Experimental Statistics on the Length of the Punishment Part of Life Sentences and OLRs

1. Introduction

For the fourth year, we are publishing these 'experimental statistics' on the length of the punishment part of sentences which do not have a set end point, alongside the Criminal Proceedings Bulletin. These sentences are life sentences and Orders for Lifelong Restriction (OLRs). We are publishing these in response to user demand for these data. The figures are based on data from the Scottish Courts and Tribunals Service (SCTS) information management system, rather than the other figures in the Criminal Proceedings publication which are based on data from the Criminal History System.

Note that the numbers of life sentences and OLRs in the SCTS data are slightly different to numbers published elsewhere in the Criminal Proceedings bulletin. To avoid confusion, we have only presented the average sentence lengths in this analysis and not given the number of sentences they are based on. The discrepancy in numbers is due to the dates used in the different data sets, so records may be in different years. Criminal Proceedings data goes by the date that a person was sentenced after sentencing reports, whereas the SCTS data goes by the date that a verdict was reached in court. See the sections on data source and quality, and methodology at the end of this document for further information.

Life sentences are mandatory for murder and some terrorism crimes, but may also be given for other very serious crimes. Life sentences consist of a punishment part that is a minimum period of time that must be served in custody before being considered for release by the Parole Board for Scotland. The length of the punishment part is determined by the Judge during sentencing. Note that some offenders given life sentences may never be released from custody if the Parole Board considers that they are still of risk to the public. If an offender is released from custody, they will remain 'on licence' for the rest of their life and may be returned to custody if they breach the terms of their licence.

OLRs are lifelong sentences which can be given for violent and sexual crimes and are for public protection. They were introduced in 2007-08. Like life sentences, they also consist of a punishment part that must be served in custody before the offender can be considered for parole. If offenders given an OLR are released from custody, then they are closely supervised by social workers for the rest of their lives.

For figures on the number of life sentence and OLR cases considered for parole, numbers where release was directed, and time served in custody prior to release, then please consult the Parole Board for Scotland's Annual Report.

As these punishment length statistics are new and under development, they are labelled as Experimental Statistics. Over the next few years we will evaluate: if these statistics meet the needs of users, whether the methodology is suitable, and the scale of any revisions that are likely to happen each year. Once we have done this

and are satisfied that the statistics meet the necessary standards, we will drop the Experimental Statistics designation.

We consider that the quality of the data is similar to other figures in the Criminal Proceedings publication. However, please note that the figures here may change in future years as we develop the methodology and they may also reflect any revisions by SCTS. See the sections on data source and quality, and methodology at the end of this document for further information.

2. Data

Table A and Chart A shows the average punishment length for life sentences, by murder or other crime, and overall. The average punishment length was 19.1 years in 2021-22. This is around three months higher than the 18.8 years in 2020-21. The small number of total life sentences given each year (ranging between 14 and 49 over the most recent 10 years, see Table 9d in the main publication) means that the overall average has fluctuated year to year, but is now generally higher than it was 10-15 years ago. As life sentences for murder make up the majority of life sentences, the punishment part for murder follows the pattern across all life sentences. In 2021-22 all but two life sentences issued were for murder.

Data for life sentences are presented back as far as 2004-05 as this is the earliest year that data are available from SCTS' current data management system.

Table B shows the average punishment length for OLRs, from 2007-08 when they were introduced. The average punishment length was 4.3 years in 2021-22, increasing from 3.6 years in 2020-21. Punishment lengths for OLRs are lower than life sentences, ranging between about three to eight years on average since they were introduced. Note that a small number of OLRs are given each year (between nine and 20 in the past 10 years, see Table 6a in the main publication), and there may be differences in the nature of the convictions in a year, so the average will tend to fluctuate.

Chart A – Average length of punishment part of life sentences and OLRs, 2004-05 to 2021-22

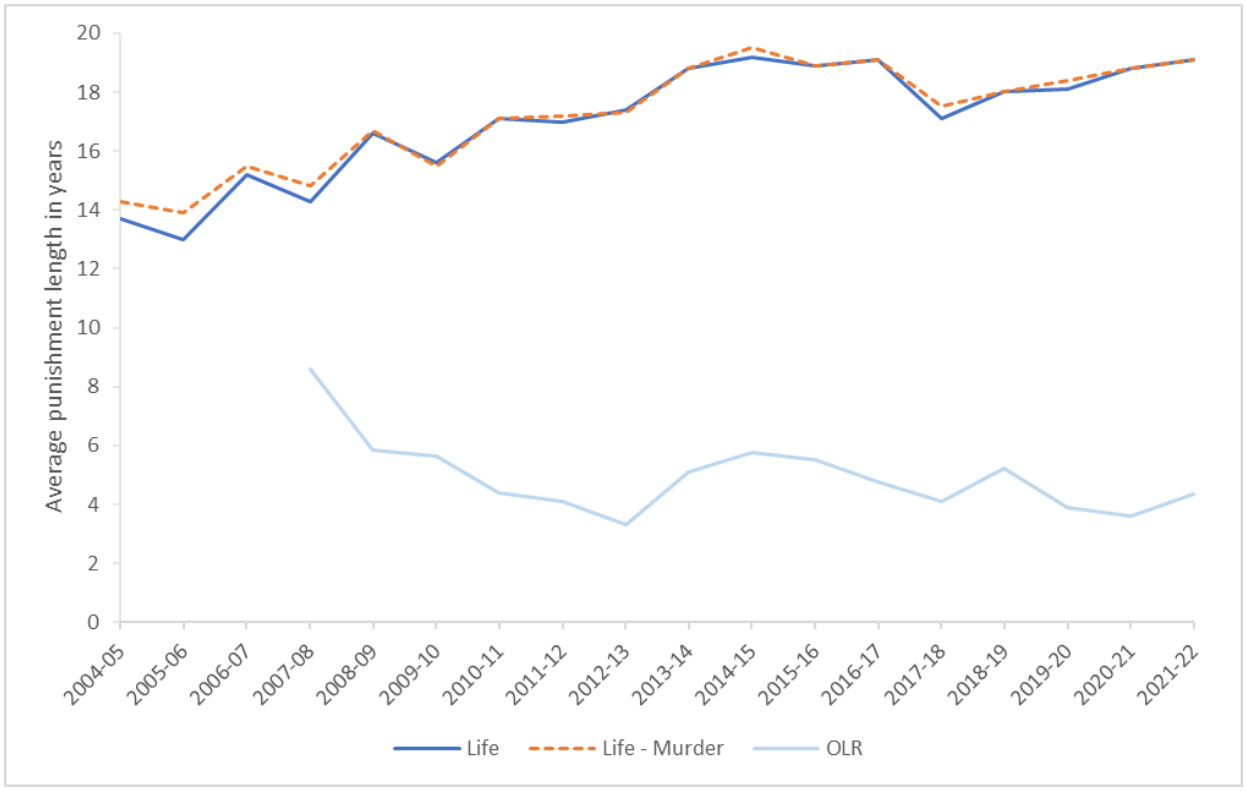
Average punishment length in years
20
18
16
14
12
10
8
6
4
2
0
2004-05
2005-06
2006-07
2007-08
2008-09
2009-10
2010-11
2011-12
2012-13
2013-14
2014-15
2015-16
2016-17
2017-18
2018-19
2019-20
2020-21
2021-22
Life
Life - Murder
OLR

Table A - Mean average punishment length of life sentences in years, 2004-05 to 2021-22

Financial year	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
All crimes	**13.7**	**13.0**	**15.2**	**14.6**	**16.6**	**15.6**	**17.1**	**17.0**	**17.4**	**18.8**
Murder	14.3	14.0	15.5	14.8	16.7	15.5	17.1	17.2	17.3	18.8
Other crime	10.6	10.2	12.4	13.4	14.7	15.7	17.5	13.3	21.3	18.0
Financial year	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**		
All crimes	**19.2**	**18.9**	**19.1**	**17.1**	**18.0**	**18.1**	**18.8**	**19.1**		
Murder	19.5	18.9	19.1	17.5	18.0	18.4	18.8	19.1		
Other crime	14.5	-	-	6.0	-	10.0	-	20.0		

Table B - Mean average punishment length of OLRs sentences in years, 2007-08 to 2021-22

Financial year	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
All crimes	8.6	5.9	5.6	4.4	4.1	3.3	5.1	5.8	5.5	4.8
Financial year	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**					
All crimes	4.1	5.1	3.9	3.6	4.3					

Notes on data source and quality

These data on punishment parts of sentences are based on data from the Scottish Courts and Tribunals Service (SCTS) information management system. The SCTS administers the Scottish Courts and record the outcomes of court proceedings. This is a different data source from the other data presented in this bulletin which are derived from the Criminal History System (CHS). Note, however, that some SCTS data feeds into the Criminal History System, so other data in this publication are already derived from SCTS data.

Like the CHS data, the SCTS data are from an administrative system which is not designed for statistical purposes. We have worked closely with statisticians in SCTS who understand the data. The data are checked by them and they consider that the data are of sufficient quality for publication. The data may change in future due to appeals that change the length of the punishment period, or if there are late sentencing decisions that have missed our cut-off date when we start producing the publication which would be included next year. We do not receive CHS data from Police Scotland until a disposal has been given for a case, and in some complex cases there may be a recording delay (see Annex B24). Therefore we may not have received the CHS data by the time we are producing this publication, but they will be included in next year's publication for 2022-23 when we revise the figures. We do not know if there would also be similar later additions to the SCTS data.

The financial year used in the tables is based on the verdict date in the SCTS data, which is the date the person was found guilty. The other figures in this publication are based on the date a person was sentenced, which typically follows the verdict date after a sentencing report has been prepared. There may be a discrepancy between the two dates and they may be in different financial years, as sentencing reports are prepared after the verdict date ahead of when the sentence is given. This discrepancy in dates, along with later additions to either dataset, could lead to a discrepancy in numbers of life sentences and OLRs each year in the two different datasets. Therefore we have not published the numbers in the SCTS dataset to avoid confusion with those published elsewhere in the publication.

Methodology

The figures are based on people proceeded against, like the other court figures in this publication. A person may get a life sentence or OLR for multiple charges (described as *in cumulo* in court). The sentence is counted once per person, rather than for each charge, in the calculations for the average length of the punishment part presented in the tables. If a person should get more than one life sentence or OLR in their life time in separate proceedings, then these would be counted as separate sentences. Note that a person receiving a second life sentence would usually be due to convictions for historical offences that were proceeded against after they already received a life sentence.

In the main publication, the 'main charge' is determined by the severity of sentence given, then the crime type. Here to determine the main charge, whether a life sentence for murder or for another crime, the type of crime committed or 'crime code' was used. The crime codes are used by the Scottish Government for statistical

purposes to categorise charges under crimes and offences. The crime code number generally increases with decreasing “severity” of crimes, with murder given the lowest number, and some road traffic offences having the highest numbers. Where there was more than one charge in a proceeding, the charge with the lowest crime code is taken as the main crime. For life sentences, these will mostly be murder. Please note that the crime code system is not designed to be fully hierarchical to fully reflect “severity” of crimes. Indeed it would be difficult to determine if some crimes are more “severe” than others without looking at the nature of individual cases. For example, sexual crimes have higher crime code numbers than violent crimes due to the fact that the two are counted in two separate groups, rather than the crimes from one group being perceived to be more “severe” than the other. The methodology may change in future as we continue to develop the statistics and receive feedback.