

Sentencing trends in
the higher courts of
Victoria
2015–16 to 2019–20

April 2021
No. 248

Murder

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of murder in the Supreme Court of Victoria from 2015–16 to 2019–20.² Adjustments made by the Court of Appeal to sentence or conviction as at June 2020 have been incorporated into the data in this Snapshot.

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

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 an indictable offence that carries a maximum penalty of life imprisonment.³

Murder is a Category 1 offence if it was committed on or after 20 March 2017.⁴ Courts must almost always impose custodial sentences for Category 1 offences. Murder is also a standard sentence offence if it was committed on or after 1 February 2018. This means that courts must take into account that a prison sentence of 25 years (or 30 years if the victim was an emergency worker) represents the middle of the range of objective seriousness for this offence.⁵

This Snapshot focuses on cases where murder was the principal offence, that is, cases where murder was the offence that received the most severe sentence.⁶

Murder was the principal offence in 1.6% of cases sentenced in the higher courts between 2015–16 and 2019–20.

People sentenced

From 2015–16 to 2019–20, 146 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 24 people sentenced for this offence in 2019–20, down by 1 from the previous year. The number of people sentenced was highest in 2016–17 (36 people) and lowest in 2019–20 (24 people).

Sentence types and trends

Figure 2 shows the proportion of people who received a custodial sentence and non-custodial sentence for the principal offence of murder.

Figure 1: The number of people sentenced for murder by financial year

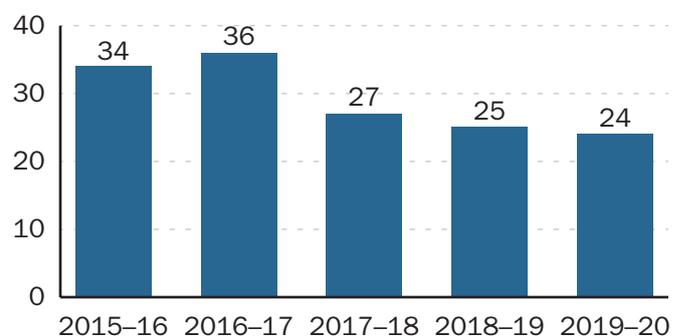
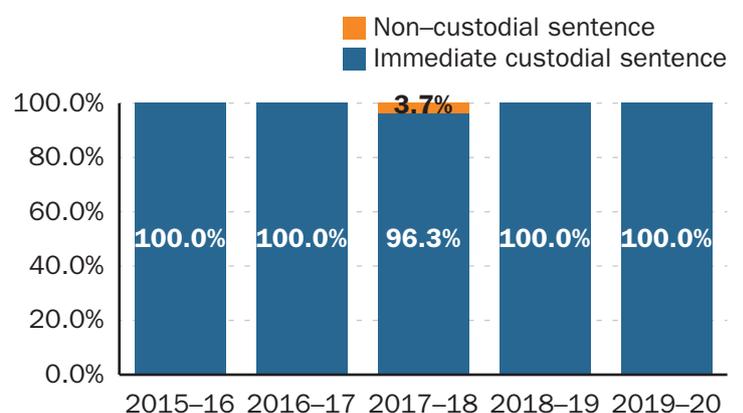


Figure 2: The percentage of people who received a custodial sentence and non-custodial sentence for murder by financial year



A custodial sentence involves at least some element of immediate imprisonment or detention.⁷ Over the five-year period, 99.3% of people were given a custodial sentence. The proportion of people who received a custodial sentence was 100% in each year except 2017–18.

Table 1 shows the number of people sentenced for murder from 2015–16 to 2019–20 by the most serious type of sentence imposed.⁸

Over the five-year period, most people sentenced for murder received a principal sentence of imprisonment (87.7% or 128 of 146 people). The *principal sentence* is the sentence imposed for the charge that is the principal offence. The proportion of imprisonment sentences increased over the five years, from 76.5% in 2015–16 to 95.8% in 2019–20.

Table 1: The number and percentage of people sentenced for murder by principal sentence type and financial year

Sentence type	2015–16	2016–17	2017–18	2018–19	2019–20	Total
Imprisonment	26 (76.5%)	31 (86.1%)	23 (85.2%)	25 (100.0%)	23 (95.8%)	128 (87.7%)
Custodial supervision order	8 (23.5%)	5 (13.9%)	3 (11.1%)	0 (0.0%)	1 (4.2%)	17 (11.6%)
Non-custodial supervision order	0 (0.0%)	0 (0.0%)	1 (3.7%)	0 (0.0%)	0 (0.0%)	1 (0.7%)
Total people sentenced	34	36	27	25	24	146

Principal and total effective sentences of imprisonment

The principal sentence describes sentences for the offence at a **charge** level (as described in the previous section). The total effective sentence describes sentences at a **case** level.

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

Therefore, 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 2015–16 to 2019–20.

Principal sentence of imprisonment

Table 2 shows that a total of 128 people received a principal sentence of imprisonment for murder. All 128 people received a non-aggregate term of imprisonment.⁹

Table 2: The number and percentage of people sentenced to imprisonment for murder by sentence type and financial year

Type of imprisonment sentence	2015–16	2016–17	2017–18	2018–19	2019–20	Total
Imprisonment	26 (100.0%)	31 (100.0%)	23 (100.0%)	25 (100.0%)	23 (100.0%)	128 (100.0%)
Total people sentenced to imprisonment	26	31	23	25	23	128

Figure 3 shows the length of imprisonment for the 128 people who received a non-aggregate term. Imprisonment terms ranged from 12 years to life imprisonment, while the median length of imprisonment was 22 years (meaning that half of the imprisonment terms were below 22 years and half were above).

The most common range of imprisonment term lengths was 20 to less than 21 years (15 people).

Figure 4 shows that the average length of imprisonment (excluding life) imposed on people sentenced for murder ranged from 20 years and 2 months in 2016–17 to 24 years and 2 months in 2019–20. Over the five years, the average length of imprisonment for murder was 22 years and 3 months.

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.

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 33, while the median was 1 offence. There were 112 people (76.7%) sentenced for the single offence of murder. The average number of offences per person was 1.79.

Figure 3: The number of people sentenced to imprisonment for murder by length of imprisonment term, 2015–16 to 2019–20

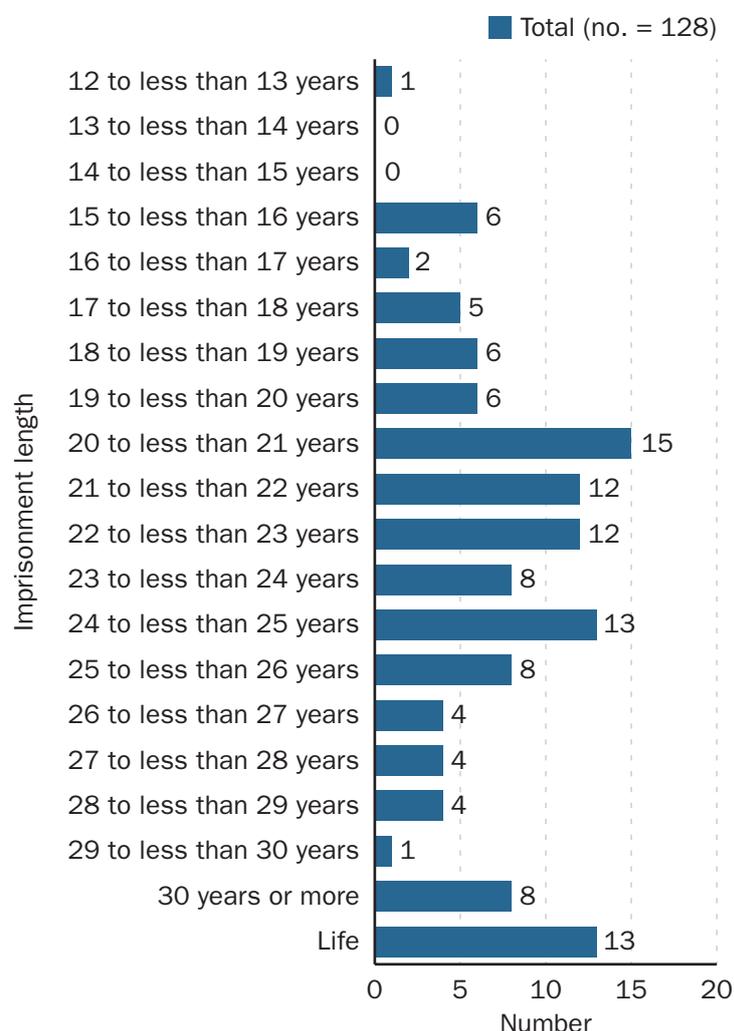


Figure 4: The average length of imprisonment (excluding life) imposed on people sentenced for murder, by financial year

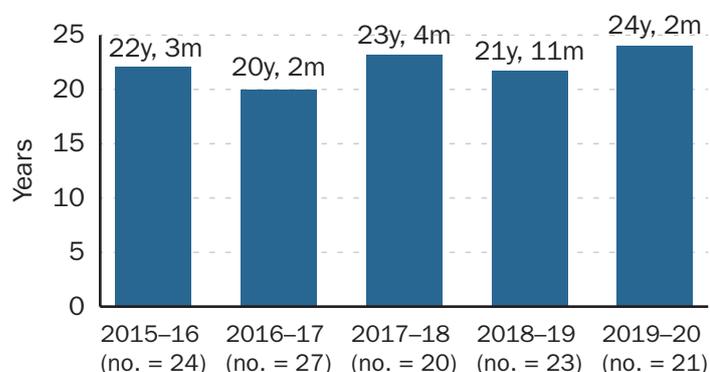


Figure 5: The number of people sentenced for the principal offence of murder by the number of sentenced offences per person, 2015–16 to 2019–20

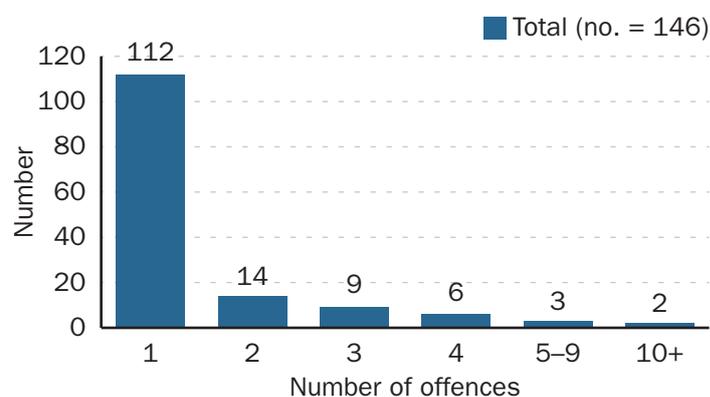


Table 3 shows the 10 most common offences, by number and percentage, for people sentenced for murder. The last column sets out the average number of offences sentenced per person. For example, 4 of the total 146 people (2.7%) also received sentences for theft. On average, they were sentenced for 1.5 charges of theft per case.

Table 3: 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, 2015–16 to 2019–20

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Murder	146	100.0%	1.08
2. Aggravated burglary	6	4.1%	1
3. Rape	5	3.4%	1
4. Theft	4	2.7%	1.5
5. Attempted murder	3	2.1%	1.67
6. Causing injury recklessly	3	2.1%	1
7. Reckless conduct endangering life	2	1.4%	16
8. False imprisonment	2	1.4%	3.5
9. Incitement	2	1.4%	1.5
10. Breach of a parole order condition	2	1.4%	1
People sentenced	146	100.0%	1.79

Total effective imprisonment terms

Figure 6 shows the number of people sentenced to imprisonment for murder by the length of their total effective sentence. Total effective sentences ranged from 12 years to life imprisonment, while the median total effective sentence was 23 years (meaning that half of the total effective sentences were below 23 years and half were above).

The most common ranges for total effective sentences were 24 to less than 25 years, 30 years or more, and life imprisonment (13 people for each of these ranges).

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.

All 128 people who were sentenced to imprisonment for murder were eligible to have a non-parole period fixed. Of these people, 127 were given a non-parole period (99.2%).

Figure 6: The number of people sentenced to imprisonment for murder by length of total effective sentence, 2015–16 to 2019–20

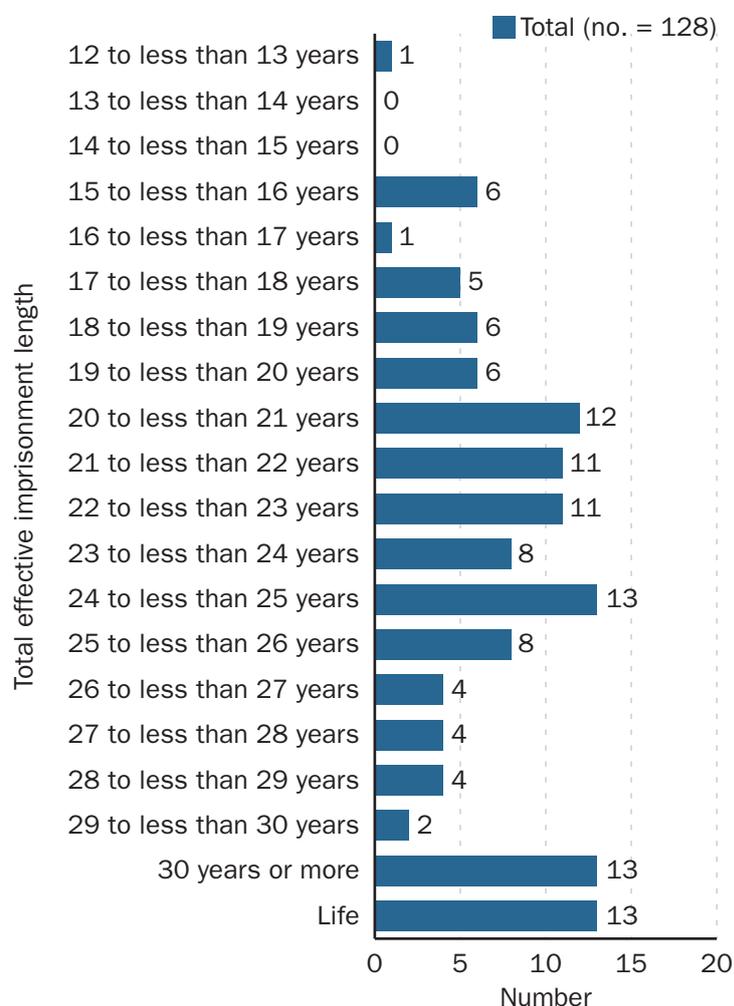


Figure 7 shows the number of people sentenced to imprisonment for murder, by length of non-parole period. Non-parole periods ranged from 9 years to 46 years, while the median non-parole period was 18 years (meaning that half of the non-parole periods were below 18 years and half were above). There was 1 person sentenced to imprisonment for murder who did not have a non-parole period imposed.

The most common ranges for non-parole periods were 17 to less than 18 years and 18 to less than 19 years (16 people each).

Note that it was not possible to determine the length of the non-parole period for 1 person.¹⁰

Total effective sentences of imprisonment and non-parole periods

Figure 8 represents the 114 people who were sentenced to imprisonment for murder and for whom the non-parole period could be determined. Figure 8 compares the average length of total effective sentences with the average length of non-parole periods for these people by financial year.¹¹

From 2015–16 to 2019–20, the average length of total effective sentences for all people ranged from 20 years and 3 months in 2016–17 to 24 years and 6 months in 2019–20. Over the same period, the average length of non-parole periods ranged from 16 years and 1 month in 2016–17 to 19 years and 4 months in 2017–18.

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

Summary

From 2015–16 to 2019–20, 146 people were sentenced for murder in the higher courts. Of these people, all but 1 received a custodial sentence and 128 (95.6%) received a principal sentence of imprisonment.

The number and range of offences for which people with a principal offence of murder 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 23 years, while the median principal imprisonment length was 22 years. On average, people sentenced for murder were found guilty of 1.79 offences each, with a maximum of 33 offences.

Total effective sentences ranged from 12 years to life imprisonment, and non-parole periods ranged from 9 years to 46 years.

Figure 7: The number of people sentenced to imprisonment for murder by length of non-parole period, 2015–16 to 2019–20

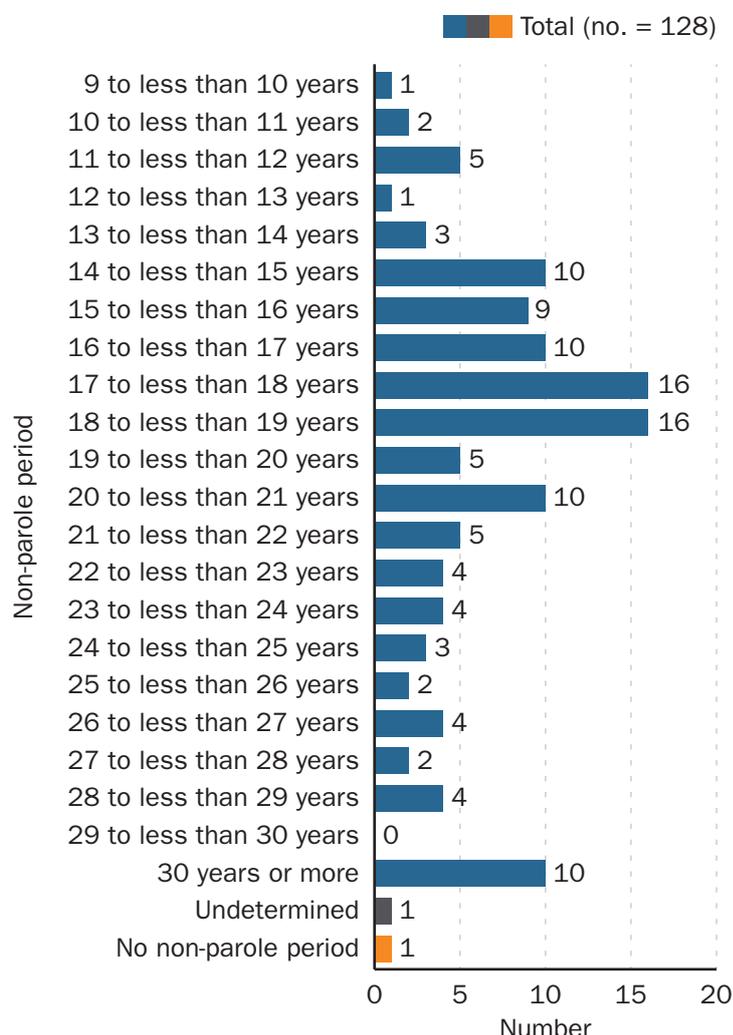
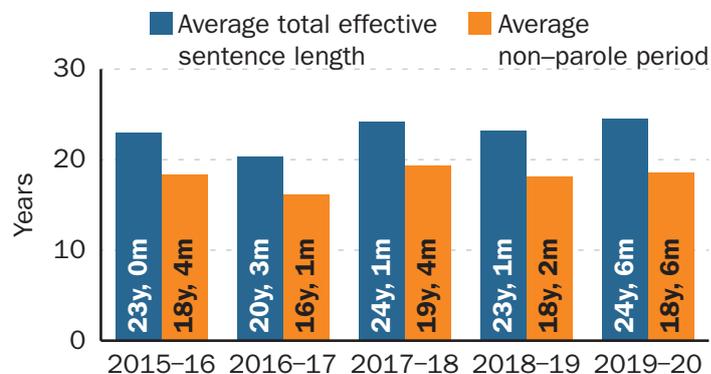


Figure 8: The average total effective sentence (excluding life) and the average non-parole period for people sentenced to imprisonment with a non-parole period for murder by financial year



Endnotes

1. This Sentencing Snapshot is an update of Sentencing Snapshot no. 223, which describes sentencing trends for murder between 2013–14 and 2017–18.
2. Data on first-instance sentence outcomes presented in this Snapshot were 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. *Crimes Act 1958* (Vic) s 3(1).
4. *Sentencing Act 1991* (Vic) ss 3(a) (definition of *Category 1 offence*), 5(2G)–(2GC).
5. *Crimes Act 1958* (Vic) s 3(2); *Sentencing Act 1991* (Vic) ss 5(2)(ab), 5A–5B.
6. 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.
7. For the principal offence of murder, custodial sentences included imprisonment and custodial supervision orders. 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.
8. For example, if the principal offence has a sentence that includes imprisonment combined with a community correction order, imprisonment is the most serious sentence type.
9. A court may impose an *aggregate* sentence of imprisonment on multiple charges sentenced at the same time. These sentences are a single term of imprisonment in which the parts of the term attributable to the individual charges are not specified. A case may include a combination of aggregate and non-aggregate sentences.
10. One person was given a non-parole period that related to more than one case (for example, they may have already been serving a prison sentence at the time). It was not possible to separately determine the non-parole periods that related to each individual case.
11. Figure 8 only includes cases where the total effective sentence is an imprisonment term (excluding life) and a discernible non-parole period is applied.

SACStat – Higher Courts Murder

<http://www.sentencingcouncil.vic.gov.au/sacstat/home.html>

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