



Manslaughter

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

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of manslaughter in the County and Supreme Courts of Victoria (the higher courts) from 2019–20 to 2023–24.² The data in this Snapshot incorporates adjustments made by the Court of Appeal to sentence or conviction as at June 2024. Detailed data on manslaughter and other offences is also available on [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 25 years' imprisonment.⁴ For offences committed

prior to 1 July 2020, the maximum penalty is 20 years' imprisonment.⁵

Manslaughter is a category 2 offence if it was committed on or after 20 March 2017.⁶ Courts must impose a custodial sentence for a category 2 offence except in particular circumstances.

This Snapshot focuses on cases where manslaughter was the principal offence, that is, manslaughter was the offence that received the most severe sentence in the case.⁷

Manslaughter was the principal offence in 1.1% 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

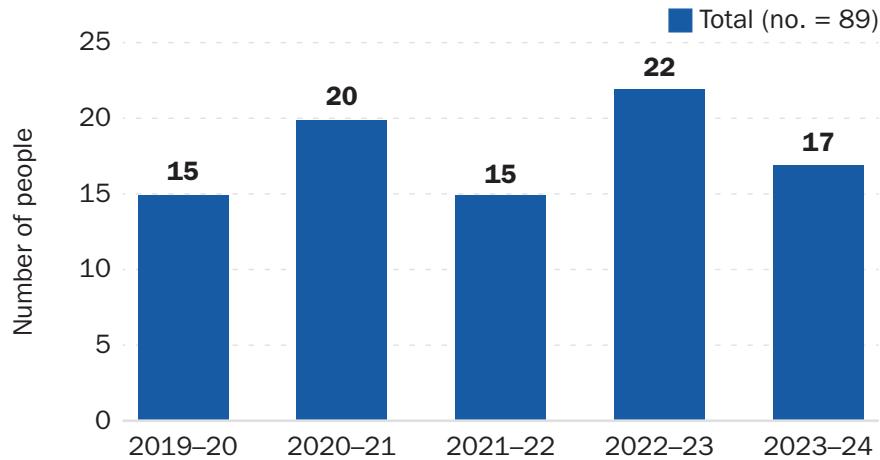
From 2019–20 to 2023–24, 89 people were sentenced in the higher courts for a principal offence of manslaughter.

Figure 1 shows the number of people sentenced for the principal offence of manslaughter by financial year. There were 17 people sentenced for this offence in 2023–24, down from 22 in the previous

year. The number of people sentenced was highest in 2022–23 (22 people) and lowest in 2019–20 and 2021–22 (15 people).

There were no people who received a custodial or non-custodial supervision order for the principal offence of manslaughter during the five-year period.⁸

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



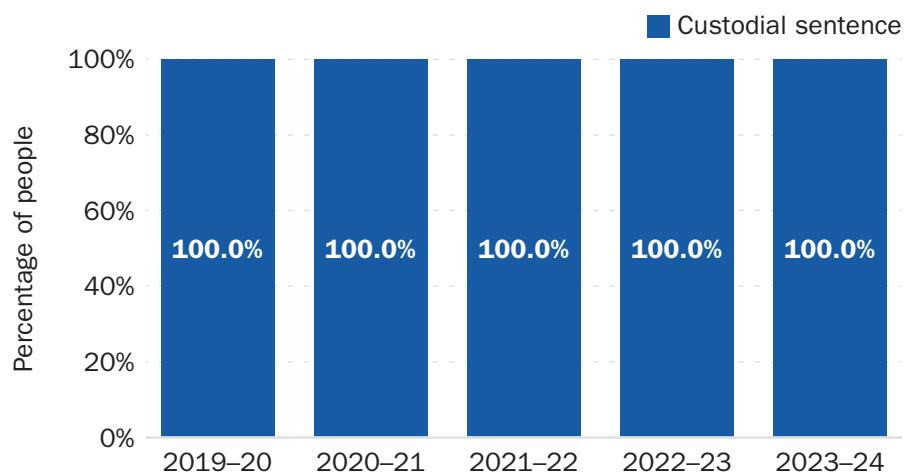
Sentence types and trends

Figure 2 shows the proportion of people who received an immediate custodial sentence for the principal offence of manslaughter. An immediate custodial sentence involves at least some element of immediate imprisonment or detention.⁹ Over the five-year period, all people sentenced for the principal offence of manslaughter were given an immediate custodial sentence.

Table 1 shows the principal sentence types imposed for manslaughter from 2019–20 to 2023–24. The *principal sentence* is the most serious sentence imposed for the principal offence in a case.¹⁰

Over the five-year period, most people sentenced for manslaughter received a principal sentence of

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



imprisonment (93.3% or 83 of 89 people). All of the remaining people received a youth justice centre order (6.7% or 6 people).

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

Sentence type	2019–20	2020–21	2021–22	2022–23	2023–24	Total
Imprisonment	13 (86.7%)	20 (100.0%)	14 (93.3%)	20 (90.9%)	16 (94.1%)	83 (93.3%)
Youth justice centre order	2 (13.3%)	0 (0.0%)	1 (6.7%)	2 (9.1%)	1 (5.9%)	6 (6.7%)
Total	15	20	15	22	17	89

Principal and total effective sentences of imprisonment

The following sections analyse the use of imprisonment for the principal offence of manslaughter 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 83 people who received a principal sentence of imprisonment for manslaughter 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 3 years and 6 months¹¹ to 15 years and 6 months,¹² while the median imprisonment length was 8 years and 3 months.

The most common range of imprisonment lengths was 7 to less than 8 years (20 principal sentences).

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

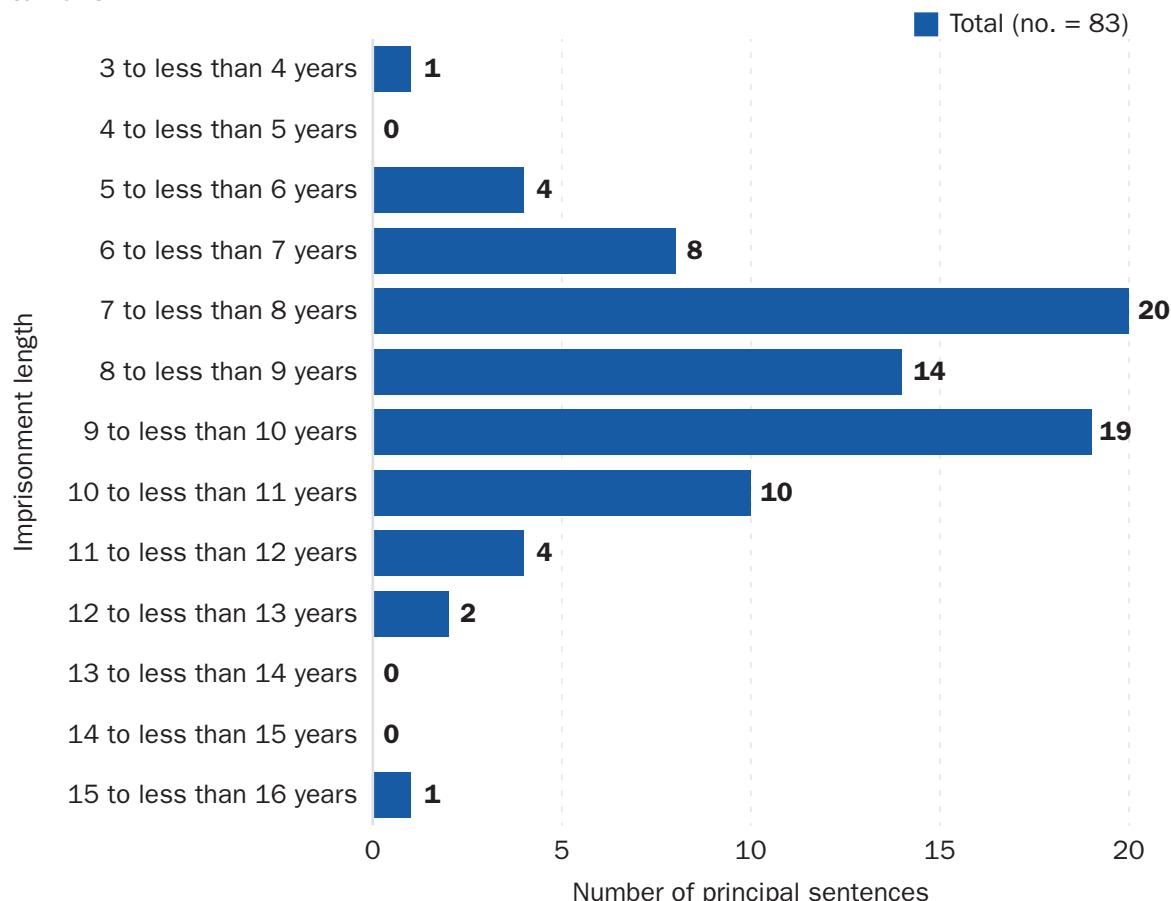
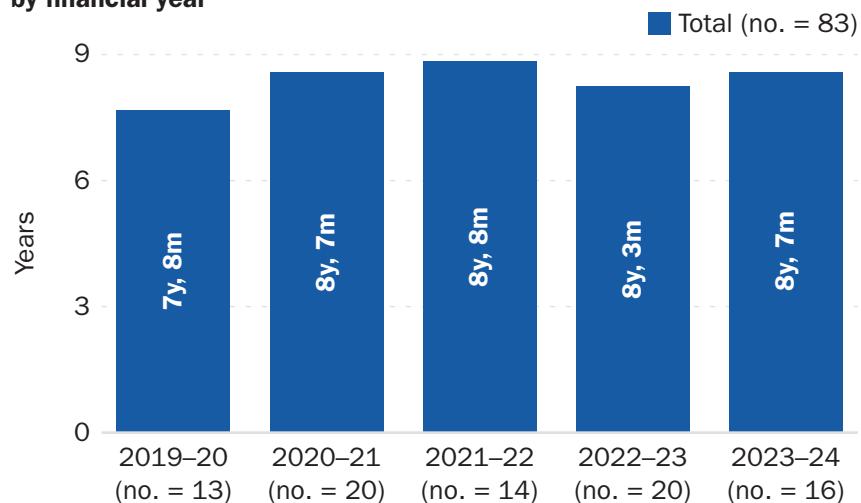


Figure 4 shows that the average imprisonment length imposed on people sentenced for manslaughter ranged from 7 years and 8 months in 2019–20 to 8 years and 8 months in 2021–22. Over the five-year period, the average imprisonment length for manslaughter was 8 years and 4 months.

Figure 4: The average imprisonment length imposed for manslaughter, by financial year



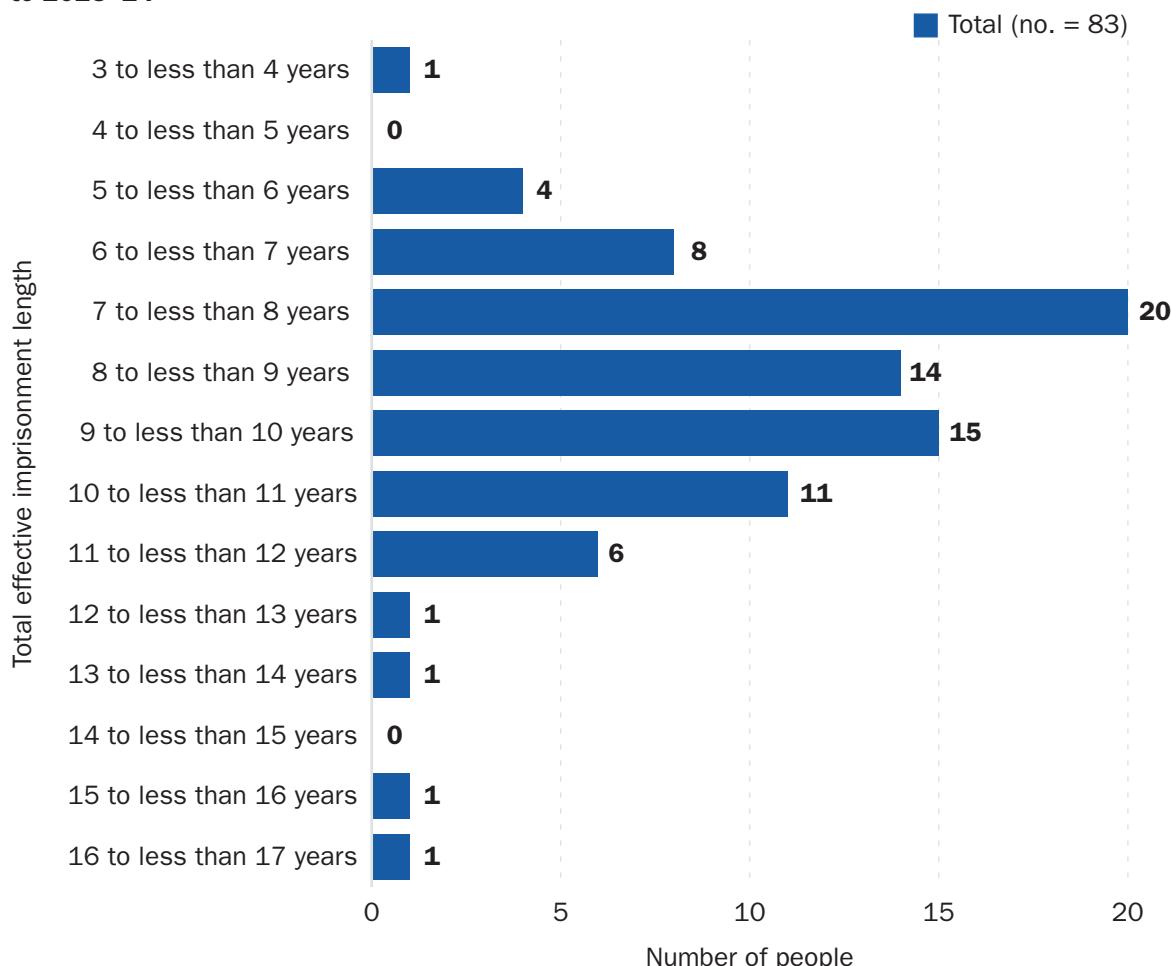
Total effective sentences of imprisonment

Figure 5 shows the lengths of total effective sentences of imprisonment in cases where manslaughter was the principal offence. Total effective sentences ranged from 3 years and

6 months to 16 years,¹³ while the median total effective sentence was 8 years and 6 months.

The most common range of total effective sentences was 7 to less than 8 years (20 people).

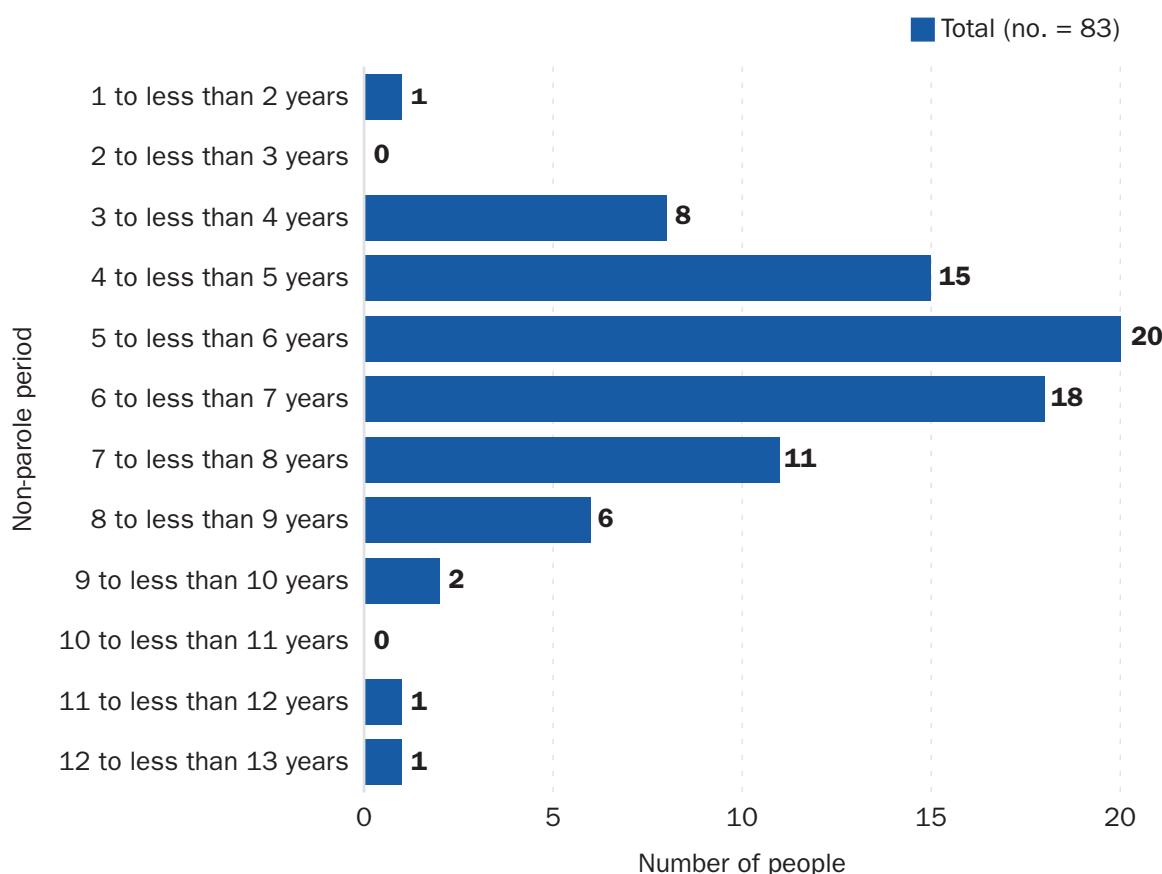
Figure 5: The number of people sentenced to imprisonment for manslaughter, by range of total effective sentences, 2019–20 to 2023–24



Non-parole periods

If a person is sentenced to an imprisonment term of less than 1 year, the court cannot impose a non-parole period. For imprisonment terms between 1 year and less than 2 years, the court has the discretion to fix a non-parole period. 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 manslaughter, by range of non-parole periods, 2019–20 to 2023–24



All 83 people sentenced to imprisonment for manslaughter were eligible to have a non-parole period imposed, and all were given a non-parole period.

Figure 6 shows the lengths of these non-parole periods. Non-parole periods ranged from 1 year and 3 months to 12 years, while the median non-parole period was 5 years and 6 months.

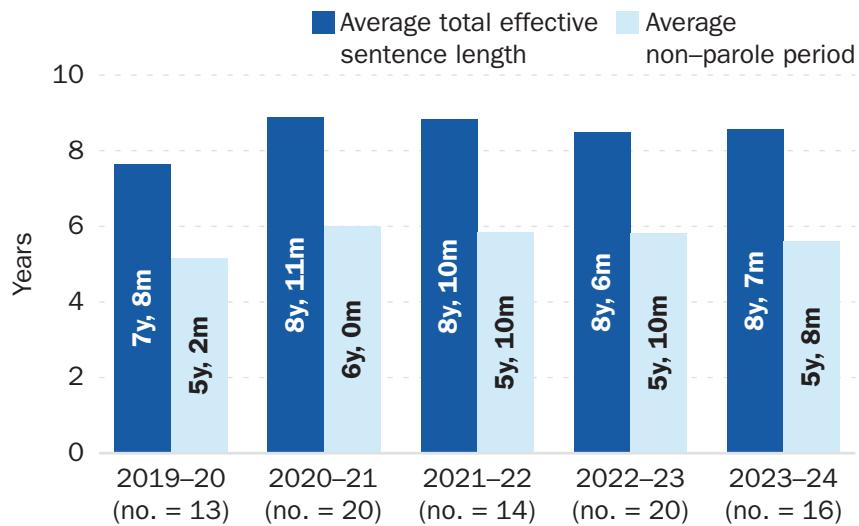
The most common range of non-parole periods was 5 to less than 6 years (20 people).

Average total effective sentences of imprisonment and non-parole periods

Figure 7 represents the average total effective sentences and average non-parole periods each year for the 83 people who were sentenced to imprisonment for the principal offence of manslaughter and who received a non-parole period.

The average total effective sentence ranged from 7 years and 8 months in 2019–20 to 8 years and 11 months in 2020–21. The average non-parole period ranged from 5 years and 2 months in 2019–20 to 6 years in 2020–21.

Figure 7: The average total effective sentences and non-parole periods for people sentenced to imprisonment with a non-parole period for manslaughter, by financial year



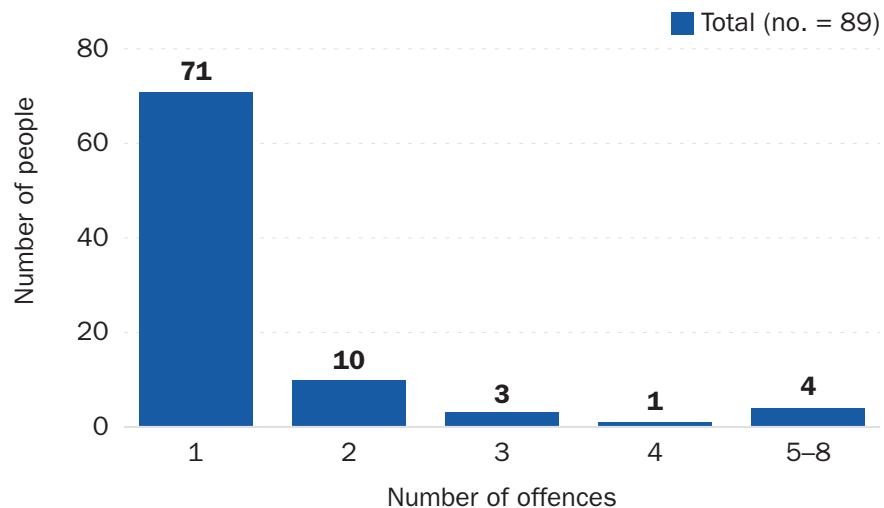
Other offences finalised at the same hearing

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 8 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 8, and the median was 1 offence. There were 71 people (79.8%) sentenced for the single offence of manslaughter. The average number of offences per person was 1.4.

Table 2 shows the 10 most common offences co-sentenced alongside manslaughter. The last column sets out the average number of offences

Figure 8: The number of people sentenced for the principal offence of manslaughter, by the number of sentenced offences per person, 2019–20 to 2023–24



sentenced per case. For example, 5 of the total 89 people (5.6%) 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 2: The number and percentage of people sentenced for the principal offence of manslaughter, by the most common offences that were sentenced alongside manslaughter, 2019–20 to 2023–24

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
Manslaughter	89	100.0%	1.0
Intentionally causing serious injury	5	5.6%	1.0
Common law assault	3	3.4%	2.7
Theft	3	3.4%	2.3
Attempted robbery	2	2.2%	1.0
Intentionally causing injury	2	2.2%	1.0
Recklessly causing injury	2	2.2%	1.0
Possess a drug of dependence	2	2.2%	1.0
Non-prohibited person possess, carry or use an unregistered category A or B longarm	1	1.1%	2.0
Armed robbery	1	1.1%	1.0
Total	89	100.0%	1.4

Summary

From 2019–20 to 2023–24, 89 people were sentenced in the higher courts for the principal offence of manslaughter. Of those 89 people, 83 (93.3%) received a principal sentence of imprisonment and 6 (6.7%) received a youth justice centre order.

Total effective sentences of imprisonment ranged from 3 years and 6 months to 16 years, and non-parole periods ranged from 1 year and 3 months to

12 years. The median total effective sentence was 8 years and 7 months, while the median non-parole period was 5 years and 6 months.

On average, people sentenced for the principal offence of manslaughter were sentenced for 1.4 offences each, with a maximum of 8 offences.

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

Endnotes

- 1 This Sentencing Snapshot is an update of Sentencing Snapshot no. 274, which describes sentencing trends for manslaughter 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 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.
- 5 The maximum penalty was increased by section 3 of the *Crimes Amendment (Manslaughter and Related Offences) Act 2020 (Vic)*.
- 6 *Sentencing Act 1991 (Vic)* ss 3(1)(a) (definition of category 2 offence), 5(2H)–(2I).
- 7 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.
- 8 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.
- 9 Immediate custodial sentences for manslaughter included imprisonment and youth justice centre orders.
- 10 For example, if the principal offence receives a combined order of imprisonment and a community correction order pursuant to section 44 of the *Sentencing Act 1991 (Vic)*, imprisonment is recorded as the principal sentence.
- 11 The shortest prison sentence imposed for the principal offence of manslaughter was 3 years and 6 months: *R v Guillerme* [2023] VSC 36.
- 12 The longest prison sentence imposed for the principal offence of manslaughter was 15 years and 6 months: *DPP v Rickerby (No 2)* [2024] VSC 334.
- 13 The longest total effective sentence of imprisonment was 16 years: *DPP v Folau* [2022] VSC 514 (the case also involved cumulation of prison sentences for charges of home invasion and intentionally causing serious injury).

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Published by the Sentencing Advisory Council, Melbourne Victoria Australia

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ISSN 1836-6384 (Online)

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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 is accurate at the time of publishing.

Annexure

The role of statistics in sentencing

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.¹

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.²

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’.³

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,⁴ the median imprisonment length for an offence,⁵ changes

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

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

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

The ‘inherent limitations’ of sentencing statistics and comparable cases

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

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].

'the Snapshot reveals that for the 85 individuals who received terms of imprisonment for manslaughter during that period, sentences ranged from 1 year and 5 months to 13 years ... 30 of the 85 being imprisoned for 10 years or more'

DPP v Armstrong [2023] VSC 374

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.¹⁵ 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':¹⁶

- our **Sentencing Snapshots** provide five years of higher courts data on the types and lengths of sentences for 18 common or high-profile principal offences¹⁷
- 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 offences¹⁸
- our **statistical reports** include in-depth analyses of sentencing practices.¹⁹

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**.