

Commonwealth Offences Sentenced in Victoria

Dr Paul McGorrery and Pallavi Waghmode

Contents

Introduction	1
Number of federal offenders sentenced in Victoria	2
Agencies prosecuting Commonwealth offences in Victoria	4
Which Commonwealth offences were sentenced?	6
Gender of federal offenders in Victoria	9
Age of federal offenders in Victoria	10
Sentence types imposed on federal offenders in Victoria	12
Lengths of prison sentences for federal offenders in Victoria	14
Fine amounts imposed on federal offenders in Victoria	21
Sentencing outcomes for specific Commonwealth offences	23
Conclusion	37
Data used in this report	39
References	40

Acknowledgement of Country

The Sentencing Advisory Council acknowledges the Traditional Owners of the lands and waters on which we live and work, and we pay our respects to them, their culture and their Elders past and present.

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Warning to readers

This report includes descriptions of child sexual assaults that may be distressing to readers.

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Introduction

While some Commonwealth (federal) offences in Australia are sentenced in the Federal Court,¹ most are sentenced in state and territory courts. Those state and territory courts are able to sentence federal offences because those courts are vested with federal jurisdiction, albeit they apply their own procedural laws.² One of the guiding principles for courts sentencing Commonwealth offences is that they should try to achieve consistency, not just within their own jurisdiction but nationwide.³ In theory, this means that courts should try to consistently apply sentencing principles, rather than try to achieve some form of numerical consistency;⁴ however, as the Victorian Court of Appeal has observed, the consistent application of principle should logically result in some measure of numerical consistency.⁵ It is therefore important to examine how Commonwealth offences are being sentenced across Australia, and the extent to which consistency is, or isn't, being achieved.

In that context, as a first step towards developing a comprehensive account of federal sentencing in Australia, the aim of this report is to present a profile of Commonwealth offences sentenced in Victorian courts in the five years to 30 June 2023, including:

- the courts in which Commonwealth offences were sentenced
- the agencies that prosecuted cases involving Commonwealth offences
- the Commonwealth offences that were sentenced
- the age and gender of federal offenders
- the sentences imposed for Commonwealth offences
- the operation of presumptive sentencing laws that came into effect in June 2020 and
- for the most common Commonwealth offences, the sentence types imposed, as well as the lengths of prison sentences and fine amounts imposed.

**Aim of this report:
To present a profile
of Commonwealth
offences sentenced
in Victoria**

**Reference period:
1 July 2018 to
30 June 2023
(5 years)**

This report coincides with recent updates to our SACStat online sentencing database to now include dedicated sentencing statistics for Commonwealth offences and Commonwealth sentence types in both the Magistrates' Court of Victoria and the

1. *Federal Court of Australia Act 1976* (Cth) pt III div 1A. See, for example, *DPP (Cth) v Bingo Industries Pty Ltd & Anor* [2024] FCA 121. There may be an increase in cases sentenced in the Federal Court in the near future. Recent legislative amendments now enable the Australian Securities and Investments Commission to initiate (or authorise) prosecutions in the Federal Court without prior ministerial approval: *Attorney-General's Portfolio Miscellaneous Measures Act 2024* (Cth) sch 1 pt 1.

2. *Judiciary Act 1903* (Cth) s 68.

3. *Hili & Anor v The Queen* [2010] HCA 45 [57].

4. *Barbaro & Anor v The Queen* [2014] HCA 2 [40].

5. *Nguyen v The Queen* [2016] VSCA 198 [137].

Victorian higher courts.⁶ It is beyond the scope of this report to grapple with the ‘extraordinary difficulties associated with’⁷ the ‘legislative jungle in which any court sentencing a federal offender must now spend a considerable time’.⁸ Instead, this report is intended to be primarily a statistical profile. For a detailed overview of the legislation and case law applicable in sentencing federal offenders, the Commonwealth Director of Public Prosecutions (CDPP) publishes a helpful guide, first published in 2018 and now in its seventh edition.⁹

Number of federal offenders sentenced in Victoria

In the five years to 30 June 2023, there were over 413,000 total cases sentenced in adult courts¹⁰ in Victoria (on average, more than 80,000 cases per year). Of those cases, 97.9% were sentenced in the Magistrates’ Court (404,459 cases) and 2.1% were sentenced in the higher courts¹¹ (8,584 cases). As shown in Table 1 (page 3), the vast majority of cases in all adult courts exclusively involved Victorian offences (97.9% in the Magistrates’ Court and 89.8% in the higher courts). Across both jurisdictions combined, the remaining cases involving Commonwealth offences were more commonly cases involving both Victorian and Commonwealth offences (mixed cases) than cases that exclusively involved Commonwealth offences. And in those mixed cases, it was more common for a Victorian crime to be the principal proven offence.¹²

2.1%
of cases in the
Magistrates’ Court
involved a
Commonwealth offence

10.2%
of cases in the
higher courts
involved a
Commonwealth offence

-
6. For an overview of the history behind the introduction of federal sentencing data into SACStat, see Paul McGorrery, Catherine Jeffreys and Pallavi Waghmode, ‘Revisiting *Pham*: Federal Sentencing Statistics as a Means of Achieving Consistency’ (2026) *Journal of Judicial Administration* (forthcoming). Prior to this introduction, sentencing data for federal offences on SACStat was only available for the higher courts, and the data did not distinguish the various Commonwealth sentencing orders, which were grouped as ‘other’.
 7. *DPP & DPP (Cth) v Swingle* [2017] VSCA 305 [75].
 8. *R v Carroll* [1991] 2 VR 509. See also *Heels v The King* [2024] VSCA 133 [34].
 9. Commonwealth Director of Public Prosecutions, *Sentencing of Federal Offenders in Australia: A Guide for Practitioners* (7th ed., 2024).
 10. This report excludes Children’s Court matters. Distinct sentencing options are available in the Children’s Court.
 11. The *higher courts* are the County Court of Victoria and the Supreme Court of Victoria.
 12. The principal proven offence in a case is measured first by the offence receiving the most serious penalty in the case and second, if necessary, by the offence with a higher ranking on the National Offence Index: Australian Bureau of Statistics, *National Offence Index (NOI)* (abs.gov.au, 2023).

Table 1: Number of sentenced cases in adult courts in Victoria, 1 July 2018 to 30 June 2023

Jurisdiction for the offence	Number of cases
Magistrates' Court	404,459
Victorian offences only	395,767 (97.9%)
Commonwealth offences only	3,328 (0.8%)
Mixed cases	5,364 (1.3%)
Victorian principal proven offence	4,339
Commonwealth principal proven offence	1,025
Higher courts	8,584
Victorian offences only	7,706 (89.8%)
Commonwealth offences only	558 (6.5%)
Mixed cases	320 (3.7%)
Victorian principal proven offence	154
Commonwealth principal proven offence	166

In total, 2.1% of Magistrates' Court cases (8,692 cases) and 10.2% of higher courts cases (878 cases) involved a Commonwealth offence, for a combined total of 9,570 cases in the five-year period.¹³

During the five-year reference period, the number of cases involving Commonwealth offences each year ranged from a low of 1,432 in 2020–21 to a high of 2,354 in 2022–23. But given the effect of COVID-19 on court operations during the reference period, it is not possible to know from the data whether there is any particular trend in the annual number of cases involving Commonwealth offences in Victoria.

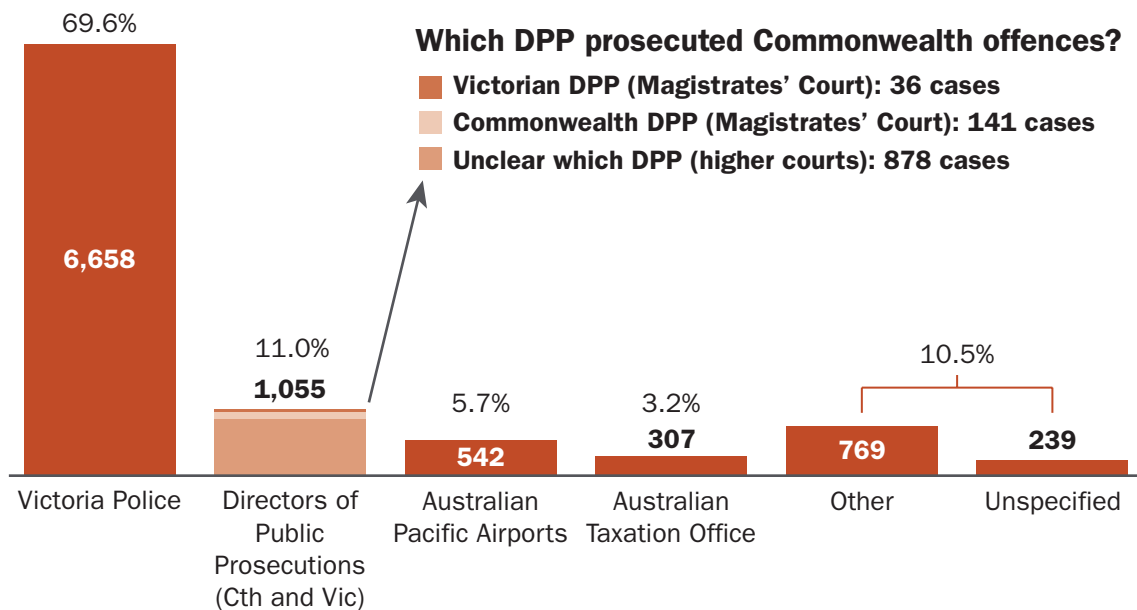
13. Notably, unless there is a provision expressly enabling a particular indictable offence to be tried summarily, indictable offences with a maximum penalty of up to 10 years' imprisonment can only be heard summarily if the prosecution and the defendant consent: *Crimes Act 1914* (Cth) ss 4J(1)–(2).

Agencies prosecuting Commonwealth offences in Victoria

As shown in Figure 1, the 9,570 cases that included at least one Commonwealth offence were prosecuted by:

- Victoria Police (69.6%)
- the Commonwealth and Victorian Directors of Public Prosecutions (DPPs) (together 11.0%)
- Australian Pacific Airports (5.7%)
- the Australian Taxation Office (ATO) (3.2%) and
- various other agencies (10.5%), such as the Australian Securities and Investments Commission (ASIC) and the Australian Financial Security Authority (AFSA).

Figure 1: Prosecuting agencies in cases involving Commonwealth offences sentenced in adult courts in Victoria, 1 July 2018 to 30 June 2023 (9,570 cases)¹⁴



14. The agencies that prosecuted the 769 cases under *other* in Figure 1 are as follows (note that some agencies were renamed or superseded during or after the reference period): Australian Securities and Investments Commission (222 cases); Department of Health and Human Services (188 cases); Australian Financial Security Authority (85 cases); Services Australia (74 cases); Australian Electoral Commission (62 cases); Australian Federal Police (43 cases); Australian Government Solicitor (22 cases); local councils (21 cases); Australian Border Force (17 cases); Australian Customs Service (5 cases); Australian Bureau of Statistics (4 cases); Australian Skills Quality Authority (2 cases); Civil Aviation Safety Authority (2 cases); Department of Education and Training (2 cases); Department of Foreign Affairs and Trade (2 cases); Department of Immigration and Border Protection (2 cases); and one case each for the Australian Customs and Border Protection Service; Australian Commission for Law Enforcement Integrity; Australian Maritime Safety Authority; Comcare; Department of Agriculture; Department of Agriculture, Water and Environment; Department of Economic Development, Jobs, Transport and Resources; Department of Environment and Energy; Department of Environment, Land, Water and Planning; Department of Jobs, Precincts and Regions; Department of Transport; National Heavy Vehicle Regulator; Community Corrections Centre; Therapeutic Goods Administration; Victorian Electoral Commission; and Victorian Workcover Authority.

Most of the cases prosecuted by the Commonwealth and Victorian DPPs were in the higher courts. Because the Commonwealth and Victorian DPPs have exclusive authority to prosecute matters in the higher courts,¹⁵ some of the cases will have stemmed from proceedings originally initiated by another agency, such as the ATO.¹⁶ The Commonwealth and Victorian DPPs are presented together in the data because, for higher courts cases (where most DPP prosecutions are finalised), the data did not distinguish which DPP (if not both¹⁷) had prosecuted the case.

Given that each of the various prosecuting agencies above has a distinct remit, each agency prosecuted different types of Commonwealth offences. The most common Commonwealth offences prosecuted by the four most common prosecuting agencies are shown in Table 2.

Table 2: Most common Commonwealth offences prosecuted by the four most common prosecuting agencies in adult courts in Victoria, 1 July 2018 to 30 June 2023

Agency	Most common offence	Statutory reference	Number of charges	Number of cases
Victoria Police	Using a carriage service to menace, harass or offend	<i>Criminal Code</i> (Cth) s 474.17	6,643	5,574
Australian Taxation Office	Failing or refusing to furnish required tax information	<i>Taxation Administration Act 1953</i> (Cth) s 8C(1)	3,420	252
Commonwealth and Victorian Directors of Public Prosecutions	Using a carriage service for child pornography/using a carriage service for child abuse material	<i>Criminal Code</i> (Cth) s 474.19 (repealed)/ <i>Criminal Code</i> (Cth) s 474.22 (current)	750	203
Australian Pacific Airports	Unlawful parking at Melbourne (Tullamarine) Airport	<i>Airports (Control of On-Airport Activities) Regulations 1997</i> (Cth) r 107, sch 2, items 2 and 26	442	429

More than half of the 9,570 cases that included at least one Commonwealth offence (58.2% or 5,574 cases) involved Victoria Police prosecuting someone for using a carriage service to menace, harass or offend, contrary to section 474.17 of the

15. *Director of Public Prosecutions Act 1983* (Cth) s 6(1); *Public Prosecutions Act 1994* (Vic) s 22(1)(a).

16. See, for example, *DPP (Cth) v Kamarelddin* [2018] VCC 1193.

17. For an example of a joint prosecution, see *DPP & DPP (Cth) v McKenny (a pseudonym)* [2018] VCC 1065.

Criminal Code (Cth).¹⁸ Using a carriage service to menace, harass or offend was the principal proven offence in 2,131 of those cases. What's more, of all 6,643 charges of using a carriage service to menace, harass or offend, the most common behaviour was *harassing* (4,576 charges), while the remainder were menacing (1,720) or offending (347).

More than half of all federal criminal cases in Victoria (58%) involved Victoria Police prosecuting someone for using a carriage service to menace, harass or offend

Which Commonwealth offences were sentenced?

A total of 57,737 distinct charges were sentenced in the 9,570 cases that included at least one Commonwealth offence. Of those charges, 30.5% were Commonwealth offences and the remaining 69.5% were Victorian offences (Table 3). A total of 17,618 Commonwealth offences were sentenced in the five-year period.

There were 17,618 Commonwealth offences sentenced in Victoria in the five-year period

Table 3: Number of Commonwealth and Victorian offences in cases involving Commonwealth offences sentenced in adult courts in Victoria, 1 July 2018 to 30 June 2023 (57,737 offences)

Jurisdiction	Number of cases involving Commonwealth offences	Number of Commonwealth offences in those cases	Number of Victorian offences in those cases	Total number of charges
Magistrates' Court	8,692	15,091 (28.1%)	38,665 (71.9%)	53,756 (100%)
Higher courts	878	2,527 (63.5%)	1,454 (36.5%)	3,981 (100%)

The most common Commonwealth offences are shown by jurisdiction in Figures 2 and 3 (page 7). In the Magistrates' Court, the two most common Commonwealth offences – together constituting two-thirds (66.7%) of all Commonwealth offences in that jurisdiction – were using a carriage service to menace, harass or offend¹⁹ (6,705 charges) and failing or refusing to furnish required tax information²⁰ (3,397 charges).²¹

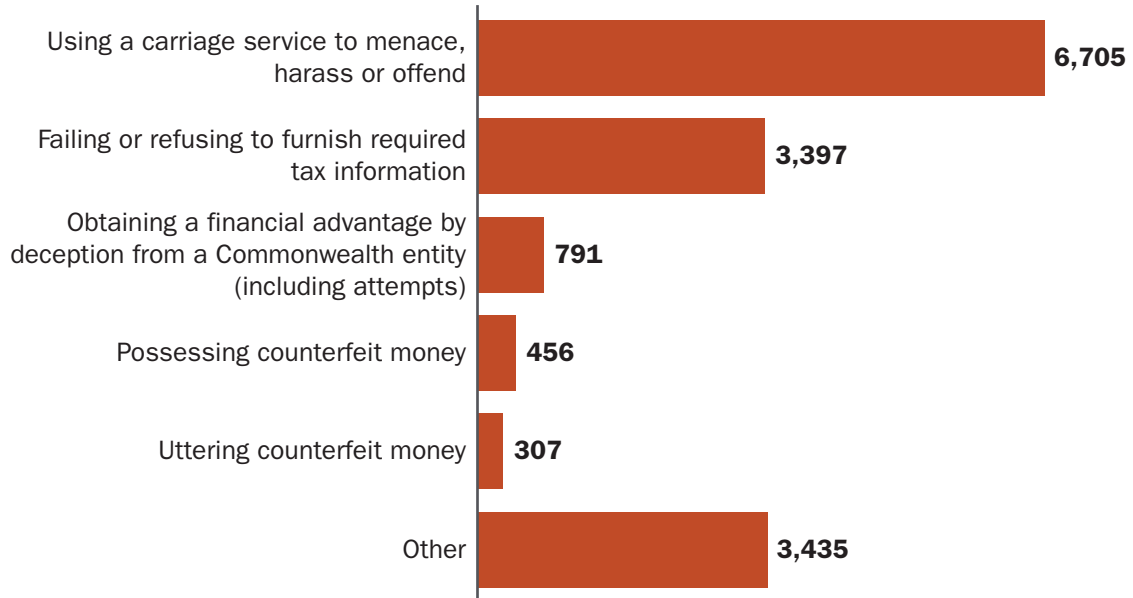
18. *Criminal Code* (Cth) s 474.17.

19. *Criminal Code* (Cth) s 474.17.

20. *Taxation Administration Act 1953* (Cth) s 8C(1)(a).

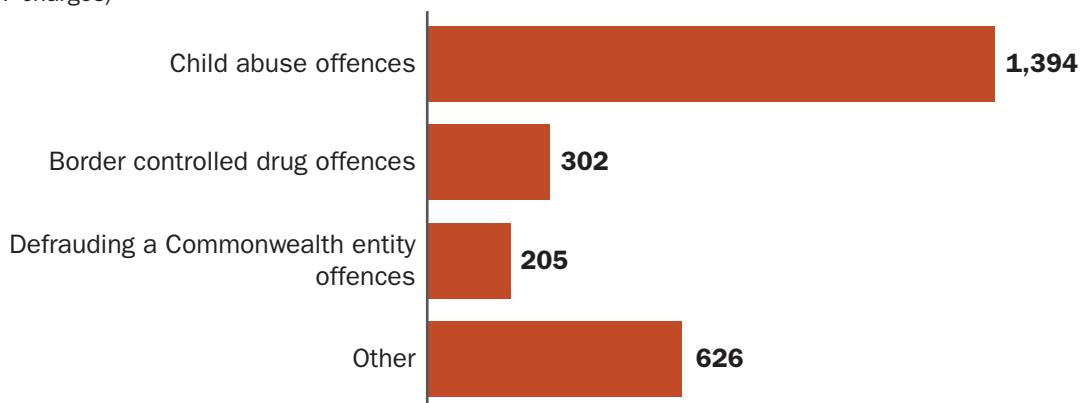
21. The statutory provisions of the remaining offences shown in Figure 2 that are not grouped as *other* include attempting to or actually obtaining a financial advantage by deception from a Commonwealth entity (*Criminal Code* (Cth) ss 134.2, 135.2) and possessing or uttering counterfeit money (*Crimes (Currency) Act 1981* (Cth) ss 7, 9).

Figure 2: Most common Commonwealth offences sentenced in the Magistrates' Court, 1 July 2018 to 30 June 2023 (15,091 charges)



In the higher courts, Commonwealth offences are usefully represented by grouping related offences together, rather than by specific offence (Figure 3). This is because over half (55%) of all Commonwealth offences sentenced in the higher courts were child abuse offences that involved a wide range of offences against distinct provisions, some active and some repealed due to various reforms during the reference period. Other common Commonwealth offence types in the higher courts included border controlled drug offences²² (12% of Commonwealth offences in the higher courts) and defrauding or attempting to defraud a Commonwealth entity²³ (8%).

Figure 3: Commonwealth offences sentenced in the higher courts, 1 July 2018 to 30 June 2023 (2,527 charges)



22. These offences included 174 charges of importing, attempting to import or conspiring to import a marketable, commercial or other quantity of a border controlled drug or precursor (*Criminal Code* (Cth) ss 307.1–307.3, 307.11–307.13), 84 charges of *possessing*, attempting to possess or conspiring to possess a marketable, commercial or other quantity of a border controlled drug or precursor (*Criminal Code* (Cth) ss 307.5–307.10, 308.1–308.4), 41 charges of *trafficking*, attempting to traffick or conspiring to traffick a marketable, commercial or other quantity of a border controlled drug (*Criminal Code* (Cth) ss 302.2–302.4) and 3 miscellaneous offences.

Most of the child abuse offences in the higher courts related to what is commonly described as child sexual abuse material or child sexual exploitation material.²⁴ Some Commonwealth child abuse offences, though, are grooming offences and contact sex offences. The specific offences included under *child abuse offences* in Figure 3 are:

- using a carriage service to access, transmit, publish or solicit child abuse material²⁵ (750 charges)
- using a carriage service to transmit indecent communications to a child aged under 16²⁶ (187 charges)
- possessing or controlling child abuse material obtained using a carriage service²⁷ (103 charges)
- using a carriage service to *procure* a child aged under 16 for sexual activity²⁸ (92 charges)
- using a carriage service to *groom* a child aged under 16 for sexual activity²⁹ (63 charges) and
- various other offences (199 charges), most of which involved offending overseas, such as encouraging the commission of child sex offences outside Australia³⁰ (18 charges), engaging in sexual activity (other than intercourse) with a child aged under 16 outside Australia³¹ (16 charges), procuring a child aged under 16 to engage in sexual activity outside Australia³² (14 charges), grooming a child aged under 16 to engage in sexual activity outside Australia³³ (11 charges), causing a child aged under 16 to engage in sexual intercourse in the presence of the defendant outside Australia³⁴ (8 charges) and engaging in sexual intercourse with a child aged under 16 outside Australia³⁵ (7 charges).

23. These offences included 145 charges of obtaining or attempting to obtain property or a financial advantage by deception from a Commonwealth entity (*Criminal Code* (Cth) ss 134.1(1), 134.2) and 60 charges of dishonestly causing, conspiring to cause, or doing an act with intent to cause a loss to a Commonwealth entity (*Criminal Code* (Cth) ss 135.1(1), (3), (5)).

24. Danijela Frangež et al., 'The Importance of Terminology Related to Child Sexual Exploitation' (2015) 66(4) *Journal of Criminal Investigation and Criminology* 291; Interagency Working Group on Sexual Exploitation of Children, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse* (2016) (otherwise known as the *Luxembourg Guidelines*).

25. Using a carriage service to access, transmit, publish or solicit child abuse material includes the current offence under *Criminal Code* (Cth) s 474.22 (effective as of 15 April 2010) and the predecessor offence under *Criminal Code* (Cth) s 474.19. On 21 September 2019, the definition of 'child pornography material' was merged into the existing definition of 'child abuse material' by the *Combatting Child Sexual Exploitation Legislation Amendment Act 2019* (Cth) sch 7 (expanding the operation of section 474.22 and repealing section 474.19).

26. *Criminal Code* (Cth) s 474.27A.

27. Possessing or controlling child abuse material obtained using a carriage service includes the current offence under *Criminal Code* (Cth) s 474.22A (effective as of 21 September 2019) and the predecessor offence under *Criminal Code* (Cth) s 474.20 (repealed as of 21 September 2019 by *Combatting Child Sexual Exploitation Legislation Amendment Act 2019* (Cth) sch 7).

28. *Criminal Code* (Cth) s 474.26.

29. *Criminal Code* (Cth) s 474.27.

30. *Criminal Code* (Cth) s 272.19.

31. *Criminal Code* (Cth) s 272.9.

32. *Criminal Code* (Cth) s 272.14.

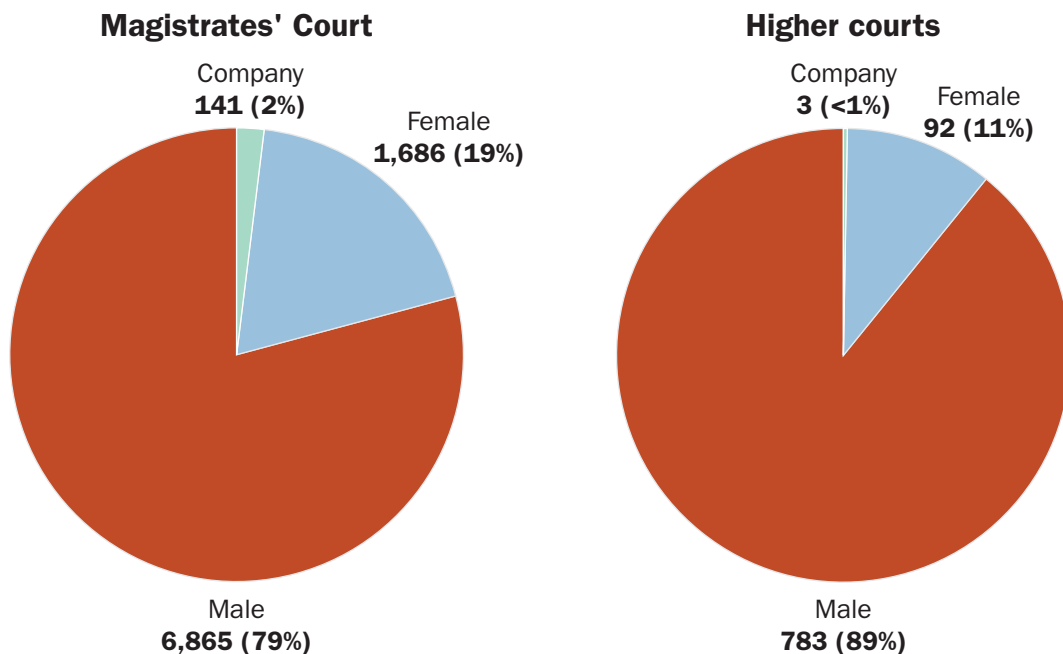
33. *Criminal Code* (Cth) s 272.15.

34. *Criminal Code* (Cth) s 272.8(2).

Gender of federal offenders in Victoria

Overall, 80% of offenders sentenced for Commonwealth offences in Victoria were male: 79% in the Magistrates' Court and 89% in the higher courts (see Figure 4). This is to be expected given the nature of the most common Commonwealth offence sentenced in the Magistrates' Court and in the higher courts: using a carriage service to menace, harass or offend, which is often charged in family violence cases, and various child abuse offences. These behaviours are overwhelmingly perpetrated by men.³⁶

Figure 4: Gender of offenders sentenced for Commonwealth offences in Victoria, 1 July 2018 to 30 June 2023 (9,570 cases)



As previous research has repeatedly shown, offending by men and women varies significantly, not just in prevalence but also in nature.³⁷ Women's offending is typically less serious and less violent than men's offending. Not only did women represent a relatively small proportion of federal offenders overall (19%), but women were much more likely to be sentenced for fraud offences (25% or 262 of the 1,043 Commonwealth principal proven offences for which women were sentenced) than men

35. *Criminal Code* (Cth) s 272.8(1).

36. On the gendered nature of family violence offending, see, for example, Sentencing Advisory Council, *Sentencing Breaches of Family Violence Intervention Orders and Safety Notices: Third Monitoring Report* (2022) xii (finding that 87% of offenders sentenced for breaching a family violence order are male). On the gendered nature of sexual offending, see, for example, Sentencing Advisory Council, *Sentencing Sex Offences in Victoria: An Analysis of Three Sentencing Reforms* (2021) 4 (finding that 97% of sex offenders are male). And on the gendered nature of child sexual exploitation material offending in particular, see, for example, Stephanie Kewley and Kairika Karsna, *Child Sexual Abuse in 2023/24: Trends in Official Data* (2025) 50 (Table 5) (finding that 96% of offenders prosecuted for child sexual exploitation material are male).

37. See, for example, Sentencing Advisory Council, *Gender Differences in Sentencing Outcomes* (2010) 3.

were (5% or 197 of the 3,762 Commonwealth principal proven offences for which men were sentenced). In comparison, using a carriage service to menace, harass or offend made up a larger proportion of men's Commonwealth principal proven offences (50%) than women's (43%). Most apparently, child abuse offences constituted just 0.4% of women's Commonwealth principal proven offences (4 charges), compared to 7% of men's Commonwealth principal proven offences (256 charges). That is, there were 64 times more child abuse cases involving men than involving women.

Fraud offences represented...

25% of Commonwealth principal proven offences committed by women

5% of Commonwealth principal proven offences committed by men

The three companies sentenced for Commonwealth offences in the higher courts were:

- a small company convicted and fined \$80,000 for hindering compliance with the *Biosecurity Act 2015* (Cth), after failing to quarantine imported prawns from China in a specific freezer (to reduce the risk of the prawns introducing a known virus to Australia)³⁸
- a medium-sized company convicted and fined \$60,000 for numerous offences of allowing an unlawful non-citizen to work on the company's asparagus and broccolini farm, as well as allowing a lawful non-citizen to work in breach of visa conditions³⁹
- a large company convicted and fined \$1.7 million (\$95,000 each for 18 charges) for having defective disclosure statements about its superannuation products, in particular, about when service fees would be deducted after a member's death (resulting in almost \$700,000 of fees being deducted from 499 deceased superannuation members). The company also agreed to pay ASIC's investigation costs of \$1.3 million.⁴⁰ The \$1.7 million fine was the second largest fine imposed on any criminal offender in Victoria in the 10 years to 30 June 2023.⁴¹

Age of federal offenders in Victoria

The ages of individual offenders sentenced for Commonwealth offences in the five-year period are shown in Figure 5 (page 11). In both the Magistrates' Court and the higher courts, more than half of federal offenders were aged between 25 and 44 (59% of offenders in the Magistrates' Court and 60% in the higher courts).

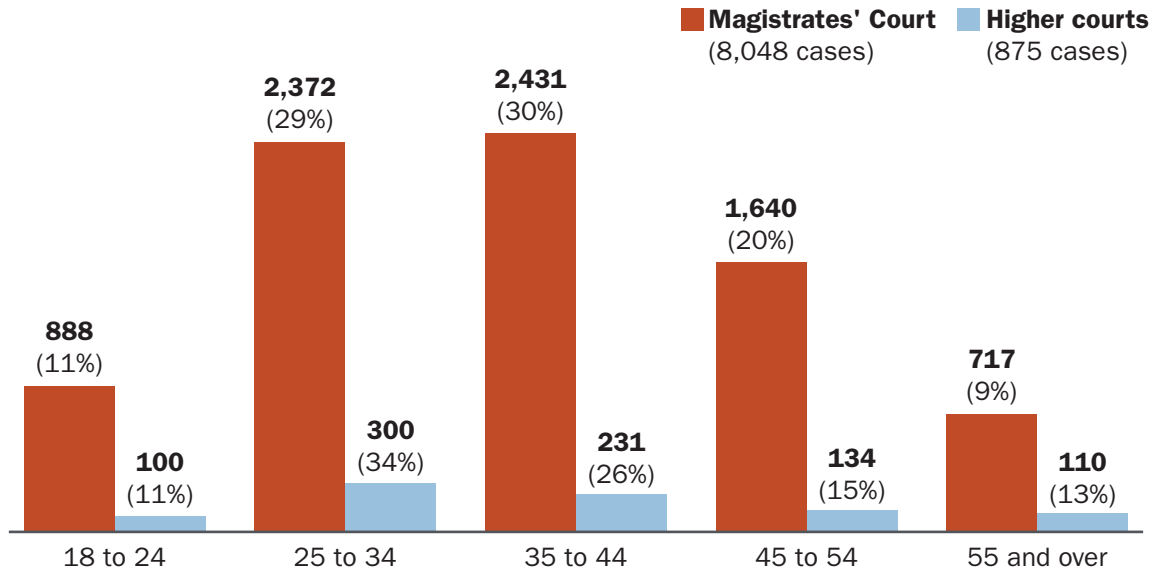
38. *DPP (Cth) v EB Ocean* [2019] VCC 2072.

39. *DPP (Cth) v M & G Vizzarri Pty Ltd* [2022] VCC 894.

40. *DPP (Cth) v Avanteos Investments Ltd* [2022] VCC 869.

41. Sentencing Advisory Council, *Sentencing in Victoria: 2013–14 to 2022–23* (2024) 11.

Figure 5: Ages of offenders sentenced for Commonwealth offences in Victoria, 1 July 2018 to 30 June 2023 (8,923 cases)⁴²



The ages of the 875 offenders sentenced in the higher courts ranged from 19 years (6 cases) to 77 years (4 cases), with a median age of 35 years. To illustrate the variety of offending by younger and older federal offenders in the higher courts:

- the 6 cases involving offenders aged 19 included 3 cases of importing a border controlled drug and/or possessing a border controlled drug (in particular, MDMA and methylamphetamine),⁴³ 2 cases of possessing and transmitting child abuse material, and 1 case of using a carriage service to menace, harass or offend
- the 4 cases involving offenders aged 77 included 2 cases of obtaining a financial advantage by deception from a Commonwealth entity (both involving female offenders),⁴⁴ 1 case of conveying or possessing imported tobacco products with intent to defraud the Commonwealth revenue, and 1 case of possessing and transmitting child abuse material.⁴⁵

In the Magistrates' Court, age data was available for 8,048 cases (but not for the other 644 cases involving federal offenders). Of those 8,048 cases, the age of offenders ranged from 18 years (36 cases) to 87 years (1 case),⁴⁶ with a median age of 37 years. In the 36 cases with offenders aged 18 years, 24 cases involved using a carriage service to menace, harass or offend, and 6 cases involved possessing counterfeit money. The one case with an offender aged 87 involved failing to provide bankruptcy information.

42. Figure 5 excludes 644 Magistrates' Court cases without verifiable age data. Note that percentages in the graph may not total 100% due to rounding.

43. One of these cases is publicly available: *DPP (Cth) v Cai & Ors* [2021] VCC 633 (Shao).

44. One of these cases is publicly available: *DPP (Cth) v Newling* [2018] VCC 1691.

45. *DPP (Cth) v Magri* [2022] VCC 109.

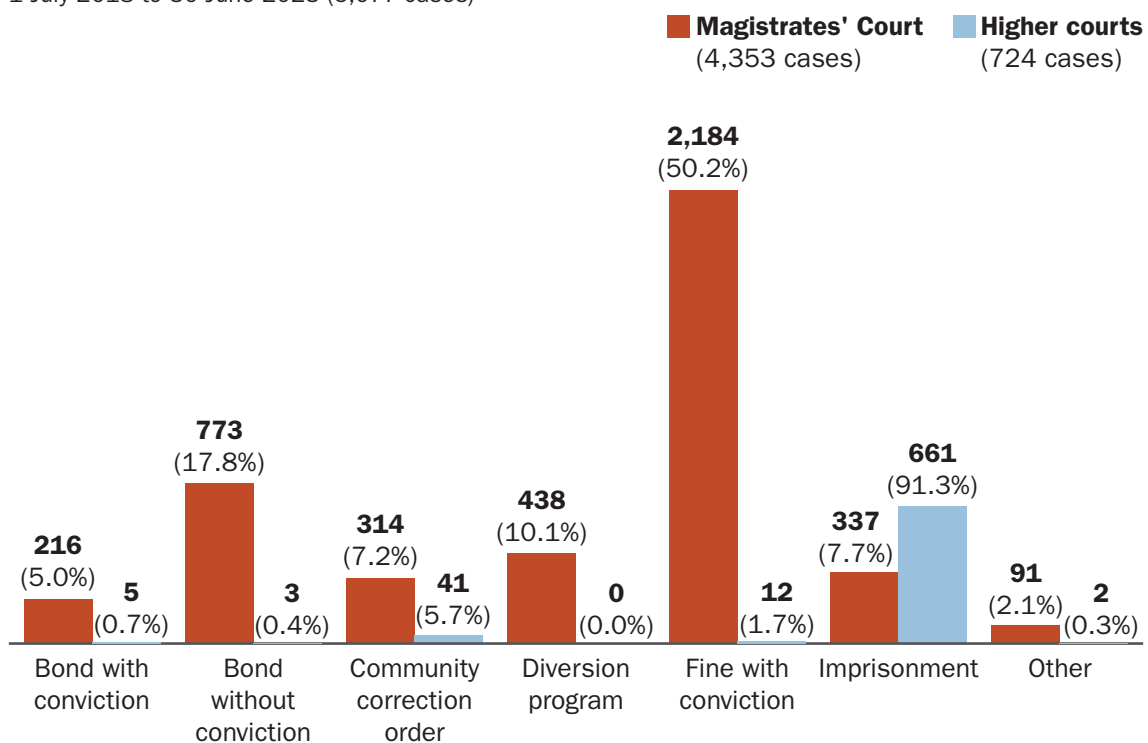
46. The second oldest was 83 (2 cases).

Sentence types imposed on federal offenders in Victoria

The sentencing options available for Commonwealth offences are governed by the *Crimes Act 1914* (Cth). Some of the sentencing options available do, however, vary between states and territories. Rather than establish a bespoke set of community orders for federal offenders, federal sentencing legislation ‘picks up’ the various community orders available in each jurisdiction (for example, community correction orders in Victoria under the *Sentencing Act 1991* (Vic)). Because the various community orders and other dispositions (such as diversion⁴⁷) available for Commonwealth offences are specific to each state and territory, caution is required when comparing sentencing outcomes for Commonwealth offences between jurisdictions.

There were 724 cases in the higher courts and 4,353 cases in the Magistrates’ Court in which a Commonwealth offence was the principal proven offence in the five years to 30 June 2023. The principal sentences imposed in those 5,077 cases are presented in Figure 6.

Figure 6: Sentencing outcomes in cases involving a Commonwealth principal proven offence in Victoria, 1 July 2018 to 30 June 2023 (5,077 cases)



47. Diversion is available in the Magistrates’ Court for people who accept responsibility for their offending, if the prosecution consents and the court considers such an outcome appropriate: *Criminal Procedure Act 2009* (Vic) s 59. Diversion is a procedural disposition of a criminal case, rather than a sentencing order, and is therefore available for federal offenders because courts sentencing federal offenders must apply their own jurisdiction’s procedural legislation.

Sentencing outcomes in the higher courts

In the higher courts, the vast majority of the 724 cases resulted in an imprisonment term (91.3% or 661 cases), including imprisonment only (348 cases), imprisonment with later release on a recognizance release order (171 cases) and imprisonment with immediate release on a recognizance release order (142 cases). The remaining cases resulted in a bond with conviction (5 cases), a bond without conviction (3 cases), a community correction order (41 cases), a fine with conviction (12 cases), probation (1 case) or conditional release (1 case). The imprisonment rate of 91% for higher courts cases involving a Commonwealth principal proven offence is notably higher than the imprisonment rate for all higher courts cases (about 74% of cases received imprisonment in most years since 2016–17).⁴⁸

Sentencing outcomes in the Magistrates' Court

In the Magistrates' Court, half of the federal offenders received a fine as their most severe penalty (50.2% of cases). The next most common outcomes were a bond without conviction (17.8%), diversion (10.1%), imprisonment (7.7%), a community correction order (7.2%), a bond with conviction (5.0%) and dismissal without conviction (2.1%). The rate for fines in cases involving Commonwealth offences is consistent with the rate of fines for all Magistrates' Court cases since 2018–19 (between 48.0% and 54.5%).⁴⁹ The proportion of Commonwealth offences resulting in diversion in the Magistrates' Court (10.1% of cases) is higher than the proportion of *all* offences resulting in diversion in the Magistrates' Court (between 6.4% and 7.9%).⁵⁰ However, this may be explained by the prohibition of diversion for many Victorian driving-related offences,⁵¹ which are the most common offences sentenced in the Magistrates' Court,⁵² and the absence of Commonwealth driving offences sentenced in the Magistrates' Court.

Of the 91 Magistrates' Court cases that we have reported in Figure 6 as resulting in dismissal without conviction (pursuant to section 19B of the *Crimes Act 1914* (Cth)), 11 cases actually appear in the data as a conviction and discharge. While it is possible to discharge a person and record a conviction under Victorian legislation,⁵³ that outcome is not possible for Commonwealth offences – the dismissal of a charge must be done *without* conviction. Similarly, of the 2,184 cases that we have reported in Figure 6 as

48. Sentencing Advisory Council, 'Sentencing Outcomes in the Higher Courts' (sentencingcouncil.vic.gov.au, 2024).

49. Sentencing Advisory Council, 'Sentencing Outcomes in the Magistrates' Court' (sentencingcouncil.vic.gov.au, 2024).

50. Sentencing Advisory Council, *The Criminal Justice Diversion Program in Victoria: Second Statistical Profile* (2024) 17.

51. *Criminal Procedure Act 2009* (Vic) s 59(1).

52. See, for example, Sentencing Advisory Council, *Sentencing in Victoria: 2014–15 to 2023–24* (2025) 13.

53. *Sentencing Act 1991* (Vic) s 73.

receiving a fine with conviction, a sizeable proportion (22% or 481 cases) appeared in the data as the principal proven offence *without* having a conviction recorded. While it is possible to impose a fine without conviction under Victorian legislation,⁵⁴ a fine for a Commonwealth offence can only be imposed *with* conviction (as noted in a 2017 speech by the then Commonwealth DPP Sarah McNaughton SC⁵⁵). These impermissible outcomes could simply be a product of data entry anomalies, but they could also suggest a need for practitioners and courts to be more familiar with the Commonwealth sentencing orders that *must* or *must not* be imposed with conviction. While Victorian legislation gives more discretion to sentencing courts about when to record a conviction,⁵⁶ federal legislation is much more prescriptive in certain instances.

Lengths of prison sentences for federal offenders in Victoria

This section examines the lengths of prison sentences imposed on federal offenders in Victoria. There are some important counting rules to be aware of in understanding the data. For cases involving *immediate or later release* onto a recognizance release order, we have only reported on the actual, intended time in custody, not the *suspended* portion of imprisonment. For cases involving a *non-parole period*, we have reported on the entirety of the total effective sentence as we do not know if or when offenders were released on parole. And in cases involving *both* Victorian and Commonwealth offences (mixed cases), we have represented the total effective sentence for *all* of the offences in the case, not just the Commonwealth offences. This is important because, in mixed cases, courts must derive a total effective sentence for the Victorian and Commonwealth offences separately,⁵⁷ while also ensuring that the actual total effective sentence (for both the Victorian and the Commonwealth offences together) does not offend the principle of totality.⁵⁸ It is therefore possible to report on the total effective sentence for the Commonwealth offences in the case *only*, or report on the combined total effective sentence for *both* the Commonwealth and the Victorian offences together. Given the crucial role that totality considerations can play in moderating imprisonment terms within a case, we considered it more accurate to represent the total effective sentence for Commonwealth and Victorian offences together. We are buttressed in this approach by using a counting rule of only reporting the lengths of

54. *Sentencing Act 1991* (Vic) ss 7(1)(f), 49.

55. Sarah McNaughton SC, 'Basics of Commonwealth Sentencing Law' (Public Lecture, Reasonable Cause CPD Conference, New South Wales, 25 March 2017) 9–10.

56. *Sentencing Act 1991* (Vic) ss 7(1)(e), 7(1)(f), 49, 72, 73, 75, 76.

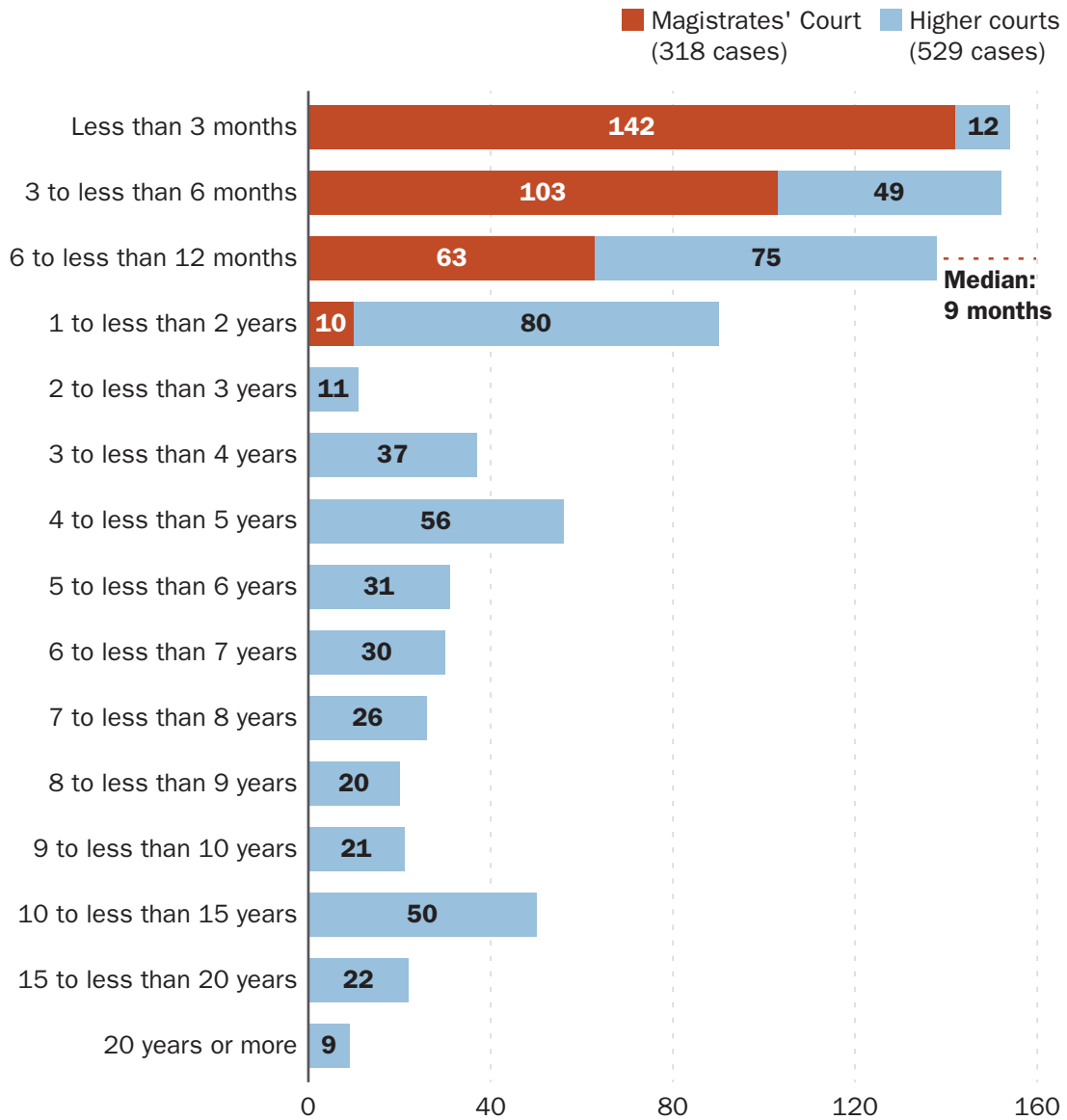
57. See, for example, *Crimes Act 1914* (Cth) s 19; *Sentencing Act 1991* (Vic) s 16(4); *DPP & DPP (Cth) v Swingler* [2017] VSCA 305.

58. *Hili & Anor v The Queen* [2010] HCA 45 [25].

prison sentences in cases in which a Commonwealth offence (not a Victorian offence) was the principal proven offence, meaning the length of any prison sentence should be primarily driven by the person’s federal offending. Moreover, time on remand declared as time served towards the sentence imposed is included in calculating the total active component of a prison sentence.

Figure 7 presents the total effective sentence lengths for 847 cases resulting in an immediate prison sentence⁵⁹ where the principal proven offence was a Commonwealth offence. Of these, 318 cases were sentenced in the Magistrates’ Court and 529

Figure 7: Lengths of immediate prison sentences in cases involving a Commonwealth principal proven offence in Victoria, 1 July 2018 to 30 June 2023 (847 cases)



59. Figure 7 includes any cases with an immediate custodial component served in an adult facility (i.e. imprisonment only, imprisonment with a non-parole period, imprisonment with later release, and imprisonment with immediate release after pre-sentence detention was declared as time served). Figure 7 does not include the 151 cases in which people received imprisonment with immediate release after spending no time on remand.

cases were sentenced in the higher courts. To provide an additional level of specificity in Figure 7, we have used shorter intervals for shorter prison sentences (e.g. ‘less than 3 months’) and longer intervals for longer prison sentences (e.g. ‘10 to less than 15 years’). The shortest prison sentence imposed on a federal offender was 1 day, the longest was 42 years, and the median was 9 months.

The 9 cases resulting in prison sentences of 20 years or more included:

- a sentence of 42 years’ imprisonment with a non-parole period of 31.5 years imposed in the first Australian case involving the offence of intentionally engaging in a terrorist act⁶⁰
- a sentence of 24 years’ imprisonment with a non-parole period of 20 years imposed for conspiring to do acts in preparing for or planning a terrorist act⁶¹
- three offenders sentenced for related offending – in particular, three men received prison sentences of 22, 26 and 26 years’ duration for conspiring to do acts in preparation for or planning a terrorist act.⁶² One of those three offenders had also received 22 years’ imprisonment in a separate case during the reference period, for similar terrorism-related offending,⁶³ alongside another co-offender who also received 22 years’ imprisonment⁶⁴
- a sentence of 22 years’ imprisonment with a non-parole period of 15 years imposed in a case for importing a commercial quantity of methamphetamine, in particular, 534 kilograms hidden within over 700 folded frozen cowhides⁶⁵
- a sentence of 35 years’ imprisonment with a non-parole period of 28 years imposed in a case in which a man pleaded guilty to committing 59 sexual offences against 43 unique child victims over a 15-year period, most of which involved engaging in sexual intercourse or other sexual conduct with 27 children overseas.⁶⁶

60. *R v Shoma* [2019] VSC 367. Within days of entering Australia under the pretence of undertaking tertiary studies, the offender had stabbed her host in the neck while he was asleep with his young child, following an order by ‘the caliph of the Islamic State [to kill a disbeliever] in response to the bombing of Muslim people’: at [34]. At sentencing, the court said there was ‘no evidence that [the offender had] renounced or [was] close to renouncing the beliefs that led [her] to commit this offence’: at [89].

61. *R v Abbas* [2018] VSC 553.

62. *R v Abbas & Ors* [2019] VSC 775. See also *Chaarani v The King* [2023] VSCA 275.

63. *R v Mohamed & Ors* [2019] VSC 498 (Chaarani).

64. *R v Mohamed & Ors* [2019] VSC 498 (Mohamed).

65. *Plaza Lopez v The King* [2024] VSCA 265.

66. *R v Kunsevitsky* [2020] VSC 41.

In effect, the longest prison sentences for federal offenders were most commonly in cases involving terrorism-related offending (in 7 of the 9 cases with prison sentences of 20 years or more). The other 2 cases involved protracted child sex offences and importing over half a tonne of a border controlled drug.

For those 847 cases resulting in an immediate prison sentence, Table 4 shows the principal offence type in the case. The most common offence type in those cases was a border controlled drug offence, accounting for almost one-quarter of prison sentences imposed on federal offenders. The *other* offence type group in Table 4 included possessing counterfeit money, terrorism-related offences, contact child abuse offences committed overseas, and proceeds of crime offences.

Table 4: Cases involving Commonwealth offences that resulted in an imprisonment term, by principal offence type in the case (847 cases)

Offence type	Number of cases	Percentage of cases receiving imprisonment
Border controlled drug offences	200	23.6%
Fraud offences against Commonwealth entity	150	17.7%
Using a carriage service to menace, harass or offend	142	16.7%
Child abuse material offences	88	10.4%
Other	267	31.5%
Total	847	100%

Presumptive minimum sentences of imprisonment for certain child sex offences

For certain child sex offences committed on or after 23 June 2020, Commonwealth legislation prescribes a minimum sentence of 5, 6 or 7 years' imprisonment.⁶⁷ There are two primary exceptions: first, the presumptive minimum sentences do not apply if the offender was aged under 18 at the time of the offence, and second, the court can (to a limited extent) impose a sentence shorter than the minimum if the offender pleaded guilty and/or cooperated with law enforcement investigators.⁶⁸

67. *Crimes Act 1914* (Cth) s 16AAA. There are also minimum sentences for second or subsequent convictions of certain offences: *Crimes Act 1914* (Cth) s 16AAB. However, as this report does not include an analysis of offenders' criminal histories, it was not possible to determine whether these minimums applied to any offences sentenced during the reference period.

68. *Crimes Act 1914* (Cth) s 16AAC.

There are 15 child sex offences specified in section 16AAA as attracting minimum sentences of imprisonment. There were 89 charges of those offences sentenced during the five years to 30 June 2023, including:

- 27 charges of using a carriage service to engage in sexual activity with a child aged under 16 (*Criminal Code* (Cth) s 474.25A(1))
- 18 charges of encouraging the commission of child sex offences outside Australia (s 272.19)
- 16 charges of engaging in sexual activity (other than intercourse) with a child aged under 16 outside Australia (s 272.9(1))
- 8 charges of causing a child aged under 16 to engage in sexual intercourse in the presence of the defendant outside Australia (s 272.8(2))
- 7 charges of engaging in sexual intercourse with a child aged under 16 outside Australia (s 272.8(1))
- 4 charges relating to a carriage service being used for child abuse material (s 474.23A)
- 3 charges of causing a child aged under 16 to engage in sexual activity (other than intercourse) in the presence of the defendant outside Australia (s 272.9(2))
- 3 charges of persistent sexual abuse of a child outside Australia (s 272.11)
- 3 charges of aggravated offences involving child abuse material (ss 474.24A, 273.7).

Very few of the 89 charges, however, attracted the operation of the presumptive minimum sentences, because the offending in almost all those cases occurred prior to 23 June 2020.⁶⁹ Indeed, the presumptive minimum sentences applied in just 3 cases in the five years to 30 June 2023: *DPP (Cth) v Caldwell (a pseudonym)* [2022] VCC 1258; *DPP (Cth) v Trinh* [2022] VCC 1404;⁷⁰ and *DPP (Cth) v ABC (a pseudonym)* [2023] VCC 446.⁷¹ The sentences imposed on the relevant offences in those cases are shown in Table 5 (page 19), with all 7 charges receiving prison sentences shorter than the presumptive minimum sentence. This was because all three offenders pleaded guilty and cooperated with law enforcement by making admissions and/or sharing passwords with officials.

69. See, for example, *DPP (Cth) v Rivo* [2021] VCC 1799; *R v Kunsevitsky* [2020] VSC 41; *DPP (Cth) v Cooper* [2021] VCC 1515; *DPP (Cth) v McLaren* [2023] VCC 296; *DPP (Cth) v Dierickx* [2022] VCC 928. This is consistent with the findings of a recent statutory review, that more than 80% of relevant offences sentenced in each of the three years to 30 June 2023 did not attract the presumptive minimum sentence: Commonwealth Attorney-General's Department, *Statutory Review of Sentencing for Commonwealth Child Sex Offences* (2024) 27–28.

70. The sentence for the offence attracting the presumptive minimum sentence in this case was overturned on appeal following the High Court's judgment in *Hurt & Anor v The King* [2024] HCA 8; *Trinh v The King* [2024] VSCA 61. The sentence shown in Table 5 reflects the sentence imposed after resentencing, not the sentence at first instance (which was 6 years and 6 months).

71. The sentence for the offence attracting the presumptive minimum sentence in this case was upheld on appeal: *ABC (a pseudonym) v The King* [2023] VSCA 280.

Table 5: Cases involving presumptive minimum sentences for Commonwealth child abuse offences sentenced in adult courts in Victoria, 1 July 2018 to 30 June 2023

Case	Offence	Provision	Minimum sentence	Sentence imposed	Discount
<i>DPP (Cth) v Caldwell (a pseudonym)</i> [2022] VCC 1258	Aggravated offence of accessing and transmitting child abuse material	474.24A	7 years	6 years and 4 months	Guilty plea: 25% Cooperation: 5%
	Controlling and moderating an electronic service for child abuse material	474.23A	5 years	4 years and 6 months	Guilty plea: 25% Cooperation: 5%
	Creating and maintaining an electronic service for child abuse material	474.23A	5 years	4 years and 3 months	Guilty plea: 25% Cooperation: 5%
	Controlling an electronic service for child abuse material	474.23A	5 years	3 years and 6 months	Guilty plea: 25% Cooperation: 5%
	Controlling an electronic service for child abuse material	474.23A	5 years	3 years and 9 months	Guilty plea: 25% Cooperation: 5%
<i>DPP (Cth) v Trinh</i> [2022] VCC 1404; <i>Trinh v The King</i> [2024] VSCA 61	Using a carriage service to engage in sexual activity with a child aged under 16	474.25A(1)	5 years	4 years and 6 months	Guilty plea: 'take[n] into account' Cooperation: 'minor weight'
<i>DPP (Cth) v ABC (a pseudonym)</i> [2023] VCC 446; <i>ABC (a pseudonym) v The King</i> [2023] VSCA 280	Attempting to use a carriage service to engage in sexual activity with a child aged under 16	474.25A(1)	5 years	3 years and 3 months	Guilty plea: 25% Cooperation: 10%

There have also been some additional cases since 30 June 2023 (outside our reference period) to which the presumptive minimum sentences in section 16AAA have applied:

Longer than the presumptive minimum sentence

- in *DPP (Cth) v Gardiner* [2024] VCC 1287, a sentence of 7 years was imposed for moderating an electronic service used for child abuse material (2 years longer than the 5-year minimum)
- in *DPP (Cth) v Safdar* [2024] VCC 432, a sentence of 7 years was imposed for procuring a child aged under 16 to engage in sexual activity outside Australia (1 year longer than the 6-year minimum)
- in *DPP (Cth) v Loughnan* [2024] VCC 1005, a sentence of 7.5 years was imposed for an aggravated offence of using a carriage service for child abuse material (6 months longer than the 7-year minimum)
- in *DPP (Cth) v Mayall* [2024] VCC 987, sentences of 6 years and 5.5 years were imposed on two respective charges of engaging in sexual activity (other than intercourse) with a child aged under 16 outside Australia (1 year longer and 6 months longer than the 5-year minimum)

Shorter than the presumptive minimum sentence

- in *DPP v Hays (a pseudonym)* [2024] VCC 1533, a sentence of 3.5 years was imposed for causing a child aged under 16 to engage in sexual activity in the presence of the defendant outside Australia (1.5 years shorter than the 5-year minimum)
- in *DPP v Smith (a pseudonym)* [2024] VCC 1094, sentences of 3.5 years were imposed on three respective charges of using a carriage service to engage in sexual activity with a child aged under 16 (1.5 years shorter than the minimum, the total 30% reduction constituted by a 20% discount for a guilty plea and 10% for assisting authorities).

So too have there been a number of cases in which the presumptive minimum sentences for repeat child sex offenders pursuant to section 16AAB applied.⁷²

Ultimately, however, more time will need to pass before it will be possible to discern any trend in how the provisions are being applied. All that can be said for now, based on Victorian data and cases, is that most prison sentences for the offences with presumptive minimums seem to be relatively close to (a year above or below) the specified minimum, and that the primary reason for sentences being shorter than the presumptive minimum is a guilty plea, though cooperation with authorities during investigations seems to also result in a smaller but nonetheless significant discount.⁷³

72. See, for example, *DPP (Cth) v Huerta (a pseudonym)* [2024] VCC 1511; *DPP v Hulsman* [2024] VCC 1466 (unsuccessfully appealed in *Hulsman v The King* [2025] VSCA 63); *DPP (Cth) v Cartledge* [2024] VCC 1280; *DPP (Cth) v Collins* [2024] VCC 1050; *DPP (Cth) v Loughnan* [2024] VCC 1005; *DPP (Cth) v Willet* [2024] VCC 831; *DPP (Cth) v Baird* [2024] VCC 827; *DPP (Cth) v Gibson* [2024] VCC 65; *DPP (Cth) v Radford* [2023] VCC 1907.

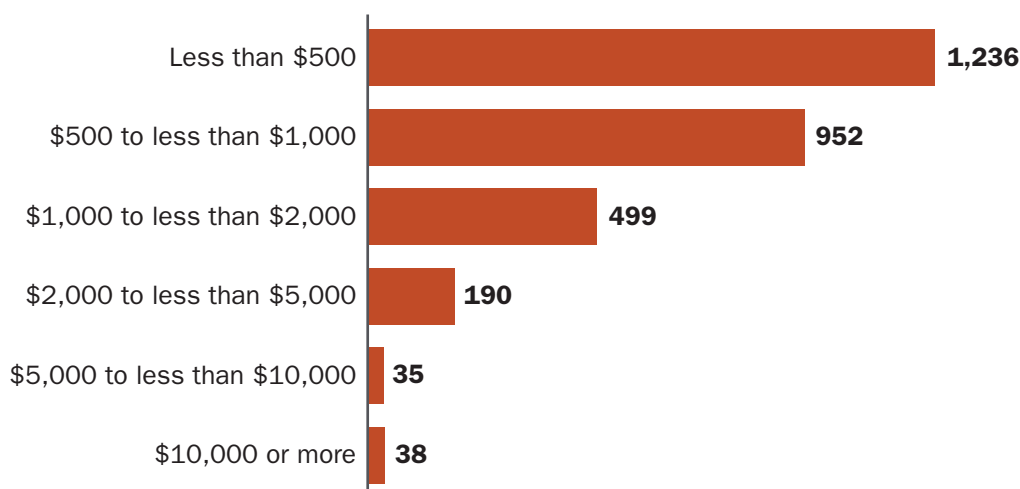
73. A recent review of these provisions across Australia similarly found that guilty pleas carried the most weight in cases involving discounts under these sections (78% of cases received the full 25% discount), whereas most cases involving cooperation with law enforcement resulted in a 5% discount for that factor: Commonwealth Attorney-General's Department (2024), above n 69, 30.

Fine amounts imposed on federal offenders in Victoria

Many Commonwealth offences specify the maximum fine that can permissibly be imposed. However, for some offences, the maximum penalty is specified as an imprisonment term without a maximum fine. In instances where the court considers a fine to be appropriate but the maximum fine isn't specified, the maximum fine is the number of penalty units that can be imposed, derived by multiplying the maximum imprisonment term (expressed in months) by five.⁷⁴ For example, the maximum imprisonment term for using a carriage service to menace, harass or offend is 5 years,⁷⁵ or 60 months. Multiplied by five, the maximum fine equates to 300 penalty units. With a penalty unit presently valued at \$330, that means the maximum fine for this offence is \$99,000. And where a body corporate is sentenced for a relevant offence, the maximum fine is multiplied by five again.⁷⁶

There were 7,549 charges (in 4,407 cases) that received a fine for a Commonwealth offence during the five-year reference period. We were able to identify the fine amount for 2,950 of those fines.⁷⁷ Figure 8 shows the values of those fines, which together totalled \$4,555,575 (an average of \$1,544 per fine). The smallest fine for a Commonwealth offence was \$10 (for 2 charges of using a carriage service to menace, harass or offend), the median fine was \$500, and the largest fine was \$450,000 (for a workplace health and safety breach that resulted in the death of a worker) at a Bendigo

Figure 8: Fine amounts imposed for Commonwealth offences sentenced in adult courts in Victoria (non-aggregate fines only), 1 July 2018 to 30 June 2023 (2,950 charges)



74. *Crimes Act 1914* (Cth) s 4B(2).

75. *Criminal Code* (Cth) s 474.17.

76. *Crimes Act 1914* (Cth) s 4B(3).

77. It was not possible to clearly identify the fine amounts imposed on remaining offences mainly because it is not possible to identify the level of contribution of each offence when an aggregate fine is imposed. Aggregate sentences, which are single sentences imposed on multiple offences, are relatively common in Victoria: see, for example, Sentencing Advisory Council, *Aggregate Prison Sentences in Victoria* (2023) 6.

car factory.⁷⁸ Many of the fines were for unlawful parking at Melbourne (Tullamarine) Airport, failing to vote at an election, and various taxation offences. In addition to the \$450,000 for a workplace health and safety breach, the fines valued at \$10,000 or more included:

- in a single case,⁷⁹ \$95,000 for each of 18 separate charges of a company failing to remedy a defective disclosure statement⁸⁰ (with a total fine of \$1.7 million)
- in a single case,⁸¹ \$10,000, \$10,000 and \$12,000 for 3 charges respectively of allowing an unlawful non-citizen to work⁸²
- in a single case,⁸³ \$15,000 for each of 2 charges of engaging in dishonest conduct relating to a financial product⁸⁴
- fines ranging from \$15,000 to \$61,391 for 5 charges of evading payment of a duty⁸⁵
- \$15,000 for importing tier 2 goods⁸⁶
- \$10,000 for importing prohibited goods⁸⁷
- \$10,000 for smuggling⁸⁸
- \$10,000 for dealing with money suspected to be proceeds of crime (valued at over \$100,000)⁸⁹
- \$10,000 for a second category 2 workplace health and safety offence⁹⁰
- \$15,000⁹¹ for making or authorising a false or misleading statement in a required document⁹²
- \$10,000 for using a carriage service to access child abuse material⁹³
- \$15,000 for possessing or controlling child abuse material obtained using a carriage service⁹⁴ and
- \$12,000 for theft of property from a Commonwealth entity.⁹⁵

78. Tyrone Dalton, 'Bushmaster Maker Thales Australia Fined \$450k over Death of Worker Joe Kane', *ABC News* (2 June 2023).

79. *R v Avanteos Investments Ltd* [2022] VCC 869.

80. *Corporations Act 2001* (Cth) s 1021J.

81. *DPP (Cth) v Kit* [2021] VCC 421.

82. *Migration Act 1958* (Cth) s 245AB.

83. *DPP (Cth) v Kawecki* [2020] VCC 1751. The sentencing judge opined that '[t]his may be the first prosecution under [that provision]': at [48].

84. *Corporations Act 2001* (Cth) s 1041G.

85. *Customs Act 1901* (Cth) s 234(1)(a). For this offence, the maximum fine is tied to the value of the duty evaded.

86. *Customs Act 1901* (Cth) s 233BAB(5).

87. *Customs Act 1901* (Cth) s 233(1)(b).

88. *Customs Act 1901* (Cth) s 233(1)(a).

89. *Criminal Code* (Cth) s 400.9(1).

90. *Work Health and Safety Act 2011* (Cth) s 32.

91. *DPP (Cth) v Ballintine & Anor* [2020] VCC 211 (the co-offender received an aggregate fine of \$7,500).

92. *Corporations Act 2001* (Cth) s 1308(1).

93. *Criminal Code* (Cth) s 474.22(1)(a).

94. *Criminal Code* (Cth) s 474.22A.

95. *Criminal Code* (Cth) s 131.1(1).

Sentencing outcomes for specific Commonwealth offences

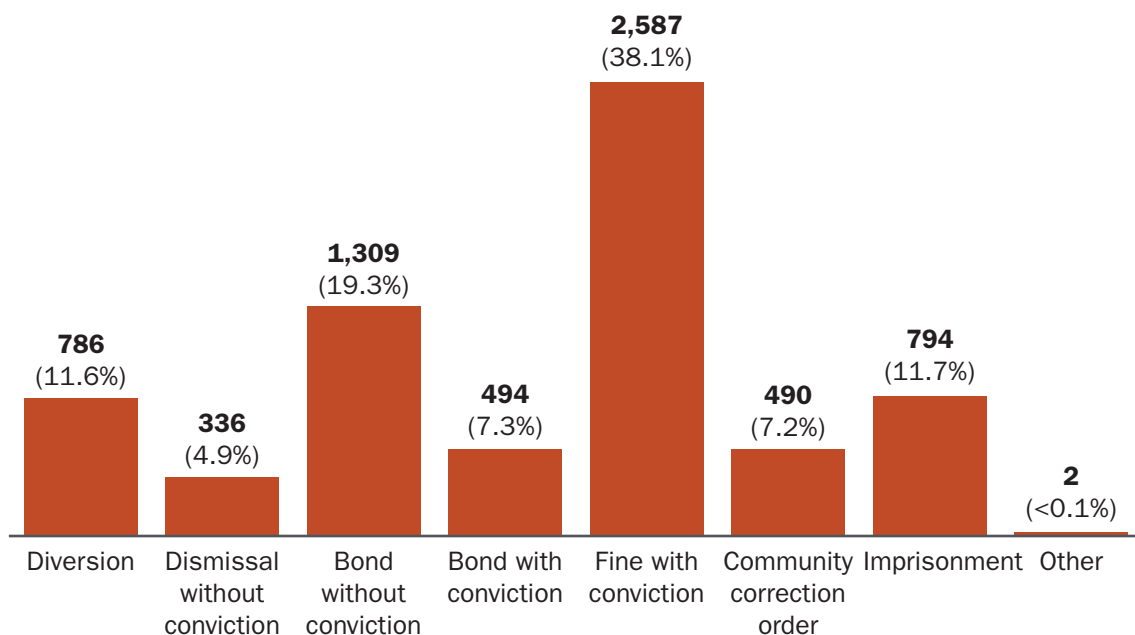
One of our objectives in this report is to provide a baseline to compare sentencing outcomes for Commonwealth offences between the various states and territories. This is best achieved by examining sentencing outcomes for individual offences. The four most common Commonwealth offences sentenced were using a carriage service to menace, harass or offend (6,798 charges); failing or refusing to furnish required tax information (3,420 charges); using a carriage service to access, transmit, publish or solicit child abuse material (750 charges); and unlawful parking at Melbourne (Tullamarine) Airport (443 charges). Each of these is discussed in turn below.

Using a carriage service to menace, harass or offend

There were 6,798 charges of using a carriage service to menace, harass or offend⁹⁶ sentenced in adult courts in Victoria in the five years to 30 June 2023. As shown in Figure 9, the most common sentence type (including diversion) for a charge of this offence was a fine (38.1% of charges), followed by a bond without conviction (19.3%), imprisonment (11.7%) and diversion (11.6%). The *other* group included 1 probation order and 1 youth justice centre order.

The relatively high rate of fines for this offence (38.1% of charges) may be a result of a complexity that arises when sentencing Commonwealth and Victorian offences

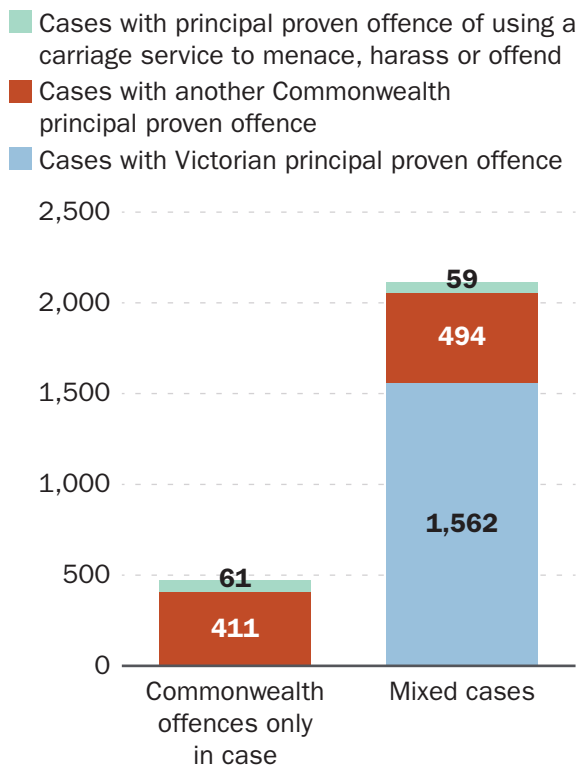
Figure 9: Sentence types imposed for using a carriage service to menace, harass or offend in adult courts in Victoria, 1 July 2018 to 30 June 2023 (6,798 charges)



96. *Criminal Code (Cth)* s 474.17.

in the same case – they must be sentenced separately. In a mixed case, if there is a more serious Victorian charge (e.g. stalking) that results in an imprisonment term, a community correction order or an adjourned undertaking, the sentencing court would have to separately deal with the offence of using a carriage service to menace, harass or offend. The court may (a) impose a separate imprisonment term on the Commonwealth offence (if the Victorian offence resulted in an imprisonment term), (b) dismiss the Commonwealth charge without conviction, which would likely be an insufficient penalty for the behaviours involved, or (c) impose a separate fine with conviction for the Commonwealth offence.

Figure 10: Number of charges of using a carriage service to menace, harass or offend that received a fine, by whether there were other Victorian or Commonwealth offences in the case (2,587 charges)



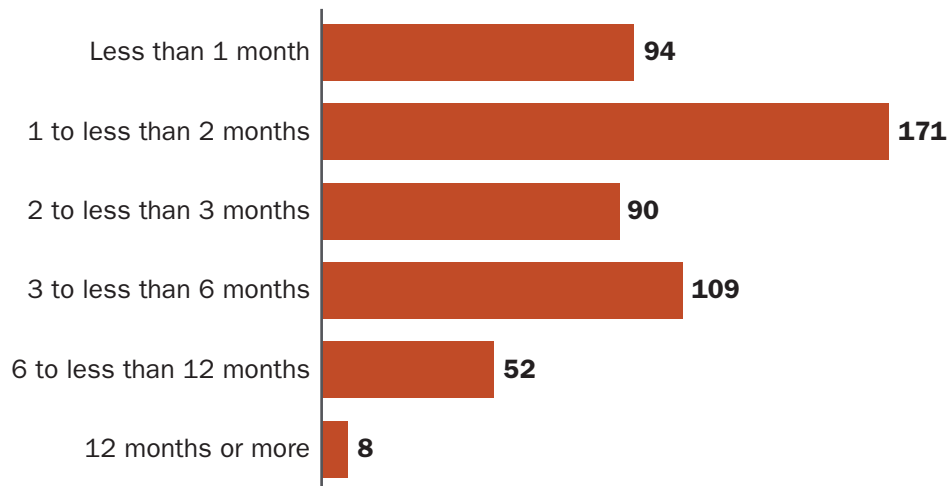
To examine if this was the case, Figure 10 shows whether the 2,587 charges of using a carriage service to menace, harass or offend were sentenced primarily in cases consisting solely of Commonwealth offences or in mixed cases. It shows that 82% of charges of this offence that received a fine were in mixed cases, the majority of which had a Victorian principal proven offence (60% of charges of this offence that received a fine). Further, 69% of cases in which this offence received a fine also involved other offences that received a more severe penalty, in particular, imprisonment or a community correction order (Table 6). This seems to support the hypothesis that when this offence receives a fine, it may be because of the complex approach requiring a court to sentence the Commonwealth and Victorian offences separately, when the Victorian offences have received a more severe penalty.

Table 6: Principal sentences in cases where charges of using a carriage service to menace, harass or offend received a fine and the principal proven offence was a Victorian offence (1,372 cases)

Principal sentence	Number of cases	Percentage of cases
Imprisonment	510	37.2%
Community correction order	431	31.4%
Fine	427	31.1%
Other	4	0.3%

Turning next to the 794 prison sentences imposed for using a carriage service to menace, harass or offend, 524 were *not* part of an aggregate prison sentence imposed on multiple offences,⁹⁷ meaning the lengths of prison sentences could be discerned (468 prison sentences imposed in the Magistrates' Court and 56 in the higher courts). The maximum penalty for this offence was previously 3 years' imprisonment, but following a recommendation by the Australian Senate's Legal and Constitutional Affairs Reference Committee,⁹⁸ it was increased to 5 years on 23 January 2022.⁹⁹ The shortest prison sentence was 1 day (in 2 cases), and the longest prison sentences were 18 months (1 charge), 15 months (1 charge) and 12 months (4 charges). The median charge-level prison sentence was 1.7 months (Figure 11).

Figure 11: Lengths of prison sentences imposed for charges of using a carriage service to menace, harass or offend in adult courts in Victoria (non-aggregate prison sentences only), 1 July 2018 to 30 June 2023 (524 charges)



There were 2 charges that received prison sentences of *more than* 12 months:

- first, an 18-month prison sentence was imposed for a rolled-up charge of using a carriage service to menace, harass or offend involving 'sexually explicit and offensive messages' sent to social media users, including underage females, over a 10-month period, some of which 'included photographs of [the offender's] erect penis, and of [him] masturbating'.¹⁰⁰ That offence was co-sentenced alongside a rolled-up charge of entering into an agreement for provision of sexual services by a child, as well as failing to comply with reporting obligations as a registered sex offender. The total effective sentence imposed in the case was 6 years' imprisonment

97. The remaining 269 prison sentences imposed for this offence were part of an aggregate prison sentence imposed on multiple offences.

98. Legal and Constitutional Affairs References Committee, *Adequacy of Existing Offences in the Commonwealth Criminal Code and of State and Territory Criminal Laws to Capture Cyberbullying* (2018) 61 (Recommendation 5).

99. *Online Safety (Transitional Provisions and Consequential Amendments) Act 2021* (Cth) sch 2 cl 64.

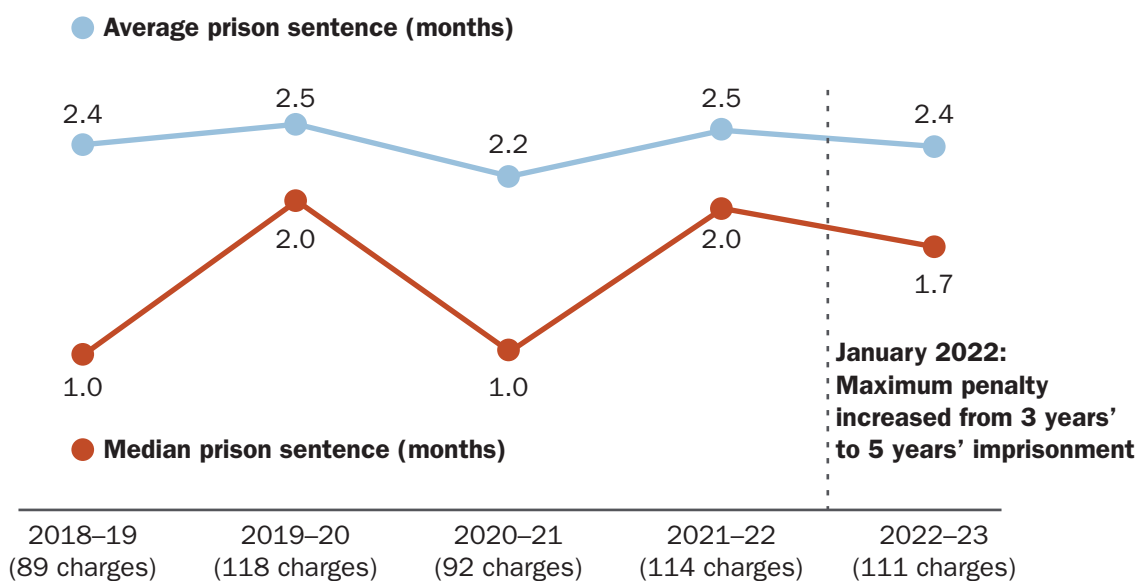
100. *DPP v Cooper* [2018] VCC 2134.

- second, a 15-month prison sentence was imposed for a rolled-up charge of using a carriage service to menace, harass or offend.¹⁰¹ The offender in that case was a man in his early 30s who would make contact with the victims (all of whom were children) on social media and ask for pornographic photos and/or videos of themselves. The rolled-up charge receiving the 15-month prison sentence resulted from repeated threats to tell the father and aunt of one of the victims (a 16-year-old) about photos she had shared with the offender when she was 15. For this and the other offences in the case, the total effective sentence imposed was 12 years and 5 months' imprisonment.

In effect, prison sentences longer than 12 months were only imposed for this offence in cases that also involved some form of child sex offending, and both cases involved rolled-up charges. Both cases were sentenced while the maximum penalty for the offence was 3 years' imprisonment (rather than 5 years' imprisonment).

The average and median prison sentences for using a carriage service to menace, harass or offend were relatively consistent throughout the five-year period (Figure 12). Note that most prison sentences were shorter in 2020–21, in particular, due to the various consequences of COVID-19, including enhanced guilty plea discounts and prison being more burdensome than usual.¹⁰² There was no discernible difference in the lengths of prison sentences as a result of the change in the maximum penalty for this offence in January 2022; indeed, both the median and the average prison sentence were slightly lower in 2022–23 than in the previous year. Further, 2022–23

Figure 12: Average and median lengths of prison sentences imposed for using a carriage service to menace, harass or offend in adult courts in Victoria (non-aggregate prison sentences only), by financial year (524 charges)



101. *DPP (Cth) v Uppiah* [2019] VCC 1324.

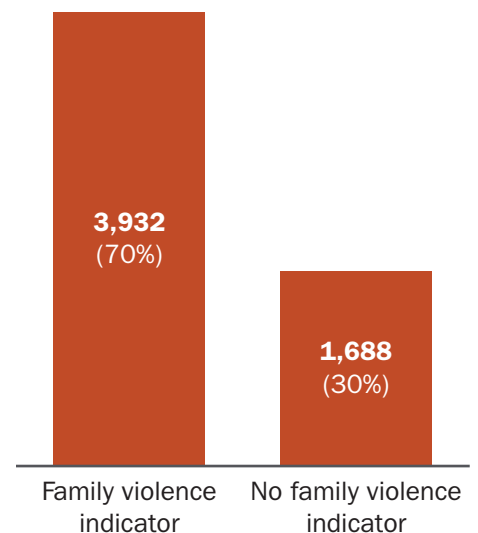
102. *Worboyes v The Queen* [2021] VSCA 169.

had the lowest imprisonment rate for this offence (9.1%) of any financial year during the reference period (the imprisonment rates in the four preceding years were 11.7%, 14.1%, 14.2% and 10.8%). The lack of increase in the rate or length of prison sentences for this offence following the change in maximum penalty could potentially be due to delays in court processes, with the applicable maximum penalty being that at the date of offence, not at sentencing. There is, however, also some evidence to suggest that increasing the maximum penalty for an offence may have little effect on sentencing practices.¹⁰³

To understand the context in which this offence might be committed, innovations in court data over the last decade make it possible to know how many of those charges were in cases with a family violence indicator (meaning at least one of the offences in the case was believed to have occurred in a family violence context). This is a welcome innovation as the data was not previously available and it provides a context in which this offence might be committed. In 2010, the Australian Law Reform Commission (ALRC) commented that ‘it is not clear how often federal offences are committed or prosecuted in a family violence context’, in part because of ‘the absence of centralised statistics’ on federal offences.¹⁰⁴ The ALRC did, though, observe that research from the NSW Bureau of Crime Statistics and Research had found that using a carriage service to menace, harass or offend was the only federal offence identified in family violence cases.¹⁰⁵

The data from our reference period confirms how frequently this offence is charged in a family violence context. Over the five-year period, 4,876 Commonwealth offences were sentenced in cases with a family violence indicator in the Magistrates’ Court, and almost all of those offences (93.5% or 4,560 charges) were using a carriage service to menace, harass or offend. The next most common Commonwealth offence in a family violence case was possessing counterfeit money, and there were just 68 charges of that offence.

Figure 13: The number of cases involving using a carriage service to menace, harass or offend, by whether the case included a family violence indicator, Magistrates’ Court, 1 July 2018 to 30 June 2023 (5,620 cases)



103. See, for example, Sentencing Advisory Council, *Assessing the Impact of Inflation and Penalty Unit Indexation on Fine Amounts in Victoria* (2024) 25–27 (failing to register a cat or dog), 29–31 (driving while suspended); Sentencing Advisory Council, *Major Driving Offences: Current Sentencing Practices* (2015) 46–47 (dangerous driving causing death).

104. Australian Law Reform Commission and New South Wales Law Reform Commission, *Family Violence – A National Legal Response*, ALRC Report 114 (2010) 347.

105. Ibid 347–348, citing Clare Ringland and Jacqueline Fitzgerald, *Factors Which Influence the Sentencing of Domestic Violence Offenders*, Issue Paper no. 48 (2010) 11.

Table 7 provides details about cases in which there was a sentenced charge of using a carriage service to menace, harass or offend, broken down by whether there was a family violence indicator in the case. The data shows that in the family violence cases, the offenders were more likely to be male, they were slightly younger, they seem more likely to have been on bail (given that one-third had a bail-related offence), they were co-sentenced in just over half of cases for breaching a family violence intervention order or safety notice (often persistently), and they were imprisoned at just over twice the rate of offenders in cases without a family violence indicator.

Table 7: Features of cases involving using a carriage service to menace, harass or offend, by family violence indicator, Magistrates' Court, 1 July 2018 to 30 June 2023 (5,620 cases)

	Cases with a family violence indicator	Cases without a family violence indicator
Number of cases	3,932 (70%)	1,688 (30%)
Gender	86% male, 14% female	79% male, 21% female
Median age	36 years	39 years
Most common co-sentenced offence	Persistently contravening a family violence order (34% of cases)	Committing an indictable offence while on bail (13% of cases)
Percentage of cases with any breach of a family violence order^a	51%	2% ^b
Percentage of cases with any bail-related offence^c	33%	20%
Imprisonment rate	28%	13%

- These offences include contravening a family violence intervention order or safety notice, doing so while intending to cause harm or fear for safety, and persistently contravening a family violence intervention order or safety notice: *Family Violence Protection Act 2008* (Vic) ss 37, 37A, 123, 123A, 125A.
- It is possible to breach a family violence order in a way that does not constitute *family violence* as defined in the *Family Violence Protection Act 2008* (Vic), such as breaching a condition of an intervention order, for example, not to enter a particular neighbourhood, in a way that does not involve or relate to the protected person.
- Bail-related offences include failing to answer bail, committing an indictable offence while on bail, and breaching a condition of bail: *Bail Act 1977* (Vic) ss 30, 30A (as in effect at the time), 30B.

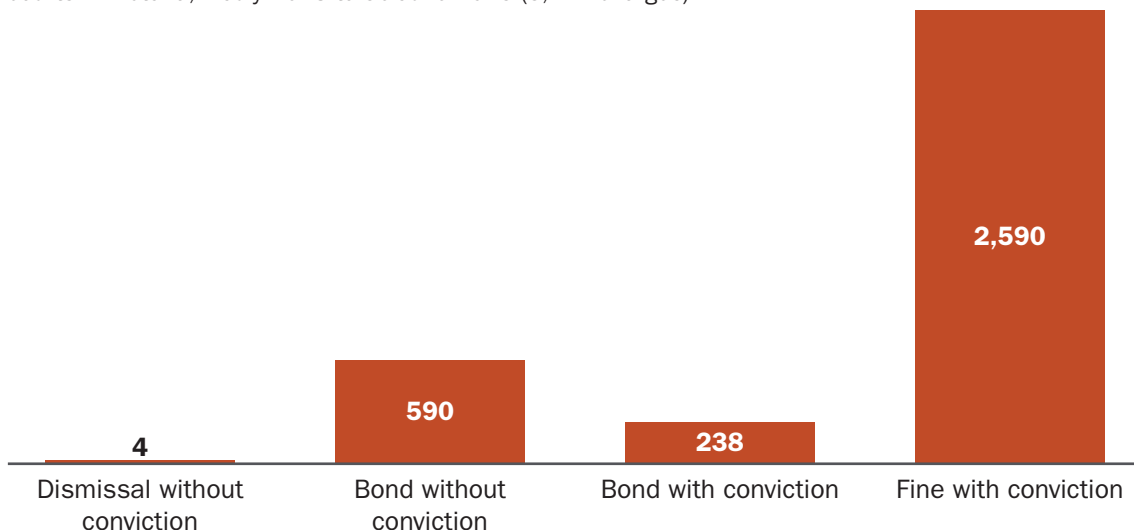
Failing or refusing to furnish required tax information

Section 8C of the *Taxation Administration Act 1953* (Cth) makes it an offence to refuse or fail to give any information or document to the ATO when required by taxation law to do so. The maximum penalty is 20 penalty units for a first offence, 40 penalty units for a second offence, and 12 months' imprisonment or 50 penalty units for a third or subsequent offence.¹⁰⁶

There were 254 cases in which people were sentenced for this offence (181 males, 33 females and 40 unspecified¹⁰⁷), and those cases involved 3,422 charges of this offence (an average of 13.4 charges per case). Those 254 cases involved 248 unique offenders, with six people sentenced on two occasions, and no person sentenced on three or more occasions. This suggests that very few (if any) people were subject to the maximum of 12 months' imprisonment or 50 penalty units for a third or subsequent offence during the five-year reference period.

As shown in Figure 14, a fine with conviction was the most common sentence imposed on the 3,422 charges of failing or refusing to furnish required tax information (76% of charges).

Figure 14: Sentence types imposed for failing or refusing to furnish required tax information in adult courts in Victoria, 1 July 2018 to 30 June 2023 (3,422 charges)

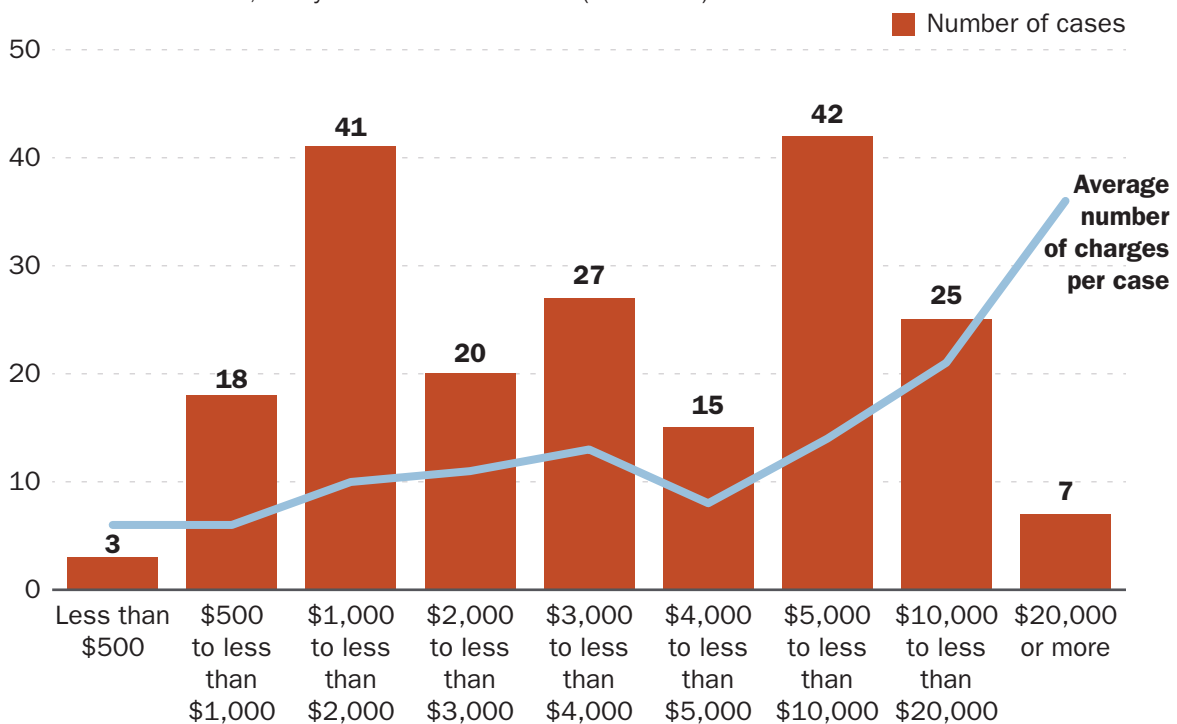


106. *Taxation Administration Act 1953* (Cth) s 8E.

107. In most instances, this will mean that the offender was a company.

It is not possible to present information about the values of the fines imposed for individual charges of this offence. This is because of two interrelated matters: first, the offence is often sentenced alongside other offences – of the 198 cases in which a fine was imposed for this offence, only one of those cases involved a single charge; second, in cases involving multiple charges, courts almost invariably impose an aggregate fine across multiple charges, as occurred in 183 of those 198 cases. For this reason, Figure 15 presents the case-level fine amounts imposed on offenders sentenced for this offence. The lowest fine was \$250, the highest was \$50,000, and the median was \$3,000. Figure 15 also shows that case-level fine amounts increased as the number of charges in the case increased. There was an average of 6 charges per case in cases involving fines of less than \$1,000, but there was an average of 36 charges per case in cases involving fines of \$20,000 or more.

Figure 15: Case-level fine amounts imposed for failing or refusing to furnish required tax information in adult courts in Victoria, 1 July 2018 to 30 June 2023 (198 cases)

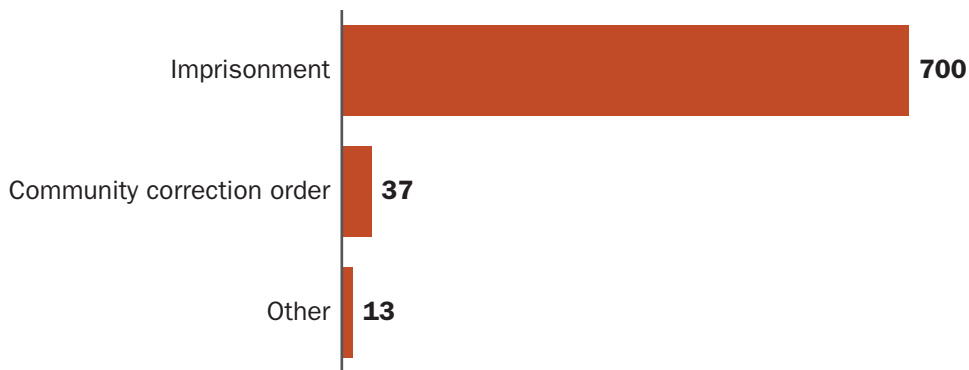


Using a carriage service to access, transmit, publish or solicit child abuse material

On 21 September 2019,¹⁰⁸ the current offence of using a carriage service to access, transmit, publish or solicit child abuse material¹⁰⁹ amalgamated¹¹⁰ two pre-existing offences¹¹¹ relating to using a carriage service for child abuse material. The maximum penalty for the offence is 15 years' imprisonment, as it was prior to that amalgamation. Together, there were 750 charges of using a carriage service to access, transmit, publish or solicit child abuse material (including the pre-existing offences) sentenced in the five years to 30 June 2023. Those charges were sentenced in 203 cases and involved 203 unique offenders (no one was sentenced for this offence on more than one occasion in the five-year period). It was, though, relatively common for offenders to be sentenced for numerous charges of this offence at once; the largest numbers of charges of this offence in a case were 47, 32, 28, 25 and 22.¹¹²

The sentencing outcomes for all 750 charges are shown in Figure 16: 93.3% received an imprisonment term (700 charges), 4.9% received a community correction order (37 charges), and 1.7% received another outcome (13 charges).¹¹³

Figure 16: Sentence types imposed for using a carriage service for child abuse material in adult courts in Victoria, 1 July 2018 to 30 June 2023 (750 charges)



108. *Combating Child Sexual Exploitation Legislation Amendment Act 2019* (Cth) sch 7 cl 29.

109. *Criminal Code* (Cth) s 474.22.

110. The *Combating Child Sexual Exploitation Legislation Amendment Act 2019* (Cth) sch 7 merged the definition of 'child pornography material' into the existing definition of 'child abuse material' (expanding the operation of section 474.22 as a result). See Judicial College of Victoria, '9.4 – Use of a Carriage Service for Child Abuse Material', *Criminal Charge Book* (2025) 2366.

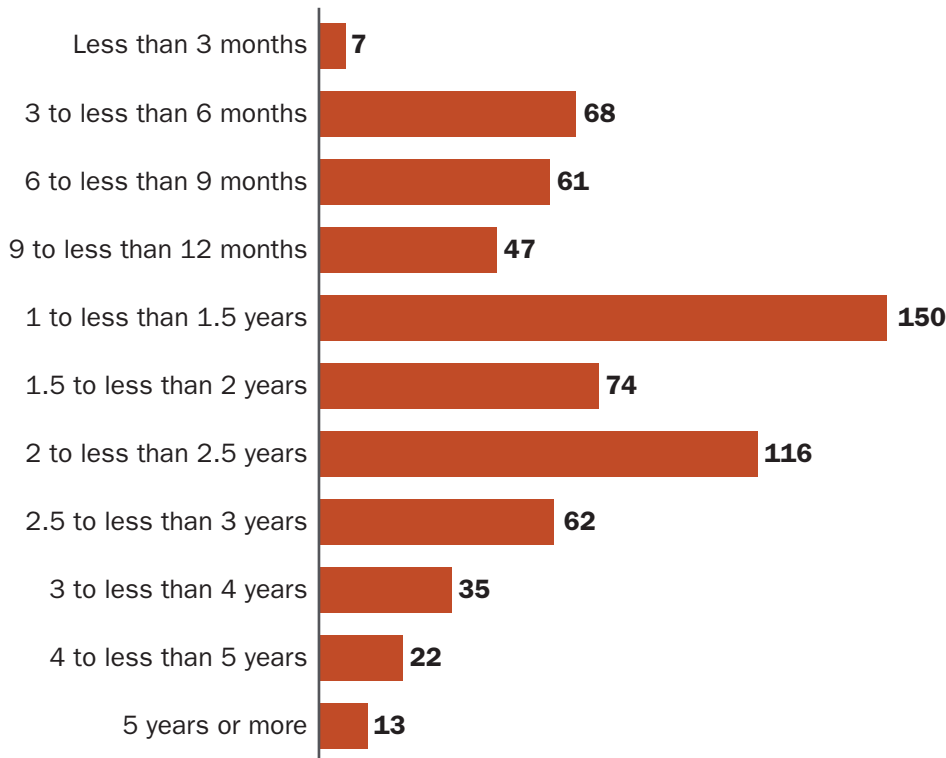
111. *Criminal Code* (Cth) ss 474.19 (repealed), 474.22.

112. Respectively, *DPP (Cth) v Collins (a pseudonym)* [2021] VCC 1497; *DPP (Cth) v Pisano* [2020] VCC 1725; *DPP (Cth) v Robertson* [2022] VCC 1078; *DPP (Cth) v Rogerson (a pseudonym)* [2023] VCC 295; *DPP (Cth) v Amarasinghe* [2022] VCC 200.

113. *Other* in the graph included 7 youth justice centre orders, 4 bonds with conviction, 1 fine with conviction, and 1 bond without conviction.

Of the 700 charges that received imprisonment, 655 were not part of an aggregate prison sentence. The lengths of those 655 charge-level prison sentences are shown in Figure 17: the shortest was 1 month,¹¹⁴ the longest was 7 years,¹¹⁵ and the median was 18 months.¹¹⁶

Figure 17: Lengths of prison sentences imposed for using a carriage service to access, transmit, publish or solicit child abuse material in adult courts in Victoria (non-aggregate prison sentences only), 1 July 2018 to 30 June 2023 (655 charges)



The prison sentence of 7 years was imposed for a rolled-up charge ‘comprising 57 occasions’ of using a carriage service to transmit child abuse material relating to the offender’s three children (aged 11, 9 and 5 at the time).¹¹⁷ The offending in that case was co-sentenced with charges involving persistent sexual abuse of the offender’s 5-year-old daughter over a number of months, sexual assault of his 11-year-old son, possessing child abuse material, and producing child abuse material. The total effective

114. *DPP (Cth) v Waller* [2021] VCC 79; *DPP v Phibbs* [2022] VCC 2126 (resentenced from 6 months to 1 month on appeal: *Phibbs v The King* [2023] VSCA 123); *DPP (Cth) v Hewitt* [2023] VCC 843.

115. *DPP v Murphy (a pseudonym)* [2021] VCC 1525.

116. For some examples of cases in which this offence received the median prison sentence length of 18 months, see *DPP (Cth) v Hedditch (a pseudonym)* [2018] VCC 1631; *DPP (Cth) v Clayton* [2019] VCC 1591; *DPP v Chapman* [2020] VCC 1136; *DPP (Cth) v Boucher* [2021] VCC 1165; *DPP v Donaldson* [2022] VCC 129.

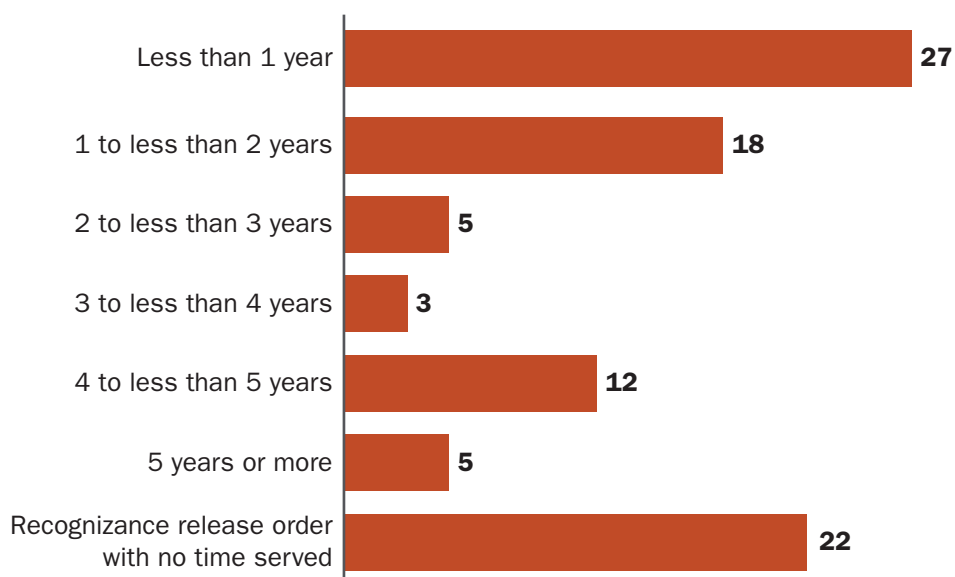
117. *DPP v Murphy (a pseudonym)* [2021] VCC 1525.

sentence imposed in that case was 16 years' imprisonment (for the Victorian and Commonwealth offending together) with a non-parole period of 12 years. The next-longest prison sentence for this offence was 6 years (for 4 charges in 3 cases). Two of those cases involved high-volume child sex offending over a protracted period with young children,¹¹⁸ and the other case involved an offender with a prior conviction for possessing child abuse material who, during phone calls, communicated 'depraved and explicit descriptions of sexual activity between adults and children'.¹¹⁹

Using a carriage service to access, transmit, publish or solicit child abuse material was the principal proven offence in 92 of the 203 cases involving that offence. The total effective sentence lengths in those 92 cases are shown in Figure 18. Total effective sentence lengths ranged from 51 days to 13.5 years, with a median of 1 year. There were 22 cases in which the offender was sentenced to imprisonment with immediate release on a recognizance release order, without any time served on remand. The 5 cases that received a prison sentence of 5 years or more included:

- 7.5 years' imprisonment imposed on an offender who had prior convictions for child abuse material offences¹²⁰
- 8 years' imprisonment imposed on another offender who had prior convictions for child abuse material offences¹²¹
- 10 and 8 years' imprisonment, respectively, imposed on two male offenders in the same case who were in a relationship and (among other things) regularly

Figure 18: Total effective sentence lengths imposed for using a carriage service for child abuse material in adult courts in Victoria, 1 July 2018 to 30 June 2023 (92 cases)



118. *DPP (Cth) v Robertson* [2022] VCC 1078; *DPP (Cth) v Cullinan-Smayle & Anor* [2023] VCC 480.

119. *DPP (Cth) v Warner (a pseudonym)* [2023] VCC 803.

120. *DPP (Cth) v Hunter (a pseudonym)* [2022] VCC 1576.

121. *DPP (Cth) v Warner (a pseudonym)* [2023] VCC 803.

exchanged detailed text messages of hypothetical and violent sexual situations they imagined engaging in with children, 19 of whom were known to the offenders (with the offenders also exchanging images of those children), and the children ranged in age from ‘a few months to 14 years’,¹²² and

- 13.5 years’ imprisonment imposed on a man who encouraged children to send ‘images and videos of themselves naked and performing sex acts’ via social media, and then threatened to share, and actually did share, copies of those photos and videos with the children’s friends and families if they did not share more photos and videos.¹²³

Unlawful parking at Melbourne (Tullamarine) Airport

Regulation 107(2) of the *Airports (Control of On-Airport Activities) Regulations 1997* (Cth) (‘the *Airports Regulations*’) picks up various offences pertaining to a number of airports around the country in the *Australian Road Rules* if those offences are specified in Schedule 2 of the *Airports Regulations*. There are dozens of offences in Schedule 2, two of which are parking in a no-parking area (maximum penalty of 3 penalty units) and failing to comply with a parking fee sign (maximum penalty of 3 penalty units). Recent figures suggest that fines for unlawful parking at Melbourne (Tullamarine) Airport amount to over \$300,000 per year, though the cost of administering the infringement notices was said to exceed that amount.¹²⁴

Court data indicates that there were 289 charges of failing to comply with a parking fee sign (item 26 of Schedule 2) sentenced in 282 cases, and 154 charges of parking in a no-parking area (item 2 of Schedule 2) sentenced in 151 cases. These are only the charges that were brought to court (most infringement notices for other offences in Schedule 2 would have been paid and expiated prior to any court proceedings). Given the relative similarity between the two parking offences (items 2 and 26 of Schedule 2), including an identical maximum fine and extremely similar sentencing practices, we have grouped them here for reporting purposes.

122. *DPP (Cth) v Cullinan-Smayle & Anor* [2023] VCC 480. One of the original sentences in this case was reduced from 10 years to 9 years more than 2 years after sentencing, in May 2025: *Cullinan-Smayle v The King* [2025] VSCA 109. That change is not reflected here because our reference period for Court of Appeal outcomes was to 31 December 2024. In contrast, the other sentence was reduced in June 2024, and that change is reflected here: *Heels v The King* [2024] VSCA 133 (reducing 11 years’ imprisonment to 8 years).

123. *DPP (Cth) v Amarasinghe* [2022] VCC 200.

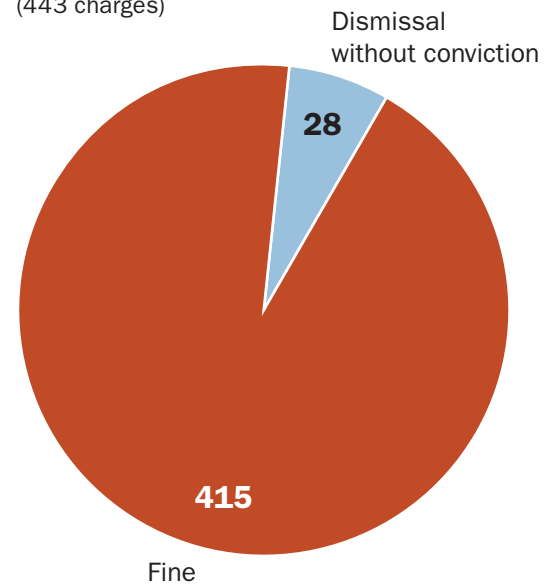
124. Karen Collier, ‘Motorists at Melbourne Airport Pay Price for Illegal Parking’, *Herald Sun* (25 May 2018).

Of the 443 charges of these two unlawful parking offences sentenced in Victorian courts during the five-year period, the vast majority received a fine (94%, or 415 charges) (Figure 19). The remaining 28 charges were dismissed without conviction.

As to the values of those fines, regulation 147 of the *Airports Regulations* specifies that the infringement penalty for contravening an offence in Schedule 2 is one-fifth of the maximum penalty; therefore, a maximum of 3 penalty units equates to an infringement penalty of 0.6 penalty units.¹²⁵ The dollar value of a penalty unit in federal legislation is set by section 4AA of the *Crimes Act 1914* (Cth). At the beginning of the reference period (1 July 2018), a penalty unit was valued at \$210; it was increased to \$222 on 1 July 2020 by automatic penalty unit indexation, and it was then increased to \$275 by legislative amendment in January 2023.¹²⁶ Therefore, the value of an infringement penalty for the two unlawful parking offences would have been \$126 at the beginning of the reference period, \$133.20 as of 1 July 2020, and \$165 for the 6 months from 1 January 2023 to 30 June 2023. It is important to understand these numbers because we recently found that courts seem to be frequently confirming original infringement penalty values when infringement offences are later sentenced in court (for example, if the recipient challenges the infringement notice).¹²⁷

In that context, Figure 20 (page 36) presents the values of fines imposed on the 395 charges of these unlawful parking offences that received a non-aggregate fine (20 charges were part of an aggregate fine imposed on multiple offences). Most of those 395 charges (81%) received a fine of precisely \$126, which, as mentioned above, represents 0.6 penalty units for the period from 1 July 2018 to 30 June 2020. The next most common fine amounts imposed were \$210, which is identical to 20% of 5 penalty units when a penalty unit was valued at \$210,¹²⁸ and \$108, which is identical to 20%

Figure 19: Sentence types imposed for unlawful parking at Melbourne (Tullamarine) Airport in adult courts in Victoria, 1 July 2018 to 30 June 2023 (443 charges)



125. *Airports (Control of On-Airport Activities) Regulations 1997* (Cth) r 147.

126. Sentencing Advisory Council (2024), above n 103, 37–38.

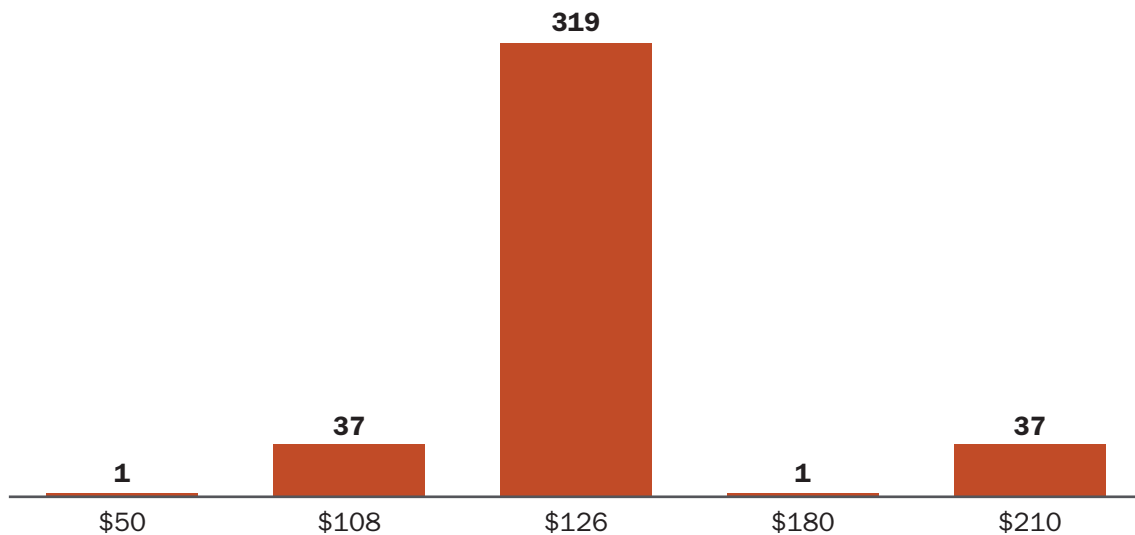
127. *Ibid* 22–27.

128. Given our previous findings about courts confirming original infringement penalties, this amount suggests that the original offence was not one of the unlawful parking offences with a maximum of 3 penalty units, but rather another offence in Schedule 2, such as stopping in a no-stopping area, which has a maximum of 5 penalty units. See *Airports (Control of On-Airport Activities) Regulations 1997* (Cth) r 107 sch 2.

of 3 penalty units when a penalty unit was valued at \$180 prior to 30 June 2017. There were then just two anomalous fine amounts: \$180, which was the value of 1 penalty unit prior to 30 June 2017, and \$50.

There are two strong implications from these findings: the first is that fines for unlawful parking at Melbourne (Tullamarine) Airport that are eventually imposed in court are almost invariably the same amount as the original infringement penalty (albeit a handful of charges do seem to be dismissed without any pecuniary penalty); the second is that the values of infringement penalties imposed at the airport may not have been increased to account for the increased value of a penalty unit since 2020.¹²⁹

Figure 20: Fine amounts imposed for unlawful parking at Melbourne (Tullamarine) Airport in adult courts in Victoria (non-aggregate fines only), 1 July 2018 to 30 June 2023 (395 charges)



129. This is because the data includes court outcomes three years after the increase to the value of a Commonwealth penalty unit from \$210 to \$222, but there were no fines imposed representing 60% (0.6 of a penalty unit) of \$222, which would have been \$133.20.

Conclusion

This report has presented court data about Commonwealth offences sentenced in Victoria for the five years from 1 July 2018 to 30 June 2023. The aim of this report has been to provide a statistical profile of Commonwealth offences sentenced in Victoria – that is, crimes specified in federal legislation rather than Victorian legislation – in order to provide a baseline for comparison against which other jurisdictions might begin examining the sentencing of Commonwealth offences.

Key findings in this report include:

- there were 9,570 cases that included at least one Commonwealth offence sentenced during the five-year period. These cases included 57,737 charges, of which 17,618 were Commonwealth offences (the remainder were Victorian offences)
- Commonwealth offences are only present in a small fraction of cases sentenced in adult courts in Victoria (2.3% of all cases), but they are more prevalent in the higher courts (10.2% of cases) than they are in the Magistrates' Court (2.1% of cases)
- most cases involving a Commonwealth offence – regardless of whether the offence is the principal proven offence in the case or not – are sentenced in the Magistrates' Court (91% of cases)
- most cases involving Commonwealth offences *also* involve Victorian offences (59% of cases)
- most federal offenders are male (80%)
- most federal offenders are aged between 25 and 44 (59%)
- Victoria Police was the prosecuting agency in 70% of cases involving Commonwealth offences
- the most common Commonwealth offence sentenced in Victoria was using a carriage service to menace, harass or offend (39% of all Commonwealth offences sentenced)
- the most common type of Commonwealth offence in the higher courts was a child abuse offence, collectively accounting for over half (55%) of Commonwealth offences sentenced in the higher courts
- in the higher courts, the most common sentence imposed in cases where a Commonwealth offence was the principal proven offence was an imprisonment term (91% of cases)
- in the Magistrates' Court, the most common sentence imposed in cases where a Commonwealth offence was the principal proven offence was a fine (50% of cases)
- there were 847 cases in which offenders received a prison sentence with an active custodial component (not fully suspended) and a Commonwealth offence was the principal proven offence. For those 847 cases, the median prison sentence length was 9 months, and the longest prison sentence was 42 years. Of the 9 cases in which a prison sentence of more than 20 years was imposed, 7 cases involved terrorism-related offending

- there have been a growing number of cases in which presumptive minimum sentences for federal child sex offenders have applied, and while there have (to date) been too few cases to reliably identify any trends, charge-level prison sentence lengths in those handful of cases seem to be hovering around 1 year above and below the prescribed minimum sentence and
- in terms of the four most common Commonwealth offences:
 - the most common sentence for using a carriage service to menace, harass or offend was a fine (38% of charges); 12% of charges received imprisonment, with a median charge-level prison sentence of 1.7 months. Most cases of this offence involved family violence (70%), and family violence offenders were about twice as likely as non-family violence offenders to receive imprisonment for this offence (28% vs 13%). The relatively high rate of fines for this offence (38%) seems to be a product of courts being required to sentence Commonwealth and state or territory offences separately, because most of those carriage service charges were sentenced in cases that also involved a Victorian offence that received imprisonment or a community correction order, leaving courts with few options when having to separately sentence the carriage service offence
 - the most common sentence for failing or refusing to furnish required tax information was also a fine (76% of charges), and people sentenced for this offence received a median fine of \$3,000, with higher fines often associated with more charges per case
 - the most common sentence for using a carriage service to access, transmit, publish or solicit child abuse material was imprisonment (93% of charges), with a median charge-level prison sentence of 18 months and a median total effective sentence of 1 year
 - the most common sentence for unlawful parking at Melbourne (Tullamarine) Airport was also a fine (94% of charges), with the most common fine amount being \$126 (precisely 0.6 of the penalty unit value applicable from 1 July 2017 to 30 June 2020).

There has been a consensus for decades now that sentencing Commonwealth offences is an incredibly complex exercise, especially in cases that also include state or territory offences. The above findings are intended to assist courts by providing a baseline for comparing current sentencing practices for Commonwealth offences, especially for some of the more common ones, with the aim of promoting consistency in sentencing.

For further information, data about sentencing practices for dozens of federal offences is available via SACStat, our public database of sentencing outcomes for courts in Victoria.

Data used in this report

This report uses data routinely provided to the Council by the various adult courts in Victoria: the Magistrates' Court, the County Court and the Supreme Court. This includes unit record data about all cases in which a person was sentenced or diverted for at least one criminal offence. Unit record data includes offender name and date of birth, the offences they were sentenced for, the dates of those offences, the types of sentences imposed, and the lengths of sentences or fine amounts imposed.

In order to ensure that the data is as representative as possible, the Council routinely cleans first-instance sentencing data based on outcomes in the Court of Appeal. If a conviction is overturned, it is removed from the data. If a sentence is changed, the data is revised to reflect that change. This ensures that the data is an accurate representation of current sentencing practices. In this report, the court data on first-instance outcomes covers the period 1 July 2018 to 30 June 2023 and accounts for Court of Appeal decisions to 31 December 2024.

There is always a rare possibility that additional Court of Appeal decisions occurred after that date and these decisions are not reflected in the data presented in this report. For instance, the Court of Appeal in *Cullinan-Smayle v The King* [2025] VSCA 109 reduced the total effective sentence imposed on an offender for various child abuse material offences, and that appeal judgment was delivered more than two years after the original sentence was imposed. While we are aware of this judgment, we have not revised the data in this report to reflect the changes made by the Court of Appeal because we cannot confirm whether that is the only case affected by Court of Appeal decisions after 31 December 2024. In any data analysis, there must always be a definitive end point to a reference period. In this report, that means we have only examined first-instance outcomes to 30 June 2023 and have only accounted for Court of Appeal outcomes in the 18 months after that, to 31 December 2024.

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