

Sentencing trends in
the higher courts of
Victoria
2013–14 to 2017–18

April 2019
No. 223

Murder

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of murder in the Supreme Court of Victoria from 2013–14 to 2017–18.² Adjustments made by the Court of Appeal to sentence or conviction as at June 2018 have been incorporated into the data in this Snapshot.³

Detailed data on murder and other offences is available on [Sentencing Advisory Council Statistics Online \(SACStat\)](#).

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 a Category 1 offence, which means that a court must impose a custodial sentence for that offence.⁴ Murder is an indictable offence that carries a maximum penalty of life imprisonment.⁵ Sentence lengths for some offences, including murder, committed on or after 1 February 2018 are subject to further restrictions.⁶

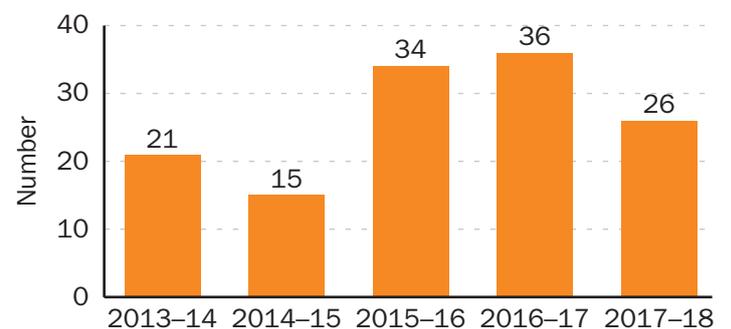
Murder was the principal offence⁷ in 1.5% of cases sentenced in the higher courts between 2013–14 and 2017–18.

People sentenced

From 2013–14 to 2017–18, 132 people were sentenced in the higher courts for a principal offence of murder.

Figure 1 shows the number of people sentenced for the principal offence of murder by financial year. There were 26 people sentenced for this offence in 2017–18, down by 10 people from the previous year. The number of people sentenced was highest in 2016–17 (36 people) and lowest in 2014–15 (15 people).

Figure 1: The number of people sentenced for murder, by financial year, 2013–14 to 2017–18



Sentence types and trends

Figure 2 shows the total number of people sentenced for murder and the number receiving an immediate custodial sentence. An immediate custodial sentence involves at least some element of immediate imprisonment or detention.⁸ Over the five-year period, 99% of people were given an immediate custodial sentence.

Figure 2: The number of people sentenced for murder and the number receiving an immediate custodial sentence, 2013–14 to 2017–18

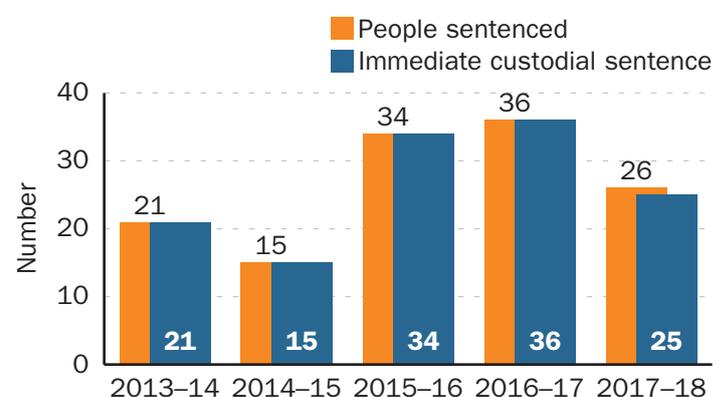


Table 1 shows the number of people sentenced for murder by the types of sentences imposed.

Over the five-year period, the majority of people sentenced for murder received a principal sentence of imprisonment (85% or 112 of 132 people), while 14% (19 of 132 people) received a custodial supervision order. The *principal sentence* is the sentence imposed for the charge that is the principal offence.⁹

The percentage of people receiving a principal sentence of imprisonment or custodial supervision order for murder remained relatively steady over the five years, aside from 2014–15 and 2015–16. Overall, 85% received imprisonment and 14% received a custodial supervision order.

Table 1: The number and percentage of people sentenced for murder, by sentence type, 2013–14 to 2017–18

Sentence type	2013–14	2014–15	2015–16	2016–17	2017–18	Total
Imprisonment	18 (86%)	15 (100%)	26 (76%)	31 (86%)	22 (85%)	112 (85%)
Custodial supervision order	3 (14%)	0 (–)	8 (24%)	5 (14%)	3 (12%)	19 (14%)
Non-custodial supervision order	0 (–)	0 (–)	0 (–)	0 (–)	1 (4%)	1 (<1%)
People sentenced	21	15	34	36	26	132

Principal and total effective sentences

In this section, two methods are used to describe sentence lengths. One method relates to the principal sentence and describes sentences for the offence at a *charge* level. The other relates to the total effective sentence and describes sentences for the offence at a *case* level (the principal sentence is described above).

The total effective sentence in a case with a single charge is the principal sentence. The total effective sentence in a case with multiple charges is the sentence that results from the court ordering the individual sentences for each charge to be served concurrently (at the same time) or wholly or partially cumulatively (one after the other).

Where a case involves multiple charges, the total effective sentence imposed on a person is sometimes longer than the principal sentence. Principal sentences for murder must be considered in this broader context.

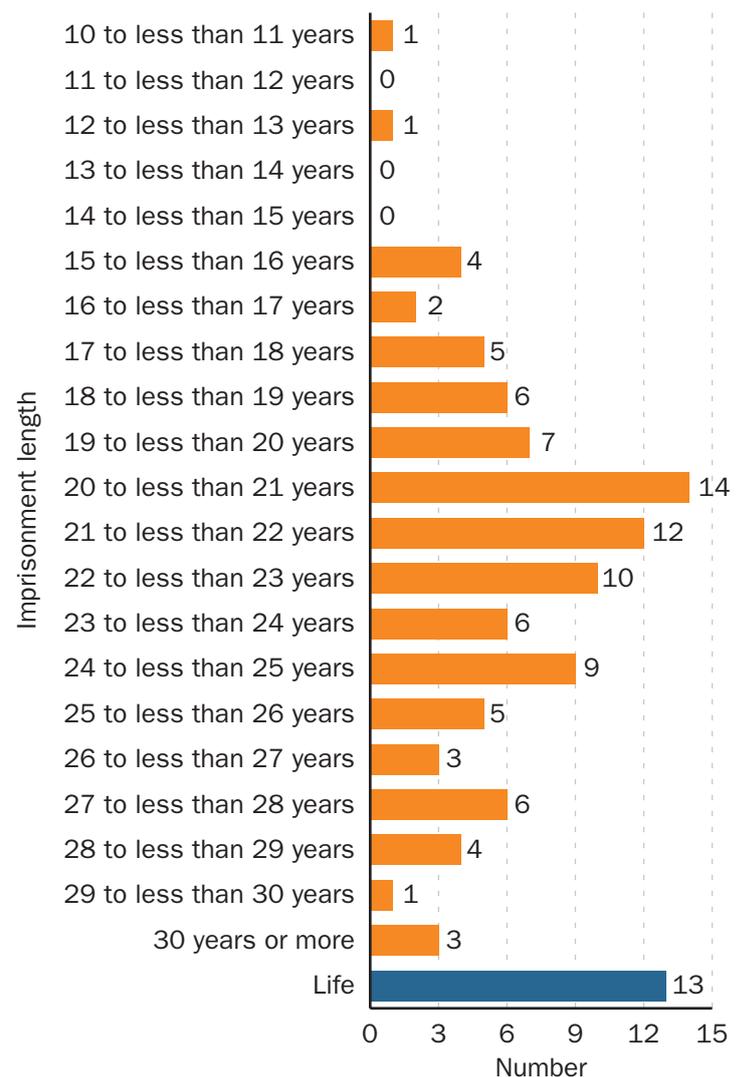
The following sections analyse the use of imprisonment for the offence of murder from 2013–14 to 2017–18.

Principal sentence of imprisonment

All 112 people who received a principal sentence of imprisonment for murder were sentenced to a non-aggregate term of imprisonment.

Figure 3 shows the length of the imprisonment terms for these people. Imprisonment terms ranged from 10 years and 9 months to life, while the median length of imprisonment was 22 years (meaning that half of the imprisonment terms were below 22 years and half were above).

Figure 3: The number of people sentenced to imprisonment for murder, by length of imprisonment term, 2013–14 to 2017–18



The most common length of imprisonment was 20 to less than 21 years (14 people).

As shown in Figure 4, the average (mean) length of imprisonment imposed on people sentenced for murder ranged from 20 years and 2 months in 2016–17 to 23 years and 7 months in 2017–18. The average for 2017–18 reflects the highest average imprisonment length over the five years.

Other offences finalised at the same hearing

Sometimes people prosecuted for murder face multiple charges, which are finalised at the same hearing. This section looks at the range of offences that offenders were sentenced for alongside the principal offence of murder. The section includes data on all people sentenced for a principal offence of murder, not just those who received imprisonment.

Figure 5 shows the number of people sentenced for the principal offence of murder by the total number of sentenced offences per person. The number of sentenced offences per person ranged from 1 to 10, while the median was 1 offence. There were 94 people (71.2%) sentenced for the single offence of murder. The average number of offences per person was 1.63.

Table 2 shows the 10 most common offences, by number and percentage, for people sentenced for murder. The last column sets out the average number of offences sentenced per person. For example, 7 of the total 132 people (5.3%) also received sentences for theft. On average, they were sentenced for 1.71 counts of theft.

Table 2: The number and percentage of people sentenced for the principal offence of murder, by the most common offences sentenced and the average number of those offences sentenced, 2013–14 to 2017–18

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Murder	132	100%	1.07
2. Theft	7	5.3%	1.71
3. Aggravated burglary	7	5.3%	1.00
4. Arson	4	3.0%	1.00
5. Attempted murder	3	2.3%	1.67
6. Rape	3	2.3%	1.33
7. Causing injury intentionally	3	2.3%	1.00
8. Causing injury recklessly	3	2.3%	1.00
9. Non-prohibited person possess an unregistered category A or B longarm	2	1.5%	2.00
10. Possess, carry or use an unregistered general category handgun	2	1.5%	1.50
People sentenced	132	100%	1.63

Figure 4: The average (mean) length of imprisonment (excluding life) imposed on people sentenced for murder, 2013–14 to 2017–18

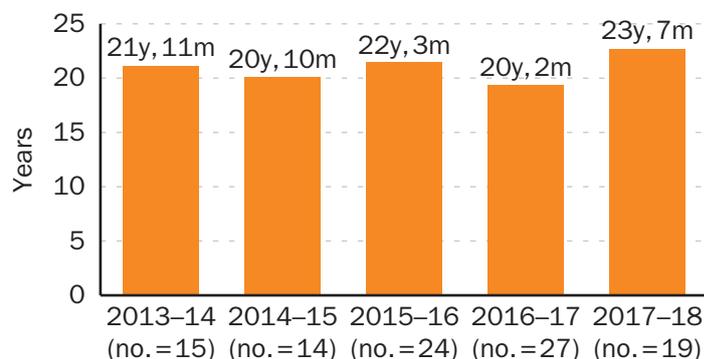
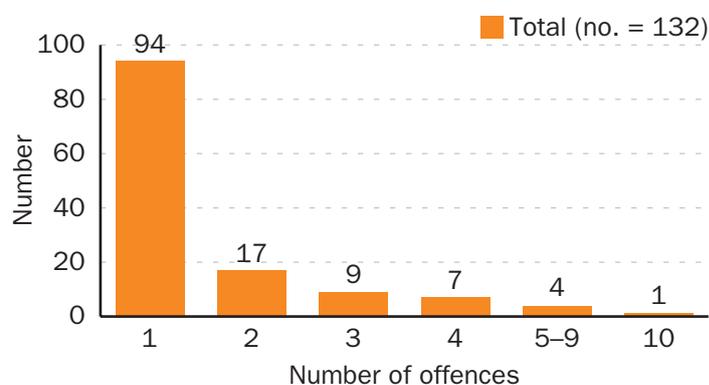


Figure 5: The number of people sentenced for the principal offence of murder, by the number of sentenced offences per person, 2013–14 to 2017–18



Total effective imprisonment terms

Figure 6 shows the number of people sentenced to imprisonment for murder by length of total effective imprisonment term. The total effective imprisonment terms ranged from 10 years and 9 months to life, while the median total effective imprisonment term was 22 years (meaning that half of the total effective imprisonment terms were below 22 years and half were above).

The most common total effective imprisonment term was life (13 people).

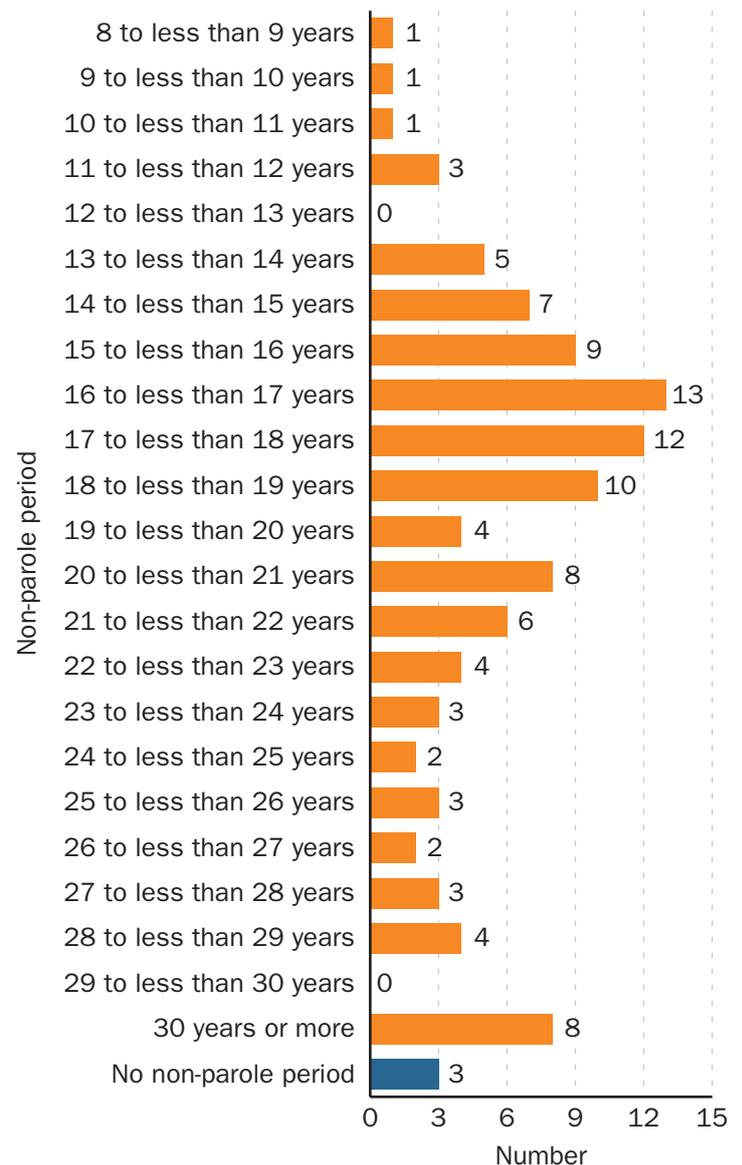
Non-parole period

If a person is sentenced to a term of immediate imprisonment of less than 1 year, the court cannot impose a non-parole period. For terms between 1 year and less than 2 years, the court has the discretion to fix a non-parole period. For terms of imprisonment of 2 years or more, the court must impose a non-parole period in most circumstances. If the court fixes a non-parole period, the person must serve that period before becoming eligible for parole. If the court does not set a non-parole period, the person must serve the entirety of their imprisonment term in custody.

Figure 6: The number of people sentenced to imprisonment for murder, by length of total effective imprisonment term, 2013–14 to 2017–18



Figure 7: The number of people sentenced to imprisonment for murder, by length of non-parole period, 2013–14 to 2017–18



All 112 people who were sentenced to imprisonment for murder were eligible to have a non-parole period fixed. Of these people, 109 were given a non-parole period (97%). Figure 7 (page 4) shows the number of people sentenced to imprisonment for murder by length of non-parole period. Non-parole periods ranged from 8 years and 3 months to 38 years, while the median non-parole period was 18 years (meaning that half of the non-parole periods were below 18 years and half were above).

The most common non-parole period was 16 to less than 17 years (13 people).

Total effective sentences of imprisonment and non-parole periods

Figure 8 compares the average length of total effective sentences of imprisonment with the average length of non-parole periods.

From 2013–14 to 2017–18, the average length of total effective sentences for all people ranged from 20 years and 3 months in 2016–17 to 24 years and 5 months in 2017–18.

Over the same period, the average length of non-parole periods ranged from 17 years and 9 months in 2016–17 to 20 years and 5 months in 2017–18. The average total effective sentence length and non-parole period in 2017–18 represent the highest averages over the five years.

Sentences of life imprisonment

From 2013–14 to 2017–18, 13 people were sentenced to life imprisonment for murder. Of these people, 11 received a non-parole period (85%).

Non-parole periods for these people ranged from 27 years to 38 years with an average of 30 years and 10 months. Life sentences accounted for 12% (13 of 112 people) of all imprisonment sentences for murder.

Further data on total effective sentences of imprisonment and corresponding non-parole periods for murder is available on [SACStat](#).

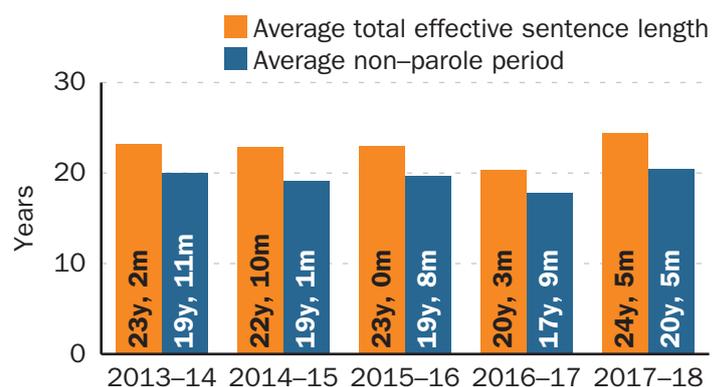
Summary

From 2013–14 to 2017–18, 132 people were sentenced for murder in the higher courts. Of these people, 112 (85%) were given a principal sentence of imprisonment and 19 (14%) received a custodial supervision order.

Both the median total effective imprisonment length and the principal imprisonment length were 22 years.

Total effective imprisonment lengths ranged from 10 years and 9 months to life, and non-parole periods (where imposed) ranged from 8 years and 3 months to 38 years.

Figure 8: The average total effective sentence (excluding life) and the average non-parole period imposed on people sentenced to imprisonment for murder, 2013–14 to 2017–18



Endnotes

1. 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 in which the accused is found to be unfit to stand trial or not guilty because of mental impairment. However, they are included in this report as they are an important form of disposition of criminal charges. This Sentencing Snapshot is an update of Sentencing Snapshot no. 198, which describes sentencing trends for murder between 2011–12 and 2015–16.
2. Data on first-instance sentencing outcomes in this Snapshot was obtained from the Strategic Analysis and Review Team at Court Services Victoria. Data on appeal outcomes was collected by the Sentencing Advisory Council from the **Australasian Legal Information Institute**, and was also provided by the Victorian Court of Appeal. The Sentencing Advisory Council regularly undertakes extensive quality control measures for current and historical data. While every effort is made to ensure that the data analysed in this report is accurate, the data is subject to revision.
3. In October 2017, the High Court delivered its judgment in *Director of Public Prosecutions v Dalglish (A Pseudonym)* [2017] HCA 41, in which it made two important findings about sentencing in Victoria. First, Victorian courts had been giving too much weight to *current sentencing practices*, which is just one of the factors courts are required to take into account when imposing a sentence. Second, where current sentencing practices are shown to be in error (for example, when they fail to adequately reflect community expectations) courts should change their practices immediately, not incrementally. Although the High Court's decision only occurred during the last financial year of this Snapshot, it may result in considerable changes to sentencing patterns for future editions of the Snapshots.
4. *Sentencing Act 1991* (Vic) s 5(2G) requires a custodial sentence (imprisonment or another form of custody) to be imposed for this offence when committed on or after 20 March 2017. The court is not allowed to impose an order of imprisonment combined with a community correction order or a non-custodial order such as a community correction order or a fine.
5. *Crimes Act 1958* (Vic) s 3.
6. Under section 5(2)(ab) of the *Sentencing Act 1991* (Vic), a court must take into account the standard sentence when sentencing certain offences, including murder, if the offence was committed on or after 1 February 2018.
7. If a person is sentenced for a case with a single charge, the offence for that charge is the principal offence. If a person is sentenced for more than one charge in a single case, the principal offence is the offence for the charge that attracted the most serious sentence according to the sentencing hierarchy.
8. An *immediate custodial sentence* includes imprisonment and a custodial supervision order.
9. Refer to Endnote 7.

SACStat – Higher Courts Murder

https://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_LAW_9.html

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