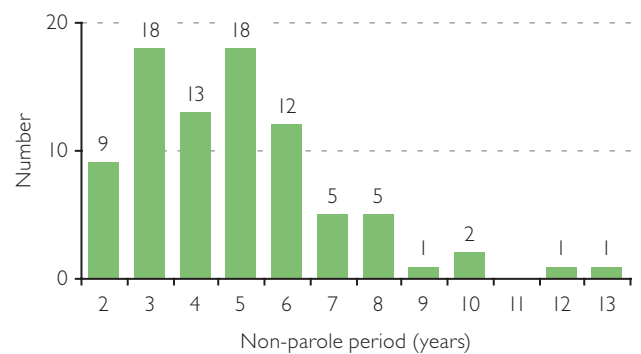
Non-parole period

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 manslaughter. Sentences and non-parole periods must be considered in this broader context.

Of the 85 people who were sentenced to imprisonment for manslaughter, all were given a non-parole period. Figure 10 shows the number of people sentenced to imprisonment for manslaughter between 2003–04 and 2007–08 by the length of their non-parole period. Non-parole periods ranged from two years to thirteen years, while the median length of the non-parole period was five years (meaning that half of the non-parole periods were below five years and half were above).

Figure 10: The number of people sentenced to imprisonment for manslaughter by length of non-parole period, 2003–04 to 2007–08

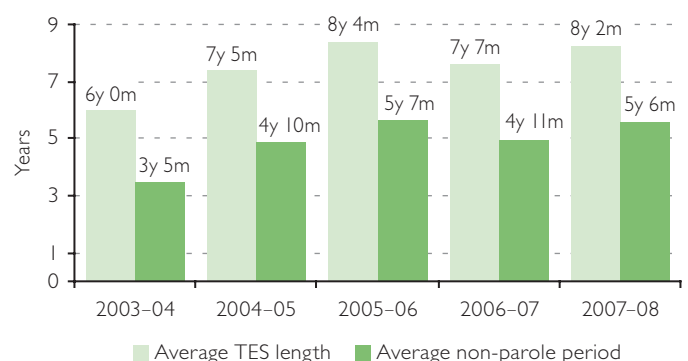


Total effective sentences of imprisonment and non-parole periods

Figure 11 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 2007–08.¹²

From 2003–04 to 2007–08, the average length of total effective sentences for all people ranged from six years in 2003–04 to eight years and four months in 2005–06. Over the same period, the average length of non-parole periods ranged from three years and five months in 2003–04 to five years and seven months in 2005–06.

Figure 11: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for manslaughter, 2003–04 to 2007–08

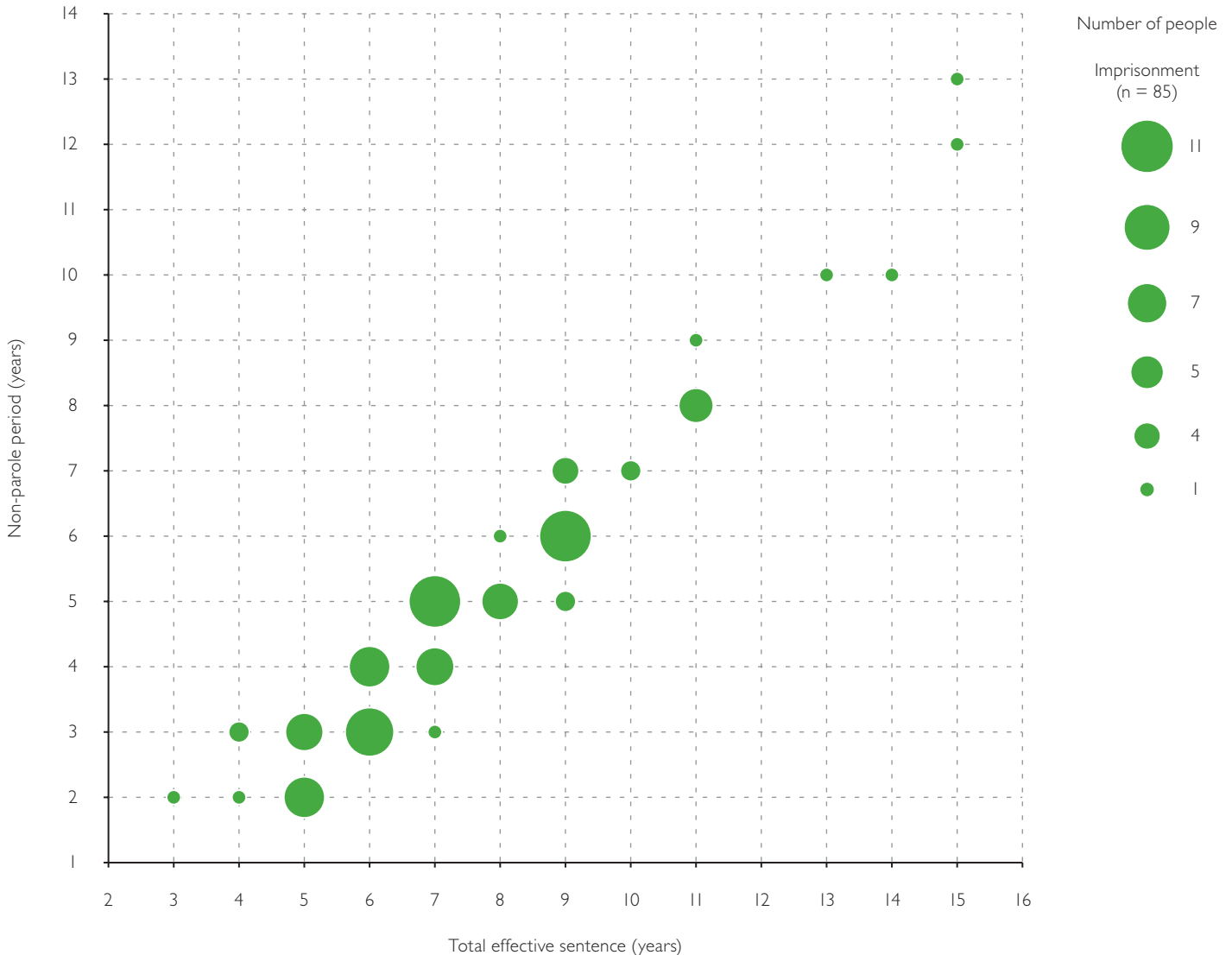


Total effective sentence of imprisonment by non-parole period

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 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 combination.¹³ As shown, the most common combination of imprisonment length and non-parole period imposed was nine years with a non-parole period of six years (11 people – as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from three years with a non-parole period of two years to fifteen years with a non-parole period of thirteen years.

Figure 12: The number of people sentenced to imprisonment for manslaughter by the total effective sentence and the non-parole period imposed, 2003–04 to 2007–08¹⁴



Summary

Between 2003–04 and 2007–08, 89 people were sentenced for the principal proven offence of manslaughter in the higher courts.

The majority of the people sentenced for manslaughter received a period of imprisonment (96%).

Men were more likely than women to be sentenced to a period of imprisonment. Conversely, women were more likely to be sentenced to a wholly suspended sentence of imprisonment.

Each of the 89 people was sentenced for an average of 1.45 offences. The most common offence finalised in conjunction with manslaughter was aggravated burglary (6.7% of all cases). The median total effective imprisonment length and the median principal imprisonment length were both seven years.

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

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 90 people sentenced from 2003–04 to 2007–08 for manslaughter. Manslaughter was the principal proven offence for 89 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. 28, which described sentencing trends for manslaughter between 2001–02 and 2005–06.

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). While every effort is made to ensure that the data analysed in this report are accurate, the data are subject to revision.
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. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette and on the Office of the Chief Parliamentary Counsel website <www.ocpc.vic.gov.au>.
7. In 2007–08 two females were sentenced for the principal proven offence of manslaughter. Aged 22 and 36 they received sentences of nine and seven years' imprisonment respectively.
8. Immediate custodial sentence includes imprisonment.
9. The *Sentencing (Suspended Sentences) Act 2006 (Vic)* s 4(2) amended the *Sentencing Act 1991 (Vic)* s 26(2B) to restrict the use of wholly suspended sentences for serious offences to cases involving exceptional circumstances. This legislation commenced on 1 November 2006. There was one individual who received a wholly suspended sentence for the principal proven offence of manslaughter in 2006–07. This offender committed the offence prior to this legislative change.
10. Age is as at the time of sentencing.
11. All of the 85 people who were sentenced to imprisonment as the principal sentence were also given imprisonment as the total effective sentence.
12. Due to the low number of women (7) who were imprisoned with a non-parole period, average lengths of imprisonment and non-parole periods by gender are not shown.
13. 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.
14. This graph includes the 85 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

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

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- 89 Sexual penetration of a child under care, supervision or authority
- 88 Sexual penetration of a child aged between 10 and 16
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- 85 Manslaughter
- 84 Murder
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- 81 Indecent act with a child under 16
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- 78 Obtaining property by deception
- 77 Obtaining a financial advantage by deception
- 76 Theft
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- 70 Trafficking ecstasy
- 69 Trafficking cannabis
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- 65 Possessing cannabis
- 64 Possessing amphetamines
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- 61 Causing serious injury recklessly
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Sentencing trends in the Magistrates' Court, 2004–05 to 2006–07

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- 45 Trafficking in a commercial quantity of drugs
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- 43 Incest
- 42 Affray
- 41 Causing injury intentionally or recklessly
- 40 Causing serious injury recklessly
- 39 Causing serious injury intentionally
- 38 Aggravated burglary
- 37 Burglary
- 36 Attempted armed robbery
- 35 Armed robbery
- 34 Robbery

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