

## Trafficking in a large commercial quantity of drugs

Sentencing trends in the higher courts of Victoria 2018–19 to 2022–23

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of trafficking in a large commercial quantity of drugs<sup>2</sup> in the County and Supreme Courts of Victoria (the higher courts) from 2018–19 to 2022–23.<sup>3</sup> Adjustments made by the Court of Appeal to sentence or conviction as at June 2023 have been incorporated into the data in this Snapshot. Detailed data on this and other offences is also available on [SACStat](#).

The *Drugs, Poisons and Controlled Substances Act 1981* (Vic) provides for a set of trafficking offences that distinguishes between large commercial, commercial and less than commercial quantities of illicit drugs.<sup>4</sup> This Snapshot examines the offence of trafficking in a *large commercial quantity of drugs*.<sup>5</sup> The amount of the drug that constitutes a large commercial quantity depends on the type of drug involved.<sup>6</sup>

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.<sup>7</sup> This offence is a category 1 offence if it was committed on or after 20 March 2017. For this offence, this classification means that courts must always impose a custodial sentence.<sup>8</sup> Trafficking in a large commercial quantity of drugs is also a standard sentence offence if it was committed on or after 1 February 2018.<sup>9</sup> This means that courts must take into account that a prison sentence of 16 years represents the middle of the range of objective seriousness for this offence.

This Snapshot focuses on cases where trafficking in a large commercial quantity of drugs was the principal offence, that is, cases where trafficking in a large commercial quantity of drugs was the offence that received the most severe sentence.<sup>10</sup>

Trafficking in a large commercial quantity of drugs was the principal offence in 1.1% of cases sentenced in the higher courts between 2018–19 and 2022–23.

### Effect of COVID-19 on sentencing data

The data in this Snapshot is likely to have been affected by the COVID-19 pandemic – particularly in the 2020–21 and 2021–22 financial years. For instance:

- the number of people sentenced in the period after March 2020 may be lower than in other years because the pandemic caused delays in court proceedings
- court backlogs may have led to prioritisation of more serious cases in that period and therefore higher imprisonment rates than in other years
- prison sentences may be shorter during that period than in other years to reflect the combined effect of:
  - a. guilty pleas having an ‘augmented mitigatory effect’ (*Worboyes v The Queen* [2021] VSCA 169) because they help to relieve the strain on the justice system and
  - b. the experience of prison being more burdensome due to increased stress on prisoners and their families and changes in custodial conditions.

## People sentenced

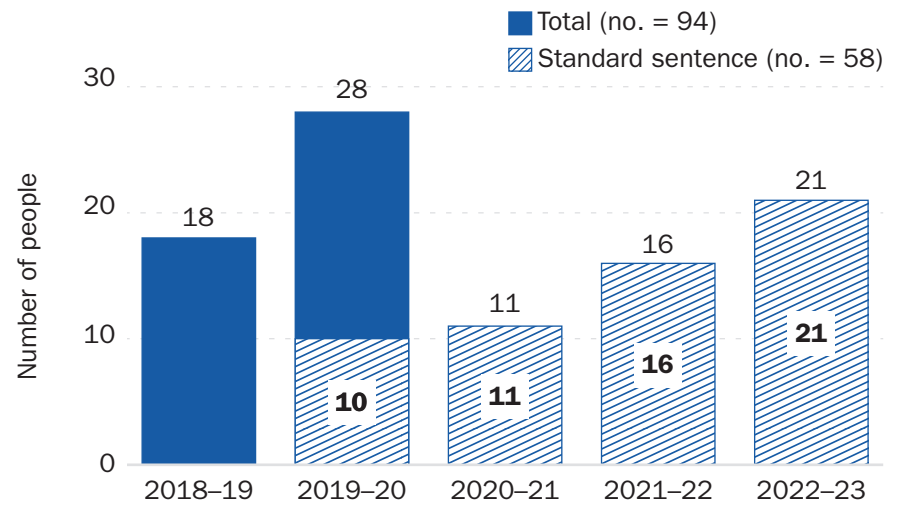
From 2018–19 to 2022–23, 94 people were sentenced in the higher courts for a principal offence of trafficking in a large commercial quantity of drugs.

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 21 people sentenced for this offence in 2022–23, up from 16 in the previous year. The number of people sentenced was highest in 2019–20 (28 people) and lowest in 2020–21 (11 people).

Figure 1 also shows that in the last 3 years, all principal offences of trafficking in a large commercial quantity of drugs were sentenced as standard sentence offences.

There were no people who received a custodial or non-custodial supervision order for the principal offence of trafficking in a large commercial quantity of drugs during the five-year period.<sup>11</sup>

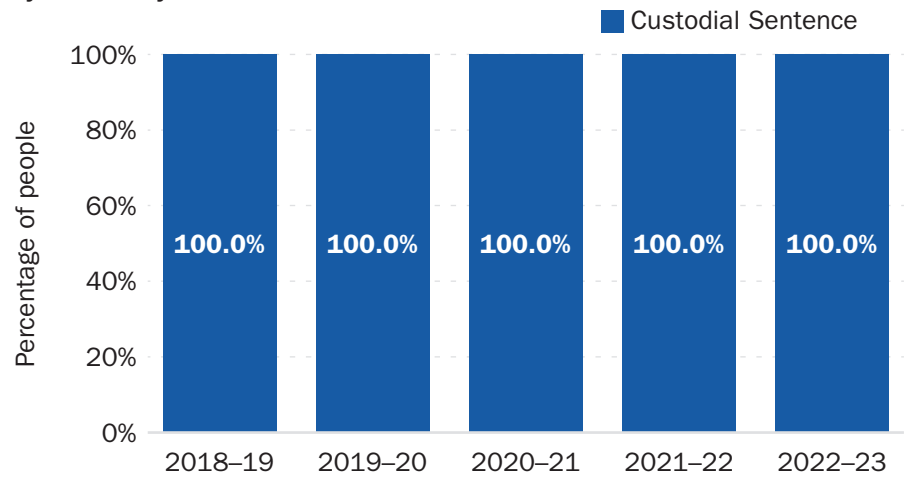
**Figure 1: The number of people sentenced for trafficking in a large commercial quantity of drugs, by financial year**



## Sentence types and trends

Figure 2 shows the proportion of people who received an immediate custodial sentence for the principal offence of trafficking in a large commercial quantity of drugs. An immediate custodial sentence involves at least some element of immediate imprisonment or detention.<sup>12</sup> Over the five-year period, 100% of people were given an immediate custodial sentence, all of which were imprisonment.

**Figure 2: The percentage of people who received an immediate custodial sentence for trafficking in a large commercial quantity of drugs, by financial year**



## Principal and total effective sentences of imprisonment

The following sections analyse the use of imprisonment for the principal offence of trafficking in a large commercial quantity of drugs from 2018–19 to 2022–23.

The *principal sentence* is the most serious sentence imposed for the principal offence in a case at a *charge* level.

The *total effective sentence* is the sentence imposed for all charges in a case and applies at a case level. Where a case involves multiple charges, the total effective sentence will be either the same as or longer than the principal sentence.

### Principal sentences of imprisonment

All 94 people who received a principal sentence of imprisonment received a non-aggregate term of imprisonment. None of these were combined orders of imprisonment and a community correction order. The lengths of imprisonment terms for these people are shown in Figure 3. Imprisonment lengths ranged from 4 years<sup>13</sup> to 15 years and 4 months,<sup>14</sup> while the median imprisonment length was 9 years and 3 months.

The most common range of imprisonment lengths was 9 to less than 10 years (13 principal sentences).

**Figure 3: The number of principal sentences of imprisonment for trafficking in a large commercial quantity of drugs, by range of imprisonment lengths, 2018–19 to 2022–23**

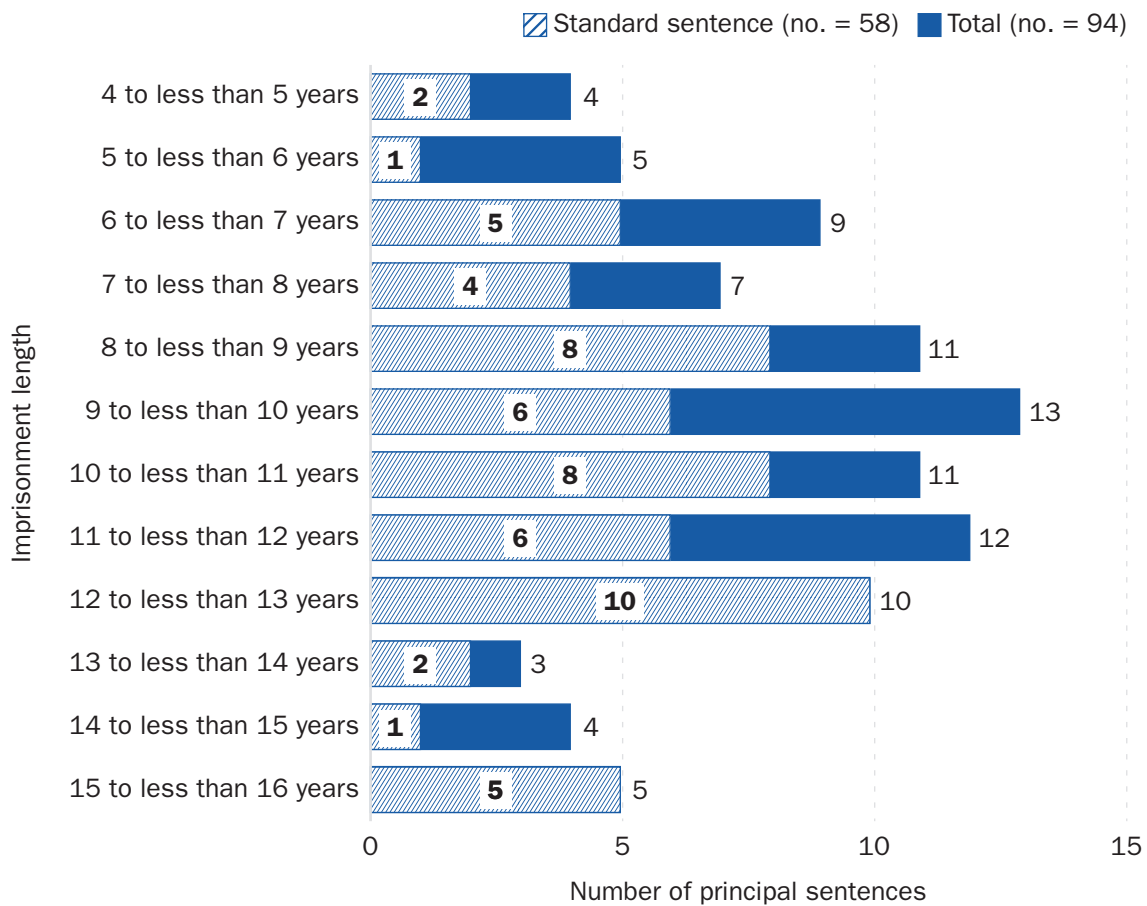
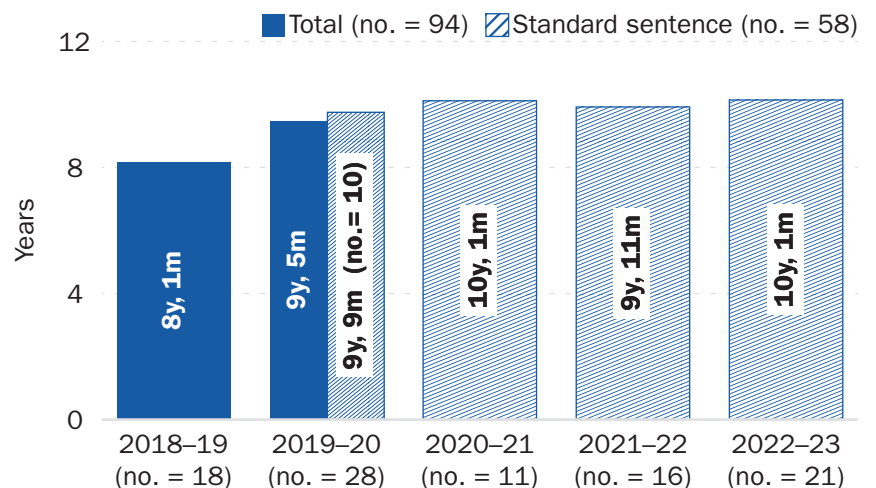


Figure 4 shows the average length of the imprisonment terms for the principal offence of trafficking in a large commercial quantity of drugs each financial year. The average imprisonment length increased from 8 years and 1 month in 2018–19 to 10 years and 1 month in 2022–23.<sup>15</sup> Over the five-year period, the average imprisonment length for trafficking in a large commercial quantity of drugs was 9 years and 6 months.

**Figure 4: The average imprisonment length imposed for trafficking in a large commercial quantity of drugs, by financial year**

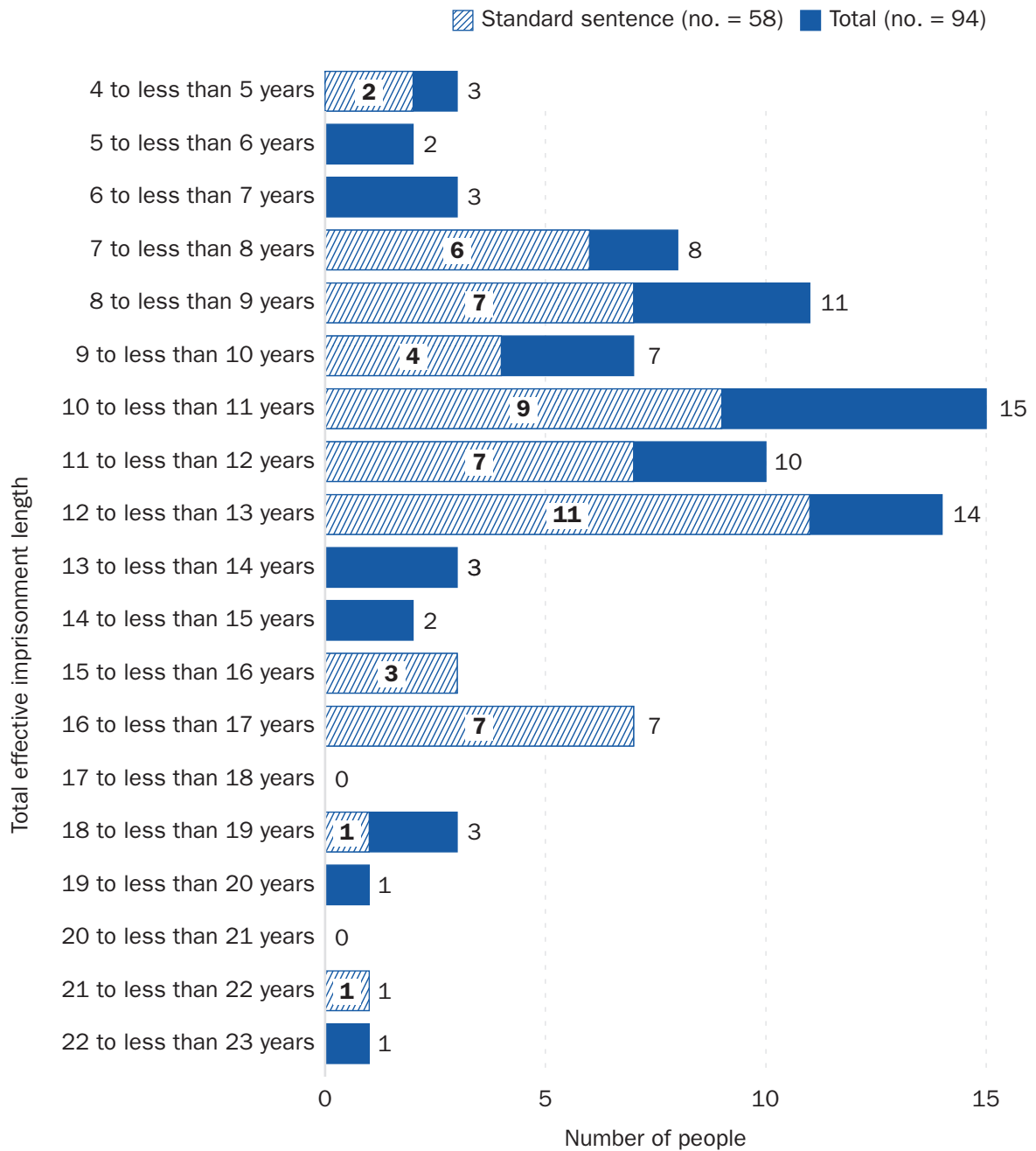


### Total effective sentences of imprisonment

Figure 5 shows the lengths of total effective sentences of imprisonment in cases where trafficking in a large commercial quantity of drugs was the principal offence. Total effective sentences ranged from 4 years to 22 years,<sup>16</sup> while the median total effective sentence was 10 years and 8 months.

The most common range of total effective sentences was 10 to less than 11 years (15 cases).

**Figure 5: The number of people sentenced to imprisonment for trafficking in a large commercial quantity of drugs, by range of total effective sentences, 2018–19 to 2022–23**



## Non-parole periods

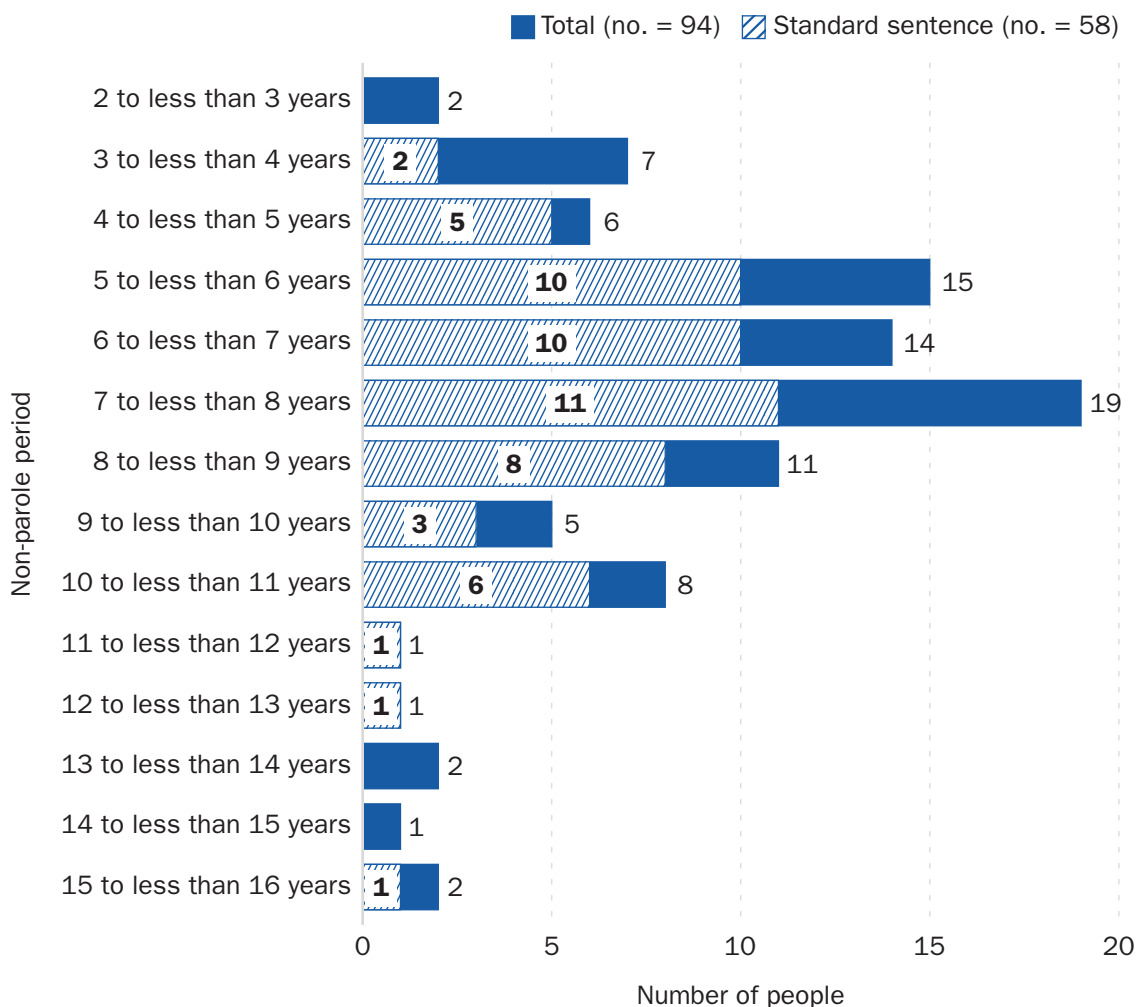
If a person is sentenced to an imprisonment term of less than 1 year, the court cannot impose a non-parole period. For imprisonment terms between 1 year and less than 2 years, the court has the discretion to fix a non-parole period. For imprisonment terms of 2 years or more, the court must impose a non-parole period in most circumstances. If the court fixes a non-parole period, the person must serve that period before becoming eligible for parole. If the court does not set a non-parole period, the person must serve the entirety of their imprisonment term in custody.

All 94 people who were sentenced to imprisonment for the principal offence of trafficking in a large commercial quantity of drugs were eligible to have a non-parole period fixed, and all were given a non-parole period.

Figure 6 shows the lengths of the non-parole periods for people sentenced to imprisonment for the principal offence of trafficking in a large commercial quantity of drugs. Non-parole periods ranged from 2 years and 5 months to 15 years, while the median non-parole period was 7 years.

The most common range of non-parole periods was 7 to less than 8 years (19 people).

**Figure 6: The number of people sentenced to imprisonment for trafficking in a large commercial quantity of drugs, by range of non-parole periods, 2018–19 to 2022–23**



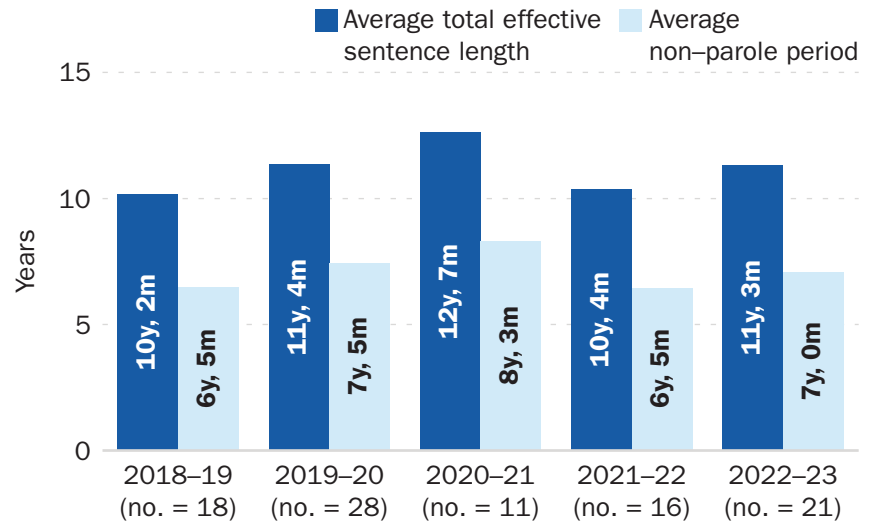
### Average total effective sentences of imprisonment and non-parole periods

Figure 7 represents the average total effective sentences and average non-parole periods each year for the 94 people who were sentenced to imprisonment for the principal offence of trafficking in a large commercial quantity of drugs and who received a non-parole period.

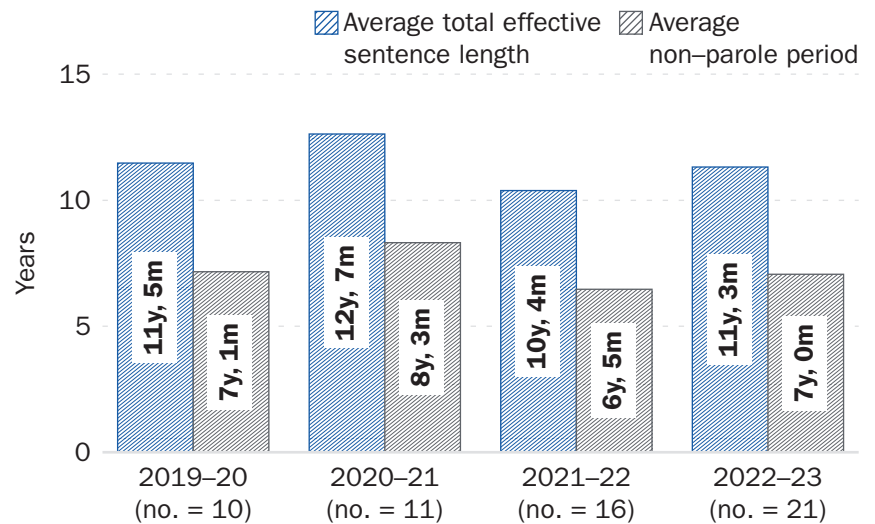
The average total effective sentence ranged from 10 years and 2 months in 2018–19 to 12 years and 7 months in 2020–21. Over the same period, the average non-parole period ranged from 6 years and 5 months in 2018–19 and 2021–22 to 8 years and 3 months in 2020–21.

Figure 8 represents the average total effective sentence and average non-parole period for the 58 people who were sentenced to imprisonment and received a non-parole period for the principal offence of trafficking in a large commercial quantity of drugs as a standard sentence offence. The average total effective sentence ranged from 10 years and 4 months in 2021–22 to 12 years and 7 months in 2020–21. The average non-parole period ranged from 6 years and 5 months in 2021–22 to 8 years and 3 months in 2020–21.

**Figure 7: The average total effective sentences and non-parole periods for people sentenced to imprisonment with a non-parole period for trafficking in a large commercial quantity of drugs, by financial year**



**Figure 8: The average total effective sentences and non-parole periods for people sentenced to imprisonment with a non-parole period for trafficking in a large commercial quantity of drugs as a standard sentence offence, by financial year**



## Other offences finalised at the same hearing

Sometimes 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 that offenders were sentenced for alongside the principal offence of trafficking in a large commercial quantity of drugs.

Figure 9 shows the number of people sentenced for the principal offence of trafficking in a large commercial quantity of drugs by the total number of sentenced offences per person. The number of sentenced offences per person ranged from 1 to 22, and the median was 4 offences. There were 11 people (11.7%) sentenced for the single offence of trafficking in a large commercial quantity of drugs. The average number of offences per person was 5.1.

**Figure 9: 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, 2018–19 to 2022–23**

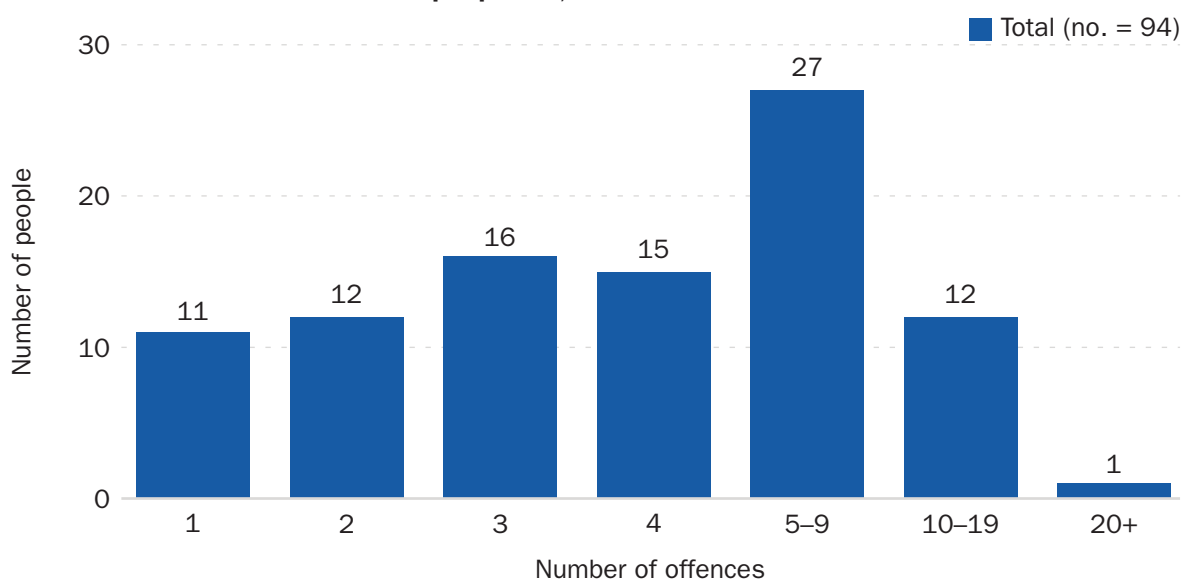


Table 1 shows the 10 most common offences co-sentenced alongside trafficking in a large commercial quantity of drugs. The last column sets out the average number of offences sentenced per case. For example, 38 of the total 94 people (40.4%) were also sentenced for trafficking in a non-commercial quantity of drugs. On average, those 38 people were sentenced for 1.6 charges of trafficking in a non-commercial quantity of drugs per case.

**Table 1: 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 alongside trafficking in a large commercial quantity of drugs, 2018–19 to 2022–23**

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
Trafficking in a large commercial quantity of drugs	94	100.0%	1.1
Trafficking in a non-commercial quantity of drugs	38	40.4%	1.6
Possess a drug of dependence	30	31.9%	1.6
Trafficking in a commercial quantity of drugs	20	21.3%	1.2
Possess, use or carry a prohibited weapon	16	17.0%	1.3
Deal with property suspected of being proceeds of crime	15	16.0%	1.3
Negligently deal with proceeds of crime	14	14.9%	1.2
Commit an indictable offence while on bail	13	13.8%	1.2
Knowingly deal with proceeds of crime	13	13.8%	1.2
Prohibited person possess, carry or use a firearm	9	9.6%	1.6
<b>Total</b>	<b>94</b>	<b>100.0%</b>	<b>5.1</b>



## Summary

From 2018–19 to 2022–23, 94 people were sentenced in the higher courts for the principal offence of trafficking in a large commercial quantity of drugs. All 94 of those people (100%) received a principal sentence of imprisonment.

Total effective sentences of imprisonment ranged from 4 years to 22 years, and non-parole periods ranged from 2 years and 5 months to 15 years. The median total effective sentence was 10 years and 8 months, while the median non-parole period was 7 years.

On average, people sentenced for the principal offence of trafficking in a large commercial quantity of drugs were sentenced for 5.1 offences each, with a maximum of 22 offences.

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Further data on trafficking in a large commercial quantity of drugs  
is available on [SACStat](#):

<https://www.sentencingcouncil.vic.gov.au/sacstat/index.html>

## Endnotes

1. This Sentencing Snapshot is an update of [Sentencing Snapshot no. 269](#), which describes sentencing trends for trafficking in a large commercial quantity of drugs between 2016–17 and 2020–21.
2. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71.
3. Data on first-instance sentencing outcomes presented in this Snapshot was obtained from the Strategic Analysis and Review Team at Court Services Victoria. Data on appeal outcomes was collected by the Sentencing Advisory Council from the [Australasian Legal Information Institute](#) and was also 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 Snapshot is accurate, the data is subject to revision.
4. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) ss 71–71AC.
5. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71.
6. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 70 (definition of large commercial quantity).
7. The value of a penalty unit changes each year and can be found on the Council's website.
8. *Sentencing Act 1991* (Vic) ss 3(j) (definition of *category 1 offence*), 5(2G).
9. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71(2); *Sentencing Act 1991* (Vic) ss 5(2)(ab), 5A–5B.
10. If a person is sentenced for a case with a single charge, that offence is the principal offence. If a person is sentenced for more than one charge in a single case, the principal offence is the offence that attracted the most serious sentence according to the sentencing hierarchy.
11. Custodial and non-custodial supervision orders are not sentencing orders as they are imposed in cases in which the accused is found unfit to stand trial or not guilty because of mental impairment. However, they are mentioned in this report as they are an important form of disposition of criminal charges.
12. Immediate custodial sentences for trafficking in a large commercial quantity of drugs were all imprisonment. There were no other types of immediate custodial sentences, such as partially suspended sentences, youth justice centre orders, hospital security orders, residential treatment orders, or combined custody and treatment orders.
13. Sentencing remarks are not publicly available for the case with a prison sentence of 4 years for the offence of trafficking in a large commercial quantity of drugs. The next lowest prison sentence was 4 years and 9 months: *DPP v O’Kane* [2018] VCC 1138.
14. *DPP v Nguyen & Ors* [2021] VCC 2160.
15. In addition to the introduction of a standard sentence for this offence, in March 2021 the Court of Appeal confirmed that the call to uplift sentencing practices for trafficking in a commercial quantity of drugs in *Gregory (a pseudonym) v The Queen* [2017] VSCA 151 had a ‘knock on effect’ of also requiring an uplift in sentencing practices for trafficking in a *large* commercial quantity of drugs, in order to ensure ‘appropriate relativities’ between the different trafficking offences: *Rahmani v The Queen* [2021] VSCA 51; *Quah v The Queen* [2021] VSCA 164, [48]. These decisions are likely to have affected sentencing practices in this Snapshot.
16. Sentencing remarks are not publicly available in the case with a total effective sentence of 22 years. The next longest total effective sentence was 21 years and 6 months: *DPP v Bruce* [2020] VCC 1321, upheld on appeal in *Bruce v The Queen* [2022] VSCA 100.

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