

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of manslaughter in the Supreme Court of Victoria from 2011–12 to 2015–16.² Adjustments made by the Court of Appeal to sentence or conviction as at December 2016 have been incorporated into the data in this Snapshot.

Detailed data on [manslaughter](#) and other offences is available on SACStat – Higher Courts.

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' imprisonment⁴ and/or a fine of 2,400 penalty units.⁵ Manslaughter is a Category 2 offence, which means that a court cannot impose a non-custodial sentence, except in particular circumstances.⁶

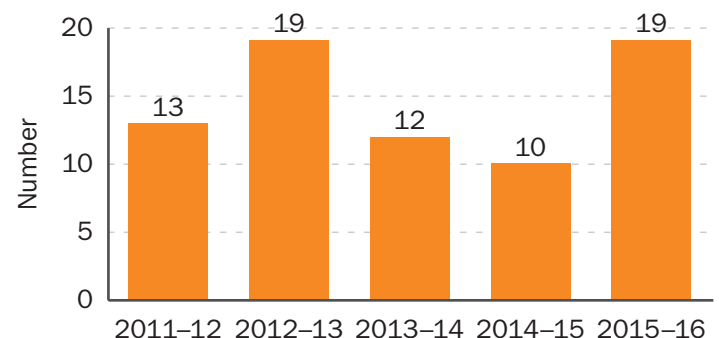
Manslaughter was the principal offence⁷ in 0.8% of cases sentenced in the higher courts from 2011–12 to 2015–16.

People sentenced

From 2011–12 to 2015–16, 73 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 19 people sentenced for this offence in 2015–16, up by 9 people from the previous year. The number of people sentenced was highest in 2012–13 and 2015–16 (19 people each year).

Figure 1: The number of people sentenced for manslaughter by financial year, 2011–12 to 2015–16



Sentence types and trends

Figure 2 shows the total number of people sentenced for manslaughter and the number that received an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate imprisonment or detention.⁸ Over the five-year period, 97% of people were given an immediate custodial sentence.

Figure 2: The number of people sentenced for manslaughter and the number that received an immediate custodial sentence, 2011–12 to 2015–16

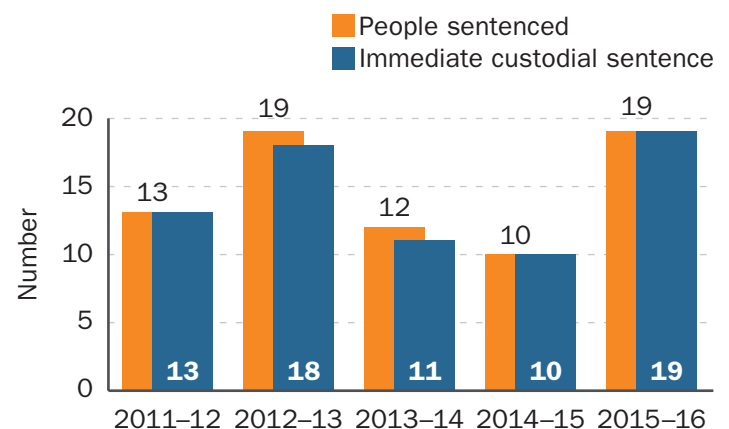


Table 1 shows the number of people sentenced for manslaughter from 2011–12 to 2015–16 by the types of sentences imposed. The availability of different sentence types has changed over time. Most notably, wholly and partially suspended sentences have now been abolished.⁹

Over the five-year period, the majority of the people sentenced for manslaughter received a sentence of imprisonment (96% or 70 of 73 people). Of these, 69 people received a sentence of imprisonment alone, and 1 person received imprisonment combined with a community correction order.

The number of people who received a sentence of imprisonment for manslaughter was lowest in 2014–15 (10 people) and highest in 2015–16 (19 people). The percentage of people who received a sentence of imprisonment was lowest in 2011–12 and 2013–14 (92% each) and highest in 2014–15 and 2015–16, when 100% of people received a sentence of imprisonment.

Table 1: The number and percentage of people sentenced for manslaughter by sentence type, 2011–12 to 2015–16

Sentence type	2011–12	2012–13	2013–14	2014–15	2015–16	Total
Imprisonment	12 (92%)	18 (95%)	11 (92%)	10 (100%)	18 (95%)	69 (95%)
Imprisonment and community correction order (combined)	0 (–)	0 (–)	0 (–)	0 (–)	1 (5%)	1 (1%)
Youth justice centre order	1 (8%)	0 (–)	0 (–)	0 (–)	0 (–)	1 (1%)
Wholly suspended sentence	0 (–)	0 (–)	1 (8%)	0 (–)	0 (–)	1 (1%)
Adjourned undertaking with conviction	0 (–)	1 (5%)	0 (–)	0 (–)	0 (–)	1 (1%)
People sentenced	13	19	12	10	19	73

Age and gender of people sentenced

Data on the age and gender of people sentenced for [manslaughter](#) is available on SACStat – Higher Courts.

Principal and total effective sentences

Two methods for describing sentence types and lengths are examined in this section. One relates to the principal sentence and examines sentences for the offence at a *charge* level. The other relates to the total effective sentence and examines sentences for the offence at a *case* level.

The principal sentence is the sentence imposed for the charge that is the principal offence.¹⁰

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

In many cases, the total effective sentence imposed on a person is 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 2011–12 to 2015–16.

Principal sentence of imprisonment

A total of 70 people received a principal sentence of imprisonment for manslaughter from 2011–12 to 2015–16.¹¹

Figure 3 shows these people by the length of their imprisonment term. Imprisonment terms ranged from 1 year, 5 months and 19 days (with a two-year community correction order) to 12 years, while the median length of imprisonment was 8 years (meaning that half of the imprisonment terms were shorter than 8 years and half were longer).

The most common length of imprisonment imposed was 8 to less than 9 years (17 people).

As shown in Figure 4, the average (mean) length of imprisonment imposed on people sentenced for manslaughter ranged from 6 years and 11 months in 2013–14 to 8 years and 11 months in 2014–15.

Other offences finalised at the same hearing

Often people prosecuted for manslaughter face multiple charges, which are finalised at the same hearing. This section looks at the range of offences for which offenders have been sentenced at the same time as being sentenced for the principal offence of manslaughter.

Figure 5 shows the number of people sentenced for the principal offence of manslaughter by the total number of offences for which sentences were imposed. The number of sentenced offences per person ranged from 1 to 6, while the median was 1 offence. There were 62 people (84.9%) sentenced for the single offence of manslaughter. The average number of offences per person sentenced for manslaughter was 1.23.

Figure 3: The number of people sentenced to imprisonment for manslaughter by length of imprisonment term, 2011–12 to 2015–16

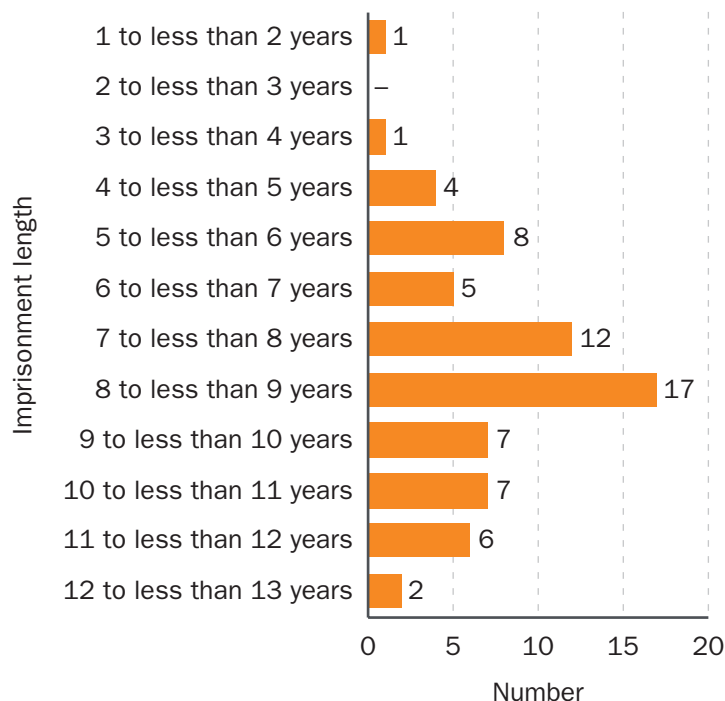


Figure 4: The average length of imprisonment imposed on people sentenced for manslaughter, 2011–12 to 2015–16

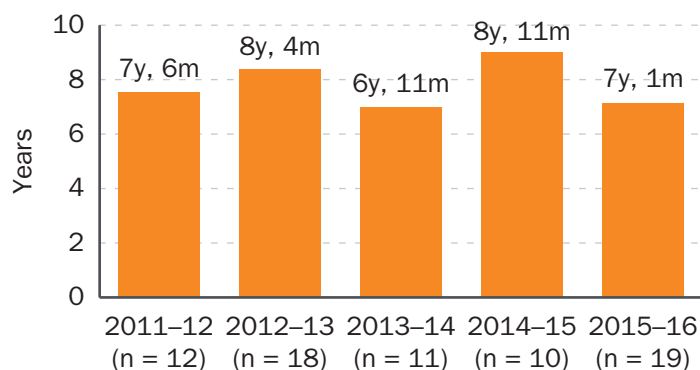


Figure 5: The number of people sentenced for the principal offence of manslaughter by the number of sentenced offences per person, 2011–12 to 2015–16

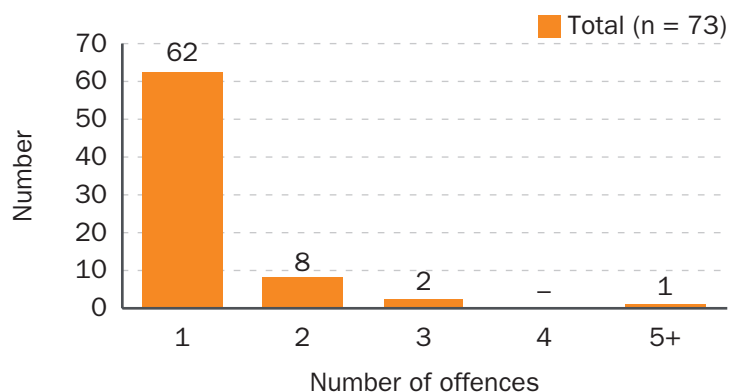


Table 2 shows the 10 most common offences for people sentenced for manslaughter, by number and percentage. The last column sets out the average number of offences sentenced per person. For example, 3 of the total 73 people (4.1%) also received sentences for causing injury recklessly. On average, they were sentenced for 1 count of causing injury recklessly.

Table 2: 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, 2011–12 to 2015–16

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Manslaughter	73	100.0	1.00
2. Causing injury recklessly	3	4.1	1.00
3. Causing serious injury recklessly	2	2.7	1.00
4. Possess a drug of dependence	1	1.4	2.00
5. Possess, use or carry a prohibited weapon (other than an imitation firearm)	1	1.4	1.00
6. Fail to render assistance after an accident	1	1.4	1.00
7. Drive while disqualified or suspended	1	1.4	1.00
8. Theft	1	1.4	1.00
9. Arson	1	1.4	1.00
10. Intentionally destroy/damage property (criminal damage)	1	1.4	1.00
People sentenced	73	100.0	1.23

Total effective imprisonment terms

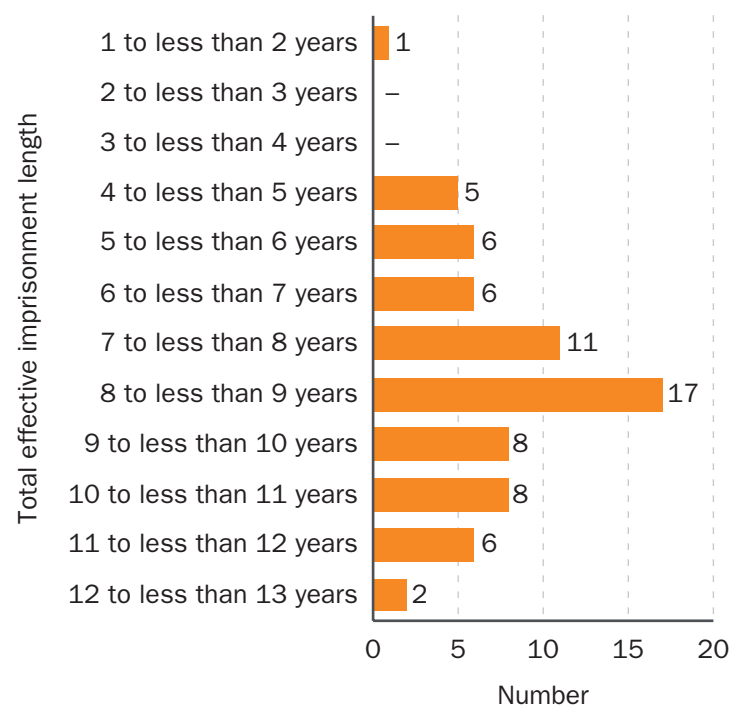
Figure 6 shows the number of people sentenced to imprisonment for manslaughter from 2011–12 to 2015–16 by length of total effective imprisonment term. Total effective imprisonment terms ranged from 1 year, 5 months and 19 days (with a two-year community correction order) to 12 years, while the median total effective imprisonment term was 8 years (meaning that half of the total effective imprisonment terms were below 8 years and half were above).

The most common total effective imprisonment length was 8 to less than 9 years (17 people).

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. Where a non-parole period is fixed, the person must serve that period

Figure 6: The number of people sentenced to imprisonment for manslaughter by length of total effective imprisonment term, 2011–12 to 2015–16



before becoming eligible for parole. Where no non-parole period is set by the court, the person must serve the entirety of the imprisonment term in custody.

Of the 70 people who were sentenced to imprisonment for manslaughter, all were eligible to have a non-parole period fixed. Of these people, 69 were given a non-parole period (99%). The one person who was not given a non-parole period received a sentence of imprisonment combined with a community correction order. Figure 7 shows the number of people sentenced to imprisonment for manslaughter from 2011–12 to 2015–16 by length of non-parole period. Non-parole periods ranged from 9 months to 9 years, while the median length of the non-parole period was 5 years and 6 months (meaning that half of the non-parole periods were below 5 years and 6 months and half were above).

The most common non-parole period imposed was 5 to less than 6 years (15 people).

Total effective sentences of imprisonment and non-parole periods

Figure 8 presents the average length of total effective sentences of imprisonment compared with the average length of non-parole periods from 2011–12 to 2015–16.

From 2011–12 to 2015–16, the average length of total effective sentences for all people ranged from 7 years and 3 months in 2015–16 to 8 years and 11 months in 2014–15. Over the same period, the average length of non-parole periods ranged from 4 years and 10 months in 2013–14 to 5 years and 10 months in 2014–15.

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

Non-imprisonment sentences

Data on the length of non-imprisonment sentence types, such as community correction orders, suspended sentences and fines, for [manslaughter](#) is available on [SACStat – Higher Courts](#).

Summary

From 2011–12 to 2015–16, 73 people were sentenced for manslaughter in the higher courts. Of these people, 70 (96%) were given a principal sentence of imprisonment.

Total effective imprisonment lengths ranged from 1 year, 5 months and 19 days (with a two-year community correction order) to 12 years, and non-parole periods (where imposed) ranged from 9 months to 9 years.

Figure 7: The number of people sentenced to imprisonment for manslaughter by length of non-parole period, 2011–12 to 2015–16

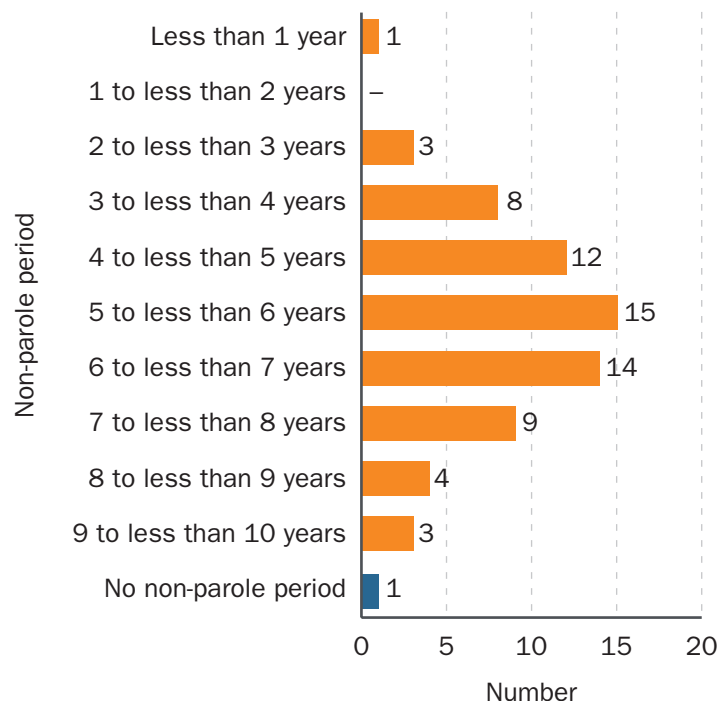
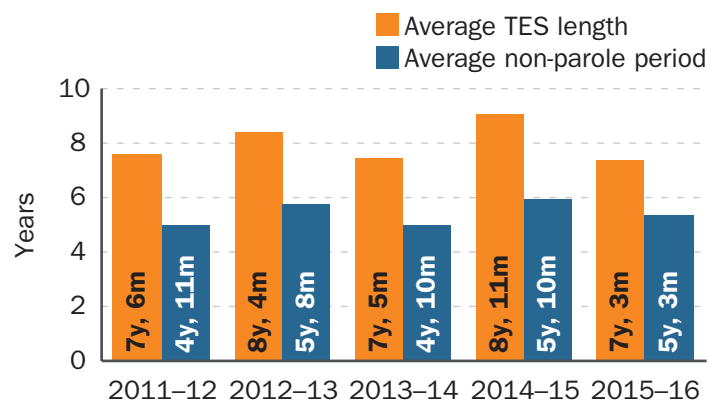


Figure 8: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for manslaughter, 2011–12 to 2015–16



Endnotes

1. 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 where the defendant 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.

This Sentencing Snapshot is an update of Sentencing Snapshot no. 172, which describes sentencing trends for manslaughter from 2009–10 to 2013–14.
2. Data on first instance sentence 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, and also was 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.
5. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette and on the [Victorian Legislation and Parliamentary Documents website](#).
6. *Sentencing Act 1991* (Vic) s 5(2H) requires a custodial sentence (that is, not a sentence of imprisonment combined with a community correction order) to be imposed unless special circumstances exist. This requirement applies to this offence when committed after 20 March 2017.
7. 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.
8. Immediate custodial sentences include imprisonment, youth justice centre orders and imprisonment combined with a community correction order.
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. Refer to Endnote 7.
11. This total includes the people in Table 1 who received a sentence of imprisonment and imprisonment combined with a community correction order.

SACStat – Higher Courts Manslaughter

https://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_LAW_8.html

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