

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

April 2021
No. 249

Manslaughter

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of manslaughter in the County and Supreme Courts of Victoria (the higher courts) 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 manslaughter and other offences is available on [Sentencing Advisory Council Statistics \(SACStat\)](#).

The offence of manslaughter applies when a person kills another person in circumstances where the offender's culpability is less than that required to constitute murder.³ Manslaughter is an indictable offence that carries a maximum penalty of 20 years' imprisonment and/or a fine of 2,400 penalty units.⁴

Manslaughter is a Category 2 offence if it was committed on or after 20 March 2017.⁵ Courts must impose custodial sentences for Category 2 offences except in particular circumstances.

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

Manslaughter was the principal offence in 1.0% of cases sentenced in the higher courts between 2015–16 and 2019–20.

People sentenced

From 2015–16 to 2019–20, 87 people were sentenced in the higher courts for a principal offence of manslaughter.

Figure 1 shows the number of people sentenced for the principal offence of manslaughter by financial year. There were 15 people sentenced for this offence in 2019–20, down from 23 in the previous year. The number of people sentenced was highest in 2018–19 (23 people) and lowest in 2016–17, 2017–18 and 2019–20 (15 people in each year).

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

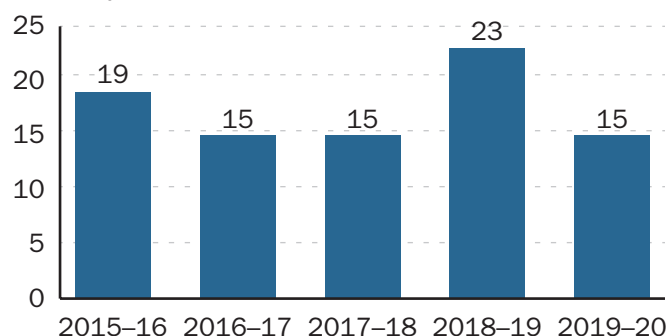
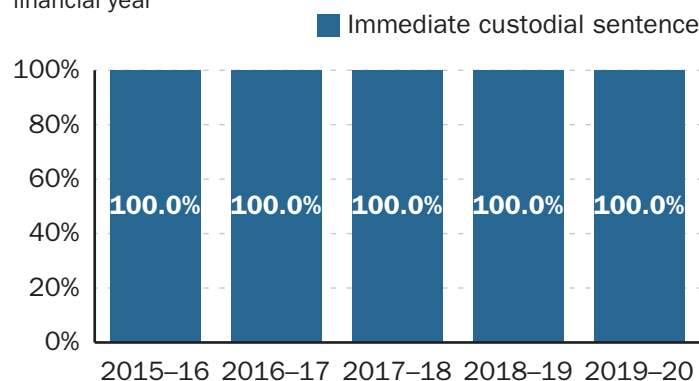


Figure 2: The percentage of people who received a custodial sentence and non-custodial sentence for manslaughter by financial year



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 manslaughter.

A custodial sentence involves at least some element of immediate imprisonment or detention.⁷ Over the five-year period, all people sentenced for the principal offence of manslaughter were given a custodial sentence.

Table 1 shows the number of people sentenced for manslaughter from 2015–16 to 2019–20 by the most serious type of sentence imposed.⁸ The availability of different sentence types has changed over time. Most notably, wholly and partially suspended sentences have now been abolished.⁹ Changes to community correction orders may have also influenced the sentencing trends over the five years covered by this Snapshot.¹⁰

Over the five-year period, most people sentenced for manslaughter received a principal sentence of imprisonment (97.7% or 85 of 87 people). The *principal sentence* is the sentence imposed for the charge that is the principal offence. The proportion of imprisonment sentences was 100% for all years except 2019–20, in which two youth justice centre orders were imposed.

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

Sentence type	2015–16	2016–17	2017–18	2018–19	2019–20	Total
Imprisonment	19 (100.0%)	15 (100.0%)	15 (100.0%)	23 (100.0%)	13 (86.7%)	85 (97.7%)
Youth justice centre order	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (13.3%)	2 (2.3%)
Total people sentenced	19	15	15	23	15	87

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 manslaughter must be considered in this broader context.

The following sections analyse the use of imprisonment for the offence of manslaughter from 2015–16 to 2019–20.

Principal sentence of imprisonment

Table 2 shows that a total of 85 people received a principal sentence of imprisonment for manslaughter. All 85 people received a non-aggregate term of imprisonment.¹¹ There was 1 person who received a community correction order in addition to their term of imprisonment.

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

Type of imprisonment sentence	2015–16	2016–17	2017–18	2018–19	2019–20	Total
Imprisonment	18 (94.7%)	15 (100.0%)	15 (100.0%)	23 (100.0%)	13 (100.0%)	84 (98.8%)
Imprisonment and community correction order (combined)	1 (5.3%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (1.2%)
Total people sentenced to imprisonment	19	15	15	23	13	85

Figure 3 shows the length of imprisonment for the 85 people who received a non-aggregate term. Imprisonment terms ranged from 1 year and 5 months to 13 years, while the median length of imprisonment was 9 years (meaning that half of the imprisonment terms were below 9 years and half were above).

The most common range of imprisonment term lengths was 9 to less than 10 years (17 people).

Figure 4 shows that the average length of imprisonment imposed on people sentenced for manslaughter ranged from 7 years and 1 month in 2015–16 to 9 years and 6 months in 2018–19. Over the five years, the average length of imprisonment for manslaughter was 8 years and 5 months.

Other offences finalised at the same hearing

Sometimes people prosecuted for manslaughter 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 manslaughter.

Figure 5 shows the number of people sentenced for the principal offence of manslaughter by the total number of sentenced offences per person. The number of sentenced offences per person ranged from 1 to 12, and the median was 1 offence. There were 70 people (80.5%) sentenced for the single offence of manslaughter. The average number of offences per person was 1.54.

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

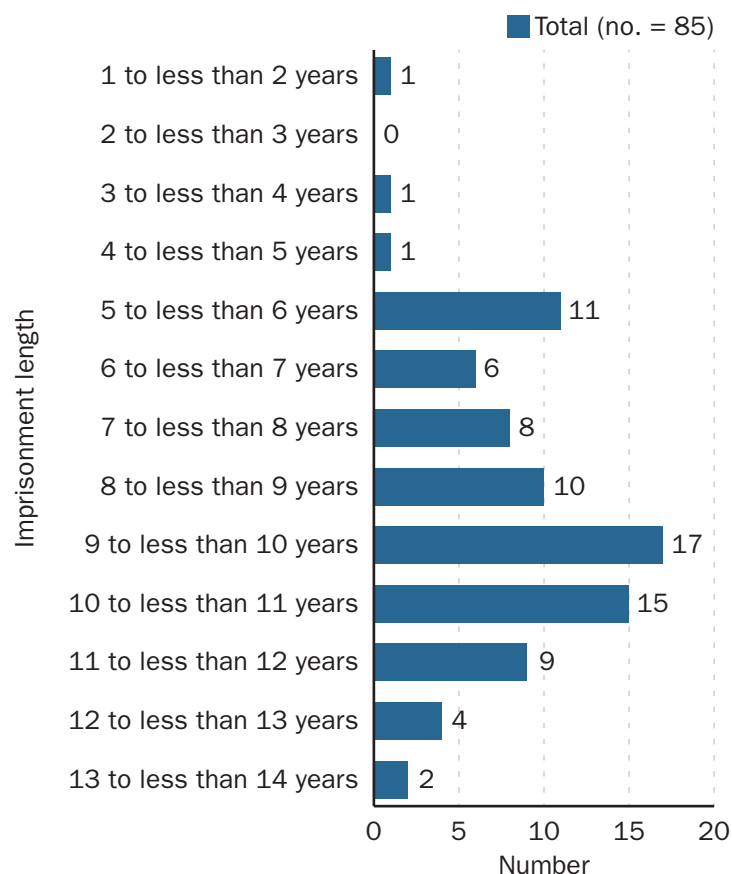


Figure 4: The average length of imprisonment imposed on people sentenced for manslaughter, by financial year

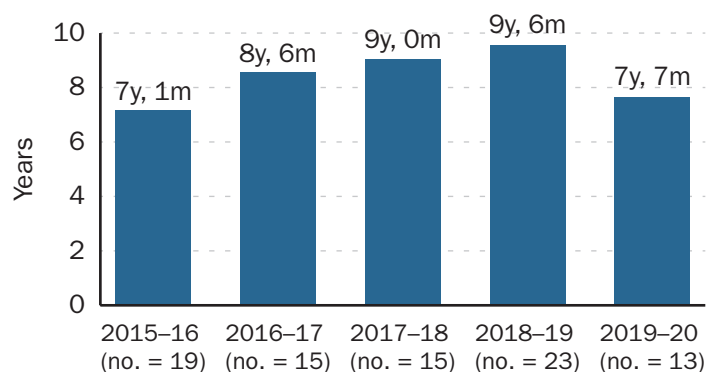


Figure 5: The number of people sentenced for the principal offence of manslaughter by the number of sentenced offences per person, 2015–16 to 2019–20

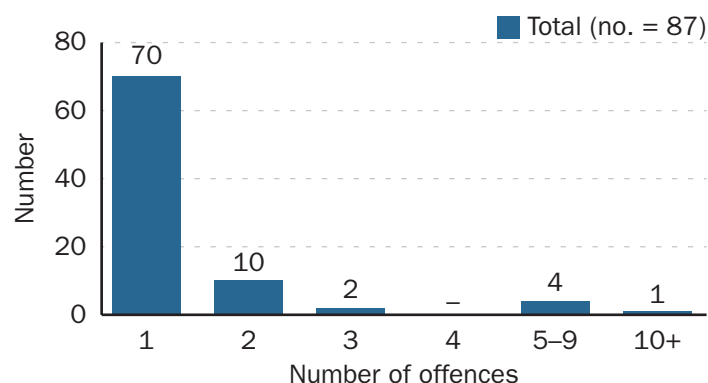


Table 3 shows the 10 most common offences, by number and percentage, for people sentenced for manslaughter. The last column sets out the average number of offences sentenced per person. For example, 4 of the total 87 people (4.6%) also received sentences for theft. On average, they were sentenced for 3.5 charges of theft per case.

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, 2015–16 to 2019–20

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Manslaughter	87	100.0%	1.00
2. Theft	4	4.6%	3.50
3. Arson	4	4.6%	1.00
4. Possess a drug of dependence	2	2.3%	1.50
5. Attempted robbery	2	2.3%	1.00
6. Causing injury recklessly	2	2.3%	1.00
7. Common law assault	1	1.1%	5.00
8. Burglary	1	1.1%	4.00
9. Aggravated burglary	1	1.1%	1.00
10. Attempt to pervert the course of justice	1	1.1%	1.00
People sentenced	87	100.0%	1.54

Total effective imprisonment terms

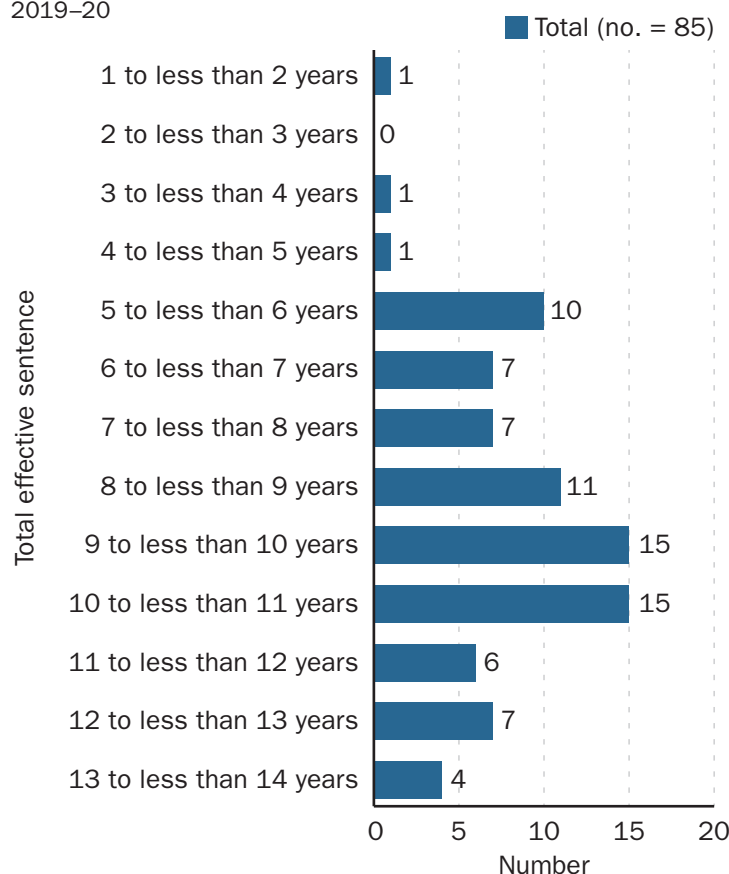
Figure 6 shows the number of people sentenced to imprisonment for manslaughter by length of their total effective sentence. Total effective sentences ranged from 1 year and 5 months to 13 years and 6 months, while the median total effective sentence was 9 years (meaning that half of the total effective sentences were below 9 years and half were above).

The most common ranges of total effective sentence were 9 to less than 10 years and 10 to less than 11 years (15 people each).

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 manslaughter by length of total effective sentence, 2015–16 to 2019–20



Of the 85 people who were sentenced to imprisonment for manslaughter, 1 was not eligible to have a non-parole period imposed because they received a sentence of imprisonment combined with a community correction order. Of the 84 people who were eligible to have a non-parole period fixed, all were given a non-parole period.

Figure 7 shows the number of people sentenced to imprisonment for manslaughter, by length of non-parole period. Non-parole periods ranged from 2 years to 10 years, while the median non-parole period was 6 years (meaning that half of the non-parole periods were below 6 years and half were above).

The most common range for non-parole periods was 5 to less than 6 years (15 people).

Total effective sentences of imprisonment and non-parole periods

Figure 8 represents the 84 people who were sentenced to imprisonment for manslaughter 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.¹²

From 2015–16 to 2019–20, the average total effective sentence ranged from 7 years and 7 months in 2015–16 and 2019–20 to 9 years and 7 months in 2018–19. Over the same period, the average non-parole period ranged from 5 years and 2 months in 2019–20 to 7 years in 2018–19.

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

Summary

From 2015–16 to 2019–20, 87 people were sentenced for manslaughter in the higher courts. All of these people received a custodial sentence and 85 (97.7%) were given a principal sentence of imprisonment.

The median principal imprisonment length and the median total effective imprisonment length were both 9 years. On average, people sentenced for manslaughter were found guilty of 1.54 offences each, with a maximum of 12 offences.

Total effective sentences ranged from 1 year and 5 months to 13 years and 6 months, and non-parole periods ranged from 2 years to 10 years.

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

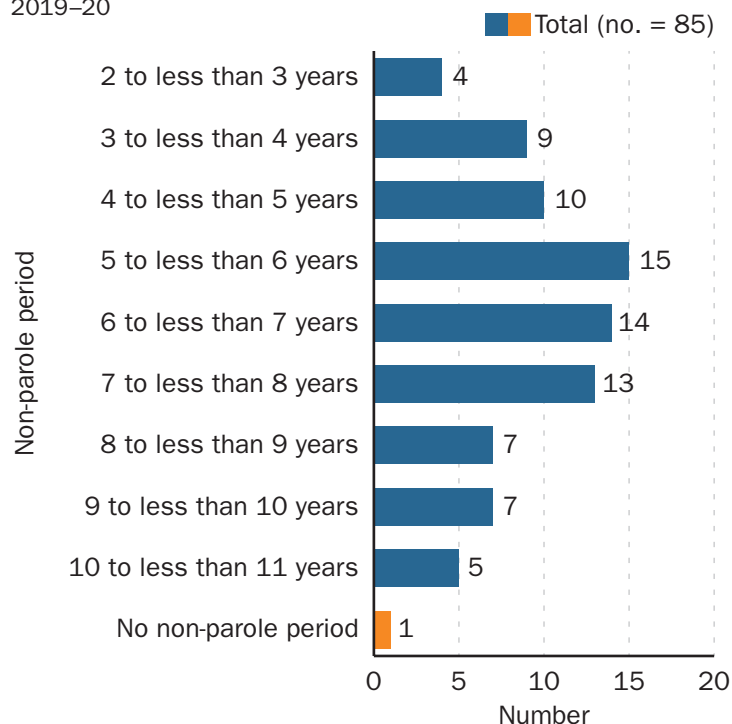
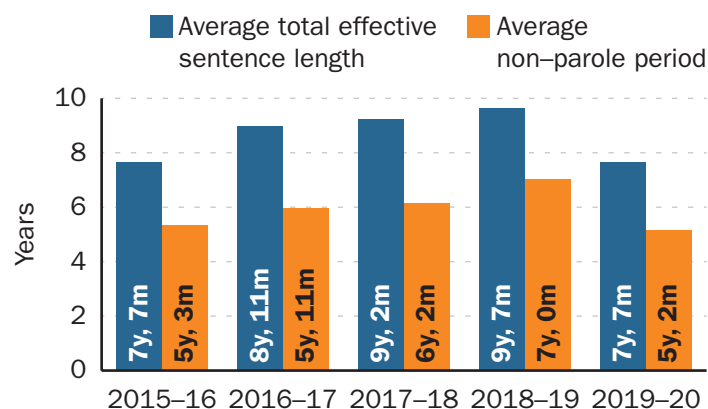


Figure 8: The average total effective sentence and the average non-parole period for people sentenced to imprisonment with a non-parole period for manslaughter by financial year



Endnotes

1. This Sentencing Snapshot is an update of Sentencing Snapshot no. 224, which describes sentencing trends for manslaughter 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. Deaths caused by the culpable driving of a motor vehicle are not covered by the offence of manslaughter.
4. *Crimes Act 1958* (Vic) s 5. The value of a penalty unit changes each year and can be found in the **Victorian Government Gazette** and on the **Victorian legislation website**.
5. *Sentencing Act 1991* (Vic) ss 3(a) (definition of *Category 2 offence*), 5(2H)–(2I).
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 manslaughter, custodial sentences included imprisonment, youth justice centre orders and a combined order of imprisonment and a community correction order.
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. 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.
10. For example, initially the maximum term of imprisonment that could be combined with a community correction order was set at 3 months, but it was increased to 2 years in September 2014 and reduced to 1 year in March 2017.
11. 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.
12. Figure 8 only includes cases where the total effective sentence is an imprisonment term and a discernible non-parole period is applied.

SACStat – Higher Courts Manslaughter

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

Authored by Zsombor Bathy, Sentencing Advisory Council.

Published by the Sentencing Advisory Council, Melbourne Victoria Australia.

© Copyright State of Victoria, Sentencing Advisory Council, 2021

ISSN 1836-6384 (Online)

Authorised by the Sentencing Advisory Council, Level 3, 333 Queen Street, Melbourne.

Disclaimer:

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.