



Sentencing snapshot: Homicide and related offences

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Aim: To describe the penalties imposed on convicted homicide offenders

Summary: The average age of an adult offender convicted of homicide in NSW during the years 2009 to 2010 was 35 years. Of these, 84.1 per cent were male, and 59.5 per cent had no prior convictions in the previous five years. The most common penalty imposed on homicide offenders was a full-time prison sentence. Among those that received prison sentences, the average minimum term was just over 8.5 years and the average aggregate sentence was 11.8 years. Of those who committed a murder, 100 percent received a prison sentence, with an average minimum term of 20 years and an average aggregate sentence of 25 years.

Keywords: homicide, prison, penalty, sentence length

Introduction

This Bureau Brief describes sentencing outcomes for adult offenders convicted of the offence of homicide and related offences between 2009 and 2010 in the NSW Criminal Courts¹. Homicide is defined as unlawfully killing, attempting to unlawfully kill, or conspiring to kill another person. This is further disaggregated to distinguish between murder, where there is intent to cause the homicide, and manslaughter in which the death is not caused intentionally, but rather through careless, reckless or negligent acts, under provocation, or under circumstances of diminished responsibility (Australian Bureau of Statistics, 2011).

According to the Crimes Act 1900, a person found guilty of murder is liable to imprisonment for life, however the court may elect to impose a sentence for a specific amount of time (Crimes (Sentencing Procedure) Act 1999, Section 21). The maximum penalty for attempted murder, manslaughter, or being an accessory after the fact of murder is 25 years imprisonment. The maximum penalty for dangerous driving causing death is 10 years imprisonment—however if there are aggravating circumstances such as the driver being intoxicated or exceeding the speed limit by more than 45 kilometres per hour, the maximum penalty increases to 14 years. The maximum penalty for negligent driving occasioning death is 18 months for a first offence, and two years for a subsequent offence.

For the purpose of this brief we distinguish between four types of homicide². The first type is murder. The most frequent offence in this category (92.4%) is indeed murder, however included in this category are five cases of being an accessory after the fact to murder. Since this is such a small number, and the penalties imposed are very different to those for murder, these five offences are not analysed further in this brief.

The second category is attempted murder. The most common offence in this category is cause wounding/grievous bodily harm to person with intent to murder (42.9%), followed by solicit, encourage, persuade etc. to murder (33.3%). However it should be noted that in the two year period analysed there are only 21 cases of attempted murder, so caution should be used when analysing these results.

The third category is manslaughter. As with the offence of murder, almost all offences in this category are indeed manslaughter (98.7%).

The last homicide category is driving causing death. The most common offence in this category is negligent driving occasioning death (47.1%), followed by dangerous driving occasioning death – drive in manner dangerous (34.3%), and then aggravated dangerous driving occasioning death – Prescribed Concentration of Alcohol (7.1%).

Age, gender and prior record of offenders

Over the two-year period covered by this study 253 males and 48 females were convicted of a homicide or related offence. This means that during this time period more than four out of five (84.1%) homicide-related offences resulting in a conviction were committed by males.

Approximately 20 per cent of these offences were murders, seven per cent were attempted murders, 26 per cent were manslaughters and 47 per cent were drive causing death. Table 1 shows the distribution of adult offenders convicted of homicide by age and gender.

It can be seen that, although there is a wide age range among homicide offenders, the age category that contained the largest proportion of offenders (29.2%) was the 18 to 24 year category. The average age of offenders convicted of homicide was 35 years. Those offenders who were convicted of attempted murder or driving causing death tended to be a little older (average age 39 years and 36 years respectively) than those convicted of murder (average age 33 years) or manslaughter (average age 35 years). Female homicide offenders tended to be older than male homicide offenders (mean age 39.8 years vs. 34.5 years, $t(299) = 2.385$, $p = .018$).

Table 2 shows the number of prior convictions homicide offenders had during the five years preceding their current offence, broken down by homicide category. Nearly two thirds

(59.5%) of offenders convicted of homicide or a related offence had no prior convictions in the preceding five years. Those convicted of driving causing death tended to have fewer prior convictions than those convicted of the other categories of homicide. Over 75 per cent of drive causing death offenders had no prior convictions in the preceding five years, whilst less than eight per cent had three or more priors. The remaining categories of homicide had lower proportions of offenders with no prior convictions and higher proportions with three or more prior convictions.

Table 3 shows the nature of the prior convictions for convicted homicide offenders. Over a third (39.5%) of convicted homicide offenders had a prior conviction for an offence other than homicide. Only one per cent had been imprisoned before for homicide-related offences. Also of interest was the finding that no homicide offenders with prior convictions for homicide had avoided being imprisoned for their previous offence.

Sentence types

Table 4 shows the distribution of penalty types by the type of homicide. A full-time prison sentence was the most common penalty imposed on offenders convicted of homicide (69.4%). All offenders convicted of murder and attempted murder, received a prison sentence. Similarly, nearly all (96.2%) of offenders convicted of manslaughter received a prison sentence. In contrast, only about a third (36.4%) of offenders

Table 1. Age and gender of offenders convicted of homicide

	Murder		Attempted murder		Manslaughter		Drive causing death		Total	
	n	%	n	%	n	%	n	%	n	%
Total	61	20.3	21	7.0	79	26.2	140	46.5	301	100.0
Sex										
Male	55	90.2	15	71.4	63	79.7	120	85.7	253	84.1
Female	6	9.8	6	28.6	16	20.3	20	14.3	48	15.9
Age group										
18-24 years	16	26.2	4	19.0	22	27.8	46	32.9	88	29.2
25-34 years	20	32.8	6	28.6	21	26.6	31	22.1	78	25.9
35-44 years	14	23.0	3	14.3	18	22.8	26	18.6	61	20.3
45-54 years	10	16.4	5	23.8	12	15.2	19	13.6	46	15.3
55 years+	1	1.6	3	14.3	6	7.6	18	12.9	28	9.3

Table 2. Number of prior convictions in the preceding five years by homicide category (NSW: 2009-2010)

Prior convictions	Murder (n = 61)		Attempted murder (n = 21)		Manslaughter (n = 79)		Drive causing death (n = 140)		Total (n = 301)	
	n	%	n	%	n	%	n	%	n	%
0	24	39.3	7	33.3	42	53.2	106	75.7	179	59.5
1	16	26.2	5	23.8	18	22.8	18	12.9	57	18.9
2	11	18.0	3	14.3	8	10.1	5	3.6	27	9.0
3+	10	16.4	6	28.6	11	13.9	11	7.9	38	12.6

Table 3. The nature of homicide offenders' prior convictions in the preceding five years

Type of prior conviction	Murder (n = 61)		Attempted murder (n = 21)		Manslaughter (n = 79)		Drive causing death (n = 140)		Total (n = 301)	
	n	%	n	%	n	%	n	%	n	%
None	24	39.3	7	33.3	42	53.2	106	75.7	179	59.5
Non-homicide prior	35	57.4	14	66.7	37	46.8	33	23.6	119	39.5
Imprisoned before for homicide	2	3.3	0	0.0	0	0.0	1	0.7	3	1.0

Table 4. Principal penalty imposed on offenders convicted of homicide

Penalty	Murder (n = 61)		Attempted murder (n = 21)		Manslaughter (n = 79)		Drive causing death (n = 140)		Total (n = 301)	
	n	%	n	%	n	%	n	%	n	%
Imprisonment	61	100.0	21	100.0	76	96.2	51	36.4	209	69.4
Periodic detention	0	0.0	0	0.0	1	1.3	12	8.6	13	4.3
Suspended sentence	0	0.0	0	0.0	1	1.3	22	15.7	23	7.6
Bond	0	0.0	0	0.0	1	1.3	31	22.1	32	10.6
Other*	0	0.0	0	0.0	0	0.0	24	17.1	24	8.0

* Includes community service orders, bonds without conviction, no conviction recorded, fines and nominal sentences.

Table 5. Mean, median, quartiles, 95th percentile, minimum and maximum prison sentences by homicide offender type

		n	mean	median	min	max
Aggregate sentence (months)	Murder	61	302	264	24	1,000
	Attempted murder	21	117	114	36	246
	Manslaughter	76	85	78	36	192
	Drive causing death	51	44	42	9	120
	Total	209	142	84	9	1,000
Minimum terms (months)	Murder	61	240	192	13	1,000
	Attempted murder	21	79	72	24	183
	Manslaughter	76	54	48	16	144
	Drive causing death	51	25	24	6	78
	Total	209	104	54	6	1,000

Note: Excluded from this table are 4 people who were given a life sentence in 2009 for murder. This is because we are unable to calculate how long these people will live, and therefore don't know how long their sentences are. No-one was given a life sentence for homicide offences in 2010.

convicted of driving causing death received a full-time prison sentence, with the next most common penalty being a bond (22.1%).

Sentence length

Table 5 shows the average (mean), median, minimum and maximum prison sentences imposed on homicide offenders, broken down by the type of homicide. Among those who received prison sentences, the average minimum term was just over 8.5 years and the average aggregate sentence was 11.8 years. Note that four people who received a life sentence are excluded from Table 5 because the length of time they will

spend imprisoned is unknown. In most cases when a person is sentenced they receive a minimum non-parole term they must serve in prison, together with an aggregate sentence which states the maximum time they may serve in prison. The top panel of Table 5 shows the aggregate prison terms, whilst the lower panel shows the minimum non-parole term the offender must serve in custody.

As one would expect, homicide offenders who were convicted of murder received much longer aggregate sentences and minimum terms on average than those convicted of less severe homicide offences. The average aggregate term for an offender in the former category was just over 25 years (302 months),

with a minimum term of 20 years (240 months). By contrast, the average aggregate sentence for drive causing death was just over 3.5 years (44 months), with a minimum term of a little over two years (25 months).

Note that although the minimum terms recorded can be quite brief (6 months), this may not reflect the actual minimum time spent in custody, as offenders are often incarcerated whilst awaiting trial and this time may be taken into account when the sentence is set.

Conclusion

The average age of an adult offender convicted of homicide in NSW during the years 2009 to 2010 was 35 years. Of these, 84.1 per cent were male, and 59.5 per cent had no prior convictions in the last five years. The most common penalty imposed on homicide offenders was a prison sentence. Among those that received prison sentences, the average minimum term was just over 8.5 years and the average aggregate sentence was 11.8 years. Of those who committed a murder, 100 percent received a prison sentence, with an average minimum term of 20 years and an average aggregate sentence of 25 years.

Notes

1. This data comprises conviction episodes and therefore may include multiple records for individuals convicted of homicide offences on more than one occasion in the study timeframe.
2. Note that the offences of procure or commit an illegal abortion, threats to kill, inflict injury without intent to kill, or breaches of euthanasia legislation are not included in the category of homicide.

References

Australian Bureau of Statistics (2011). *Australian and New Zealand Standard Offence Classification (ANZSOC)*. Retrieved from ABS website: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/ProductsbyCatalogue/E6838CDEE01D34BCA25722E0017B26B>.

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