Sentencing Advisory Council

Aggregate Prison Sentences in Victoria

Contents

VICTORIA State Government

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Introduction

An aggregate prison sentence involves a court imposing a single prison sentence on multiple criminal offences rather than a separate prison sentence on each offence. Table 1 illustrates the difference between aggregate and non-aggregate prison sentences. In the first example, the offender has received a single aggregate prison sentence of two years for aggravated burglary and theft. And in the second example, the offender has received separate non-aggregate prison sentences for the same two offences. The end result in both examples is identical – a two-year total sentence – but the method of arriving at that total sentence differs.

Table 1: Examples of aggregate and non-aggregate prison sentences

Offences	Sentence length
Aggravated burglary, theft	2 years' imprisonment (aggregate)
Total sentence	**2 years' imprisonment**
Aggravated burglary	18 months' imprisonment (non-aggregate)
Theft	6 months' imprisonment (non-aggregate)
Total sentence	**2 years' imprisonment**

There are a number of advantages to aggregate sentencing. It can significantly improve court efficiency, especially in cases with a large number of charges. It can avoid the impression of 'artificiality' in the sentencing process, particularly if there is an impression that the court has determined the most appropriate total effective sentence that is proportionate to the overall offending, but then has adjusted the various charge-level sentences[1] and cumulation orders[2] to achieve that result.[3] It can also reduce calculation errors that may occur when charge-level sentences are made wholly or partly cumulative or concurrent, again especially in cases with a large number of charges. Aggregate sentencing can also, however, reduce transparency in sentencing, limit courts' ability to assess current sentencing practices and, as this paper shows, result in some offences receiving sentences in excess of their maximum penalty.

There has, to date, been no examination of Victorian courts' use of aggregate prison sentences since their introduction in 1997. The aims of this paper are to utilise court data to review trends in the use of aggregate prison sentences in Victoria, and to then consider issues arising from their use.

1. In this paper, a charge-level sentence is the sentence imposed on a single charge within a case, whereas a case-level sentence is the total effective sentence imposed on all the charges in a case.
2. When imposing separate non-aggregate prison sentences on different charges in a case, courts will typically specify one of the charge-level sentences as the base sentence, and then further specify whether each other prison sentence is wholly concurrent, wholly cumulative, or partly cumulative and partly concurrent: *Sentencing Act 1991* (Vic) s 16.
3. See, for example, Victoria, *Parliamentary Debates*, Legislative Assembly, 24 April 1997, 875 (Jan Wade, Attorney-General); Kate Warner, 'General Sentences' (1987) 11 *Criminal Law Journal* 335; *R v Ruggiero* (1998) 104 A Crim R 358, [38].

Background

When section 9 of the *Sentencing Act 1991* (Vic) ('*Sentencing Act*') was introduced in 1997, it effectively returned to courts[4] the common law power – if ever it was lost[5] – to impose what were once described as 'general sentences'.[6] General sentences[7] are prison sentences 'intended by the judge to cover more than one count'.[8] Section 9 of the *Sentencing Act* effectively allows courts to impose a single prison sentence on multiple charges, without specifying the contribution of each offence to the duration of the total sentence, so long as the offences 'are founded on the same facts' or are part of 'a series of offences of the same or a similar character'.[9] These are now known as aggregate sentences of imprisonment, and they are available in most Australian jurisdictions.[10]

There have been relatively few changes to section 9 of the *Sentencing Act* since its introduction, and those changes have revolved around the use of aggregate prison sentences in the higher courts. In 2006, the power to impose an aggregate prison sentence was extended to the higher courts.[11] And in 2010 and 2012, in response to a Court of Appeal decision,[12] section 9 was amended to specify that the higher courts are not required to state the sentences that would have been imposed for offences had they been sentenced separately, or the extent to which those sentences would have been concurrent or cumulative.[13]

4. More specifically, the Magistrates' Court.
5. In *R v Beaumont* [2000] VSCA 214, [7], the Court of Appeal noted that the question of whether the enactment of the *Sentencing Act* in 1991 had abolished the common law power to impose a general custodial sentence had been left open by the High Court in *McL v R* [2000] HCA 46, [31]. In contrast, the High Court in 1982 opined that general sentences may never have been lawful in Victoria: *Ryan v R* [1982] HCA 30, [7].
6. *DPP v Felton* [2007] VSCA 65, [18].
7. The term is still in use in Tasmania. General sentences are also alternatively known as 'mixed sentences': *Sentencing Act 1997* (Tas) s 11.
8. *R v Edirimanasingham* [1961] 1 All ER 376, 378.
9. *Sentencing Act 1991* (Vic) s 9, as inserted by *Sentencing and Other Acts (Amendment) Act 1997* (Vic) s 9.
10. *Crimes Act 1914* (Cth) s 4K(4) (but only for offences against the same statutory provision); *Crimes (Sentencing Procedure) Act 1999* (NSW) s 53A, as inserted by *Crimes (Sentencing Procedure) Amendment Act 2010* (NSW); *Sentencing Act 1995* (NT) s 52; *Sentencing Act 1997* (Tas) s 11; *Sentencing Act 2017* (SA) s 26. Aggregate prison sentences do not appear to be available in Queensland, the Australian Capital Territory or Western Australia.
11. *Courts Legislation (Jurisdiction) Act 2006* (Vic) s 38. According to the second reading speech, this was intended to 'enable the court to more clearly explain to the community the total sentence that it is imposing on an offender': Victoria, *Parliamentary Debates*, Legislative Assembly, 7 June 2006, 1776 (Rob Hulls, Attorney-General).
12. As noted in *Saxon v The Queen* [2014] VSCA 296, [26]–[32], the legislation was introduced in direct response to *DPP v Felton* [2007] VSCA 65, in which the Court of Appeal held that a court imposing an aggregate prison sentence 'must first consider the sentence that would have been imposed had separate sentences been imposed in respect of each offence': [46]–[47]. See also Victoria, *Parliamentary Debates*, Legislative Assembly, 11 March 2010, 872 (Rob Hulls, Attorney-General).
13. *Justice Legislation Amendment Act 2010* (Vic) s 5(b). As to the 2012 reforms, see *Criminal Procedure Amendment Act 2012* (Vic) s 44(1); Explanatory Memorandum, Criminal Procedure Amendment Bill 2012 (Vic) 22–23.

Despite the general power to impose aggregate prison sentences, there are some circumstances where they are not allowed. These include when:

- the offences are not sufficiently related or similar;
- one of the offences is a federal offence and another is a state offence;[14]
- the offender is a 'serious offender' as defined in the *Sentencing Act* (since 2006);[15]
- one or more offences were committed while the offender was on parole, and one or more were committed while the offender was *not* on parole (also since 2006);[16] and/or
- one of the offences is a standard sentence offence (since 2018).[17]

In imposing an aggregate prison sentence, courts are required to 'announce … the reasons for doing so';[18] this is 'for the benefit of the parties' and any appellate court.[19] They are not, however, required to consider or specify the individual sentences that they would have imposed on each offence had they not imposed an aggregate prison sentence.[20] We reviewed a small sample of publicly available higher courts sentencing remarks from the second half of 2021 where an aggregate prison sentence was imposed to better understand courts' reasons for imposing aggregate prison sentences.[21] There were 52 such judgments, all from the County Court. In almost half of those cases, the court did not explain why an aggregate prison sentence was imposed (25 cases).

14. *Fasciale v The Queen* [2010] VSCA 337, [27]. See also *Ilic v R* [2020] NSWCCA 300, [41].
15. *Sentencing Act 1991* (Vic) s 9(1A)(a), as inserted by *Courts Legislation (Jurisdiction) Act 2006* (Vic) s 38(2). See, for example, *Osborne v The Queen* [2018] VSCA 160, [37]–[38].
16. *Sentencing Act 1991* (Vic) s 9(1A)(b), as inserted by *Courts Legislation (Jurisdiction) Act 2006* (Vic) s 38(2).
17. *Sentencing Act 1991* (Vic) s 9(1A)(a)(ab), as inserted by *Sentencing Amendment (Sentencing Standards) Act 2017* (Vic) s 21. This is consistent with the approach to mandatory minimum sentences in the Northern Territory, where the Court of Criminal Appeal has held that a prohibition on aggregate prison sentences for certain offences 'seems to be to ensure that any mandatory terms required to be imposed are not only imposed but are seen to be imposed': *McKay v The Queen* [2001] NTCCA 3, [20].
18. *Sentencing Act 1991* (Vic) s 9(3).
19. *Sinclair v The Queen* [2021] VSCA 144, [25].
20. *Saxon v The Queen* [2014] VSCA 296, [26]–[32].
21. While most aggregate prison sentences are imposed in the Magistrates' Court, access to Magistrates' Court sentencing remarks is only available via prohibitively resource-intensive measures such as requesting audio recordings of sentencing hearings or conducting in-court observations. We limited our review to publicly available sentencing remarks published by the Australasian Legal information Institute (AustLII). There did not appear to be any aggregate prison sentences imposed in the Supreme Court in the second half of 2021.

In the remaining 27 cases, the reasoning was exclusively by reference to the legislative precondition that, as one court described it, the 'offences are founded essentially on the same facts and circumstances'.[22] It is difficult to envisage other reasons that a court could give, other than perhaps some explication of how the offences were considered the same or similar. This is most likely why the Court of Appeal has described this obligation of reasons for aggregate sentencing as a 'technical requirement'.[23] And as section 103 of the *Sentencing Act* makes clear, failing 'to give reasons or to comply with any other procedural requirement … does not invalidate' a sentence. In that context, there is perhaps a question whether courts should continue to be required to give reasons for imposing an aggregate prison sentence.

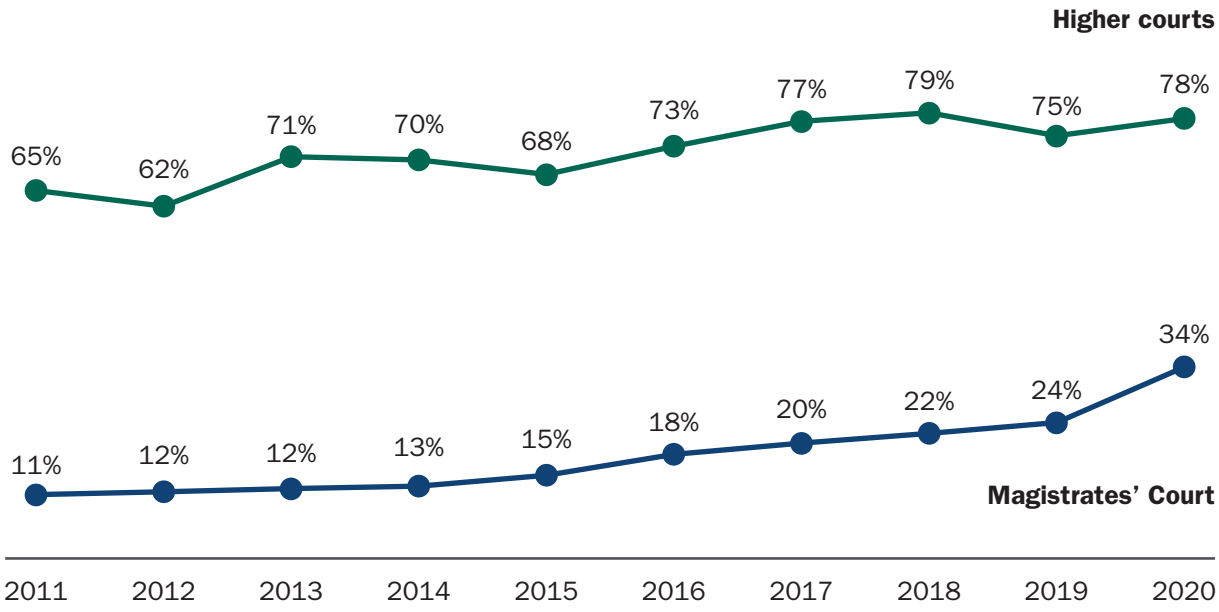
When dealing with multiple offences, Victorian courts can also (if relevant) impose aggregate periods of youth detention (since June 2018),[24] quasi-aggregate community correction orders (CCOs) (since 2012)[25] and aggregate fines (since the commencement of the *Sentencing Act* in 1991).[26] The focus of this paper, though, is aggregate *prison* sentences.

22. *DPP v Foster (A Pseudonym)* [2021] VCC 2132, [71]. The most detailed explanations were in the following: *DPP v Hughes* [2021] VCC 1680, in which the court indicated that it was imposing an aggregate prison sentence 'because I see the circumstances of these offences being so similar in nature, albeit they vary in value of the victim's loss, but occurring over one month and are essentially, exactly the same type of offence': [32]; *DPP v Verdesoto* [2021] VCC 1319, in which defence counsel advocated an aggregate prison sentence, the prosecution did not take issue with that submission, and the Court imposed an aggregate sentence because 'the offences all arise out of your actions in buying, selling and trading in illicit property and drugs, and all relate to items found during the search of your properties': [60]; and *DPP v Cakebread & Anor* [2021] VCC 1237, in which the court said that '[t]hose petrol charges are all very similar. I'm going to bundle them together [to] give you one sentence on all of them to make it simpler': [115].
23. *Guo v The Queen* [2020] VSCA 273, [25].
24. *Sentencing Act 1991* (Vic) s 32A, inserted by *Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017* (Vic) s 8.
25. *Sentencing Act 1991* (Vic) s 40. While not described in legislation as 'aggregate' sentences, CCOs covering multiple offences operate in the same manner, which is why we have described them as quasi-aggregate. It was also possible to impose a single community order on multiple offences prior to 2012; CCOs were introduced in 2012 to replace a number of sentencing options, including community-based orders: *Sentencing Act 1991* (Vic) s 36 (repealed). Notably, there was previously no restriction on which offences could be covered by a single community-based order, but the current provisions restrict the imposition of a single CCO for multiple offences in the same way as they restrict the imposition of aggregate prison sentences, to offences that 'are founded on the same facts or form or are part of a series of offences of the same or a similar character': *Sentencing Act 1991* (Vic) s 40(1).
26. *Sentencing Act 1991* (Vic) s 51. There does not appear to have been an equivalent power to impose an aggregate fine in the predecessor legislation, the *Penalties and Sentences Act 1985* (Vic).

Increasing use of aggregate prison sentences

Over the last decade, there has been a substantial increase in the total number of criminal offences sentenced in the Magistrates' Court (see the Appendix). From 1 January 2011 to 31 December 2019 (excluding 2020 due to the decline in the number of matters finalised during COVID-19 restrictions) the number of charges sentenced annually in that jurisdiction increased by 50% from about 204,000 to 307,000, an increase well in excess of the growth in Victoria's population in that same timeframe.[27] In contrast, the number of charges dealt with in the higher courts remained relatively stable, fluctuating between about 6,500 and 8,000 charges per year (also see the Appendix).

Figure 1: Proportion of charge-level sentences that were prison sentences, by jurisdiction and year



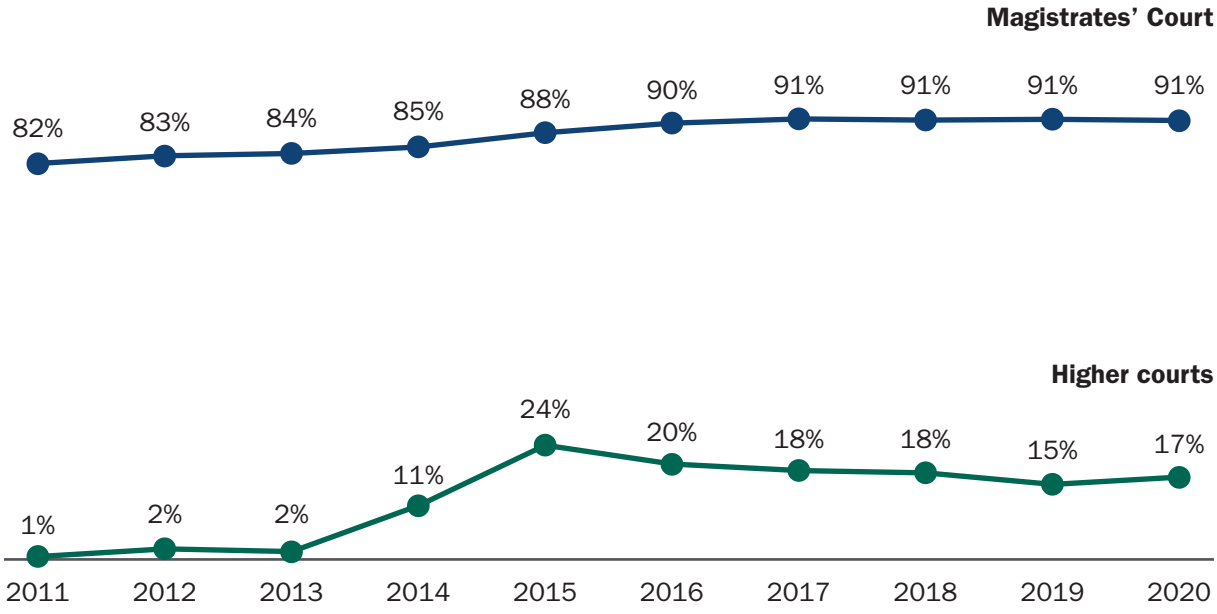
Both the Magistrates' Court and the higher courts, however, shared an increasing rate at which sentenced charges received imprisonment (Figure 1), from 65% to 75% in the higher courts and from 11% to 24% in the Magistrates' Court (again excluding 2020). This increase was not just at the charge level; from 2010–11 to 2019–20, the rates of case-level prison sentences increased from 52.6% to 75.1% in the higher courts and from 4.4% to 13.0% in the Magistrates' Court.[28] As the Council has previously observed, the increasing rate of prison sentences in Victoria is due to a combination of factors,

27. According to the Australian Bureau of Statistics, Victoria had a population of 5,624,100 as at 30 June 2011, which increased by 17% to 6,594,800 as at 30 June 2019: Australian Bureau of Statistics, *National, State and Territory Population* (abs.gov.au, 2022). The proportional increase in sentenced offences was therefore triple the proportional increase in the population.
28. Sentencing Advisory Council, 'Sentencing Outcomes in the Higher Courts' (sentencingcouncil.vic.gov.au, 2022); Sentencing Advisory Council, 'Sentencing Outcomes in the Magistrates' Court' (sentencingcouncil.vic.gov.au, 2022).

such as bail law reforms increasing the number of short and time served prison sentences,[29] the abolition of suspended prison sentences,[30] and a number of legislative amendments to sentencing law intentionally designed to increase the rate of prison sentences.[31]

At the same time as the number and rate of prison sentences increased, so too did the proportion of those sentences that were *aggregate* prison sentences (Figure 2). Between 2011 and 2013 in the higher courts, the rate at which offences receiving imprisonment were part of an *aggregate* prison sentence was extremely low, at less than 100 charges each year.[32] Over the next two years, the rate then soared to over 1,000 charges in a single year (almost one-quarter of all charge-level prison sentences in 2015), declining moderately since then. This is perhaps due to the 2010 and 2012 legislative reforms simplifying the use of aggregate sentences in the higher courts. In the Magistrates' Court, the rate was already high in 2011 (82%) and has increased further since then, hovering at 91% of all prison sentences in the four years to 2020.[33] As to what might be driving this increase in the rate of aggregate prison sentences in the Magistrates' Court, the most likely contributor is the ever increasing workload in that jurisdiction.[34]

Figure 2: Proportion of charge-level prison sentences that were *aggregate* prison sentences, by jurisdiction and year



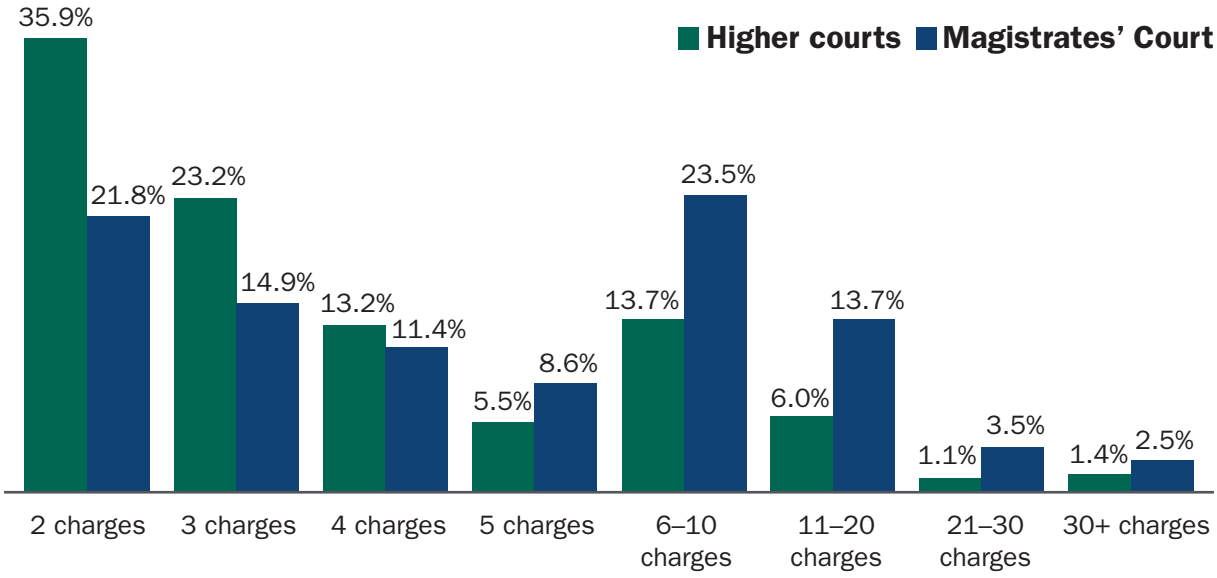
29. Sentencing Advisory Council, *Time Served Prison Sentences in Victoria* (2020); see also Sentencing Advisory Council, *Sentencing Breaches of Family Violence Intervention Orders and Safety Notices: Third Monitoring Report* (2022).
30. Sentencing Advisory Council, *Long-Term Sentencing Trends in Victoria* (2022) 3.
31. The most notable reforms are category 1 and category 2 offence classification; see, for example, Sentencing Advisory Council, *Sentencing Sex Offences in Victoria: An Analysis of Three Sentencing Reforms* (2021).
32. This could be because the requirement to consider the separate sentences that would have imposed rendered the imposition of an aggregate sentence redundant: see above n 11.
33. These rates are similar to Warner's findings that between 1978 and 1986, 80% of prison sentences in Tasmania were general sentences: Warner (1987), above n 3, 335.
34. See, for example, Victoria Legal Aid, *In Summary: Evaluation of the Appropriateness and Sustainability of Victoria Legal Aid's Summary Crime Program* (2017) 21–25 (outlining the significant increase in workload in the summary jurisdiction and some of the key contributing factors to that increased workload).

Number of charges in each aggregate prison sentence

Between 2011 and 2020, there were 59,127 distinct aggregate prison sentences imposed in the Magistrates' Court (in 51,159 cases covering 449,760 charges),[35] and 1,352 distinct aggregate prison sentences imposed in the higher courts (in 1,209 cases covering 6,787 charges). There was an average of 7.6 charges per aggregate prison sentence in the Magistrates' Court and 5.0 in the higher courts.

Where there are only two charges in a case, or 'only a small number of counts',[36] the Court of Appeal has cautioned that 'an aggregate sentence will rarely, if ever, be appropriate', particularly if one of the offences 'is much more serious than the other'.[37] There were many aggregate prison sentences covering a large number of charges, including ones covering 376 charges, 243 charges and 222 charges. In such cases, the sheer number of charges would mean that an aggregate prison sentence would usually be the logical approach. However, Figure 3 shows that many aggregate prison sentences covered three charges or less (59.1% in the higher courts and 36.7% in the Magistrates' Court). In the higher courts at least, this could be because cases with a high number of charges often involve offences or offenders that would prevent the imposition of an aggregate prison sentence (for example, a standard sentence offence, a 'serious offender' or a combination of state and federal sex offences).

Figure 3: Number of charges in aggregate prison sentences, by jurisdiction, 2011 to 2020 (in the higher courts, 6,787 charges were in 1,352 distinct aggregate prison sentences in 1,209 cases, and in the Magistrates' Court, 449,760 charges were in 59,127 distinct aggregate prison sentences in 51,159 cases)



35. Sometimes there are multiple aggregate prison sentences in a single case, the largest number of which was nine, once in 2013 and once in 2018.

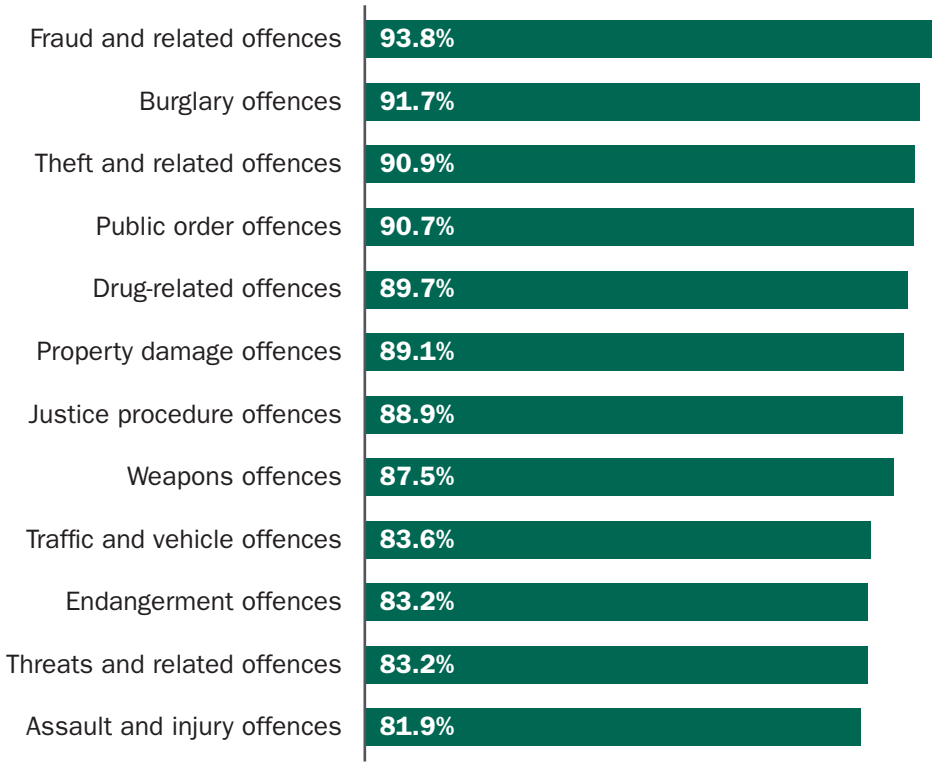
36. *R v Grossi* [2008] VSCA 51, [39].

37. *Stevens v The Queen* [2020] VSCA 170, [54]; see also, *Sinclair v The Queen* [2021] VSCA 144, [21]–[24]; *Guo v The Queen* [2020] VSCA 273, [25]; *Fitzpatrick v The Queen* [2016] VSCA 63, [48]; *R v Grossi* [2008] VSCA 51, [39]; *DPP v Felton* [2007] VSCA 65.

Offence types receiving aggregate prison sentences

Figure 4 shows that fraud and related offences had the highest rate of *aggregate* prison sentences of all offence classifications (93.8% of prison sentences for this offence type). This is most likely because many fraud cases involved multiple charges of related offences.[38] Aggregate prison sentences were also especially common for burglary offences (91.7%) – this is most likely because (a) burglary is commonly a high-volume offence, with offenders committing a string of related burglaries,[39] and (b) the nature of burglary is that the offender tends to trespass unlawfully to commit some other offence, such as theft or assault. There was, though, not much variation between offence categories, with more than four in five prison sentences being aggregate prison sentences for each offence type.[40]

Figure 4: Rate of aggregate prison sentences in the Magistrates' Court, by ANZSOC offence division,[41] 2011 to 2020

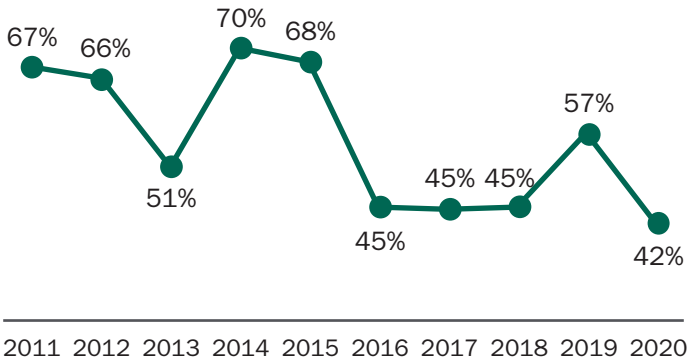


38. See, for example, Sentencing Advisory Council, *Sentencing Trends for Obtaining a Financial Advantage by Deception in the Higher Courts of Victoria 2015–16 to 2019–20*, Sentencing Snapshot no. 254 (2021) 4 (finding an average of five charges of obtaining property by deception in cases where that offence was the most serious offence in the case).
39. For instance, between 2010–11 and 2014–15 in the higher courts, there was an average of 4.67 charges of burglary in every case where burglary was the most serious offence: Sentencing Advisory Council, *Sentencing Trends for Burglary in the Higher Courts of Victoria 2010–11 to 2014–15*, Sentencing Snapshot no. 183 (2016) 4.
40. The following offence divisions are not shown because there were insufficient charge numbers in the Magistrates' Court each year of the reference period to allow for a trend to be observed: homicide offences (two charges of inciting suicide), sexual assault and related offences (1,985 charges) and robbery, extortion and related offences (2,535 charges).
41. Australian Bureau of Statistics, *1234.0 – Australian and New Zealand Standard Offence Classification (ANZSOC)* (abs.gov.au, 2011).

In terms of trends, there was a general increase in the rate of aggregate prison sentences across all offence categories, albeit some more than others. From 2011 to 2020, the rate of aggregate prison sentences for assault and injury offences increased from 69.4% to 84.4% of prison sentences, and for traffic and vehicle offences from 70.7% to 86.6%. In contrast, the rate of aggregate prison sentences for fraud and related offences was already above 90% in 2011, so the increase was less apparent, from 90.9% to 95.0% of prison sentences. In effect, there was no specific offence category responsible for the increasing prevalence of aggregate prison sentences.

Victorian courts are responsible for sentencing federal offences in certain circumstances (most notably when the federal offence was committed in Victoria).[42] In theory, federal legislation limits the use of aggregate sentencing to *summary* federal offences.[43] In 2006, the Australian Law Reform Commission recommended expanding the availability of aggregate prison sentences to *indictable* federal offences,[44] but that recommendation was never implemented.[45] Nevertheless, Victoria's legislation allows Victorian courts to impose an aggregate prison sentence for indictable federal offences,[46] so long as the aggregate prison sentence doesn't cover both a state and a federal offence.[47] As Figure 5 shows, about half of all prison sentences for federal offences imposed in the Magistrates' Court were part of a larger aggregate prison sentence. In contrast to the overall rate of aggregate prison sentences for all offences receiving imprisonment in the Magistrates' Court, the rate of aggregate prison sentences for federal offences receiving imprisonment in that jurisdiction has not increased over the last decade.[48]

Figure 5: Rate of aggregate prison sentences for federal offences in the Magistrates' Court, by year (3,120 federal charges received imprisonment and 1,771 were in aggregate prison sentences)



42. As the Court of Appeal observed in *DPP (Vic) & DPP (Cth) v Swingler* [2017] VSCA 305, this is often a complex exercise, particularly when the state and federal offences appear on the same indictment: [23], [63]–[89].
43. *Crimes Act 1914* (Cth) ss 4K(3)–(4); on interpreting this provision, see *R v Bibaoui* [1996] VSC 52, as cited with approval in *Putland v The Queen* [2004] HCA 8, [46], [86].
44. Australian Law Reform Commission, *Same Crime, Same Time: Sentencing of Federal Offenders*, Report 103 (2006) 347. The Australian Law Reform Commission's recommendation stands in stark contrast to Justice Kirby's strong cautioning two years prior against the use of aggregate sentencing for federal indictable offences: *Putland v The Queen* [2004] HCA 8, [70].
45. See Commonwealth Director of Public Prosecutions, *Sentencing of Federal Offenders in Australia: A Guide for Practitioners* (5th ed., 2022) 251.
46. That is, the aggregate sentencing power in section 9 of the *Sentencing Act 1991* (Vic) is 'picked up' by virtue of section 68 of the *Judiciary Act 1903* (Cth).
47. *Fasciale v The Queen* [2010] VSCA 337, [27]. See also *Ilic v R* [2020] NSWCCA 300, [41].
48. See the Appendix for the number of federal offences sentenced in the Magistrates' Court each year, how many received imprisonment, and how many prison sentences were aggregate prison sentences.

Advantages of aggregate sentencing

There are two major advantages to aggregate sentencing, which together are probably why aggregate sentencing is used so frequently in the Magistrates' Court, and why the Australian Law Reform Commission found 'limited opposition' to the use of aggregate sentencing.[49]

First, aggregate sentencing offers significant efficiency savings. It is not uncommon for the Magistrates' Court to hear cases involving dozens,[50] if not hundreds,[51] of charges, many of which are often similar and related. Sentencing such charges together vastly reduces the amount of time spent identifying individual charge-level sentences for each, particularly given that sentencing courts must apply the principle of totality and avoid a 'crushing' sentence.[52] Any efficiency savings are no doubt welcome in the Magistrates' Court, which deals with the vast bulk of criminal cases in Victoria.[53] Moreover, the number of cases in that jurisdiction increased 26% from 2004–05 to 2018–19.[54]

Second, as the then Attorney-General alluded to when aggregate sentencing was introduced in Victoria, individual sentences can create 'an air of artificiality' that also 'increase[s] the potential for [calculation] errors'.[55] Aggregate sentencing, it was said, was intended to 'simplify the sentencing task and reduce the risk of technical sentencing errors',[56] such as discrepancies between the base sentence with calculated orders for cumulation and the specified total effective sentence. Warner has made similar observations.[57] So too has the Court of Appeal.[58]

49. Australian Law Reform Commission (2006), above n 44, 343.
50. For example, in 2015 an offender was sentenced for 77 offences relating to animal cruelty following an RSPCA Victoria investigation into a puppy farm: Sentencing Advisory Council, *Animal Cruelty Offences in Victoria* (2019) 23.
51. For example, the Council recently observed a case in which a family violence offender was sentenced for 393 charges in a single case: Sentencing Advisory Council (2022), above n 29, 48.
52. *DPP v Alsop* [2010] VSCA 325, [30].
53. In 2018–19, prior to COVID-19, there were 97,062 cases sentenced in Victoria, 94% in the Magistrates' Court (91,649 cases) and the remainder in the County Court, Supreme Court and Children's Court.
54. The number increased from 72,945 in 2004–05 to 91,649 in 2018–19: Sentencing Advisory Council, 'Cases Sentenced in the Magistrates' Court' (sentencingcouncil.vic.gov.au, 2022). Case numbers in more recent years were significantly affected by COVID-19.
55. Victoria, *Parliamentary Debates*, Legislative Assembly, 24 April 1997, 875 (Jan Wade, Attorney-General). Warner has also described individual sentences as involving '[a] degree of artificiality': Warner (1987), above n 3, 341. So too did Justice Olsson of the South Australian Court of Criminal Appeal describe individual sentences as sometimes requiring judges to 'resort to artificial "juggling" with individual sentences in an artificial manner': *R v Ruggiero* (1998) 104 A Crim R 358, [38].
56. Victoria, *Parliamentary Debates*, Legislative Assembly, 24 April 1997, 875 (Jan Wade, Attorney-General).
57. Warner (1987), above n 3, 341–342:

    > It is difficult, particularly when a large number of offences are involved, to avoid a degree of artificiality in imposing separate sentences on each count which must be adjusted to add up to an appropriate total by orders for concurrent and cumulative sentences … The rules relating to the exercise of the discretion to impose concurrent or cumulative sentences are not always easy to apply.

58. *DPP v Frewstal Pty Ltd* [2015] VSCA 266, [44]:

    > The kind of case for which an aggregate sentence is appropriate is one where the number, similarity and proximity in time of the offences is such that it would be an artificial exercise to impose individual sentences and then, by means of modest orders for cumulation, to arrive at a total effective sentence proportionate to the total criminality.

Disadvantages of aggregate sentencing

There are also several disadvantages to aggregate sentencing. Many of these are well known and have been canvassed by Warner in 1987 and 2022[59] as well as the Australian Law Reform Commission in 2006.[60] Some, however, are less well known.

1. Reduced transparency in sentencing

Aggregate sentencing can reduce transparency in sentencing in two ways: first, within individual cases and second, in current sentencing practices more generally.

A. Reduced ability to scrutinise individual sentences

Being unable to discern the contribution of any particular offence to the total sentence imposed can detrimentally affect victims, offenders and the broader community.[61] If victims cannot identify how each offence was sentenced, they may feel dissatisfied with the sentencing process because they cannot see how any offences committed against them have been reflected in the total sentence.[62] Similarly, as has been observed by Kirby J (in dissent), aggregate sentencing creates 'serious disadvantages' for offenders in identifying whether the underlying mechanics of the sentencing exercise were unjust or not:

> In practical terms, it makes the offender's task of challenging the unidentified components of the aggregate sentence much more difficult. It risks depriving the offender of the provision of adequate reasons for the components of the sentence. It undermines the objective of identifying differential sentences … so that their content might be known … It diminishes the effectiveness of the deterrent value of particularised sentences … In the case of indictable offences specificity in sentencing is at a premium. That is so because the punishment (including … loss of liberty) is typically greater and more onerous. It should therefore be identified and identifiable.[63]

59. Warner (1987), above n 3, 341–342; Kate Warner et al., 'Jurisdictional Differences in Sentencing Practice: Insights from the National Jury Sentencing Study' (2022) 34(3) *Judicial Officers' Bulletin* 13, 17.
60. Australian Law Reform Commission (2006), above n 44, 344–345.
61. Ibid 344.
62. Of course, non-aggregate prison sentences present this same risk in a different way, because the principle of totality can result in courts ordering significant periods of concurrency between charge-level sentences, such that some offences in the case can appear to have little (if any) apparent effect on the overall sentence imposed.
63. *Putland v The Queen* [2004] HCA 8, [116], [119]. On a related point, if an offender was to successfully appeal a conviction in relation to one or more of the offences in an aggregate sentence, it forces the appellate court to resentence all of the other offences afresh because the aggregate sentence can no longer stand: see, for example, *O'Connell & Ors v The Queen* (1884) 8 ER 1061, 1061: 'A good finding on a bad count, and a bad finding on a good count, stand on the same footing; both being nullities'.

For example, in *Fitzpatrick v The Queen*, an offender had appealed against an aggregate prison sentence, in part, because 'it was submitted that there was clearly something wrong with the imposition of an aggregate sentence of four years and nine months for a series of offences that include relatively minor charges'.[64] It was therefore, at least in part, the offender's inability to scrutinise the underlying mechanics of the total effective sentence that motivated their sentence appeal.

B. Reduced ability to assess current sentencing practices

In a broader context, courts in Victoria are legislatively obligated to take 'current sentencing practices' into account when sentencing someone.[65] While the weight courts can attribute to current sentencing practices was diluted by the High Court in 2017,[66] they nevertheless remain an important consideration. An assessment of current sentencing practices will generally require consideration of both 'relevant sentencing statistics for the offence and … sentencing decisions in comparable cases'.[67] To assist courts in that assessment, the Council regularly publishes statistics in relation to how certain offences are sentenced in Victoria (for example, how often a CCO is imposed for an offence or how long prison sentences are).

One of the consequences of such high rates of aggregate sentencing, particularly in the Magistrates' Court, is that it becomes very difficult to provide reliable insights into current sentencing practices for offences receiving imprisonment. There is no way to discern what contribution each offence makes to an aggregate prison sentence (and there is nothing useful to be gleaned from knowing the length of an aggregate prison sentence imposed for multiple offences). If 91% of charges receiving imprisonment are part of an aggregate prison sentence, that only leaves 9% of prison sentences from which to gauge current sentencing practices. Such a small sample size may not actually reflect current sentencing practices about the lengths of prison sentences for certain offences. For example, if charges of a certain offence that receive non-aggregate prison sentences are in general more serious than charges bundled into aggregate prison sentences, then the prison sentences imposed on those 9% of charges could give the impression that sentences for that offence are longer than might have been the case had all charges of that offence received non-aggregate prison sentences.

64. *Fitzpatrick v The Queen* [2016] VSCA 63, [29]. The appeal was dismissed.
65. *Sentencing Act 1991* (Vic) s 5(2)(b).
66. *Dalgliesh (A Pseudonym) v The Queen* [2017] HCA 41, [68].
67. *DPP v CPD* [2009] VSCA 114, [78]. More recently, see *Baroch v The Queen; Ater v the Queen* [2022] VSCA 90, [32] ('Together with relevant sentencing statistics' comparable cases 'are the surest guide to current sentencing practices'). See also Octavian Simu and Paul McGorrery, 'Judging Statistics' (2021) 95(8) *Law Institute Journal* 38.

2. Aggregate prison sentences for unrelated offences

Section 9(1) of the *Sentencing Act* only allows charges to be part of the same aggregate prison sentence if they 'are founded on the same facts, or form, or are part of, a series of offences of the same or a similar character'. As the Court of Appeal has observed,[68] this is the same precondition that must be met for offences to appear together on the same charge sheet or indictment.[69] While this seems to suggest that most charges in a case should be capable of being part of an aggregate prison sentence,[70] there are at least three circumstances where offences in a case will not be sufficiently 'related' to justify an aggregate prison sentence.

The first is when a court is dealing with 'unrelated summary offences' in the higher courts[71] or a consolidated case in the Magistrates' Court.[72] In both instances, the offences do not appear on the same indictment or charge sheet and therefore may not be allowed to be part of the same aggregate sentence. For instance, in *Fitzpatrick v The Queen,* the Court of Appeal observed that while an unrelated summary offence of unlicensed driving was 'temporally connected' to the other offences in the case (family violence offending), it 'certainly did not form part of a "series of offences of the same or a similar character"'.[73]

The second is when offences are not based on sufficiently similar facts. The offence of failing to answer bail, for example, would rarely be 'related' to other offences in a case (in the sense of being founded on the same or similar facts), yet 88.6% of the 6,350 charges of failing to answer bail receiving prison sentences in the three years to 30 June 2021 were part of an aggregate prison sentence.[74] The Court of Appeal also recently, in *Guo v The Queen*, overturned an aggregate period of youth detention for two offences – aggravated burglary and possessing a prohibited weapon – because they were not adequately related.[75] The offender had committed an aggravated burglary in early November, and four weeks later police found two extendable batons (neither of which had been used in the aggravated burglary) while executing a search warrant at his house. The Court of Appeal considered the imposition of an aggregate sentence in this case to constitute specific error, therefore 'the sentencing discretion [was] reopened' regardless of whether the appellate court would have imposed a different sentence.[76]

68. *DPP v Rivette* [2017] VSCA 150, [80]; *R v Grossi* [2008] VSCA 51, [39].
69. *Criminal Procedure Act 2009* (Vic) s 3 (definition of *related offences*), s 159(3)(c) (for indictments), sch 1 cl 5(1) (for charge sheets). The endnotes of the *Sentencing Act* clarify that this identical phrasing was intentional: 'The power to impose an aggregate sentence is founded on a proper joinder of the charges before the court': *Sentencing Act 1991* (Vic) Explanatory Details 3.
70. Courts can, of course, impose aggregate prison sentences on only some charges in the case: see, for example, *DPP v O'Brien* [2021] VCC 1178, in which the court imposed two aggregate prison sentences for charges arising out of the same indictment: [48].
71. *Criminal Procedure Act 2009* (Vic) s 243.
72. *Criminal Procedure Act 2009* (Vic) s 57.
73. *Fitzpatrick v The Queen* [2016] VSCA 63, [50].
74. Sentencing Advisory Council, 'SACStat Magistrates' Court – Fail to Answer Bail' (sentencingcouncil.vic.gov.au, 2022).
75. *Guo v The Queen* [2020] VSCA 273. While this case involved a youth justice centre order, the test for whether aggregate periods of youth detention are permitted is identical to the test for aggregate prison sentences.
76. *Guo v The Queen* [2020] VSCA 273, [17].

And the third is when two offences are of 'significantly different seriousness'. The Court of Appeal has suggested on multiple occasions that an aggregate sentence may not be appropriate for offences that are too dissimilar in seriousness, even if founded on related factual circumstances. For instance, in *Sinclair v The Queen*, the offender had been a passenger in a car he knew was stolen (theft), and he was again a passenger in the same stolen car the next day, during which he committed an armed robbery against a woman at a shopping centre. The court held that the different level of seriousness between the armed robbery and the theft meant that an aggregate sentence 'was not reasonably open'.[77] Similarly, in *Fitzpatrick v The Queen*, the Court of Appeal held that the aggravating features of one of the charges (common assault) made it 'significantly more serious' than the other offences in the case. And while the court did not interfere with the original sentence in that case, it did suggest that the sentencing court 'ought to have given greater thought to whether it was appropriate in the particular circumstances of this case to impose an aggregate sentence'.[78] In *Cokacar v The Queen*, the Court of Appeal – again without interfering with the original sentence – said that 'this was not an appropriate case for an aggregate sentence' and cautioned judges 'to ensure that the aggregate sentence power is reserved for cases of the type described in the authorities'.[79] And in *Stevens v The Queen*, the Court of Appeal described it as 'inappropriate' for an aggregate sentence to have been imposed for two offences – trafficking in a drug of dependence and dealing with suspected proceeds of crime – because of 'the marked disparity in the seriousness of the charges and the fact that one of them … was unlikely to attract a custodial sentence on its own'.[80] The court described 'the sentencing process [as] distorted by "squeezing" the proceeds charges into a sentence that had been arrived at by reference to another, far more serious offence', which resulted in that offence receiving a 'manifestly excessive' sentence.[81] That is, the aggregate prison sentence for the proceeds of crime charge amounted to not only specific error but also manifest excess.[82] Despite this case law, though, which seems to have originated in *R v Grossi*[83] and *DPP v Felton*[84], the requirement of similar levels of seriousness does not expressly appear in section 9 of the *Sentencing Act*, so it is not clear what might be the legislative basis for this requirement.[85]

77. *Sinclair v The Queen* [2021] VSCA 144, [24].
78. *Fitzpatrick v The Queen* [2016] VSCA 63, [49].
79. *Cokacar v The Queen* [2019] VSCA 178, [33]–[35]. The court continued: 'In all other cases involving multiple offences, the sentence for each offence must be considered separately – having regard to the applicable maximum and the relevant circumstances – and questions of totality must then be addressed through orders for cumulation': [35].
80. *Stevens v The Queen* [2020] VSCA 170, [56].
81. *Stevens v The Queen* [2020] VSCA 170, [52].
82. *Stevens v The Queen* [2020] VSCA 170, [53].
83. *R v Grossi* [2008] VSCA 51, [39].
84. *DPP v Felton* [2007] VSCA 65, [39] (in turn citing the dissent of Kirby J in *Putland v The Queen* [2004] HCA 8, [95], [119]: 'Sentences for *summary* offences may be aggregated; but not sentences for the typically more serious *indictable* offences … because the punishment … is typically greater and more onerous. It should therefore be identified and identifiable'.
85. There is a requirement that offences be of a 'similar character', but this is the same requirement for offences to be joined on an indictment, and offences of significantly different seriousness are frequently joined on an indictment.

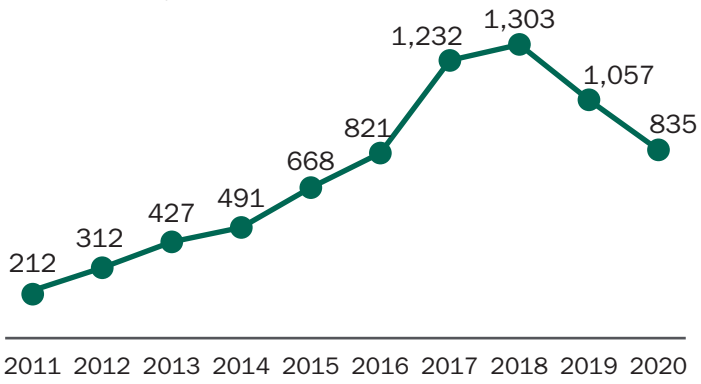
3. Imprisonment (and CCOs) for fine-only offences

Section 111 of the *Sentencing Act* makes clear that people cannot receive a penalty 'exceeding that set out' in the relevant offence provision. This applies to both sentence lengths and types. If the maximum prison sentence that can be imposed for a single charge is 6 months, then a 12-month non-aggregate prison sentence would be impermissible.[86] Equally, if the maximum penalty for an offence is a fine, then a prison sentence is not permissible at all.[87] And if the maximum penalty for an offence is a fine of 5 penalty units or less, then a CCO is impermissible.[88] It appears, however, that many offences in Victoria have been receiving sentences in excess of their maximum penalty.

Imprisonment for fine-only offences

A review of Magistrates' Court data from 2011 to 2020 shows that there were at least[89] 7,358 charges in 4,989 cases that received imprisonment despite the maximum penalty for those offences being a fine (Figure 6). From 2011 to 2018, the number of prison sentences for fine-only offences increased sixfold from 212 to 1,303.[90] The number has decreased since 2018, though the number for 2020 would have been affected by the reduced ability of courts to finalise cases during COVID-19 restrictions. The vast majority of those fine-only offences receiving imprisonment were recorded as being part of an *aggregate* prison sentence imposed for multiple charges in a case (94%). This would seem to suggest that aggregate sentencing could be one of the main drivers, if not *the* main driver, of the imposition of prison sentences on offences for which a prison sentence is not permissible.

Figure 6: Number of charges of fine-only offences that received imprisonment in the Magistrates' Court, by year (7,358 charges in 4,989 cases)

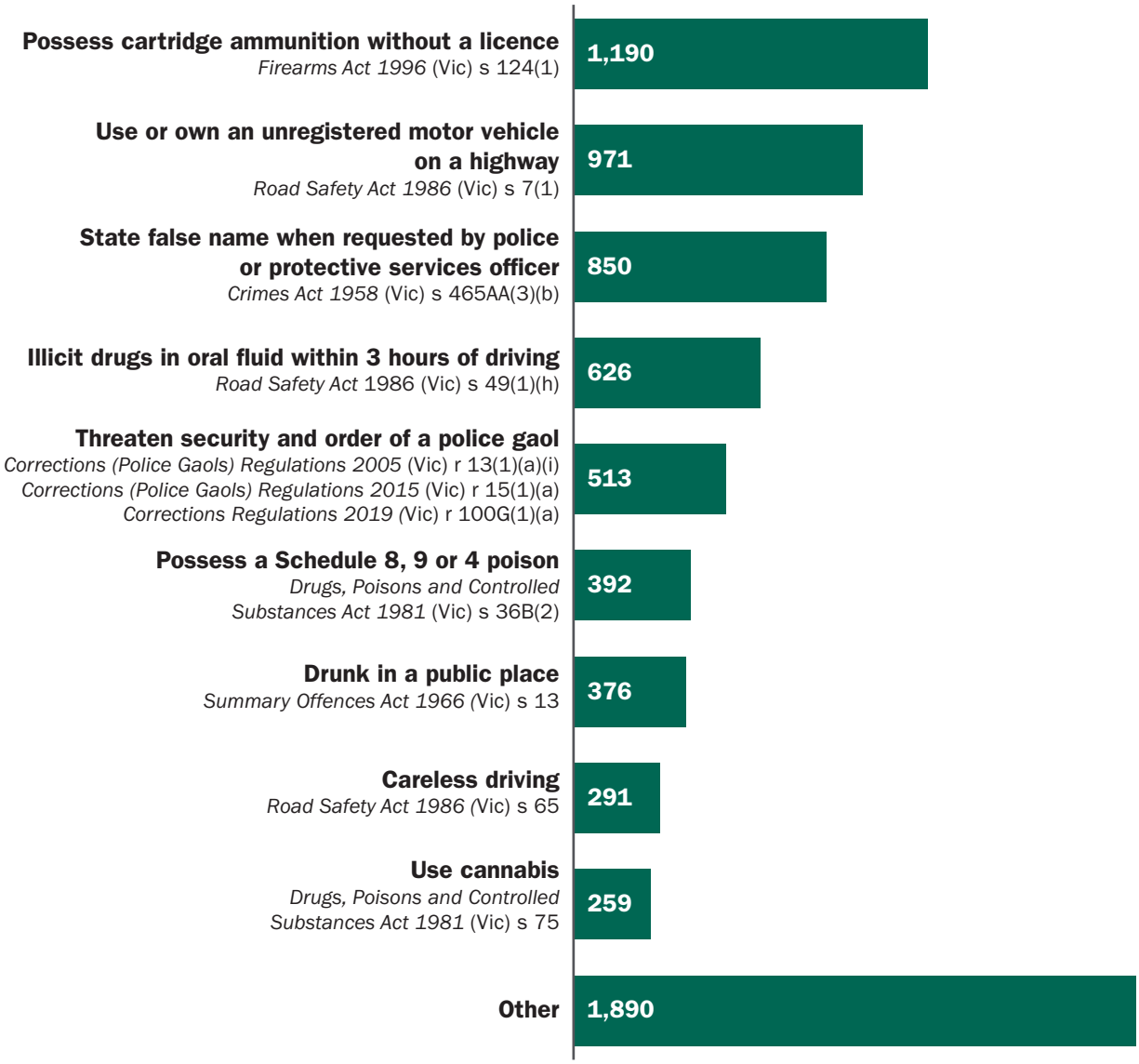


While the imposition of prison sentences for fine-only offences is most apparent in the Magistrates' Court, it has also occurred in the higher courts. A very small number of charges (28) of fine-only offences also received imprisonment in the higher courts in the five years to 30 June 2021.[91]

86. However, the aggregate prison sentence for multiple offences can permissibly exceed the maximum of one or more offences in that bundle of charges: *Fitzpatrick v The Queen* [2016] VSCA 63, [55].
87. *Sentencing Act 1991* (Vic) s 111.
88. *Sentencing Act 1991* (Vic) s 37(a).
89. This is a conservative estimate. If the maximum penalty for an offence was imprisonment in some instances but not others, it was assumed that all prison sentences were lawful. For example, section 49(2A) of the *Road Safety Act 1986* (Vic) specifies that a fine of no more than 20 penalty units applies to certain drink-driving offences as a first offence, but on a second offence a prison sentence of not more than six months is possible. There were hundreds of charges of these offences that received a prison sentence between 2011 and 2020; it was assumed they were all for second or subsequent offences.
90. This corresponds somewhat with the tripled rate of imprisonment in the Magistrates' Court generally, from 4.4% of all cases sentenced in 2010–11 to 13.0% in 2019–20: Sentencing Advisory Council (2022), above n 28.

The offences most affected by this issue in the Magistrates' Court are shown in Figure 7. The offences are varied, with the nine most common including a firearm offence, driving offences, police and gaol offences, drug offences, and a public order offence.[92]

Figure 7: Fine-only offences that received imprisonment in the Magistrates' Court, 2011 to 2020 (7,358 charges)



91. According to data published publicly on SACStat, the Council's online database of sentencing outcomes in Victorian adult courts, the charges include trespassing on land owned by a public transport corporation contrary to section 223 of the *Transport (Compliance and Miscellaneous) Act 1983* (Vic) (two charges), having illicit drugs in a blood sample within three hours of driving contrary to section 49(1)(i) of the *Road Safety Act 1986* (Vic) (one charge), driving with a prescribed concentration of drugs in the body contrary to section 49(1)(bb) of the *Road Safety Act 1986* (Vic) (four charges), using an unregistered motor vehicle or trailer on a highway contrary to section 7(1) of the *Road Safety Act 1986* (Vic) (two charges), possessing cartridge ammunition without a licence contrary to section 124(1) of the *Firearms Act 1996* (Vic) (13 charges), using cannabis contrary to section 75 of the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) (one charge), possessing a scheduled poison without lawful authority contrary to section 36B(2) of the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) (four charges), and stating a false name or address when requested by a police or protective services officer contrary to section 456AA(3) of the *Crimes Act 1958* (Vic) (one charge). In total, these amount to 28 charges of fine-only offences receiving imprisonment in the higher courts over the five-year period.

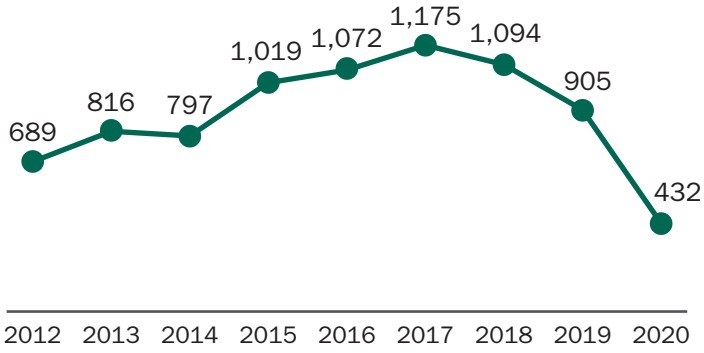
92. Legislation decriminalising the offence of public drunkenness was passed in February 2021; however, commencement has been delayed until November 2023: *Crimes Legislation Amendment Act 2022* (Vic) s 5.

CCOs for fine-only offences with a maximum of 5 penalty units or less

This issue of sentences in excess of the maximum does not seem to be limited to fine-only offences receiving *imprisonment.* While CCOs are more severe in Victoria's sentencing hierarchy than a fine is,[93] section 37(a) of the *Sentencing Act* does allow fine-only offences to receive a CCO in some circumstances, but only if the offence is 'punishable by more than 5 penalty units'. Even if another offence in the case meets that minimum threshold, the Court of Appeal has clarified that for offences with a maximum fine of 5 penalty units or less, it is 'not open to [a] judge as a matter of law to impose a CCO on that charge'.[94] Therefore, if a court imposes a CCO on other offences in a case, any offences that cannot receive a CCO must be disposed of in some other manner, such as with a fine, a concurrent adjourned undertaking, or by dismissal of the charge with or without conviction.

Despite the unavailability of CCOs for fine-only offences with a maximum fine of 5 penalty units or less, court data suggests that CCOs are frequently imposed for such offences (Figure 8). Between 2012 and 2020,[95] there were 7,999 charges in 5,884 cases that received a CCO despite the relevant offence having a maximum of 5 penalty units or less. The number of such sentences increased substantially in 2015, which accords with the equally significant increase in the use of CCOs generally that year[96] following the Court of Appeal's guideline judgment in *Boulton*.[97] The decline in 2020 is most likely attributable to the effect of COVID-19 on court operations. Just as aggregate sentencing seems to be responsible for the imposition of imprisonment for fine-only offences, so too does the quasi-aggregate nature of CCOs[98] seem to be responsible for the imposition of CCOs for offences with a maximum penalty of 5 penalty units or less.

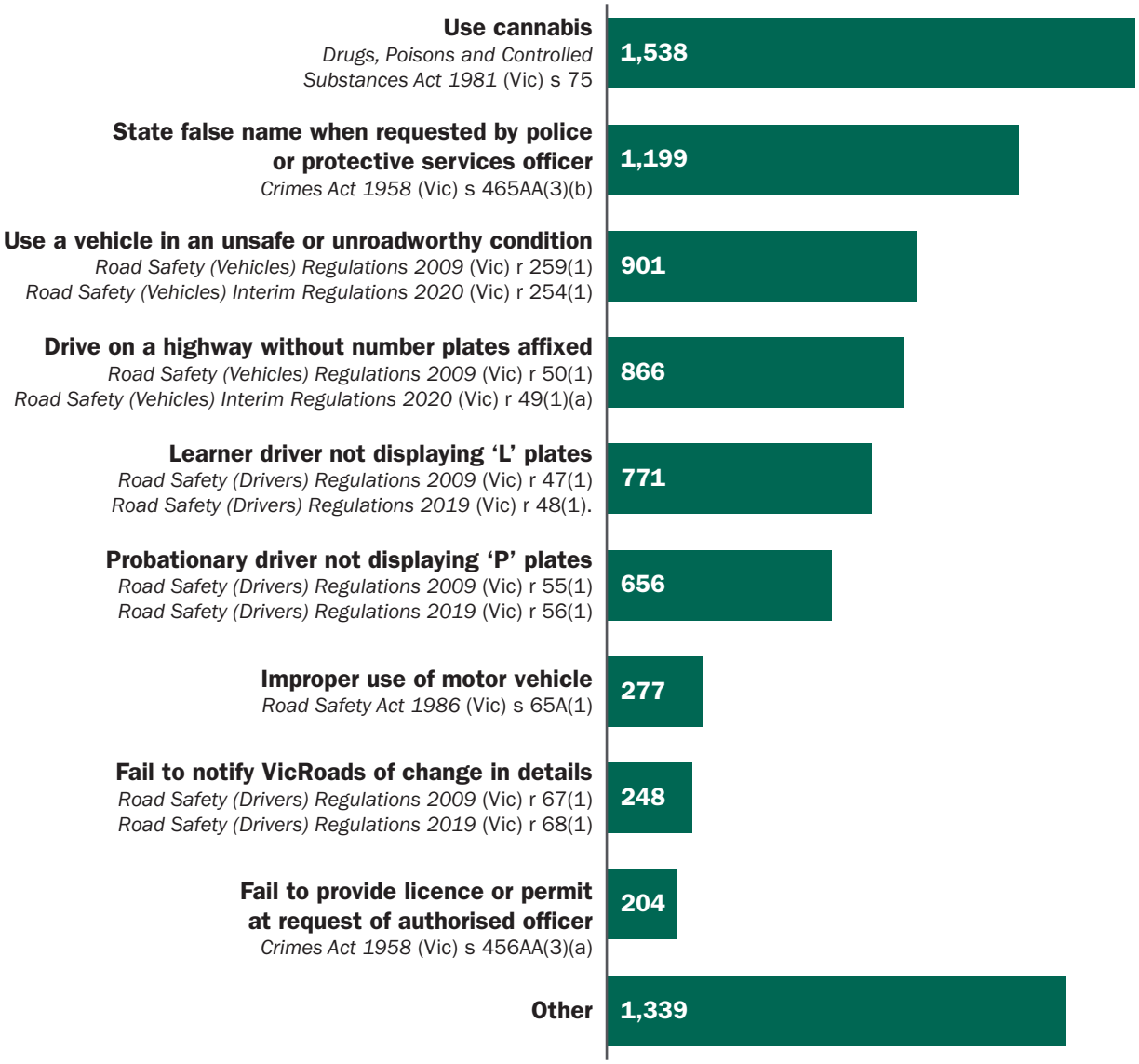
Figure 8: Number of charges of fine-only offences with a maximum penalty of 5 penalty units or less that received a CCO in the Magistrates' Court, 2012 to 2020 (7,999 charges in 5,884 cases)



93. *Sentencing Act 1991* (Vic) s 5(6).
94. *Curtis v The Queen* [2022] VSCA 5, [11].
95. A nine-year reference period is used here because CCOs only came into effect in January 2012: *Sentencing Amendment (Community Correction Reform) Act 2011* (Vic) s 21.
96. In 2013–14, there were about 7,300 CCOs imposed, and two years later that had increased to about 10,500: Sentencing Advisory Council (2022), above n 28.
97. *Boulton v The Queen; Clements v the Queen; Fitzgerald v the Queen* [2014] VSCA 342.
98. While in some rare cases multiple CCOs have been imposed in the same case, courts usually impose one CCO per case, covering a number of offences.

Most of the charges that received CCOs were driving-related offences (60% of the 7,999 charges);[99] however, the two most common specific offences were using cannabis and stating a false name to a police officer or protective services officer (Figure 9).

Figure 9: Fine-only offences with a maximum penalty of 5 penalty units or less that received a CCO in the Magistrates' Court, 2012 to 2020 (7,999 charges)



99. These offences mostly relate to *Road Safety (Vehicles) Regulations 2009* (Vic) (24%), *Road Safety (Drivers) Regulations 2009* (Vic) (22%), *Road Safety Act 1986* (Vic) (10%) and *Road Safety Road Rules 2017* (Vic) (3%).

Concluding remarks

Aggregate prison sentences constitute the vast majority of prison sentences in the Magistrates' Court, even more so in 2020 than in 2011, and they have become more prevalent in the higher courts. Their introduction in 1997 was intended to 'reduce the risk of technical sentencing errors',[100] and prevent an 'air of artificiality' in the sentencing process for a series of related acts. They are also far more efficient than individual charge-level sentences, especially in cases with a large number of charges. This advantage cannot be overstated. There has been a significant increase in the number of cases and charges dealt with in the Magistrates' Court each year. And courts and practitioners must navigate increasingly complex sentencing legislation.

These practical realities must frame the analysis that follows, because it is most likely the pressures resulting from overwhelming demand that are causing errors to be made. Offences that are not sufficiently 'related' are often receiving an aggregate sentence, which is not permitted by legislation. Moreover, at a conservative estimate,[101] there were over 15,000 offences in the last decade that impermissibly received either a prison sentence or a CCO in excess of their maximum penalties (an issue that is statewide and not specific to any particular court location or justice region).[102] In almost every instance, the charge receiving a sentence in excess of its maximum penalty was bundled with other more serious offences to receive an aggregate prison sentence, suggesting that the process of aggregate sentencing is the cause of this issue.

We met with representatives from a number of key organisations in the legal profession to discuss our findings, and they all agreed that those offences were very unlikely to have affected the total effective sentence in these cases (that is, the length of the prison sentence, the conditions of the CCO, etc.) But neither is it possible to say so definitively, due to the inherent lack of transparency in aggregate sentencing. Further, even if these errors are both understandable and have little effect on actual sentences, they are nevertheless not in accordance with the law, and the issue should be addressed. As to how it should be addressed, there are a number of possible options, such as changes in court practice and/or legislative reform.[103]

100. Victoria, *Parliamentary Debates*, Legislative Assembly, 24 April 1997, 875 (Jan Wade, Attorney-General).

101. See above n 91.

102. The 12 court locations where the largest number of CCOs and prison sentences were imposed in circumstances where they were not permissible were also the state's 12 headquarter courts: Melbourne (19.5% of the 7,032 impermissible prison sentences and 14.2% of the 7,428 impermissible CCOs); Sunshine (9.3% and 12.7%); Ringwood (9.2% and 8.4%); Heidelberg (8.8% and 6.1%); La Trobe Valley (6.8% and 4.6%); Dandenong (5.9% and 8.4%); Frankston (5.3% and 8.4%); Geelong (4.9% and 4.0%); Broadmeadows (4.9% and 4.3%); Ballarat (3.4% and 3.9%); Bendigo (3.3% and 3.0%); Shepparton (2.9% and 2.5%).

103. As one example, section 37 of the *Sentencing Act 1991* (Vic) could potentially be amended to allow all fine-only offences to receive a CCO so long as at least one offence receiving that CCO has a maximum of more than 5 penalty units.

In summary, there are both advantages and disadvantages in the use of aggregate sentencing. On the one hand, it can reduce artificiality in sentencing, significantly improve efficiency and reduce technical error. On the other hand, it can limit accurate insights into current sentencing practices, prevent victims, offenders and the broader community from 'unpacking' how multiple offences contributed to the total sentence, and result in offences receiving impermissible sentences. Nevertheless, aggregate sentencing plays a critical role in Victoria's criminal justice system, particularly given the increasing volume and complexity of cases.

Appendix

Tables A1 to A3 show the number of charges sentenced in the Magistrates' Court and higher courts each year, how many of those charges received prison sentences, and how many of those prison sentences were recorded as aggregate prison sentences.

Table A1: Number of all charges sentenced in the higher courts, 2011 to 2020, how many of those received prison sentences, and how many of those were part of an aggregate prison sentence

Year	Total charges sentenced	Prison sentences	Aggregate prison sentences
2011	7,805	5,070	30
2012	6,522	4,055	89
2013	6,814	4,833	77
2014	7,568	5,325	591
2015	6,655	4,510	1,064
2016	6,886	5,012	985
2017	7,194	5,550	1,018
2018	7,808	6,140	1,098
2019	8,046	6,000	929
2020	6,874	5,341	906

Table A2: Number of all charges in the Magistrates' Court, 2011 to 2020, how many of those received prison sentences, and how many of those were part of an aggregate prison sentence

Year	Total charges sentenced	Prison sentences	Aggregate prison sentences
2011	204,437	22,989	18,787
2012	226,289	26,659	22,205
2013	260,699	32,084	26,893
2014	283,746	36,302	30,909
2015	320,845	47,195	41,580
2016	327,051	60,172	54,196
2017	344,023	70,071	63,729
2018	323,466	71,516	64,875
2019	307,347	73,698	66,969
2020	194,636	65,807	59,617

Table A3: Number of federal offence charges sentenced in the Magistrates' Court, 2011 to 2020, how many of those received prison sentences, and how many of those were part of an aggregate prison sentence

Year	Total charges sentenced	Prison sentences	Aggregate prison sentences
2011	4,945	318	214
2012	5,417	235	154
2013	3,533	308	158
2014	2,785	391	275
2015	6,542	442	301
2016	8,256	319	143
2017	7,719	274	122
2018	5,913	301	135
2019	4,100	305	173
2020	1,606	227	96

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