

## Murder

### Sentencing trends in the higher courts of Victoria 2019–20 to 2023–24

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#### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of murder in the County and Supreme Courts of Victoria (the higher courts) from 2019–20 to 2023–24.<sup>2</sup> The data in this Snapshot incorporates adjustments made by the Court of Appeal to sentence or conviction as at June 2024. Detailed data on murder and other offences is also available on [SACStat](#).

The offence of murder applies to the most serious homicides – when a person intentionally or recklessly kills another person 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,

category 1 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, murder was the offence that received the most severe sentence in the case.<sup>6</sup>

Murder was the principal offence in 1.0% of cases sentenced in the higher courts between 2019–20 and 2023–24.

#### Effect of COVID-19 on sentencing data

The data in this Snapshot is likely to have been affected by the COVID-19 pandemic, particularly in the 2020–21 and 2021–22 financial years.

For instance:

- the number of people sentenced in the period after March 2020 may be lower than in other years because the pandemic caused delays in court proceedings
- court backlogs may have led to prioritisation of more serious cases in that period and therefore higher imprisonment rates than in other years
- prison sentences may be shorter during that period than in other 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

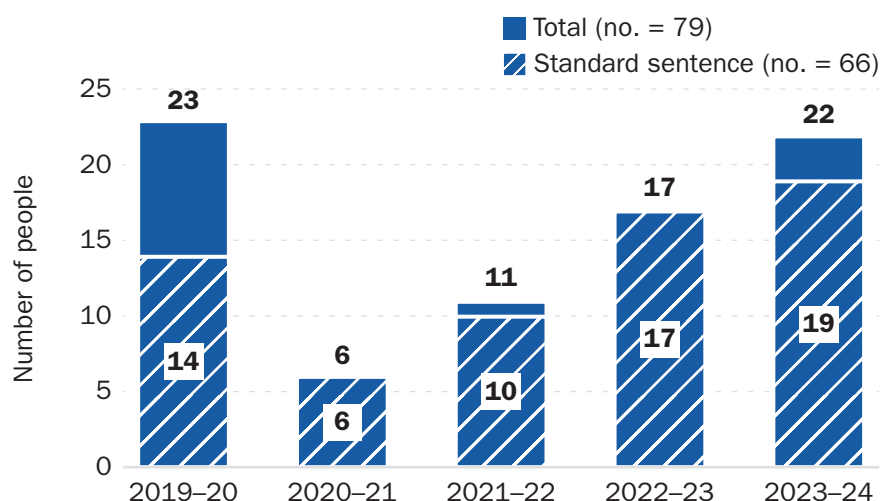
From 2019–20 to 2023–24, 79 people were sentenced in the higher courts for the principal offence of murder.

Figure 1 shows the number of people sentenced for the principal offence of murder by financial year. There were 22 people sentenced for this offence in 2023–24, up from 17 in the previous year. The number of people sentenced was highest in 2019–20 (23 people) and lowest in 2020–21 (6 people).

There were 66 people whose offending attracted standard sentence offence classification. In all of the available sentencing remarks for those cases, none of the victims were custodial officers or emergency workers on duty, meaning that the standard sentence in those cases was 25 years, not 30 years.

In addition to the 79 people shown in Figure 1, there were 3 people who received a custodial supervision order and 1 person who received a non-custodial supervision order for the principal offence of murder during the five-year period.<sup>7</sup>

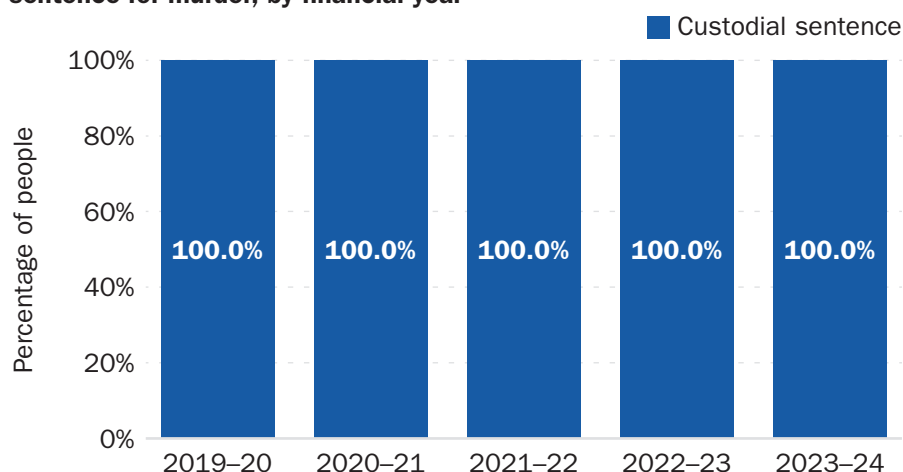
**Figure 1: The number of people sentenced for murder, by financial year**



## Sentence types and trends

Figure 2 shows the proportion of people who received an immediate custodial sentence for the principal offence of murder. An immediate custodial sentence involves at least some element of immediate imprisonment or detention.<sup>8</sup> Over the five-year period, 100% of people were given an immediate custodial sentence, and all immediate custodial sentences were imprisonment.

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



## Principal and total effective sentences of imprisonment

The following sections analyse the use of imprisonment for the principal offence of murder from 2019–20 to 2023–24.

The *principal sentence* is the most serious sentence imposed for the principal offence in a case at a *charge level*.

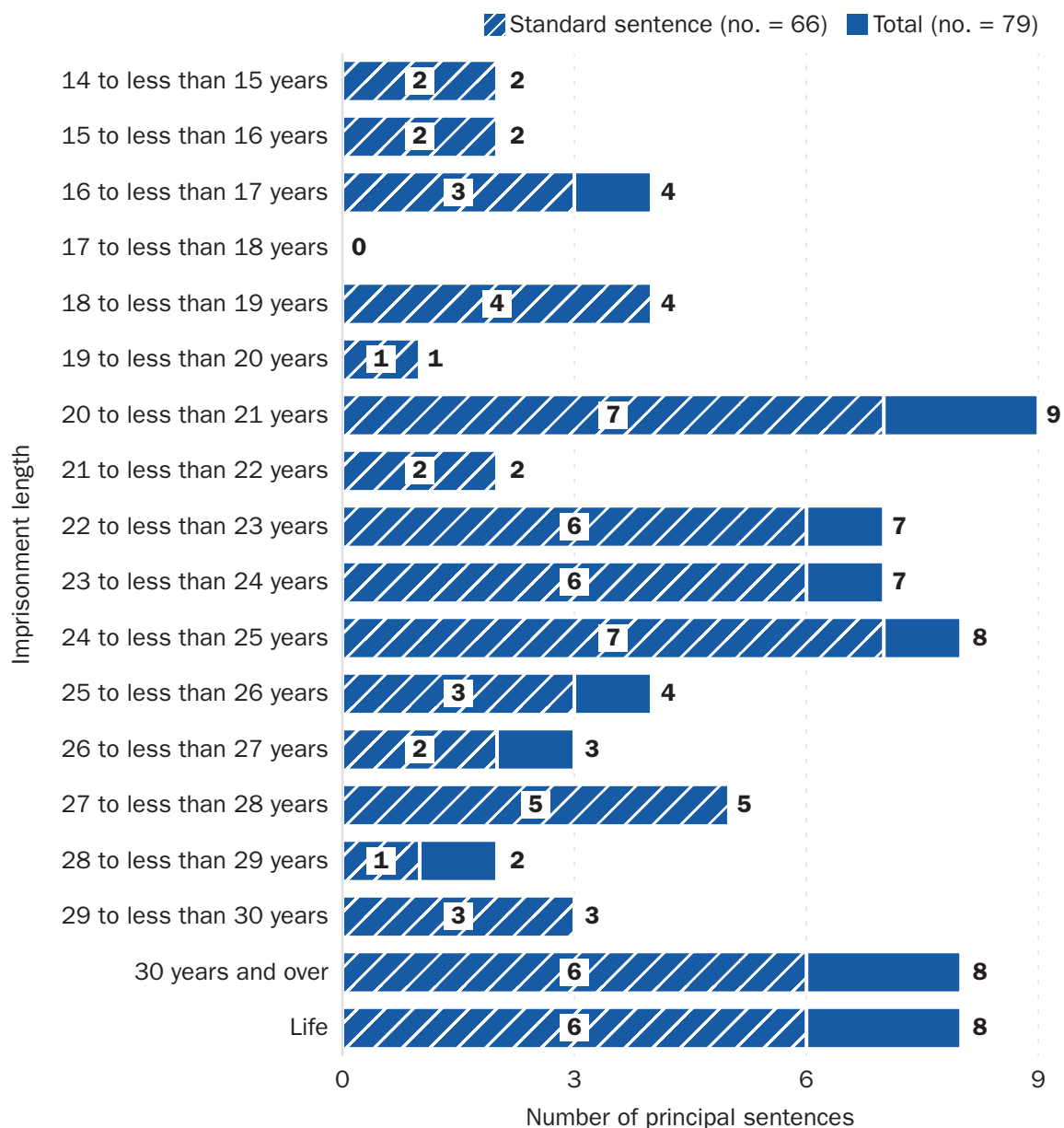
The *total effective sentence* is the sentence imposed for all charges in a case and applies at a case level. Where a case involves multiple charges, the total effective sentence will be either the same as or longer than the principal sentence.

### Principal sentences of imprisonment

All 79 people who received a principal sentence of imprisonment for the offence of murder received a non-aggregate imprisonment term, that is, the imprisonment term was not part of an aggregate sentence. The lengths of these imprisonment terms are shown in Figure 3. Imprisonment lengths ranged from 14 years<sup>9</sup> to life imprisonment,<sup>10</sup> while the median imprisonment length was 24 years.

The most common range of imprisonment lengths was 20 to less than 21 years (9 principal sentences).

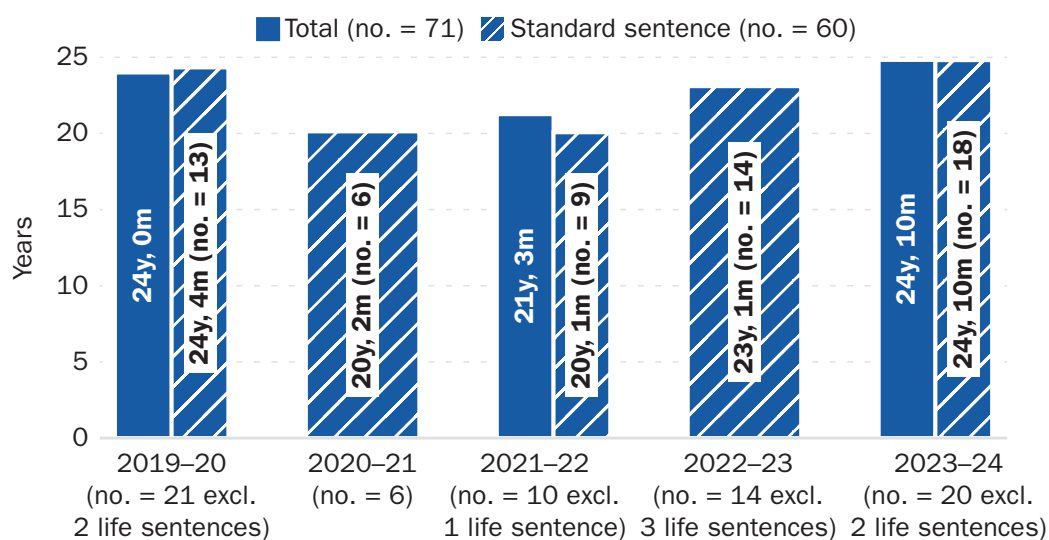
**Figure 3: The number of principal sentences of imprisonment for murder, by range of imprisonment lengths, 2019–20 to 2023–24**



Imprisonment lengths for murder as a standard sentence offence are presented separately because courts sentencing standard sentence offences 'must only have regard to sentences 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 4 shows that the average imprisonment length (excluding life) for all offences of murder increased from a low of 20 years and 2 months in 2020–21 (or 20 years and 1 month in 2021–22 for standard sentence offences) to 24 years and 10 months in 2023–24. Over the five-year period, the average imprisonment length was 23 years and 4 months for all principal offences of murder, and 23 years and 2 months when the standard sentence applied.

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

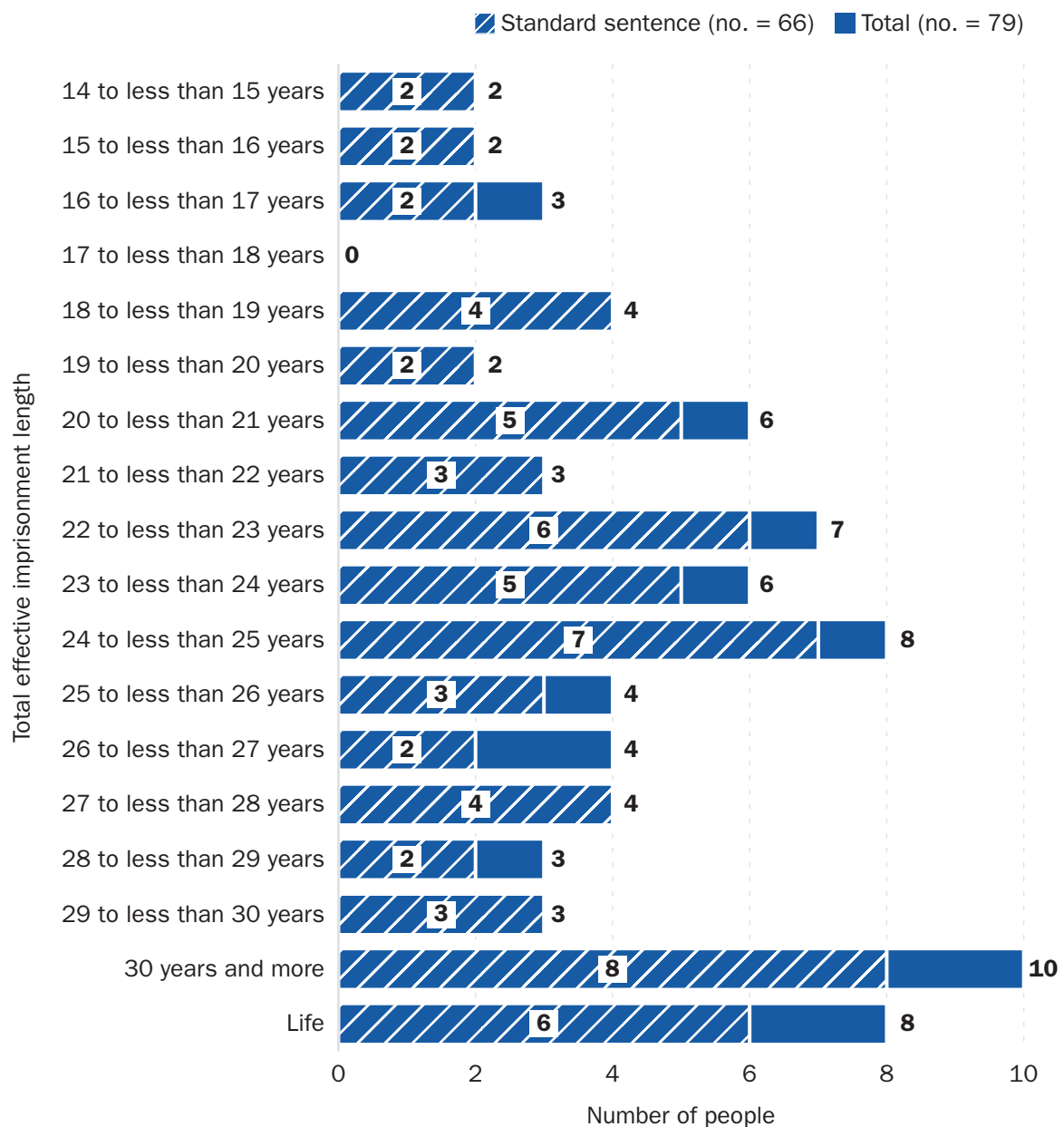


## Total effective sentences of imprisonment

Figure 5 shows the lengths of total effective sentences of imprisonment in cases where murder was the principal offence. Total effective sentences ranged from 14 years to life imprisonment, while the median total effective sentence was 24 years.

The most common range of total effective sentences was 30 years or more (10 people).

**Figure 5: The number of people sentenced to imprisonment for murder, by range of total effective sentences, 2019–20 to 2023–24**



## 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.

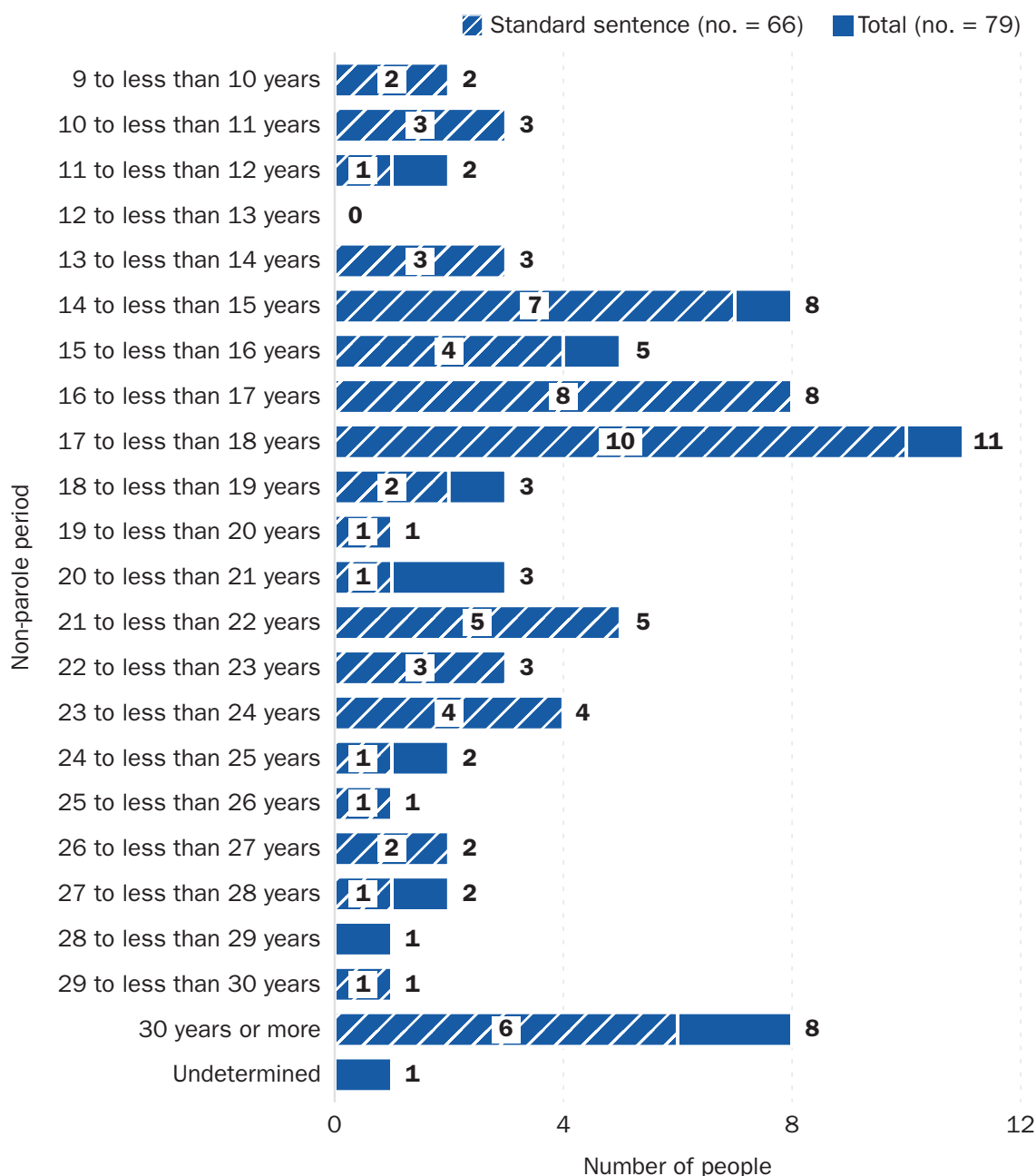
All 79 people who were sentenced to imprisonment for the principal offence of murder were eligible to have a non-parole period fixed, and all were given a

non-parole period. It was not possible to determine the non-parole period for 1 person.<sup>12</sup>

Figure 6 shows the lengths of non-parole periods for people sentenced to imprisonment for the principal offence of murder. Non-parole periods ranged from 9 years to 36 years, while the median non-parole period was 17 years and 3 months.

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

**Figure 6: The number of people sentenced to imprisonment for murder, by range of non-parole periods, 2019–20 to 2023–24**

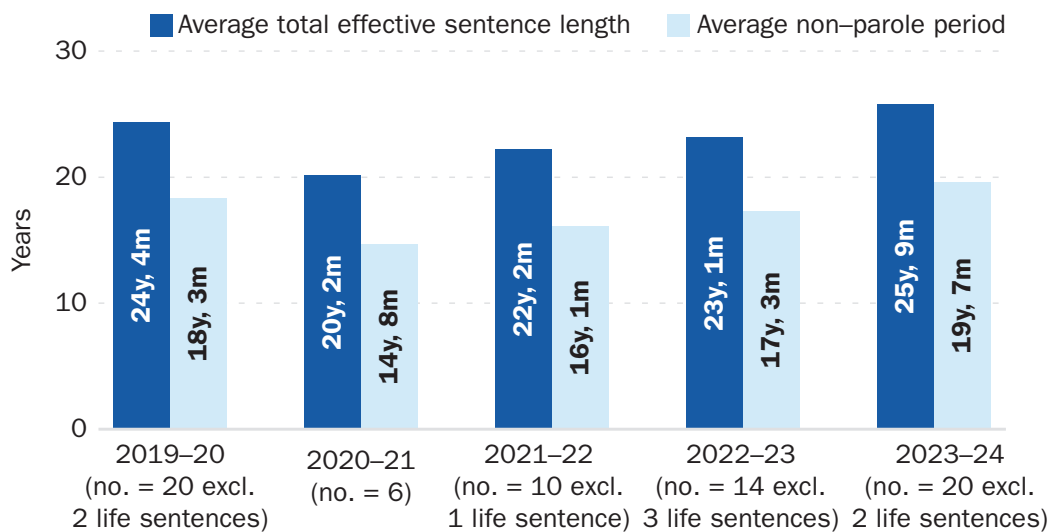


## Average total effective sentences of imprisonment and non-parole periods

Figure 7 presents the average total effective sentences and non-parole periods for the 70 people who received imprisonment (excluding life) for murder and for whom a non-parole period could be determined. Life sentences are not included in the calculation of averages due to their indeterminate length.

The average total effective sentence increased from a low of 20 years and 2 months in 2020–21 to 25 years and 9 months in 2023–24. The average non-parole period also increased, ranging from 14 years and 8 months in 2020–21 to 19 years and 7 months in 2023–24.

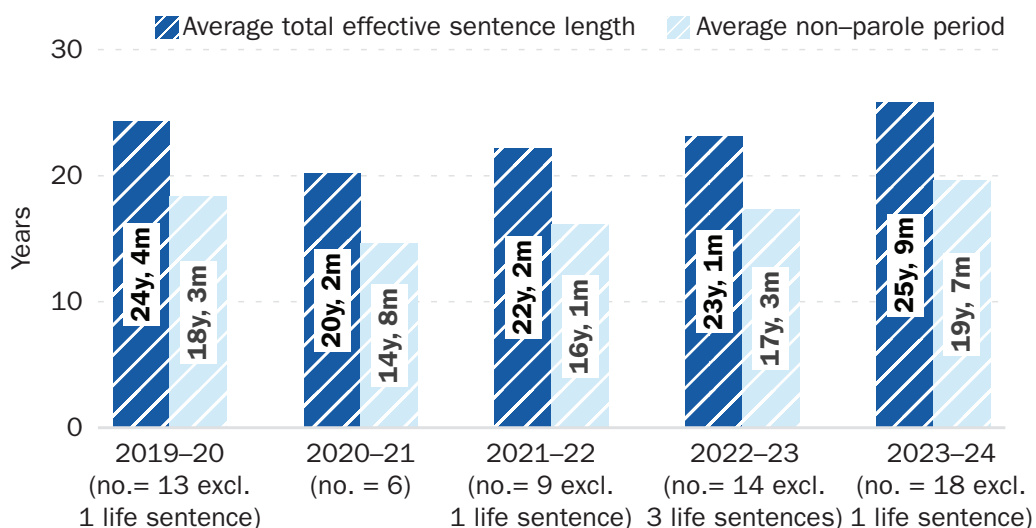
**Figure 7: The average total effective sentences (excluding life) and non-parole periods for people sentenced to imprisonment with a non-parole period for murder, by financial year**



Similarly, Figure 8 presents the average total effective sentences and non-parole periods for the 60 people who received imprisonment (excluding life) for murder as a standard sentence offence and non-parole period that could be determined. As above, life sentences are not included in the calculation of averages.

The average total effective sentence ranged from 20 years and 2 months in 2020–21 to 25 years and 9 months in 2023–24. The average non-parole period ranged from 14 years and 8 months in 2020–21 to 19 years and 7 months in 2023–24.

**Figure 8: The average total effective sentences (excluding life) and non-parole periods for people sentenced to imprisonment with a non-parole period for murder as a standard sentence offence, by financial year**

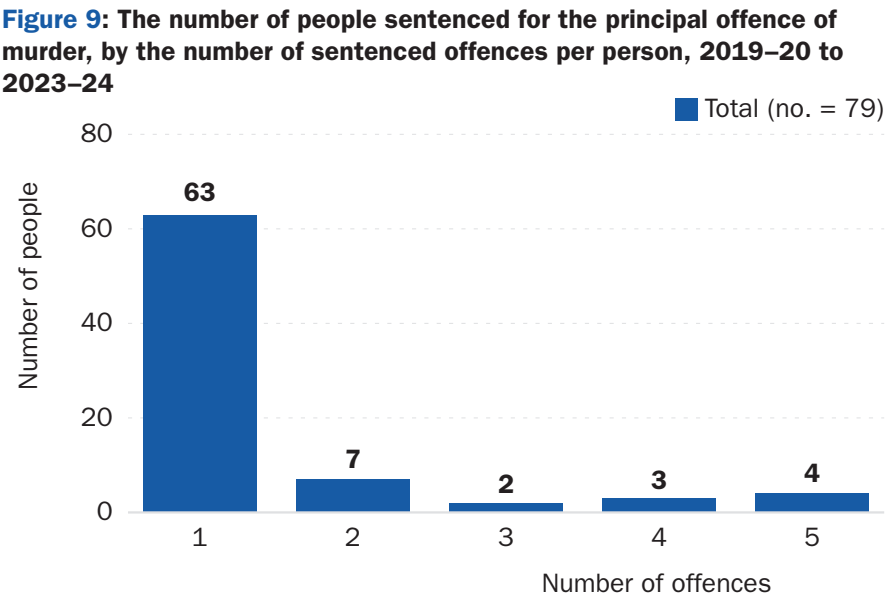


Other offences finalised at the same hearing

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 5, and the median was 1 offence. There were 63 people (79.7%) sentenced for the single offence of murder. The average number of offences per person was 1.5.

Table 1 shows the 10 most common offences co-sentenced alongside murder. The last column sets out the average number of offences sentenced



per case. For example, 5 of the total 79 people (6.3%) were also sentenced for intentionally causing serious injury. On average, those 5 people were sentenced for 1 charge of intentionally causing serious injury per case.

**Table 1: The number and percentage of people sentenced for the principal offence of murder, by the most common offences that were sentenced alongside murder, 2019–20 to 2023–24**

Offence	Number of cases	Percentage of cases	Average number of proven offences per person
Murder	79	100.0%	1.1
Intentionally causing serious injury	5	6.3%	1.0
Attempted murder	2	2.5%	2.0
Kidnapping	2	2.5%	1.5
Attempted armed robbery	2	2.5%	1.0
Common law assault	2	2.5%	1.0
Prohibited person possess, carry or use a firearm	2	2.5%	1.0
Rape	2	2.5%	1.0
Recklessly causing injury	2	2.5%	1.0
Affray	1	1.3%	1.0
Total	79	100.0%	1.5



## Summary

From 2019–20 to 2023–24, 79 people were sentenced in the higher courts for the principal offence of murder. All 79 of those people (100%) received a principal sentence of imprisonment.

Total effective sentences of imprisonment ranged from 14 years to life imprisonment, and non-parole periods ranged from 9 years to 36 years. The median total effective sentence was 24 years, while the median non-parole period was 17 years and 3 months. On average, people sentenced for the principal offence of murder were sentenced for 1.5 offences each, with a maximum of 5 offences.

There were 66 people sentenced for murder subject to the standard sentence of 25 years, and all 66 received imprisonment. The average imprisonment term (excluding life) for murder as a standard sentence offence (60 principal offences) was 23 years and 2 months, which is lower than the average of 23 years and 4 months for all principal offences of murder that received imprisonment (excluding life) during this period (71 principal offences).

Further data on this offence is available on [SACStat](#).

## Endnotes

- 1 This Sentencing Snapshot is an update of Sentencing Snapshot no. 273, which describes sentencing trends for murder between 2017–18 and 2021–22.
- 2 Data on first-instance sentencing outcomes presented in this Snapshot was obtained from the Data and Insights 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 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, that offence is the principal offence. If a person is sentenced for more than one charge in a single case, the principal offence is the offence that attracted the most serious sentence according to the sentencing hierarchy.
- 7 Custodial and non-custodial supervision orders are not sentencing orders as they are imposed in cases where the accused is found unfit to stand trial or not guilty because of mental impairment. However, custodial and non-custodial supervision orders are mentioned in this Snapshot as they are an important form of disposition of criminal charges.
- 8 Immediate custodial sentences for murder were all imprisonment.
- 9 Cases involving a 14-year imprisonment sentence for murder: *DPP v JF* [2021] VSC 328; *DPP v DJ (a pseudonym)* [2022] VSC 358.
- 10 Of the 8 cases receiving life imprisonment, 5 have publicly available sentencing remarks: *DPP v Todd* [2019] VSC 585 (upheld on appeal in *Todd v The Queen* [2020] VSCA 46); *DPP v Murdoch* [2020] VSC 244; *R v Shaptafaj* [2022] VSC 71 (upheld on appeal in *Shaptafaj v The King* [2023] VSCA 91); *DPP v Elliott & Fares* [2022] VSC 554 (upheld on appeal in *Fares v The King* [2024] VSCA 108); *R v Basham* [2023] VSC 79.
- 11 *Sentencing Act 1991* (Vic) s 5B(2)(b).
- 12 There was 1 person who 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 determine the non-parole period that related to each individual case.

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Authored by Pallavi Waghmode

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

Telephone: 1300 363 196

contact@sentencingcouncil.vic.gov.au

www.sentencingcouncil.vic.gov.au

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## Annexure

# The role of statistics in sentencing

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### Why are statistics relevant to sentencing?

Courts apply an **instinctive synthesis** approach to sentencing, meaning that they take a range of considerations into account in deciding an appropriate sentence in a case.<sup>1</sup>

One of the factors that courts must consider is **current sentencing practices**, the aim being to achieve consistency and promote the principle of equality before the law.<sup>2</sup>

The Court of Appeal has said that current sentencing practices will usually involve consideration of both ‘relevant **sentencing statistics** ... and ... sentencing decisions in comparable cases’.<sup>3</sup>

### How should statistics be treated as a sentencing factor?

Sentencing statistics can be used in a myriad of ways to inform the sentencing exercise. As just some examples, sentencing statistics can highlight the range of recent sentences for an offence,<sup>4</sup> the median imprisonment length for an offence,<sup>5</sup> changes

in sentencing practices over time,<sup>6</sup> the apparent clustering of sentencing outcomes for an offence based on particular factors in a case,<sup>7</sup> and – especially for sentence appeals – recent outlier sentences, that is, the least and most severe sentences for an offence.<sup>8</sup>

In using statistics in sentencing, there are a number of important principles:

1. Sentencing statistics primarily offer a ‘rough cross-check’.<sup>9</sup>
2. Sentencing statistics are just one consideration among many, not a ‘controlling factor’.<sup>10</sup>
3. Sentencing statistics ‘do not set the metes and bounds’ of what a permissible sentence is.<sup>11</sup>
4. Sentencing statistics are most useful when coupled with comparable cases.<sup>12</sup>

### The ‘inherent limitations’ of sentencing statistics and comparable cases

Courts have often said that sentencing statistics have ‘inherent limitations’,<sup>13</sup> because ‘the many details which would explain the reasons for a particular sentence are omitted from the data’.<sup>14</sup>

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1 *Markarian v The Queen* [2005] HCA 25.

2 *Sentencing Act 1991* (Vic) s 5(2)(b); *Wong v The Queen* [2001] HCA 64 [65], [89].

3 *DPP v CPD* [2009] VSCA 114 [78] (emphasis added).

4 See, for example, *ED v The Queen* [2011] VSCA 397 [90]; *DPP v Sismanoglou* [2016] VSCA 87 [46].

5 See, for example, *WCB v The Queen* [2010] VSCA 230 [63].

6 See, for example, *R v Lucas* [2021] VSC 81 [212]–[214].

7 See, for example, *Nguyen v The Queen* [2016] VSCA 198 [83]–[86].

8 See, for example, *Ashdown v the Queen* [2011] VSCA 408 [12]–[16].

9 *Russell v The Queen* [2011] VSCA 147 [61]; *Short v The Queen* [2016] VSCA 210 [59].

10 *DPP v Dalgliesh (a pseudonym)* [2017] HCA 41 [68]. See also *Hardwick (a pseudonym) v The Queen* [2021] VSCA 67 [44].

11 *Hardwick (a pseudonym) v The Queen* [2021] VSCA 67 [43]–[44]; *DPP v OJA* [2007] VSCA 129 [30].

12 *Davy v The Queen* [2011] VSCA 98 [42]; *Baroch & Anor v The Queen* [2022] VSCA 90 [32].

13 See, for example, *R v Bangard* [2005] VSCA 313 [39]; *R v AB (No 2)* [2008] VSCA 39 [42].

14 *DPP v Dawes* [2023] VCC 2378 [91].

‘recent statistics show that the average length of imprisonment (excluding life) imposed for murder under [the standard sentence] regime ranged from 19 years and 4 months ... to 25 years and six months’

***R v Heron* [2023] VSC 539**

Statistics cannot tell the court whether the offenders in the data pleaded guilty, had prior criminal histories, assisted authorities, used a weapon, or other important factual circumstances.

However, trying to rely exclusively on comparable cases also has limitations.<sup>15</sup> The cases reviewed may not be truly representative of broader sentencing practices, whereas sentencing statistics more exhaustively represent the entire range of sentencing practices. Comparable cases are also rarely available in the summary jurisdiction, meaning that Magistrates’ Court data is usually the only source of information about current sentencing practices in that jurisdiction.

## Where can you find sentencing statistics?

One of the Council’s statutory functions is ‘to provide statistical information on sentencing’.<sup>16</sup>

- our **Sentencing Snapshots** provide five years of higher courts data on the types and lengths of sentences for 18 common or high-profile principal offences<sup>17</sup>
- our **SACStat** database of sentencing statistics provides five years of higher courts data and three years of Magistrates’ Court data on the types and lengths of sentences imposed for hundreds of distinct offences<sup>18</sup>
- our **statistical reports** include in-depth analyses of sentencing practices.<sup>19</sup>

15 *Hudson v The Queen* [2010] VSCA 332, [29]–[31] (“‘Like’ cases can only, at best, provide a general guide or impression as to the appropriate range of sentences ... [and] can only provide limited assistance to this Court’). See also *Russell v The Queen* [2011] VSCA 147 [4].

16 *Sentencing Act 1991* (Vic) s 108C(1)(b).

17 Sentencing Snapshots are available at <https://www.sentencingcouncil.vic.gov.au/snapshots-by-date>.

18 SACStat is available at <https://www.sacstat.vic.gov.au>.

19 See, for example, our various [statistical profiles](#) and reports on [current sentencing practices](#).