

Sentencing Snapshot

Sentencing trends for culpable driving causing death in Victoria



Introduction

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

This offence covers homicides caused by the culpable driving of a motor vehicle. This offence is committed where a person drives a motor vehicle negligently, recklessly or whilst under the influence of drugs or alcohol.

This offence is more serious than the offence of dangerous driving causing death or serious injury, which covers homicides caused by driving a motor vehicle at a speed or in a manner that is dangerous to the public having regard to all the circumstances of the case⁴.

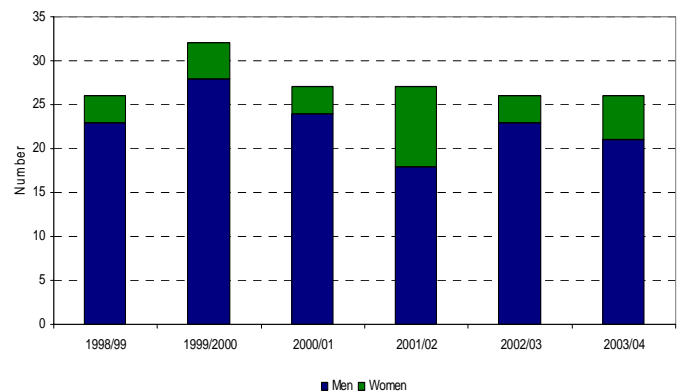
Under the *Crimes Act 1958 (Vic)*, culpable driving causing death carries a maximum penalty of 20 years' imprisonment whereas dangerous driving causing death carries a maximum of 5 years' imprisonment⁵. The term "sentenced for culpable driving causing death" includes persons who plead guilty, those sentenced after a trial and people dealt with by the court after a finding of not guilty due to mental impairment⁶.

The circumstances in which culpable driving causing death occurs vary widely and sentencing for this offence takes 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 culpable driving causing death and their gender between 1998/99 and 2003/04. Over this period, the number of people found guilty ranged from 26 (1998/99, 2002/03 and 2003/04) to 32 (1999/00). As Figure 1 shows, the majority of these were male (84%).

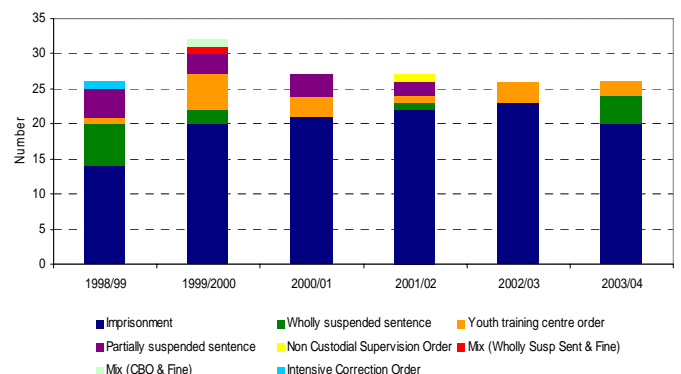
Figure 1: Persons sentenced for culpable driving causing death by gender, 1998/99 to 2003/04 (Victoria)



Sentence types

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

Figure 2: Persons sentenced for culpable driving causing death by sentence type, 1998/99 to 2003/04 (Victoria)



¹ This report presents sentencing outcomes for persons sentenced for culpable driving in the County Court of Victoria. Where a person was found guilty of multiple counts of culpable driving, the person is only reported once.

² The information source for sentencing outcomes for culpable driving 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 culpable driving 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 s.319 Crimes Act 1958 (Vic)

⁵ S.318 Crimes Act 1958 (Vic). This offence was introduced in 2004.

⁶ 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 or non-custodial supervision order). A non-custodial supervision order is an order releasing the person on conditions specified by the court and specified in the order.

As Figure 2 illustrates, 73% of persons sentenced for culpable driving attracted a sentence of immediate imprisonment (120 out of 164 people). The remainder received a variety of sentences, including youth training centre orders (9%), wholly suspended sentences (8%), partially suspended sentences (7%), a non-custodial supervision order (1 person) and an intensive correction order (1 person), as well as combinations of these sentences (refer Table 1).

Table 1: Persons sentenced for culpable driving causing death by sentence type, 1998/99 to 2003/04 (Victoria)

Sentence type	98/99	99/00	00/01	01/02	02/03	03/04
Imprisonment	14 54%	20 63%	21 78%	22 81%	23 88%	20 77%
Youth training centre	1 4%	5 16%	3 11%	1 4%	3 12%	2 8%
Wholly suspended sentence	6 23%	2 6%	- 0%	1 4%	- 0%	4 15%
Partially suspended sentence	4 15%	3 9%	3 11%	2 7%	- 0%	- 0%
Intensive correction order	1 4%	- 0%	- 0%	- 0%	- 0%	- 0%
Non-custodial supervision order	- 0%	- 0%	- 0%	1 4%	- 0%	- 0%
Wholly suspended sentence & fine	- 0%	1 3%	- 0%	- 0%	- 0%	- 0%
Community based order & fine	- 0%	1 3%	- 0%	- 0%	- 0%	- 0%
Persons sentenced	26 100%	32 100%	27 100%	27 100%	26 100%	26 100%

As Figure 2 and Table 1 illustrate, the courts have increasingly tended to impose immediate gaol terms for culpable driving causing death in recent years. The proportion of people sentenced to immediate imprisonment for this offence increased from a low of 54% in 1998/99 to a high of 88% in 2002/03 - a rise of 34 percentage points.

Sentences of imprisonment

Figure 3 shows the number of people sentenced to immediate imprisonment for culpable driving causing death between 1998/99 and 2003/04, by the length of the imprisonment term they received. Over this period, imprisonment terms for this offence ranged from 1 to 12.3 years' imprisonment⁷. The average imprisonment sentence was 4.9 years.

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

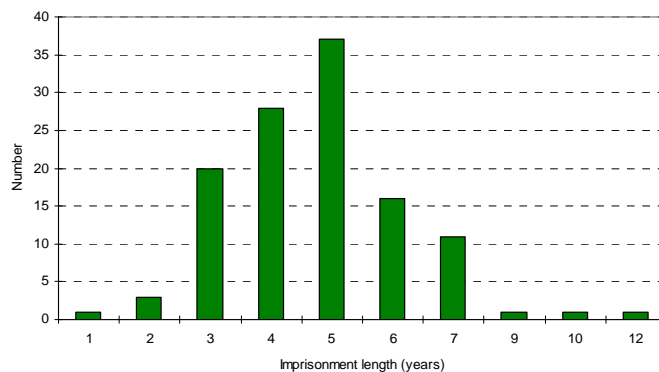
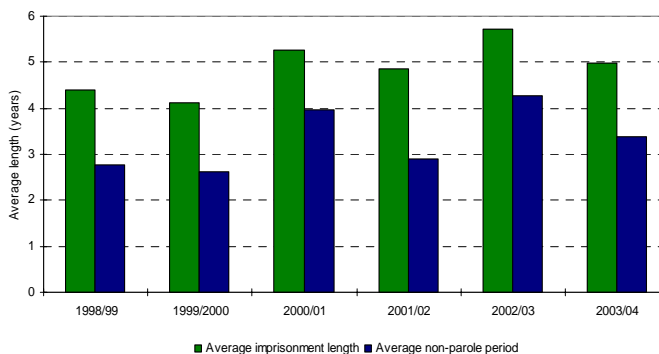


Figure 4 shows the average imprisonment length and average non-parole period for culpable driving causing death between 1998/99 and 2003/04. Over this period, the average imprisonment sentence ranged from 4.1 years in 1999/00 to 5.7 years in 2002/03 – an average increase of 1.6 years or 39% over this period.

Figure 4 illustrates the increase in the average length of imprisonment for this offence over the reference period.

Figure 4: Persons sentenced to imprisonment for culpable driving causing death 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.

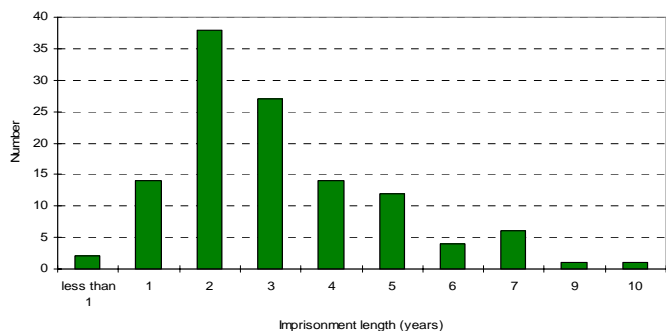
Between 1998/99 and 2003/04, the court fixed a non-parole period for 99% (119 out of 120) of persons sentenced to imprisonment for culpable driving causing death. The average non-parole period ranged from 2.6 years in 1999/00 to 4.3 years in 2002/03 (refer Figure 4).

Figure 5 shows the number of non-parole periods handed down for culpable driving causing death between 1998/99 and 2003/04. Over this period non-parole periods ranged from 6 months to 10.25 years, with an average of 3.4 years⁸.

⁷ A 48 year old man attracted a 1 year sentence of imprisonment (non-parole period of 6 months). A 35 year old man attracted a 12.3 year sentence of imprisonment (non-parole period of 10.25 years).

⁸ Refer fn. 7

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



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 found guilty of culpable driving causing death between 1998/99 and 2003/04.

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

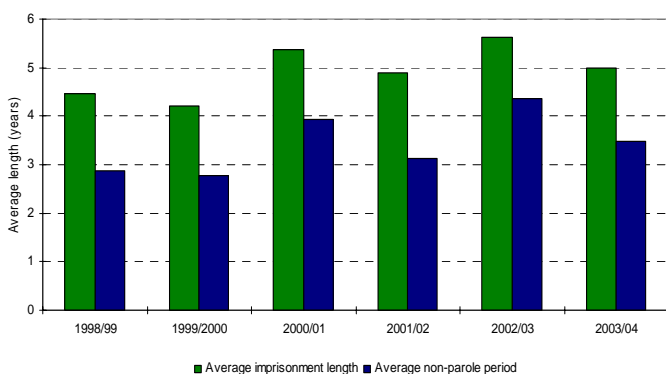
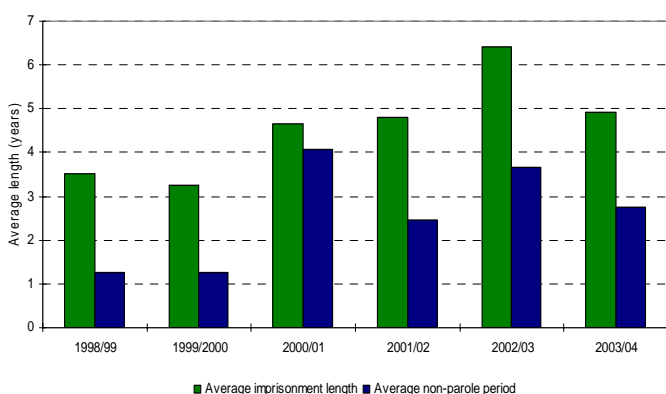


Figure 7: Women sentenced to imprisonment for culpable driving, causing death by average imprisonment and non-parole period 1998/99 to 2003/04 (Victoria)



Between 1998/99 and 2003/04, 99 of the 100 men sentenced to imprisonment for culpable driving causing death were eligible to apply for parole. The average length of sentence for men was 5 years. The average non-parole period was 3.5 years.

Between 1998/99 and 2003/04, all 20 women sentenced to imprisonment for culpable driving were eligible to apply for parole. The average length of sentence for women was 4.8 years. The average non-parole period was 2.8 years.

In 1998/99, imprisonment terms for women were lower than those for men: an average of 3.5 years for women compared to 4.5 years for men. Since this time, women have experienced a greater increase in sentence lengths compared to men. By 2003/04, the average sentence length for women and men was almost identical: an average of 4.9 years for women and 5 years for men.

However, non-parole periods for women remain lower than those for men (on average, 2.8 years for women and 3.5 years for men in 2003/04).

Sentences other than imprisonment

Between 1998/99 and 2003/04, 23% (44 out of 164) of people sentenced for culpable driving causing death attracted a sentence other than immediate imprisonment (refer Figure 2 and Table 1). Figure 8 shows the distribution of these people according to their gender and the sentence imposed.

Figure 8: Persons sentenced for culpable driving causing death by gender and sentence, 1998/99 to 2003/04 (Victoria)

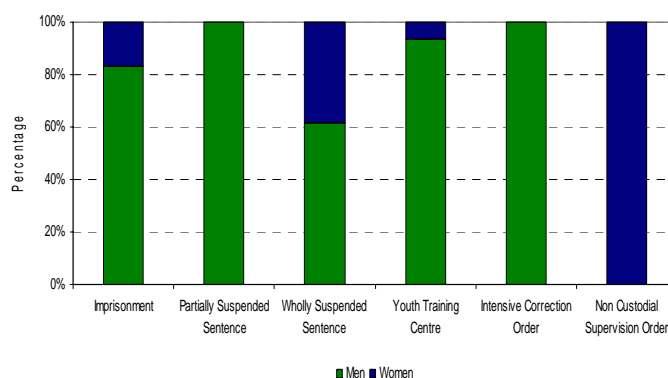


Table 2: Persons sentenced for culpable driving causing death by gender and sentence, 1998/99 to 2003/04 (Victoria)

Sentence type	Male	Female	Total persons
Imprisonment	100 83%	20 17%	120 100%
Youth Training Centre	14 93%	1 7%	15 100%
Wholly Suspended Sentence	8 62%	5 38%	13 100%
Partially Suspended Sentence	12 100%	- 0%	12 100%
Intensive correction order	1 100%	- 0%	1 100%
Non-custodial supervision order	- 0%	1 100%	1 100%
Community based order & fine	1 100%	- 0%	1 100%
Wholly suspended sentence & fine	1 100%	- 0%	1 100%
Persons sentenced	137 84%	27 16%	164 100%

Of the 44 people sentenced for culpable driving causing death who were not sentenced to immediate imprisonment between 1998/99 and 2003/04 (refer Table 2):

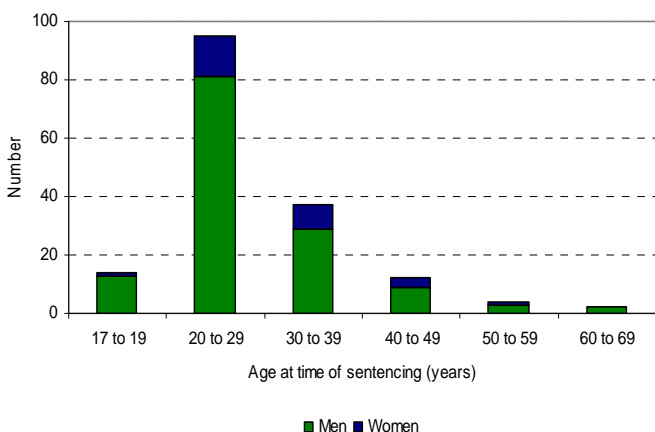
- fifteen people were sentenced to detention in a **youth training centre**
- thirteen people received **wholly suspended sentences** of imprisonment
- twelve people received **partially suspended sentences** of imprisonment
- one 23 year old man received an **intensive correction order**
- one 42 year old woman attracted a **non-custodial supervision order**
- one 17 year old man attracted a **community based order** plus a **fine**
- one 27 year old man was sentenced to a **wholly suspended sentence** plus a **fine**.

Age & gender

Between 1998/99 and 2003/04 the average age of persons sentenced for culpable driving causing death was 28 years. Women sentenced for this offence were on average older than their male counterparts: the average age of women was 30.8 years and for men it was 27.7 years (at time of sentencing).

Figure 9 shows the distribution of persons sentenced for culpable driving causing death by their gender and age at time of sentencing.

Figure 9: Persons sentenced for culpable driving causing death by age at time of sentencing and gender, 1998/99 to 2003/04 (Victoria)



Conclusion

Between 1998/99 and 2003/04, the majority (90%) of persons sentenced for culpable driving causing death received a custodial sentence (including immediate imprisonment, youth training centre orders and partially suspended sentences). Over this time, 73% of persons received an immediate imprisonment term.

The courts also imposed a range of non-custodial sentences for culpable driving causing death, including wholly suspended sentences, non-custodial supervision orders, intensive correction orders and combinations of the sentences.

In more recent years, the courts have increasingly sentenced people to gaol for this offence, and for lengthier periods. In 1998/99 women sentenced for culpable driving attracted shorter imprisonment terms than men. However, women experienced a greater increase in imprisonment terms for culpable driving so that by 2003/04 imprisonment lengths were almost identical for men and women.