

Sentencing trends in  
the higher courts of  
Victoria  
2017–18 to 2021–22

June 2023  
No. 273

## Murder

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of murder in the Supreme Court of Victoria from 2017–18 to 2021–22.<sup>2</sup> Adjustments made by the Court of Appeal to sentence or conviction as at December 2022 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.<sup>3</sup>

Murder is a category 1 offence if it was committed on or after 20 March 2017. For this offence, this classification means that courts must always impose a custodial sentence.<sup>4</sup> 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 a custodial officer or emergency worker on duty) represents the middle of the range of objective seriousness for this offence.<sup>5</sup>

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.<sup>6</sup>

Murder was the principal offence in 2.8% of cases sentenced in the higher courts between 2017–18 and 2021–22.

### Effect of COVID-19 on sentencing data

The data in this Snapshot is likely to have been affected by the COVID-19 pandemic. For instance:

- the number of people sentenced since March 2020 may be lower than in previous years because the pandemic caused delays in court proceedings;
- prison sentences may be shorter than in previous years to reflect the combined effect of:
  - a. guilty pleas having an ‘augmented mitigatory effect’ (*Worboyes v The Queen* [2021] VSCA 169) because they help to relieve the strain on the justice system; and
  - b. the experience of prison being more burdensome due to increased stress on prisoners and their families and changes in custodial conditions.

## People sentenced

From 2017–18 to 2021–22, 97 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 12 people sentenced for this offence in 2021–22, up from 9 in the previous year. The number of people sentenced was highest in 2017–18 (27 people) and lowest in 2020–21 (9 people). There were 35 people whose offending attracted standard sentence offence classification. The standard sentence in all of those cases was 25 years. None of the victims were custodial officers or emergency workers on duty.

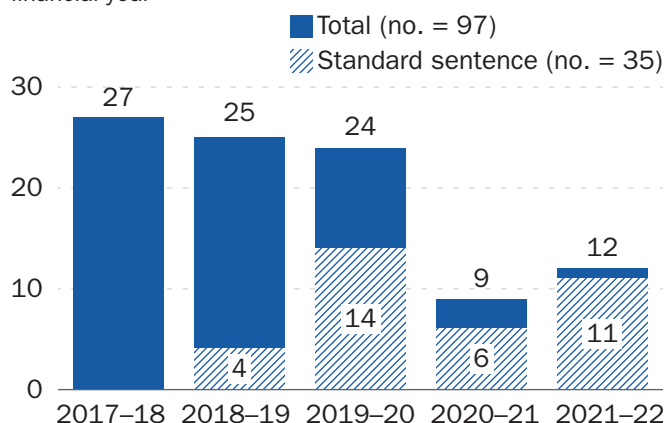
## Sentence types and trends

Figure 2 shows the proportion of people who received an immediate custodial sentence or other outcome for the principal offence of murder.

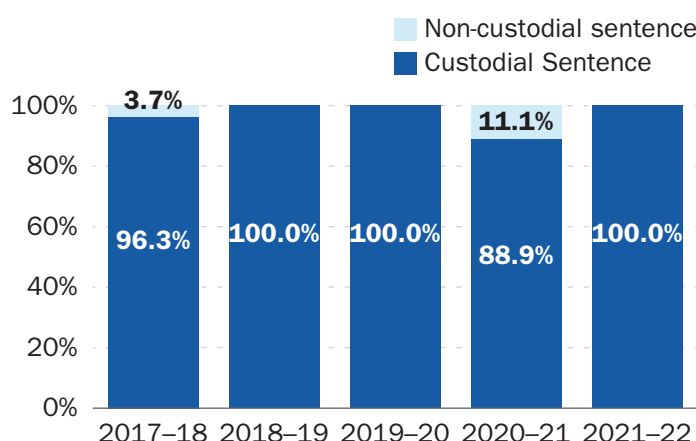
An immediate custodial sentence involves at least some element of immediate imprisonment or detention.<sup>7</sup> Over the five-year period, 97.9% of people were given an immediate custodial sentence. The proportion of people who received an immediate custodial sentence was 100% each year except in 2017–18 and 2020–21.

Table 1 shows the principal sentence types imposed for murder from 2017–18 to 2021–22. The *principal sentence* is the most serious sentence type imposed for the principal offence.<sup>8</sup> Over the five-year period, most people sentenced for murder received a principal sentence of imprisonment (91.8%, or 89 of 97 people). All of the remaining people received either a custodial supervision order (6.2%, or 6 people) or a non-custodial supervision order (2.1%, or 2 people).

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



**Figure 2:** The percentage of people who received an immediate custodial sentence or other outcome for murder by financial year



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

Sentence type	2017–18	2018–19	2019–20	2020–21	2021–22	Total
<b>Non-standard sentence</b>						
Imprisonment	23 (85.2%)	21 (84.0%)	9 (37.5%)	0 (0.0%)	1 (8.3%)	54 (55.7%)
Custodial supervision order	3 (11.1%)	0 (0.0%)	1 (4.2%)	2 (22.2%)	0 (0.0%)	6 (6.2%)
Non-custodial supervision order	1 (3.7%)	0 (0.0%)	0 (0.0%)	1 (11.1%)	0 (0.0%)	2 (2.1%)
<b>Standard sentence</b>						
Imprisonment	0 (0.0%)	4 (16.0%)	14 (58.3%)	6 (66.7%)	11 (91.7%)	35 (36.1%)
<b>Total people sentenced</b>	<b>27</b>	<b>25</b>	<b>24</b>	<b>9</b>	<b>12</b>	<b>97</b>

## Principal and total effective sentences of imprisonment

The following sections analyse the use of imprisonment for the offence of murder from 2017–18 to 2021–22.

The principal sentence applies to a single offence at a charge level.

The total effective sentence is the sentence imposed for all charges in a case and applies at a case level. Where a case involves multiple charges, the total effective sentence will be either the same as or longer than the principal sentence.

### Principal sentences of imprisonment

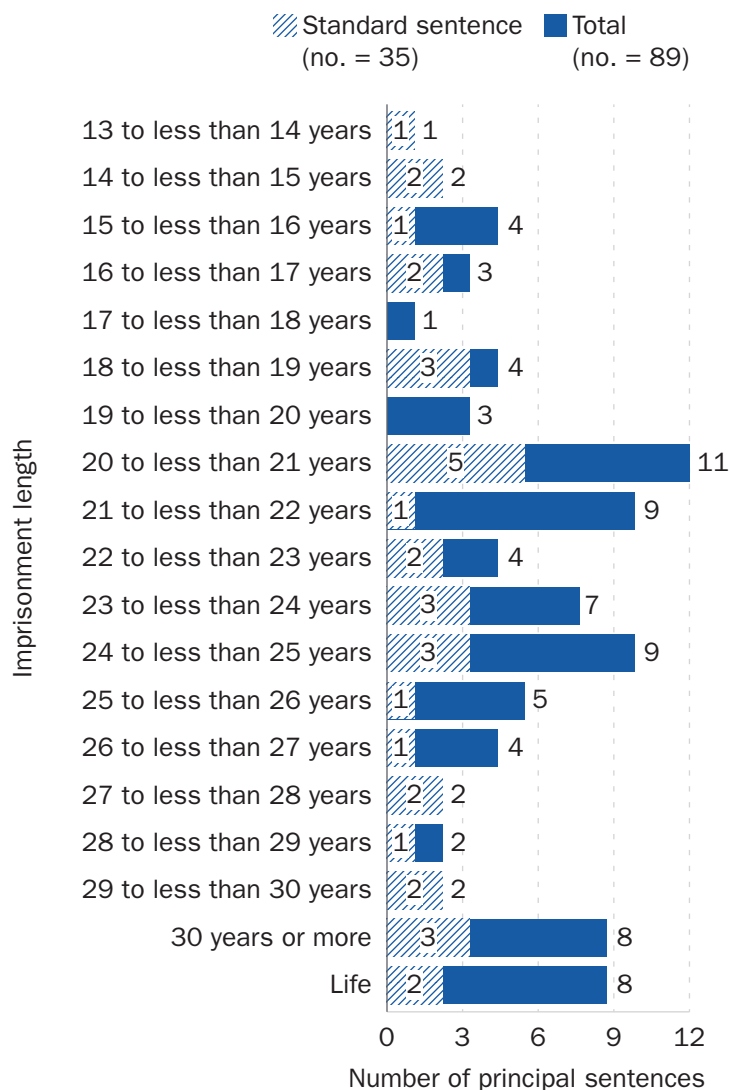
All 89 people who received a principal sentence of imprisonment for murder received a *non-aggregate* imprisonment term, that is, the imprisonment term was not part of an aggregate sentence.<sup>9</sup> None of these imprisonment terms were combined orders of imprisonment and a community correction order.

The lengths of these imprisonment terms is shown in Figure 3. Imprisonment terms ranged from 13 years<sup>10</sup> to life imprisonment, while the median length was 23 years (meaning that half of the imprisonment terms were below 23 years and half were above). The most common range of imprisonment terms was 20 to less than 21 years (11 people).

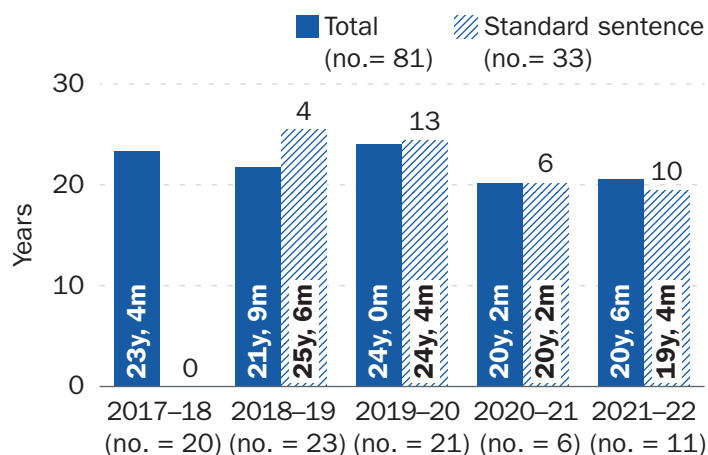
Figure 4 shows that the average length of imprisonment (excluding life) imposed on people sentenced for murder ranged from 20 years and 2 months in 2020–21 to 24 years in 2019–20. Over the five years, the average length of imprisonment for murder was 22 years. The average length of imprisonment when murder was a standard sentence offence was 22 years and 4 months.

The lengths of imprisonment imposed when murder was a standard sentence offence are presented separately because courts sentencing standard sentence offences ‘must only have regard to sentences previously imposed for the offence as a standard sentence offence’.<sup>11</sup> Courts sentencing non-standard sentence offences must have regard to sentences imposed when the offence both was and was not a standard sentence offence.

**Figure 3:** The number of principal sentences of imprisonment for murder, by range of imprisonment lengths, 2017–18 to 2021–22



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

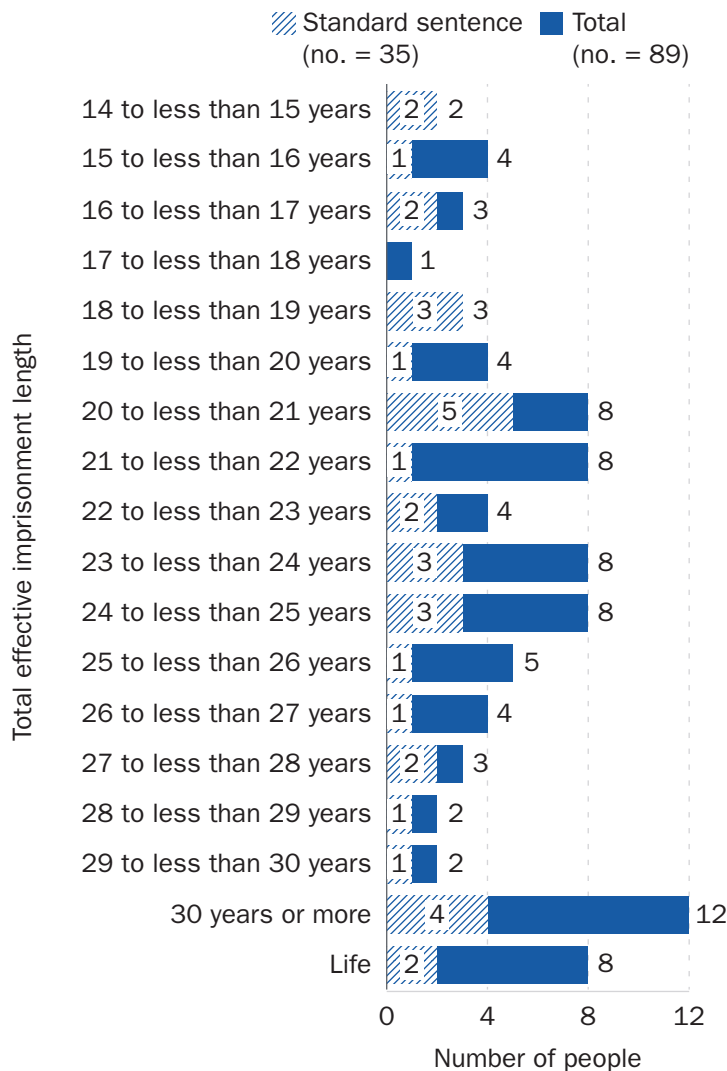


### Total effective sentences of imprisonment

Figure 5 shows the number of people sentenced to imprisonment for murder by the length of their total effective sentence. Total effective sentences ranged from 14 years to life imprisonment, while the median total effective sentence was 23 years and 4 months (meaning that half of the total effective sentences were below 23 years and 4 months, and half were above).

The most common range of total effective sentences was 30 years or more (12 people).

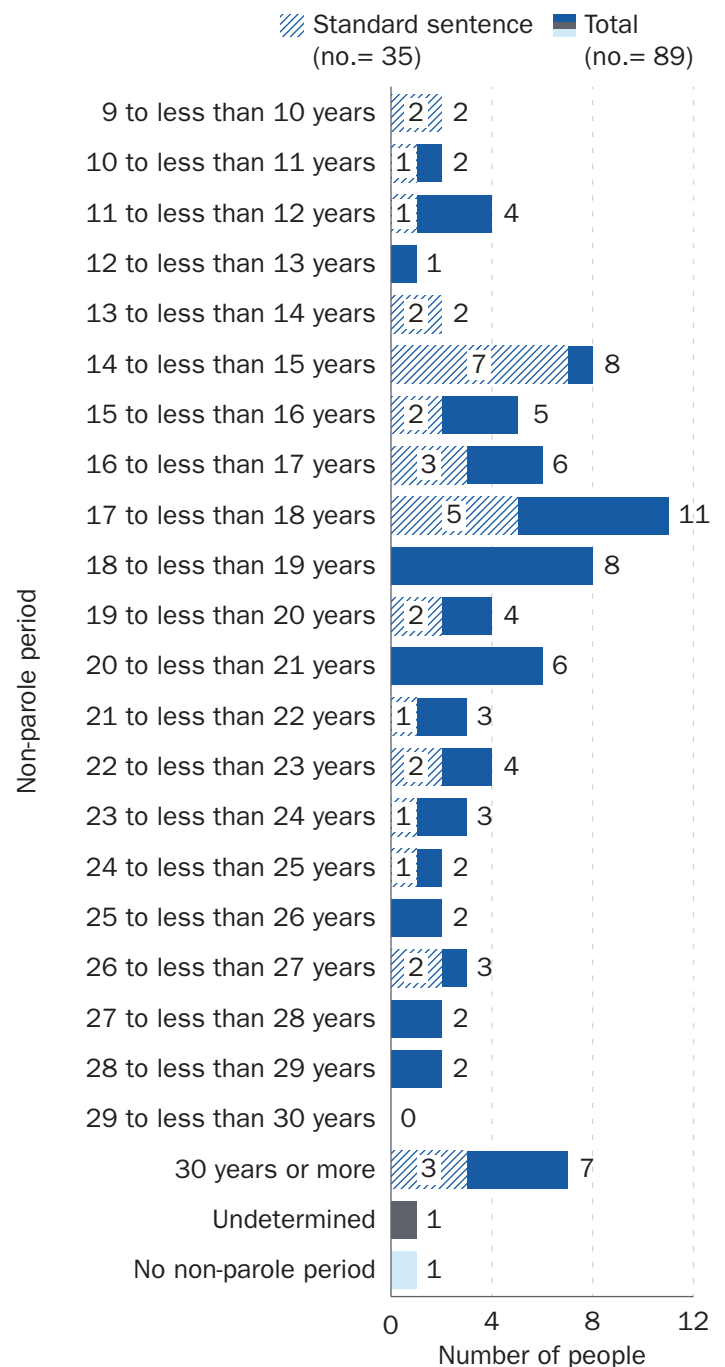
**Figure 5:** The number of people sentenced to imprisonment for murder by length of total effective sentence, 2017–18 to 2021–22



### Non-parole periods

For imprisonment terms 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 non-parole period, 2017–18 to 2021–22



All 89 people sentenced to imprisonment for murder were eligible to have a non-parole period fixed. Of these people, 88 were given a non-parole period (98.9%). One person received a sentence of life imprisonment without parole.<sup>12</sup>

Figure 6 (page 4) shows the number of people sentenced to imprisonment for murder by their 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).

The most common range of non-parole periods was 17 to less than 18 years (11 people).

Note that it was not possible to determine the non-parole period for 1 person.<sup>13</sup>

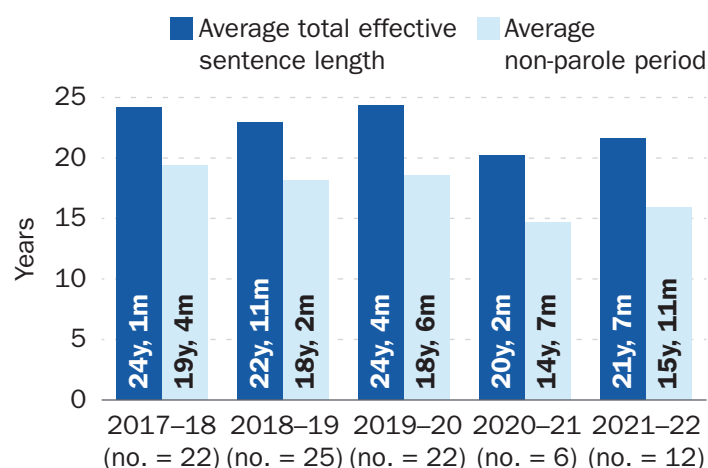
### Average total effective sentences of imprisonment and non-parole periods

Figure 7 represents the average total effective sentences and non-parole periods for the 87 people who were sentenced to imprisonment for murder and for whom a non-parole period could be determined.<sup>14</sup> Life sentences are not included in the calculation of averages due to their indeterminate length.

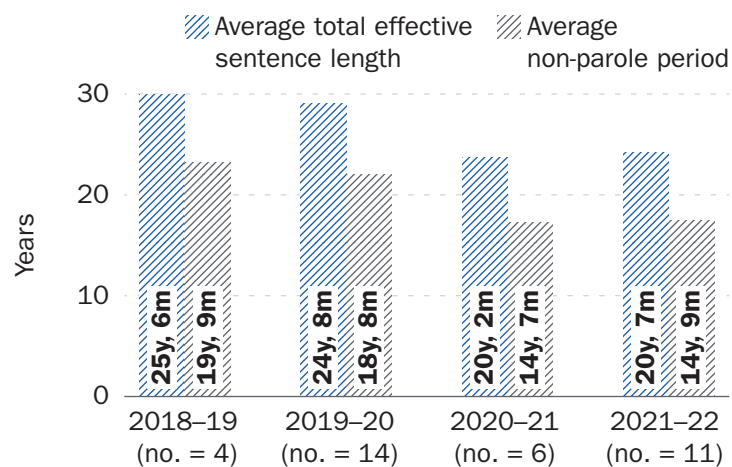
From 2017–18 to 2021–22, the average total effective sentence for all people ranged from 20 years and 2 months in 2020–21 to 24 years and 4 months in 2019–20. Over the same period, the average non-parole period ranged from 14 years and 7 months in 2020–21 to 19 years and 4 months in 2017–18.

Figure 8 represents the average total effective sentences and non-parole periods for the 35 people who were sentenced to imprisonment for murder as a standard sentence offence and who received a non-parole period. The average total effective sentence ranged from 20 years and 2 months in 2020–21 to 25 years and 6 months in 2018–19. The average non-parole period ranged from 14 years and 7 months in 2020–21 to 19 years and 9 months in 2018–19.

**Figure 7:** 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



**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 subject to the standard sentence, by financial year



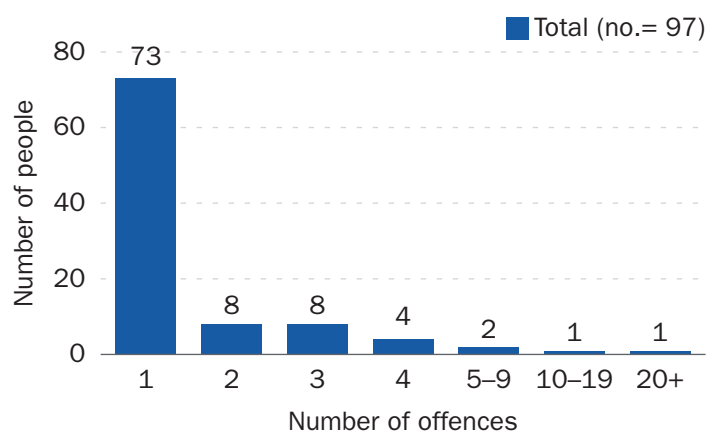
## Other offences finalised at the same hearing

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 9 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 73 people (75.3%) sentenced for the single offence of murder. The average number of offences per person was 2.

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, 4 of the total 97 people (4.1%) also received sentences for aggravated burglary. On average, they were sentenced for 1.0 charges of aggravated burglary per case.

**Figure 9:** The number of people sentenced for the principal offence of murder by the number of sentenced offences per person, 2017–18 to 2021–22



**Table 2:** The number and percentage of people sentenced for the principal offence of murder by the most common offences that were sentenced alongside murder, 2017–18 to 2021–22

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Murder	97	100%	1.1
2. Aggravated burglary	4	4.1%	1.0
3. Rape	4	4.1%	1.0
4. Reckless conduct endangering life	2	2.1%	16.0
5. False imprisonment	2	2.1%	3.5
6. Attempted armed robbery	2	2.1%	1.0
7. Causing injury intentionally	2	2.1%	1.0
8. Theft	2	2.1%	1.0
9. Causing serious injury recklessly	2	2.1%	1.0
10. Aggravated rape	1	1%	11.0
<b>Total</b>	<b>97</b>	<b>100%</b>	<b>2.0</b>

## Summary

From 2018–19 to 2021–22, 97 people were sentenced for murder in the higher courts. Of these people, 89 (91.8%) received a principal sentence of imprisonment, and the remaining people received either a custodial supervision order (6 people) or a non-custodial supervision order (2 people).

Total effective sentences ranged from 14 years to life imprisonment. The median total effective sentence was 23 years and 4 months, while the median length of imprisonment was 23 years. Non-parole periods ranged from 9 years to 46 years, while the median non-parole period was 18 years. On average, people sentenced for murder were sentenced for 2 offences each, with a maximum of 33 offences.

All 35 of the principal offences of murder subject to the standard sentence of 25 years received imprisonment. The average imprisonment term for those 35 principal offences was 22 years and 9 months, which is higher than the overall average of 22 years for the 89 principal offences that received imprisonment during this period.

Further data for this offence is available on SACStat.



## Endnotes

1. This Sentencing Snapshot is an update of Sentencing Snapshot no. 248, which describes sentencing trends for murder between 2015–16 and 2019–20.
2. Data on first-instance sentencing 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 (AustLII) 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 Snapshot 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).
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 Snapshots 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 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 Snapshot as they are an important form of disposition of criminal charges.
8. For example, if the principal offence receives a sentence of imprisonment combined with a community correction order, imprisonment is the principal sentence.
9. A court may impose an aggregate sentence of imprisonment upon multiple charges sentenced at the same time. These sentences are a single imprisonment term 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. *Chey (A Pseudonym) v The King* [2022] VSCA 262.
11. *Sentencing Act 1991* (Vic) s 5B(2)(b).
12. *The Queen v Cardamone* [2017] VSC 493.
13. 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.
14. Figure 7 only includes cases where the total effective sentence is an imprisonment term and a discernible non-parole period is applied.

## SACStat Murder

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

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Published by the Sentencing Advisory Council, Melbourne Victoria Australia.

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ISSN 1836-6384 (Online)

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

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