

Sentencing trends in  
the higher courts of  
Victoria  
2011–12 to 2015–16

April 2017  
No. 198

## Murder

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of murder in the Supreme Court of Victoria from 2011–12 to 2015–16.<sup>2</sup> Adjustments made by the Court of Appeal to sentence or conviction as at December 2016 have been incorporated into the data in this Snapshot.

Detailed data on [murder](#) and other offences is available on SACStat – Higher Courts.

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.<sup>3</sup> Murder is an indictable offence that carries a maximum penalty of life imprisonment.<sup>4</sup>

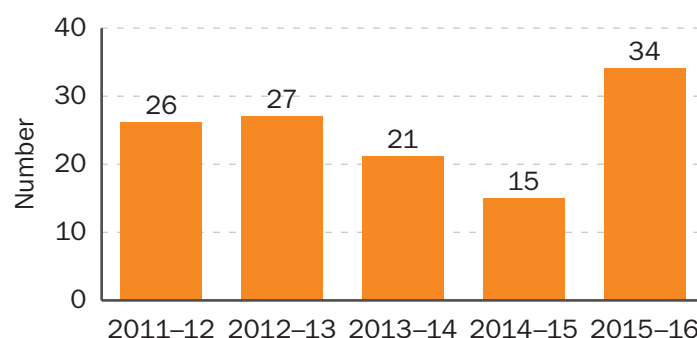
Murder was the principal offence<sup>5</sup> in 1.3% of cases sentenced in the higher courts from 2011–12 to 2015–16.

### People sentenced

From 2011–12 to 2015–16, 123 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 34 people sentenced for this offence in 2015–16, up by 19 people from the previous year. The number of people sentenced was highest in 2015–16 (34 people).

**Figure 1:** The number of people sentenced for murder by financial year, 2011–12 to 2015–16



### Sentence types and trends

Figure 2 shows the total number of people sentenced for murder and the number that received an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate imprisonment or detention.<sup>6</sup> Over the five-year period, all offenders sentenced for murder were given an immediate custodial sentence.

**Figure 2:** The number of people sentenced for murder and the number that received an immediate custodial sentence, 2011–12 to 2015–16

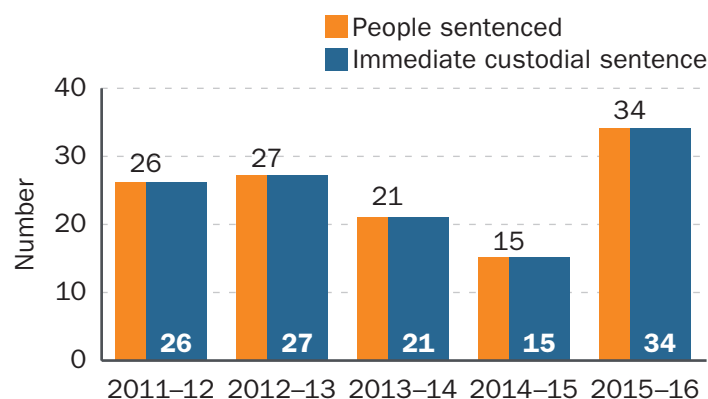


Table 1 shows the number of people sentenced for murder from 2011–12 to 2015–16 by the types of sentences imposed. The availability of different sentence types has changed over time. Most notably, wholly and partially suspended sentences have now been abolished.<sup>7</sup>

Over the five-year period, the majority of people sentenced for murder received a period of imprisonment (86% or 106 of 123 people), while 14% received a custodial supervision order.

The percentage of people receiving imprisonment for murder peaked in 2014–15 when all 15 people received this sentence. The number of people receiving imprisonment was highest in 2015–16 (26 of 34 people), which was also the year in which the lowest percentage of people were sentenced to imprisonment (76%). The number of people receiving imprisonment for murder was lowest in 2014–15 (100% or 15 of 15 people).

**Table 1:** The number and percentage of people sentenced for murder by sentence type, 2011–12 to 2015–16

Sentence type	2011–12	2012–13	2013–14	2014–15	2015–16	Total
Imprisonment	24 (92%)	23 (85%)	18 (86%)	15 (100%)	26 (76%)	106 (86%)
Custodial supervision order	2 (8%)	4 (15%)	3 (14%)	0 (–)	8 (24%)	17 (14%)
<b>People sentenced</b>	<b>26</b>	<b>27</b>	<b>21</b>	<b>15</b>	<b>34</b>	<b>123</b>

## Age and gender of people sentenced

Data on the age and gender of people sentenced for murder is available on SACStat – Higher Courts.

## Principal and total effective sentences

Two methods for describing sentence types and lengths are examined in this section. One relates to the principal sentence and examines sentences for the offence at a *charge* level. The other relates to the total effective sentence and examines sentences for the offence at a *case* level.

The principal sentence is the sentence imposed for the charge that is the principal offence.<sup>8</sup>

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).

In many cases, the total effective sentence imposed on a person is 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 2011–12 to 2015–16.

## Principal sentence of imprisonment

A total of 106 people received a principal sentence of imprisonment for murder from 2011–12 to 2015–16.

Figure 3 shows these people by the length of their imprisonment term. Imprisonment terms ranged from 10 years and 9 months to life, while the median length of imprisonment was 20 years (meaning that half of the imprisonment terms were shorter than 20 years and half were longer).

The most common length of imprisonment imposed was 20 to less than 21 years (16 people).

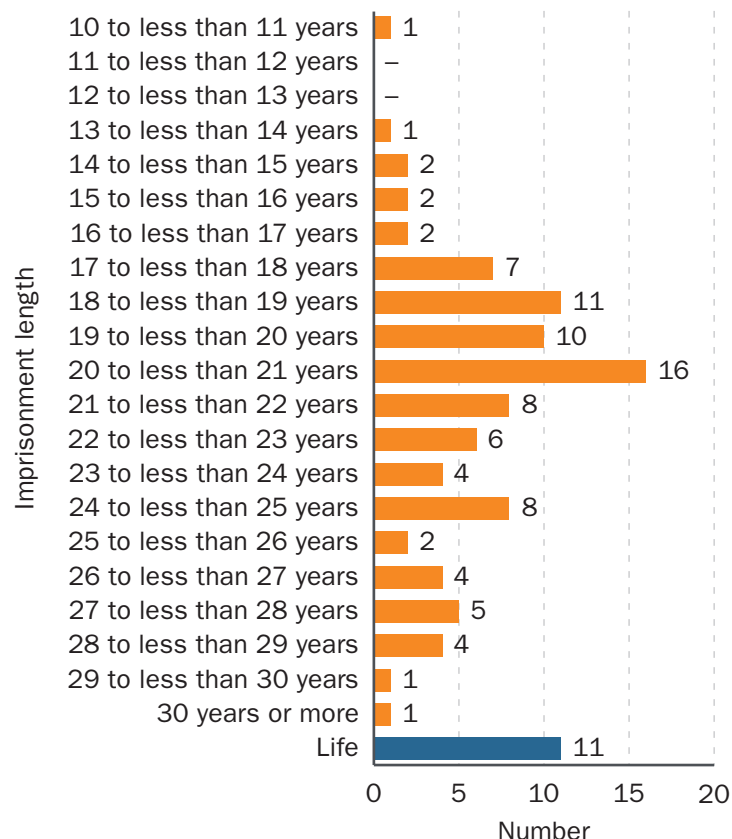
As shown in Figure 4, the average (mean) length of (non-life) imprisonment imposed on people sentenced for murder ranged from 19 years and 7 months in 2012–13 to 22 years and 3 months in 2015–16.

## Other offences finalised at the same hearing

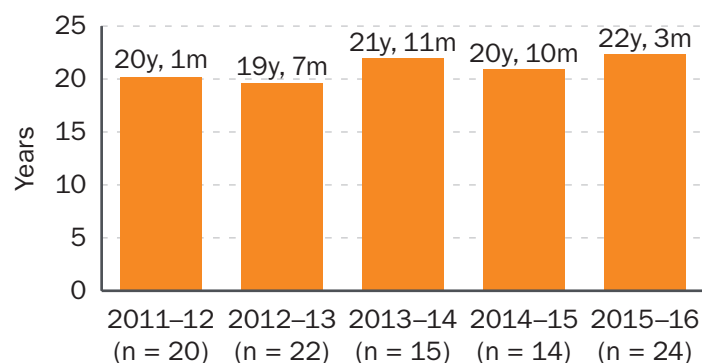
Often people prosecuted for murder face multiple charges, which are finalised at the same hearing. This section looks at the range of offences for which offenders have been sentenced at the same time as being sentenced for the principal offence of murder.

Figure 5 shows the number of people sentenced for the principal offence of murder by the total number of offences for which sentences were imposed. The number of sentenced offences per person ranged from 1 to 10, while the median was 1 offence. There were 82 people (66.7%) sentenced for the single offence of murder. The average number of offences per person sentenced for murder was 1.66.

**Figure 3:** The number of people sentenced to imprisonment for murder by length of imprisonment term, 2011–12 to 2015–16



**Figure 4:** The average length of imprisonment (excluding life imprisonment) imposed on people sentenced for murder, 2011–12 to 2015–16



**Figure 5:** The number of people sentenced for the principal offence of murder by the number of sentenced offences per person, 2011–12 to 2015–16

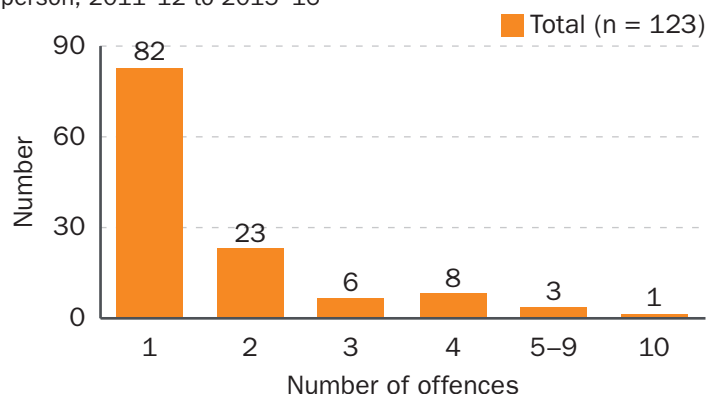


Table 2 shows the 10 most common offences for people sentenced for murder, by number and percentage. The last column sets out the average number of offences sentenced per person. For example, 7 of the total 123 people (5.7%) also received sentences for theft. On average, they were sentenced for 1.43 counts of theft.

**Table 2:** The number and percentage of people sentenced for the principal offence of murder by the most common offences that were sentenced and the average number of those offences that were sentenced, 2011–12 to 2015–16

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Murder	123	100.0	1.05
2. Theft	7	5.7	1.43
3. Causing serious injury intentionally	5	4.1	1.60
4. Arson	5	4.1	1.00
5. Rape	3	2.4	1.33
6. Armed robbery	2	1.6	2.00
7. Attempted murder	2	1.6	2.00
8. Trafficking in a large commercial quantity of drugs	2	1.6	1.00
9. Possess, carry or use general category unregistered handgun	2	1.6	1.00
10. Attempted theft	2	1.6	1.00
<b>People sentenced</b>	<b>123</b>	<b>100.0</b>	<b>1.66</b>

### Total effective imprisonment terms

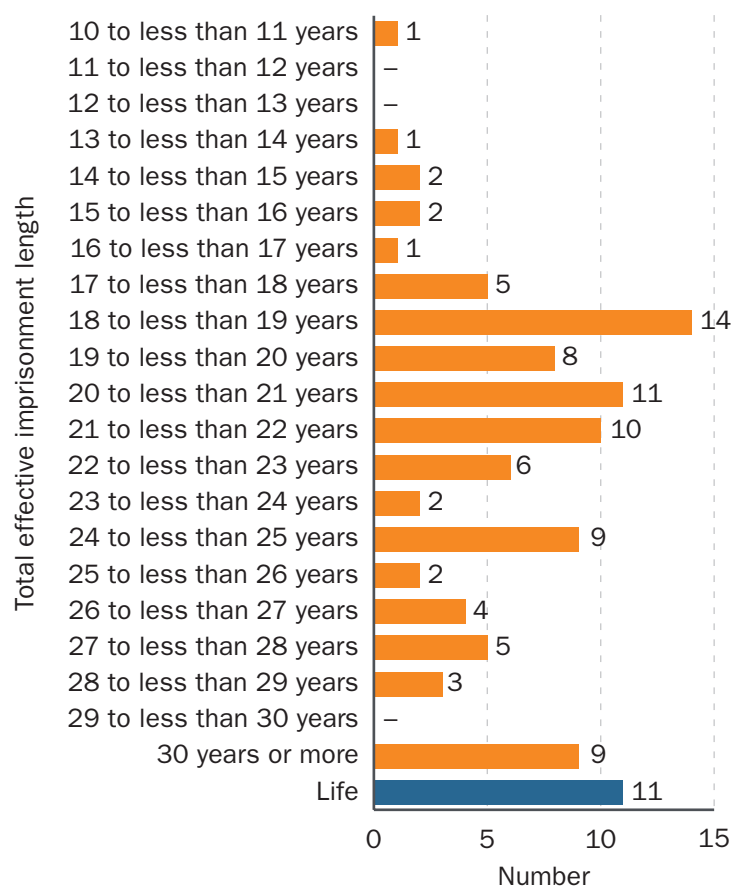
Figure 6 shows the number of people sentenced to imprisonment for murder from 2011–12 to 2015–16 by length of total effective imprisonment term. The total effective imprisonment terms ranged from 10 years and 9 months to life, while the median total effective imprisonment term was 21 years (meaning that half of the total effective imprisonment terms were below 21 years and half were above).

The most common total effective imprisonment length was 18 to less than 19 years (14 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. 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 in custody.

**Figure 6:** The number of people sentenced to imprisonment for murder by length of total effective imprisonment term, 2011–12 to 2015–16



Of the 106 people who were sentenced to imprisonment for murder, all were eligible to have a non-parole period fixed. Of these people, 101 were given a non-parole period (95%).<sup>9</sup> Figure 7 shows the number of people sentenced to imprisonment for murder from 2011–12 to 2015–16 by length of non-parole period. Non-parole periods ranged from 8 years to 38 years, while the median length of the non-parole period was 17 years (meaning that half of the non-parole periods were below 17 years and half were above).

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

### Total effective sentences of imprisonment and non-parole periods

Figure 8 presents the average length of total effective sentences of imprisonment compared with the average length of non-parole periods from 2011–12 to 2015–16.

From 2011–12 to 2015–16, the average length of total effective sentences for all people ranged from 20 years and 2 months in 2012–13 to 23 years and 2 months in 2013–14. Over the same period, the average length of non-parole periods ranged from 16 years in 2012–13 to 19 years and 11 months in 2013–14.

### Sentences of life imprisonment

From 2011–12 to 2015–16, 11 people were sentenced to life imprisonment for murder. Of the people who were sentenced to life imprisonment, 8 received a non-parole period (73%).

Non-parole periods for these people ranged from 30 years to 38 years with an average of 32 years and 6 months. Life sentences accounted for 10% of all imprisonment sentences for murder.

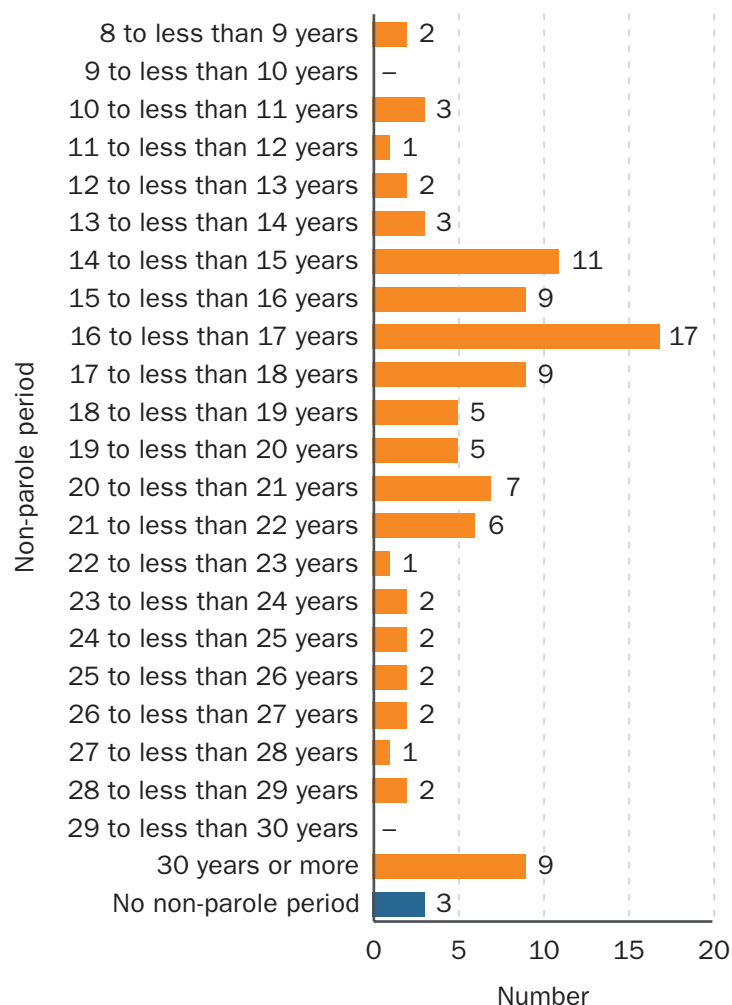
Further data on total effective sentences of imprisonment and corresponding non-parole periods for [murder](#) is available on SACStat – Higher Courts.

## Summary

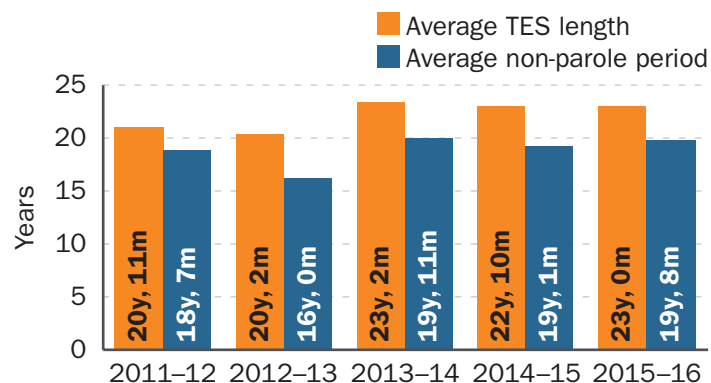
From 2011–12 to 2015–16, 123 people were sentenced for murder in the higher courts. Of these people, 106 (86%) were given a principal sentence of imprisonment. The remaining 17 people received a custodial supervision order (14%).

The number and range of offences for which people with a murder offence were sentenced help explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was 21 years while the median principal imprisonment length was 20 years. Total effective imprisonment lengths ranged from 10 years and 9 months to life, and non-parole periods (where imposed) ranged from 8 years to 38 years.

**Figure 7:** The number of people sentenced to imprisonment for murder by length of non-parole period, 2011–12 to 2015–16



**Figure 8:** The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for murder, 2011–12 to 2015–16



## 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 where the defendant 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. 171, which describes sentencing trends for murder from 2009–10 to 2013–14.
2. Data on first instance sentence outcomes presented 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 also was 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. *Sentencing Act 1991* (Vic) s 5(2G) requires a custodial sentence (that is, not a sentence of imprisonment combined with a community correction order) to be imposed for this offence when committed after 20 March 2017.
4. *Crimes Act 1958* (Vic) s 3.
5. 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.
6. Immediate custodial sentences include imprisonment and custodial supervision orders.
7. Suspended sentences have been abolished in the higher courts for all offences committed on or after 1 September 2013 and in the Magistrates' Court for all offences committed on or after 1 September 2014.
8. Refer to Endnote 5.
9. Two people were not given a non-parole period relating to that case alone, but a non-parole period that also related to other cases. It is not possible to determine the length of the non-parole periods that relate to these cases. The non-parole periods for these people are excluded from the analysis. A non-parole period was not set for three people who were eligible for a non-parole period.

## SACStat – Higher Courts Murder

[https://www.sentencingcouncil.vic.gov.au/sacstat/higher\\_courts/HC\\_LAW\\_9.html](https://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_LAW_9.html)

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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.