

Sentencing trends in
the higher courts of
Victoria
2010–11 to 2014–15

June 2016
No. 195

Trafficking in a large commercial quantity of drugs

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of trafficking in a large commercial quantity of drugs in the County and Supreme Courts of Victoria between 2010–11 and 2014–15.² Adjustments made by the Court of Appeal to sentence or conviction as at June 2015 have been incorporated into the data in this Snapshot.

Detailed data on [trafficking in a large commercial quantity of drugs](#) and other offences are available on [SACStat – Higher Courts](#).

The *Drugs, Poisons and Controlled Substances Act 1981 (Vic)* provides a set of trafficking offences that distinguishes between large commercial, commercial, and less than commercial quantities of illicit drugs.³

A person who prepares, manufactures, sells, exchanges, agrees to sell, offers for sale, or has in his or her possession for sale a drug of dependence without being authorised or licensed to do so is guilty of trafficking in a drug of dependence.⁴ The maximum penalties that apply vary depending on the nature and quantity of the drug involved, as well as the age of the recipient of the drugs, with higher maximum penalties for supplying to persons aged under 18 years.

This report examines the offence of trafficking in a large commercial quantity of a drug (or drugs) of dependence to an adult.⁵ The amount of the drug that constitutes a large commercial quantity depends on the type of drug involved.⁶ Different types of drugs can be combined in order to achieve a large commercial quantity.⁷

Trafficking in a large commercial quantity of drugs is an indictable offence that carries a maximum penalty of life imprisonment and/or a fine of up to 5,000 penalty units.⁸ Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

Trafficking in a large commercial quantity of drugs was the principal offence⁹ in 0.6% of cases sentenced in the higher courts between 2010–11 and 2014–15.

People sentenced

From 2010–11 to 2014–15, 61 people were sentenced in the higher courts for a principal offence of trafficking in a large commercial quantity of drugs.

Figure 1 shows the number of people sentenced for the principal offence of trafficking in a large commercial quantity of drugs by financial year. There were 12 people sentenced for this offence in 2014–15, up by 7 people from the previous year. The number of people sentenced was highest in 2010–11 (19 people).

Figure 1: The number of people sentenced for trafficking in a large commercial quantity of drugs by financial year, 2010–11 to 2014–15



Sentence types and trends

Figure 2 shows the total number of people sentenced for trafficking in a large commercial quantity of drugs and the number that received an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate (as opposed to wholly suspended) imprisonment or detention.¹⁰ Over the five-year period, 100% of people were given an immediate custodial sentence.

Table 1 shows the number of people sentenced for trafficking in a large commercial quantity of drugs from 2010–11 to 2014–15 by the types of sentences imposed.

Over the five-year period, the majority of the people sentenced for trafficking in a large commercial quantity of drugs received a period of imprisonment (97% or 59 of 61 people).

The percentage of people receiving imprisonment for trafficking in a large commercial quantity of drugs peaked at 100% in 2011–12, 2012–13, and 2013–14 and was lowest during 2014–15 (92% or 11 of 12 people). The number was highest in 2010–11 (18 people) and lowest in 2013–14 (5 people).

Table 1: The number and percentage of people sentenced for trafficking in a large commercial quantity of drugs by sentence type, 2010–11 to 2014–15

Sentence type	2010–11	2011–12	2012–13	2013–14	2014–15	Total
Imprisonment	18 (95%)	10 (100%)	15 (100%)	5 (100%)	11 (92%)	59 (97%)
Aggregate imprisonment	0 (–)	0 (–)	0 (–)	0 (–)	1 (8%)	1 (2%)
Partially suspended sentence	1 (5%)	0 (–)	0 (–)	0 (–)	0 (–)	1 (2%)
People sentenced	19	10	15	5	12	61

Age and gender of people sentenced

Data on the age and gender of people sentenced for trafficking in a large commercial quantity of drugs are available on [SACStat – Higher Courts](#).

Principal and total effective sentences

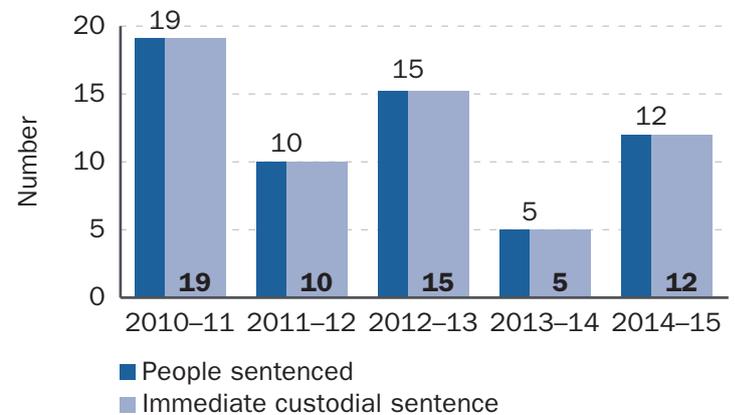
Two methods for describing sentence types and lengths are examined in this section. One relates to the principal sentence and examines sentences for the offence at a charge level. The other relates to the total effective sentence and examines sentences for the offence at a case level.

The principal sentence is the individual sentence imposed for the charge that is the principal offence.¹¹

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 will be longer than the principal sentence. Principal sentences for trafficking in a large commercial quantity of drugs must be considered in this broader context. The following sections analyse the use of imprisonment for the offence of trafficking in a large commercial quantity of drugs from 2010–11 to 2014–15.

Figure 2: The number of people sentenced for trafficking in a large commercial quantity of drugs and the number that received an immediate custodial sentence, 2010–11 to 2014–15



Principal sentence of imprisonment

A total of 60 people (98%) received a principal sentence of imprisonment for trafficking in a large commercial quantity of drugs between 2010–11 and 2014–15.¹²

Figure 3 shows these people by the length of their imprisonment term.¹³ Imprisonment terms ranged from 3 years to 20 years, while the median length of imprisonment was 7 years (meaning that half of the imprisonment terms were shorter than 7 years and half were longer).

The most common length of imprisonment imposed was 8 to less than 9 years (12 people).

As shown in Figure 4, the average length of imprisonment term imposed on people sentenced for trafficking in a large commercial quantity of drugs ranged from 6 years and 5 months in 2011–12 to 8 years and 6 months in 2013–14.

Other offences finalised at the same hearing

Often people prosecuted for trafficking in a large commercial quantity of drugs 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 trafficking in a large commercial quantity of drugs.

Figure 5 shows the number of people sentenced for the principal offence of trafficking in a large commercial quantity of drugs by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 28, while the median was 3 offences. There were 20 people (32.8%) sentenced for the single offence of trafficking in a large commercial quantity of drugs. The average number of offences per person sentenced for trafficking in a large commercial quantity of drugs was 3.75.

While Figure 5 presents the number of sentenced offences for those sentenced for trafficking in a large commercial quantity of drugs, Table 2 shows what the accompanying offences were. It shows the number and percentage of people sentenced for the 10 most common offences. The last column sets out the average number of offences sentenced per person. For example, 17 of the total 61 people (27.9%) also received sentences for trafficking in a non-commercial quantity of drugs. On average, they were sentenced for 1.59 counts of trafficking in a non-commercial quantity of drugs.

Figure 3: The number of people sentenced to imprisonment for trafficking in a large commercial quantity of drugs by length of imprisonment term, 2010–11 to 2014–15

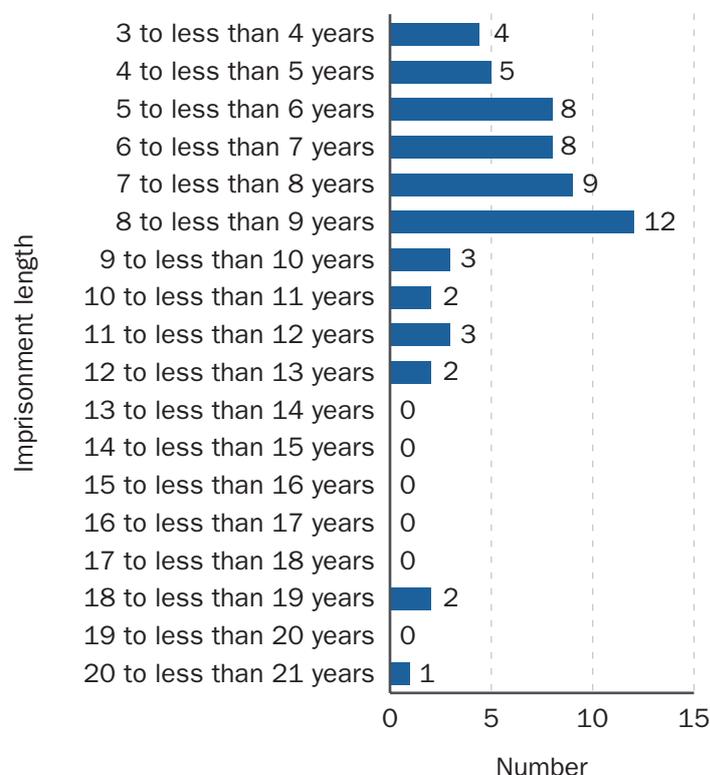


Figure 4: The average length of imprisonment term imposed on people sentenced for trafficking in a large commercial quantity of drugs, 2010–11 to 2014–15

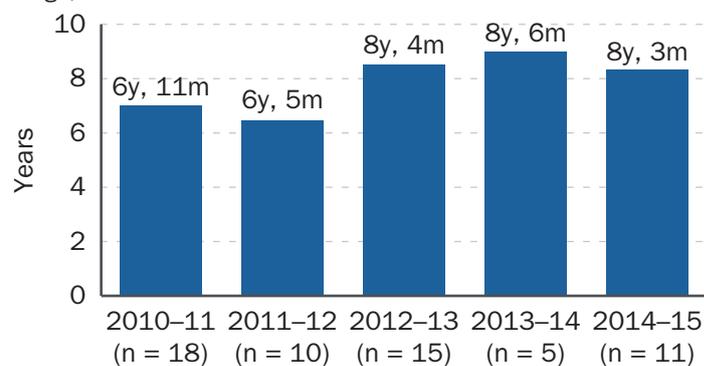


Figure 5: The number of people sentenced for the principal offence of trafficking in a large commercial quantity of drugs by the number of sentenced offences per person, 2010–11 to 2014–15

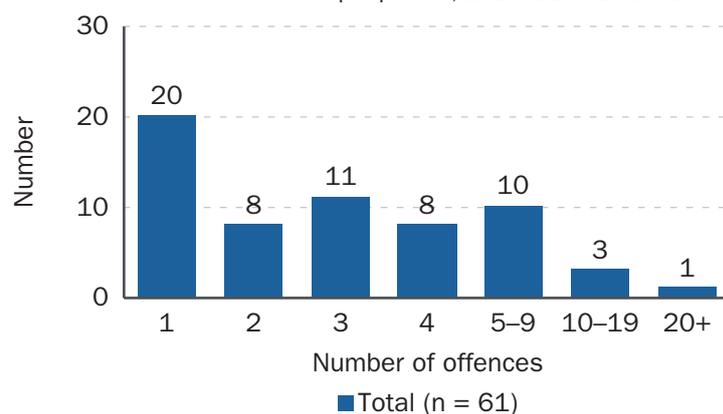


Table 2: The number and percentage of people sentenced for the principal offence of trafficking in a large commercial quantity of drugs by the most common offences that were sentenced and the average number of those offences that were sentenced, 2010–11 to 2014–15

Offence	Number of cases	Percentage of cases	Average number of offences per case
1. Trafficking in a large commercial quantity of a drug of dependence	61	100.0	1.08
2. Trafficking in a non-commercial quantity of a drug of dependence	17	27.9	1.59
3. Dealing with property suspected of being proceeds of crime	15	24.6	1.40
4. Possess a drug of dependence	14	23.0	1.93
5. Handling stolen goods	4	6.6	2.00
6. Trafficking in a commercial quantity of a drug of dependence	4	6.6	1.25
7. Possess prohibited weapon without exemption or approval	4	6.6	1.00
8. Theft	3	4.9	2.00
9. Prohibited person possess, carry, or use a registered firearm	3	4.9	1.33
10. Knowingly deal with proceeds of crime	3	4.9	1.00
People sentenced	61	100.0	3.75

Total effective sentence of imprisonment

Figure 6 shows the number of people sentenced to imprisonment for trafficking in a large commercial quantity of drugs between 2010–11 and 2014–15 by length of total effective sentence. The length of total effective sentences ranged from 3 years and 2 months to 30 years, while the median total effective length of imprisonment was 8 years (meaning that half of the total effective sentence lengths were below 8 years and half were above).

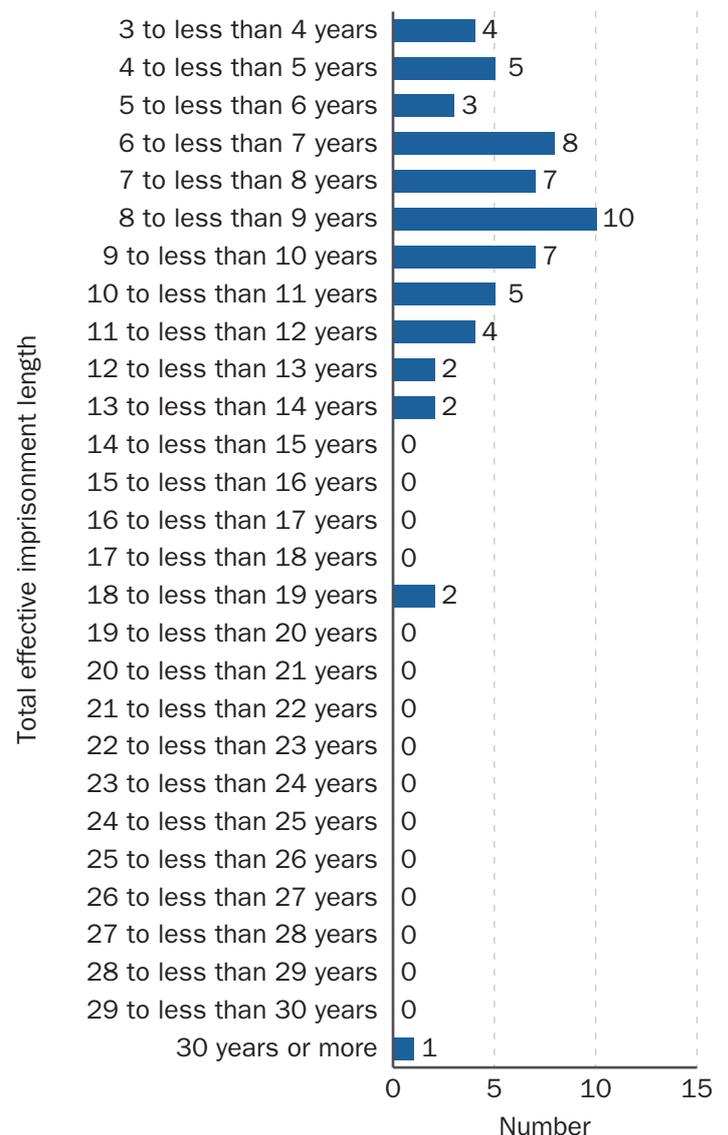
The most common total effective imprisonment length was 8 to less than 9 years (10 people).

Non-parole period

When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period 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.

Under section 11(4) of the *Sentencing Act 1991* (Vic), if a court sentences an offender to imprisonment in respect of more than one offence, the non-parole period set by the court must be in respect of the total effective sentence of imprisonment that the offender is liable to serve under all the sentences imposed. In many cases, the non-parole period will be longer than the individual principal sentence for trafficking in a large commercial quantity of drugs. Sentences and non-parole periods must be considered in this broader context.

Figure 6: The number of people sentenced to imprisonment for trafficking in a large commercial quantity of drugs by length of total effective imprisonment term, 2010–11 to 2014–15



Of the 60 people who were sentenced to imprisonment for trafficking in a large commercial quantity of drugs, all were eligible to have a non-parole period fixed. Of these people, 57 were given a non-parole period (95%).¹⁴ Figure 7 shows the number of people sentenced to imprisonment for trafficking in a large commercial quantity of drugs between 2010–11 and 2014–15 by length of non-parole period. Non-parole periods ranged from 1 year to 13 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 (12 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 2010–11 to 2014–15.

From 2010–11 to 2014–15, the average length of total effective sentences for all people ranged from 6 years and 11 months in 2011–12 to 9 years and 5 months in 2012–13. Over the same period, the average length of non-parole periods ranged from 4 years and 3 months in 2011–12 to 6 years and 3 months in 2014–15.

Total effective sentence of imprisonment by non-parole period

Data on the total effective sentence of imprisonment by non-parole period for trafficking in a large commercial quantity of drugs are 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 trafficking in a large commercial quantity of drugs are available on [SACStat – Higher Courts](#).

Summary

Between 2010–11 and 2014–15, 61 people were sentenced for trafficking in a large commercial quantity of drugs in the higher courts. Of these people, 60 (98%) were given a principal sentence of imprisonment.

The number and range of offences for which people with a trafficking in a large commercial quantity of drugs were sentenced help explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was 8 years while the median principal imprisonment length was 7 years.

Total effective imprisonment lengths ranged from 3 years and 2 months to 30 years, and non-parole periods (where imposed) ranged from 1 year to 13 years.

Figure 7: The number of people sentenced to imprisonment for trafficking in a large commercial quantity of drugs by length of non-parole period, 2010–11 to 2014–15

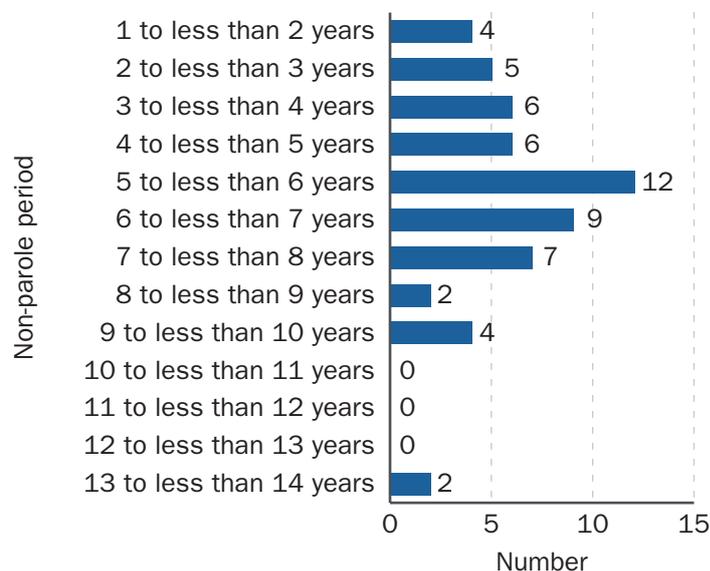
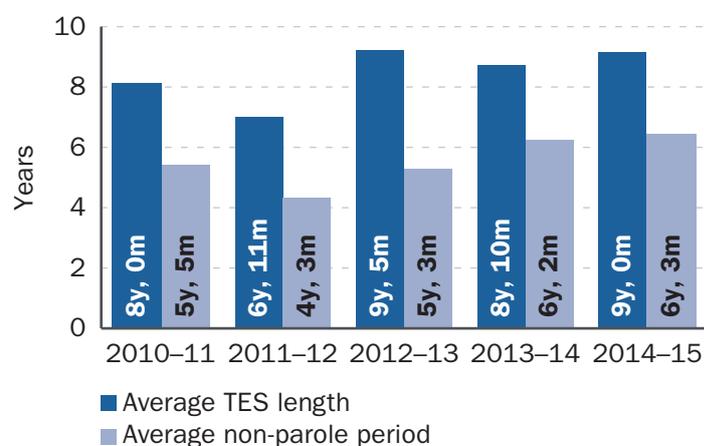


Figure 8: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for trafficking in a large commercial quantity of drugs, 2010–11 to 2014–15



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, these orders 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. 163, which describes sentencing trends for trafficking in a large commercial quantity of drugs between 2008–09 and 2012–13.
2. Data on first instance sentence outcomes presented in this Snapshot were obtained from the Strategic Analysis and Review Team at Court Services Victoria. Data on appeal outcomes were collected by the Sentencing Advisory Council from the [Australasian Legal Information Institute](#), and also were 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 are accurate, the data are subject to revision.
The sentencing database used for this analysis was compiled using conviction returns. Due to incomplete offence information regarding drug trafficking offences on the conviction returns, a further classification exercise was undertaken to determine the specific offence types. This involved reading the sentencing remarks of the particular cases and determining if the quantity of the drug was non-commercial, commercial, or large commercial. In total, there were 630 cases that had drug trafficking (section 71, 71AA, 71AB, or 71AC of the *Drugs, Poisons and Controlled Substances Act 1981* (Vic)) as the principal proven offence over the five-year period from 2010–11 to 2014–15. Sentencing remarks were located for 618 cases (98%). The drug quantities for all these cases were checked and coded into the appropriate category. The remaining cases had sentences that were all within the statutory maximum penalty for the offence and were therefore assumed to have been recorded correctly in the first instance.
3. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) ss 71–71AC.
4. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 70.
5. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71.
6. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 70.
7. See 'aggregate large commercial quantity': *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 70.
8. 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](#).
9. 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.
10. Immediate custodial sentence includes imprisonment, aggregate imprisonment and partially suspended sentence.
11. Refer to endnote 9.
12. This total includes the people in Table 1 who received a sentence of imprisonment or aggregated imprisonment.
13. Data presented in this section do not include imprisonment lengths for people who received an aggregate sentence of imprisonment. Sentence lengths for aggregate sentences of imprisonment apply to the whole case, while Figure 3 only deals with sentences of imprisonment for the principal proven offence of trafficking in a large commercial quantity of drugs. During the 2010–11 to 2014–15 period, 1 person received an aggregate form of imprisonment.
14. Three people were not given a non-parole period relating to that case alone, but a non-parole period that also related to other cases. It is not possible to determine the length of the non-parole period that relates to these cases. The non-parole periods for these people are excluded from the analysis.

SACStat – Higher Courts Trafficking in a large commercial quantity of drugs

http://www.sentencingcouncil.vic.gov.au/sacstat/higher_courts/HC_9719_71.html

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