

# Sentencing Snapshot

Sentencing trends in  
the higher courts of  
Victoria  
2008–09 to 2012–13

August 2014  
No. 165

**Cultivating a commercial quantity of  
narcotic plants**

## Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of cultivating a commercial quantity of narcotic plants and details the age and gender<sup>2</sup> of people sentenced for this offence in the County Court of Victoria between 2008–09 and 2012–13.<sup>3</sup> Except where otherwise noted, the data represent sentences imposed at first instance.

The *Drugs, Poisons and Controlled Substances Act 1981 (Vic)* provides a set of offences in relation to the cultivation of a narcotic plant that distinguishes between large commercial, commercial, and less than commercial quantities of the illegal plant.<sup>4</sup>

A person who sows the seed of a narcotic plant or grows, tends, or nurtures a narcotic plant without being authorised or licensed to do so is guilty of cultivation of a narcotic plant.<sup>5</sup> The maximum penalties that apply vary depending on the quantity of the plant involved, as well as the purpose for which the plant was cultivated.

This report examines the offence of cultivating a commercial quantity of narcotic plants.<sup>6</sup> The amount that constitutes a commercial quantity depends on the type of plant.<sup>7</sup> In relation to cannabis, which is the most common narcotic plant involved in these offences, a commercial quantity is 25 kg or 100 plants.<sup>8</sup> Different types of plants can also be combined in order to achieve a commercial quantity.<sup>9</sup>

Cultivation of a commercial quantity of a narcotic plant is an indictable offence that carries a maximum penalty of 25 years' imprisonment<sup>10</sup> and/or a fine of up to 3,000 penalty units.<sup>11</sup> Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

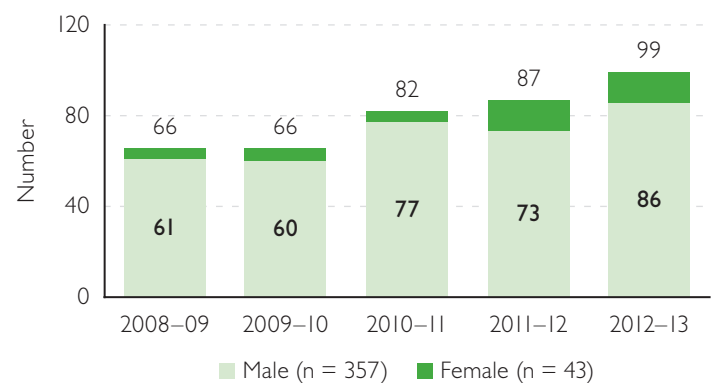
Cultivating a commercial quantity of narcotic plants was the principal offence<sup>12</sup> in 3.9% of cases sentenced in the higher courts between 2008–09 and 2012–13.

## People sentenced

From 2008–09 to 2012–13, 400 people were sentenced in the higher courts for a principal offence of cultivating a commercial quantity of narcotic plants. These people are the focus of this Snapshot. Sufficient information was not available to determine the number of people who were sentenced for cultivating a commercial quantity of narcotic plants in instances where another offence was the principal offence.

Figure 1 shows the number of people sentenced for the principal offence of cultivating a commercial quantity of narcotic plants by gender. Over the five years depicted, the majority of people sentenced were men (89.0% or 357 of the 400 people), including 86 of the 99 people sentenced in 2012–13.

**Figure 1:** The number of people sentenced for cultivating a commercial quantity of narcotic plants by gender, 2008–09 to 2012–13



## Sentence types and trends

Figure 2 shows the total number of people sentenced for cultivating a commercial quantity of narcotic plants and the number who received an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate (as opposed to wholly suspended) imprisonment or detention.<sup>13</sup> Over the five-year period, 81% of people were given an immediate custodial sentence. This peaked at 94% (93 of 99 people) in 2012–13 after a low of 70% (46 of 66 people) in 2008–09.

Table 1 shows the number of people sentenced for cultivating a commercial quantity of narcotic plants from 2008–09 to 2012–13 by the types of sentences imposed.

Over the five-year period, nearly 60% of people sentenced for cultivating a commercial quantity of narcotic plants received a sentence of imprisonment (59% or 235 of 400 people), while 21% received a partially suspended sentence and 18% received a wholly suspended<sup>14</sup> sentence.

The number and percentage of people receiving a sentence of imprisonment were lowest during 2008–09 (45% or 30 of 66 people) and highest during 2012–13 (76% or 75 of 99 people).

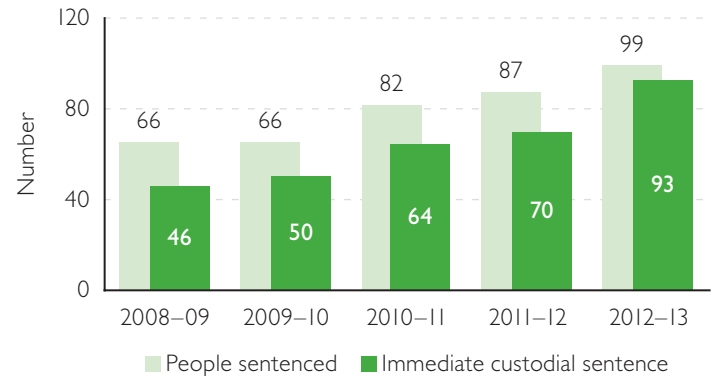
The number and percentage of people receiving a partially suspended sentence of imprisonment were lowest during 2011–12 (13% or 11 of 87 people) and highest during 2010–11 (30% or 25 of 82 people).

The number and percentage of people receiving a wholly suspended sentence of imprisonment were lowest during 2012–13 (5% or 5 of 99 people) and highest during 2008–09 (29% or 19 of 66 people).

**Table 1:** The number and percentage of people sentenced for cultivating a commercial quantity of narcotic plants by sentence type, 2008–09 to 2012–13

Sentence type	2008–09	2009–10	2010–11	2011–12	2012–13	Total
Imprisonment	30 (45%)	33 (50%)	39 (48%)	58 (67%)	75 (76%)	235 (59%)
Partially suspended sentence	15 (23%)	16 (24%)	25 (30%)	11 (13%)	18 (18%)	85 (21%)
Wholly suspended sentence	19 (29%)	15 (23%)	18 (22%)	15 (17%)	5 (5%)	72 (18%)
Youth justice centre order	0 (–)	1 (2%)	0 (–)	1 (1%)	0 (–)	2 (<1%)
Mix (wholly suspended sentence and fine)	1 (2%)	0 (–)	0 (–)	1 (1%)	0 (–)	2 (<1%)
Community-based order	0 (–)	1 (2%)	0 (–)	1 (1%)	0 (–)	2 (<1%)
Community correction order	0 (–)	0 (–)	0 (–)	0 (–)	1 (1%)	1 (<1%)
Aggregate partially suspended sentence	1 (2%)	0 (–)	0 (–)	0 (–)	0 (–)	1 (<1%)
<b>People sentenced</b>	<b>66</b>	<b>66</b>	<b>82</b>	<b>87</b>	<b>99</b>	<b>400</b>

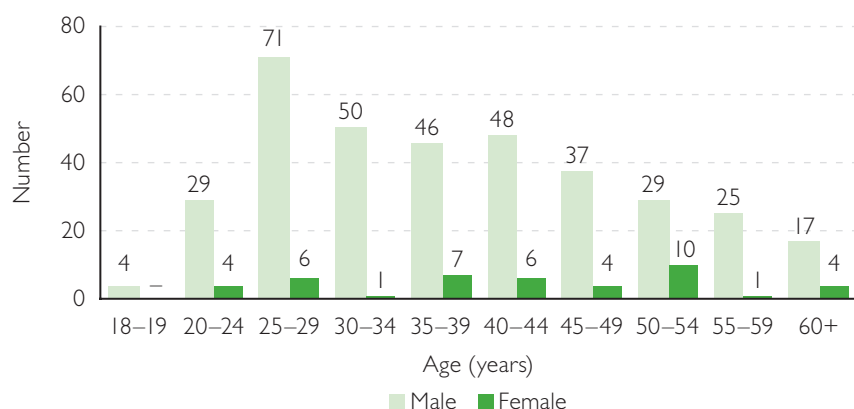
**Figure 2:** The number of people sentenced for cultivating a commercial quantity of narcotic plants and the number who received an immediate custodial sentence, 2008–09 to 2012–13



## Age and gender of people sentenced

Figure 3 shows the gender of people sentenced for cultivating a commercial quantity of narcotic plants grouped by age<sup>15</sup> between 2008–09 and 2012–13. The average (mean) age of people sentenced for cultivating a commercial quantity of narcotic plants was 38 years and 9 months. Women sentenced over this period were older than men (an average age of 42 years and 2 months, compared with 38 years and 4 months for men). There were no juveniles sentenced over this period.<sup>16</sup>

**Figure 3:** The number of people sentenced for cultivating a commercial quantity of narcotic plants by gender and age, 2008–09 to 2012–13<sup>17</sup>



## Sentence types by gender

Table 2 shows the types of sentence imposed for cultivating a commercial quantity of narcotic plants grouped by gender. As shown, a higher percentage of men received a sentence of imprisonment (59% compared with 53% of women). Conversely, a higher percentage of women received a wholly suspended sentence of imprisonment (28% compared with 17% of men).

**Table 2:** The number and percentage of people sentenced for cultivating a commercial quantity of narcotic plants by sentence type and gender, 2008–09 to 2012–13

Sentence type	Male	Female
Imprisonment	212 (59%)	23 (53%)
Partially suspended sentence	77 (22%)	8 (19%)
Wholly suspended sentence	60 (17%)	12 (28%)
Youth justice centre order	2 (<1%)	0 (–)
Mix (wholly suspended sentence and fine)	2 (<1%)	0 (–)
Community-based order	2 (<1%)	0 (–)
Community correction order	1 (<1%)	0 (–)
Aggregate partially suspended sentence	1 (<1%)	0 (–)
<b>People sentenced</b>	<b>357</b>	<b>43</b>

## Sentence types by age

As shown in Table 1, the three most common sentence types were imprisonment, partially suspended sentences, and wholly suspended sentences. The following analysis examines these sentence types by the offender's age group.<sup>18</sup>

### Imprisonment

As shown in Figure 4, imprisonment was most likely to be given to people aged between 35 and 39 years (64.2% or 34 of the 53 people in this age group), followed closely by people aged 50 to 54 (64.1% or 25 of the 39 people in this age group).

Conversely, imprisonment was least common for people aged 60 or older (43% or 9 of the 21 people in this age group).

### Partially suspended sentences of imprisonment

As shown in Figure 5, partially suspended sentences of imprisonment were most likely to be given to people aged 45 to 49 (27% or 11 of the 41 people in this age group).

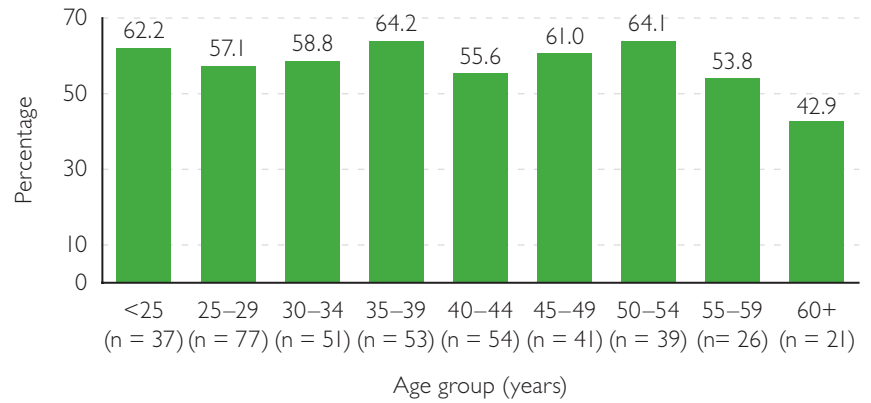
Conversely, partially suspended sentences of imprisonment were least common for people aged 35 to 39 (17% or 9 of the 53 people in this age group).

### Wholly suspended sentences of imprisonment

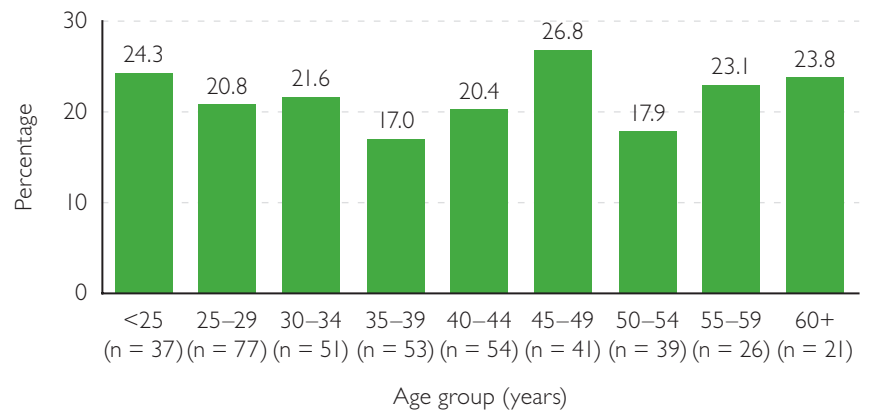
As shown in Figure 6, wholly suspended sentences were most likely to be given to people aged 60 or older (33% or 7 of the 21 people in this age group).

Conversely, wholly suspended sentences were least common for people aged younger than 25 (5% or 2 of the 37 people in this age group).

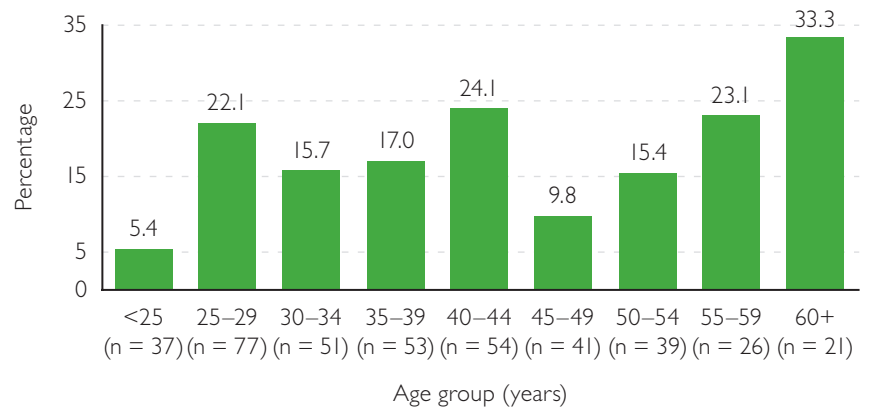
**Figure 4:** The percentage of people who received a period of imprisonment for cultivating a commercial quantity of narcotic plants by age group, 2008–09 to 2012–13



**Figure 5:** The percentage of people who received a partially suspended sentence of imprisonment for cultivating a commercial quantity of narcotic plants by age group, 2008–09 to 2012–13



**Figure 6:** The percentage of people who received a wholly suspended sentence of imprisonment for cultivating a commercial quantity of drugs by age group, 2008–09 to 2012–13



## Principal and total effective sentences

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

The principal sentence is the individual sentence imposed for the charge that is the principal offence.<sup>19</sup>

The total effective sentence in a case with a single charge is the principal sentence. The total effective sentence in a case with multiple charges is the sentence that results from the court ordering the individual sentences for each charge to be served concurrently (at the same time) or wholly or partially cumulatively (one after the other).

In many cases, the total effective sentence imposed on a person will be longer than the individual principal sentence. Principal sentences for cultivating a commercial quantity of narcotic plants must be considered in this broader context. The following sections analyse the use of imprisonment for cultivating a commercial quantity of narcotic plants from 2008–09 to 2012–13.

### Principal sentence of imprisonment

A total of 235 people received a principal sentence of imprisonment for cultivating a commercial quantity of narcotic plants between 2008–09 and 2012–13.

Figure 7 shows the number of people sentenced to imprisonment for cultivating a commercial quantity of narcotic plants between 2008–09 and 2012–13 by the length of the imprisonment term. Imprisonment terms ranged from 5 months and 20 days to 6 years (5 years and 2 months after adjusting for appeals), while the median length of imprisonment was 2 years and 3 months (meaning that half of the imprisonment terms were shorter than 2 years and 3 months and half were longer).

The most common range of imprisonment length was 2 years to less than 3 years (105 people).

As shown in Figure 8, the average (mean) length of imprisonment term imposed on people sentenced for cultivating a commercial quantity of narcotic plants ranged from 2 years and 2 months during 2010–11 to 2 years and 7 months in 2009–10.

From 2008–09 to 2012–13, the majority of people who received a term of imprisonment for cultivating a commercial quantity of narcotic plants were men (212 people or 90.2%). The average length of imprisonment for men over the five-year period was 2 years and 4 months, while the average length of imprisonment for the 23 women was slightly lower at 2 years.

Figure 7: The number of people sentenced to imprisonment for cultivating a commercial quantity of narcotic plants by length of imprisonment term, 2008–09 to 2012–13

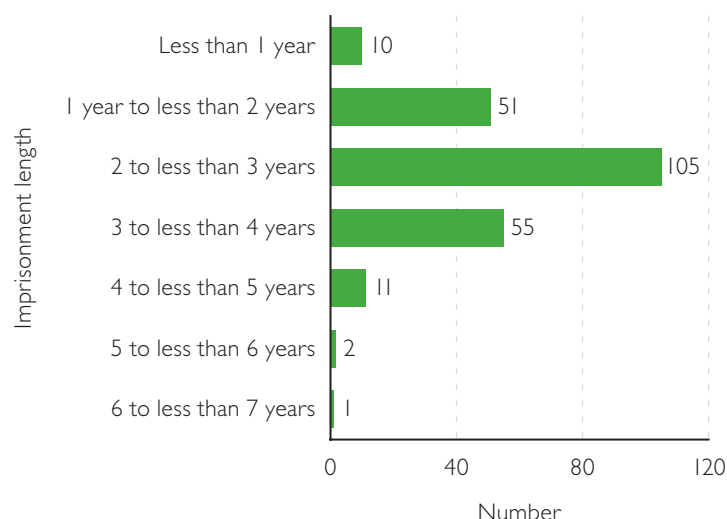
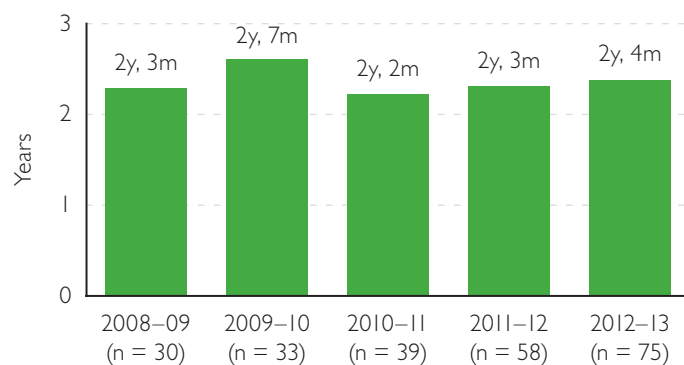


Figure 8: The average length of imprisonment term imposed on people sentenced for cultivating a commercial quantity of narcotic plants, 2008–09 to 2012–13



## Other offences finalised at the same hearing

Often people prosecuted for cultivating a commercial quantity of narcotic plants face multiple charges, which are finalised at the same hearing. This section looks at the range of offences for which offenders have been sentenced at the same time as being sentenced for the principal offence of cultivating a commercial quantity of narcotic plants.

Figure 9 shows the number of people sentenced for the principal offence of cultivating a commercial quantity of narcotic plants by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 34, while the median was 2 offences. There were 129 people (32.3%) sentenced for the single offence of cultivating a commercial quantity of narcotic plants. The average (mean) number of offences per person sentenced for cultivating a commercial quantity of narcotic plants was 2.45.

While Figure 9 presents the number of sentenced offences for those sentenced for cultivating a commercial quantity of narcotic plants, Table 3 shows what the accompanying offences were. It shows the number and percentage of people sentenced for the 10 most common offences. The last column sets out the average number of offences sentenced per person. For example, 218 of the total 400 people (54.5%) also received sentences for theft. On average, they were sentenced for 1.23 counts of theft.

**Table 3:** The number and percentage of people sentenced for the principal offence of cultivating a commercial quantity of narcotic plants by the most common offences that were sentenced and the average number of those offences that were sentenced, 2008–09 to 2012–13

Offence	Number	%	Average
1 Cultivate a commercial quantity of narcotic plants	400	100.0	1.13*
2 Theft	218	54.5	1.23
3 Possess a drug of dependence	45	11.3	1.20
4 Traffick drugs of dependence	27	6.8	1.07*
5 Deal with property suspected of being proceeds of crime	25	6.3	1.20
6 Use a drug of dependence	10	2.5	1.10
7 Intentionally destroy/damage property (criminal damage)	9	2.3	1.22
8 Possess prohibited weapon without exemption	6	1.5	1.33
9 Use a false document to prejudice other	4	1.0	2.25
10 Possess document/equipment for trafficking in a drug of dependence	4	1.0	1.00
<b>People sentenced</b>	<b>400</b>	<b>100.0</b>	<b>2.45</b>

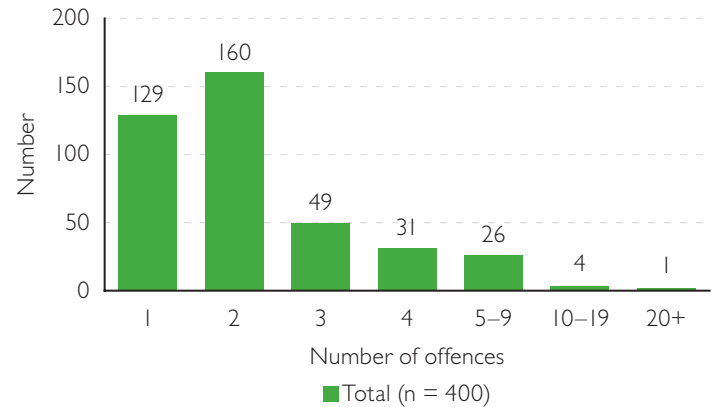
\*May contain offences of drug trafficking and cultivation of varying quantities (non-commercial, commercial, or large commercial).

## Total effective sentence of imprisonment

There were 235 people given a total effective sentence of imprisonment.<sup>20</sup> Figure 10 shows the number of people sentenced to imprisonment for cultivating a commercial quantity of narcotic plants between 2008–09 and 2012–13 by length of total effective sentence. The length of total effective sentences ranged from 5 months and 20 days to 6 years and 9 months, while the median total effective length of imprisonment was 2 years and 5 months (meaning that half of the total effective sentence lengths were below 2 years and 5 months and half were above).

The most common range of total effective imprisonment length was 2 years to less than 3 years (103 people).

**Figure 9:** The number of people sentenced for the principal offence of cultivating a commercial quantity of narcotic plants by the number of sentenced offences per person, 2008–09 to 2012–13



### Non-parole period

When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person must serve the entirety of the imprisonment term.

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

Of the 235 people who were sentenced to imprisonment for cultivating a commercial quantity of narcotic plants, 225 were eligible to have a non-parole period fixed.<sup>21</sup> Of these people, 222 were given a non-parole period (98.7%).<sup>22</sup> Figure 11 shows the number of people sentenced to imprisonment for cultivating a commercial quantity of narcotic plants between 2008–09 and 2012–13 by length of non-parole period. Non-parole periods ranged from 5 months to 4 years and 9 months, while the median length of the non-parole period was 1 year and 3 months (meaning that half of the non-parole periods were below 1 year and 3 months and half were above).

The most common range of non-parole period imposed was 1 year to less than 2 years (112 people).

### Total effective sentences of imprisonment and non-parole periods

Figure 12 presents the average (mean) length of total effective sentences of imprisonment compared with the average length of non-parole periods for all people from 2008–09 to 2012–13.

From 2008–09 to 2012–13, the average length of total effective sentences for all people ranged from 2 years and 6 months in 2008–09 and 2010–11 to 2 years and 9 months in 2009–10. Over the same period, the average length of non-parole periods was 1 year and 5 months in each year with the exception of 2009–10, in which the length was 1 year and 6 months.

Figure 10: The number of people sentenced to imprisonment for cultivating a commercial quantity of narcotic plants by length of total effective imprisonment term, 2008–09 to 2012–13

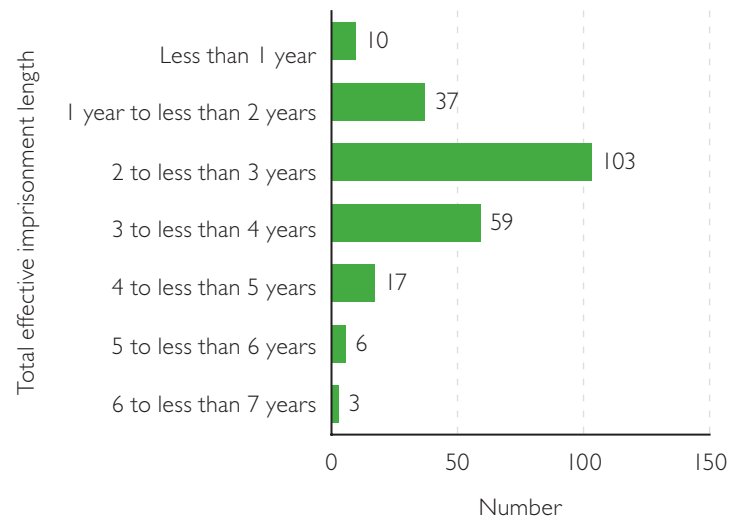


Figure 11: The number of people sentenced to imprisonment for cultivating a commercial quantity of narcotic plants by length of non-parole period, 2008–09 to 2012–13

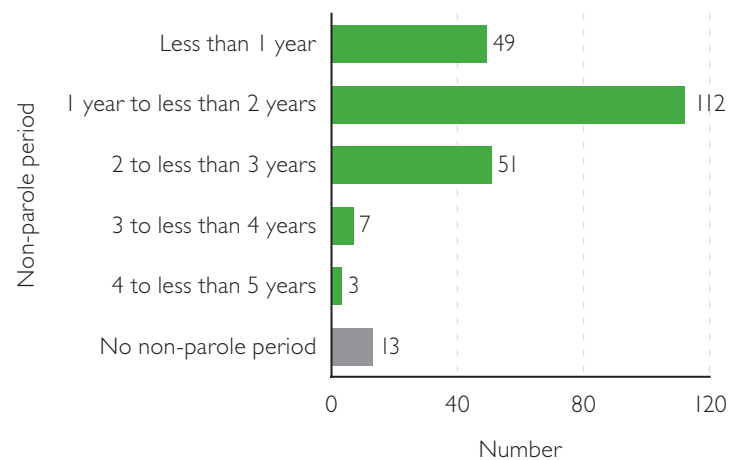
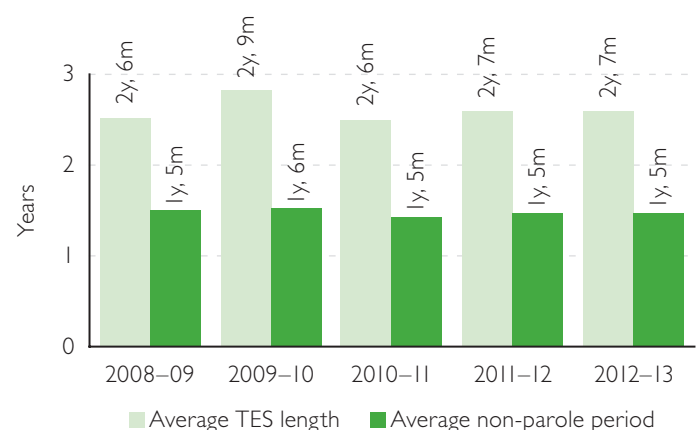


Figure 12: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for cultivating a commercial quantity of narcotic plants, 2008–09 to 2012–13





The average length of total effective imprisonment sentences for men over the five-year period was 2 years and 7 months with a non-parole period of 1 year and 6 months. For women, the average length of total effective imprisonment was lower at 2 years and 2 months with a non-parole period of 1 year and 1 month.

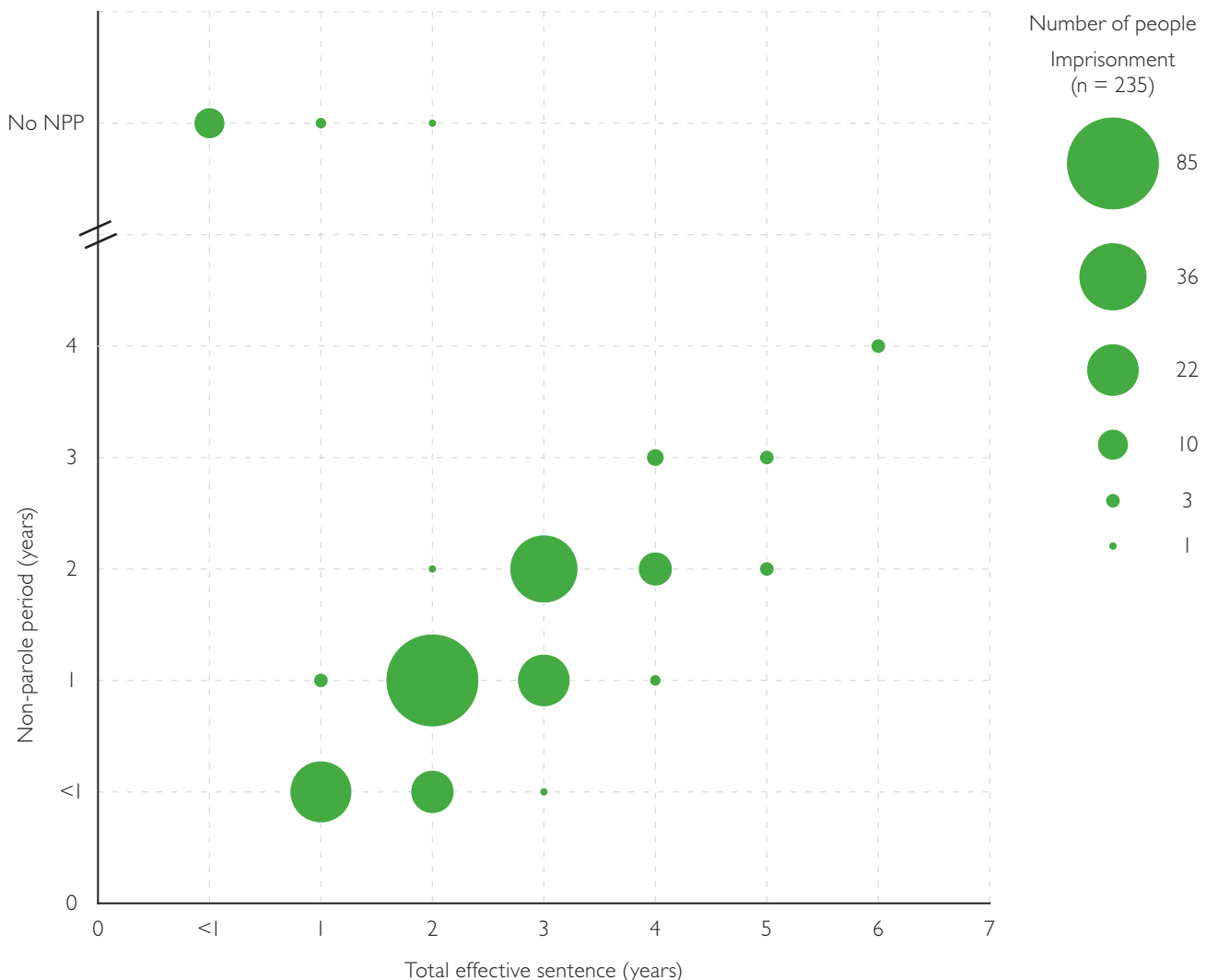
### Total effective sentence of imprisonment by non-parole period

While Figures 10 and 11 present the lengths of the total effective sentences and non-parole periods separately, Figure 13 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for cultivating a commercial quantity of narcotic plants for each individual person.

The centre of each 'bubble' on the chart represents a combination of imprisonment length and non-parole period, while the size of the 'bubble' reflects the number of people who received that particular combination. Sentence lengths and non-parole periods that are longer than one year are rounded down to the nearest year of imprisonment, while sentence lengths and non-parole periods of less than one year are grouped into the '<1 year' category. For example, a sentence length of 2 years and 6 months would be included as a sentence length of 2 years for the purposes of Figure 13.

As shown, the most common combination of imprisonment length and non-parole period imposed was 2 years with a non-parole period of 1 year (85 people – as represented by the largest 'bubble' on the chart). Imprisonment lengths ranged from 5 months and 20 days with no non-parole period to 6 years and 9 months with a non-parole period of 4 years and 9 months.

**Figure 13:** The number of people sentenced to imprisonment for cultivating a commercial quantity of narcotic plants by the total effective sentence and the non-parole period imposed, 2008–09 to 2012–13



Note: No NPP refers to no non-parole period.



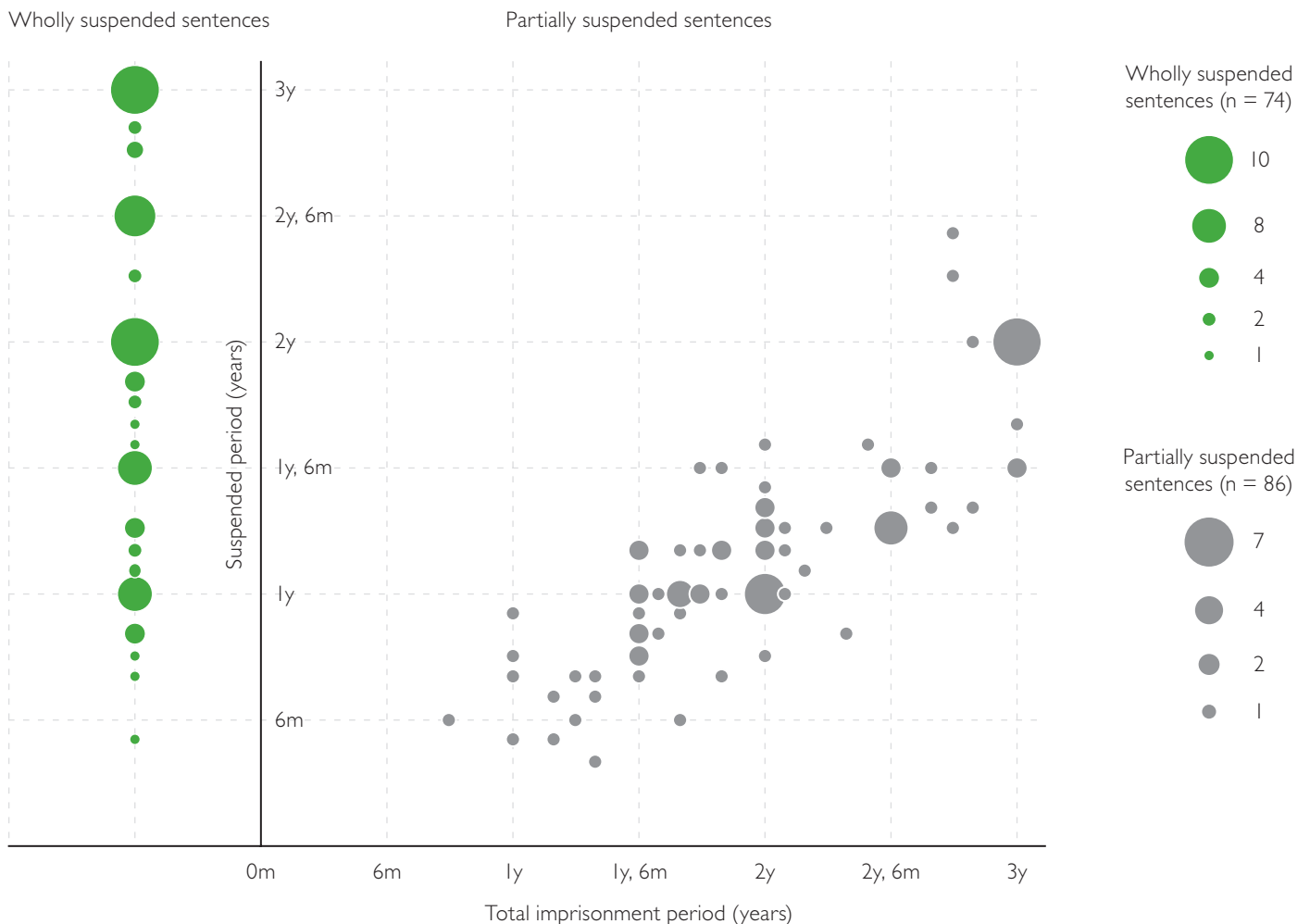
### Suspended sentences of imprisonment

There were 160 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 74 people had their prison sentence wholly suspended and 86 people received a partially suspended sentence of imprisonment. Figure 14 shows the number of people with a suspended sentence of imprisonment as their total effective sentence by the suspended sentence type and length of sentence. The green 'bubbles' to the left of the vertical axis show the lengths of the wholly suspended sentences, while the grey 'bubbles' to the right of the vertical axis show the combination of total imprisonment length and the suspended period for those sentenced to a partially suspended sentence. The size of the bubble reflects the number of people who received either the wholly or the partially suspended prison term. Imprisonment lengths and suspended periods that end part way through a month are rounded down to the nearest complete month. For example, a wholly suspended sentence of 6 months and 12 days would be included as a sentence length of 6 months for the purposes of Figure 14.

Wholly suspended sentence lengths ranged from 5 months to 3 years. The two most common wholly suspended sentence lengths were 2 years, and 3 years (10 people each – as represented by the two largest green 'bubbles' on the chart).

Partially suspended sentences ranged from 9 months' imprisonment with 6 months suspended to 3 years' imprisonment with 2 years suspended. The most common partially suspended sentence was 3 years' imprisonment with 2 years suspended (7 people – as represented by the largest grey 'bubble' on the chart).

**Figure 14:** The number of people given a wholly or partially suspended sentence of imprisonment for cultivating a commercial quantity of narcotic plants by sentence type and length, 2008–09 to 2012–13



## Community correction orders

Community correction orders were introduced in early 2012 to replace community-based orders and intensive correction orders. A feature of community correction orders is that the sentence length of the order can be as high as the statutory maximum of the offence being sentenced.

From 2008–09 to 2012–13, 1 person was given a community correction order for the principal offence of cultivating a commercial quantity of narcotic plants. The length of the community correction order was 3 years.

## Fines

This analysis includes all fines that were imposed where cultivating a commercial quantity of narcotic plants was the principal offence. Fines were imposed on 36 people.

As shown in Figure 15, fine amounts ranged from \$100 to \$20,000, with a median of \$500 (meaning that half of the values fell below \$500 and half of the values were above \$500).

The average (mean) fine amount was \$1,321. The average fine amount imposed against the 33 males was \$1,402, higher than the average fine for the 3 females (\$433).

## Appeals

A sentence imposed on a person may be appealed<sup>23</sup> by that person or by the Crown. A person sentenced may also appeal against their conviction. All appeals made in relation to people sentenced in the higher courts are determined by the Court of Appeal.

To June 2013, 1 person sentenced for a principal offence of cultivating a commercial quantity of narcotic plants in the period 2008–09 to 2012–13 had successfully appealed their conviction. This person was originally sentenced for cultivating a commercial quantity, but was acquitted and resentenced for the alternative charge of cultivating a non-commercial quantity. Thus, the number of people sentenced for a principal offence of cultivating a commercial quantity of narcotic plants is reduced to 399 people once appeals are considered.

As a result of successful appeals against sentence, the total effective sentence length and non-parole period changed for 4 people. All these appeals were made by the person sentenced and resulted in a sentence reduction.

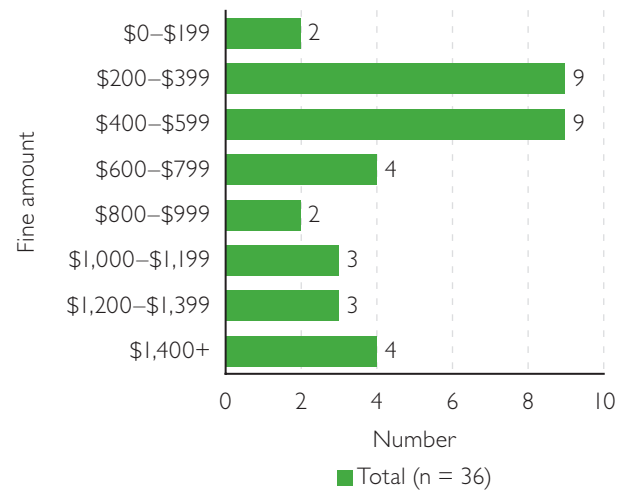
The two largest reductions in total effective sentences of imprisonment occurred in a case that involved two co-offenders. Both offenders were originally given a total effective sentence of 3 years and 9 months' imprisonment with a non-parole period of 2 years, and both had their sentences reduced to 2 years and 7 months' imprisonment with a non-parole period of 1 year and 4 months.

One additional person was able to change their total effective sentence type as a result of an appeal. This person was originally given a total effective sentence of 2 years and 5 months' imprisonment with no non-parole period. After a successful appeal, their sentence of 2 years and 5 months' imprisonment was retained, but with 7 months suspended.

The principal sentences of imprisonment also changed for 4 people as a result of appeals. Of the 3 cases with the largest decreases in imprisonment length as a result of an appeal, 1 was originally a principal sentence of 6 years' imprisonment, which was reduced to 5 years, and the remaining 2 were originally principal sentences of 3 years and 6 months' imprisonment, which were reduced to 2 years and 6 months.

With the original sentencing data revised to incorporate appeal outcomes, the adjusted longest total effective sentence was unchanged at 6 years and 9 months' imprisonment with a non-parole period of 4 years and 9 months, but the adjusted longest principal length of imprisonment was reduced from 6 years to 5 years and 2 months.

**Figure 15:** The number of people who received a fine for cultivating a commercial quantity of narcotic plants by fine amount, 2008–09 to 2012–13



## Summary

Between 2008–09 and 2012–13, 400 people were sentenced for cultivating a commercial quantity of narcotic plants in the higher courts. Over this period, the majority of people sentenced were men (89%), while 69% were aged between 25 and 49 years.

The majority of people sentenced for cultivating a commercial quantity of narcotic plants received a sentence of imprisonment (59%), while 21% received a partially suspended sentence, and 18% received a wholly suspended sentence of imprisonment.

Men were more likely than women to be sentenced to imprisonment, while women were more likely to be given a wholly suspended sentence.

Sentences of imprisonment were most common for people aged 35 to 39 and also people aged 50 to 54, partially suspended sentences were more likely to be given to people aged 45 to 49, and wholly suspended sentences were more likely to be given to people aged 60 or older.

Each of the 400 people was sentenced for an average (mean) of 2.45 offences, including 1.13 offences of cultivating a commercial quantity of narcotic plants. The most common offence finalised in conjunction with cultivating a commercial quantity of narcotic plants was theft (54.5% of all cases). The number and range of offences for which people with a principal offence of cultivating a commercial quantity of narcotic plants were sentenced help explain why imprisonment sentence lengths were slightly longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was 2 years and 5 months, while the median principal imprisonment length was 2 years and 3 months.

Total effective imprisonment lengths ranged from 5 months and 20 days' imprisonment with no non-parole period to 6 years and 9 months' imprisonment with a non-parole period of 4 years and 9 months. The most common sentence of imprisonment was 2 years with a non-parole period of 1 year.

The most common partially suspended sentence given was 3 years' imprisonment with 2 years suspended. The two most common wholly suspended sentence lengths were 2 years and 3 years (10 people each).

A small number of people were able to successfully appeal against their sentences. When the results of the appeal outcomes are incorporated into the original sentencing data, the longest total effective imprisonment term did not change but the longest principal sentence of imprisonment changed from 6 years to 5 years and 2 months.

## Endnotes

1. This report presents sentencing outcomes for people sentenced for the principal offence of cultivating a commercial quantity of narcotic plants in the County and Supreme Courts of Victoria. The principal offence describes the offence proven that attracted the most serious sentence according to the sentencing hierarchy. The analysis therefore excludes people sentenced for cultivating a commercial quantity of narcotic plants who received a more serious sentence for another offence forming part of the same presentment or indictment. Cultivating a commercial quantity of narcotic plants was the principal proven offence for 400 people sentenced in the County Court of Victoria from 2008–09 to 2012–13.

This series of reports includes custodial and non-custodial supervision orders imposed under Part 5 of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (Vic)* as sentencing orders and in the count of people sentenced. These orders are not sentencing orders, as they are imposed in cases where the defendant is not guilty because of mental impairment. However, they are included in this report as they are an important form of disposition of criminal charges.

This Sentencing Snapshot is an update of Sentencing Snapshot no. 133, which describes sentencing trends for cultivating a commercial quantity of narcotic plants between 2006–07 and 2010–11.

2. The information source for sentencing outcomes for cultivating a non-commercial quantity of narcotic plants only contains information on age and gender characteristics. No other demographic analysis is possible using this data source.
3. The source data for the statistical information presented in this Snapshot were provided by the Business Intelligence area of the Courts and Tribunals unit within the Department of Justice (Vic). The Sentencing Advisory Council regularly undertakes extensive quality control measures for current and historical data. While every effort is made to ensure that the data analysed in this report are accurate, the data are subject to revision.

The sentencing database used for this analysis was compiled using conviction returns. Due to incomplete offence information regarding drug cultivation offences on the conviction returns, a further classification exercise was undertaken to determine the specific offence types. This involved reading the sentencing remarks of the particular cases and determining if the quantity of the drug was non-commercial, commercial, or large commercial. In total, there were 522 cases that had cultivation of narcotic plants (section 72, 72A, or 72B *Drugs, Poisons and Controlled Substances Act 1981* (Vic)) as the principal proven offence over the five-year period from 2008–09 to 2012–13. Sentencing remarks were located for 418 cases (80.1%). The drug quantities for all these cases were checked and coded into the appropriate category. The remaining cases had sentences that were all within the statutory maximum penalty for the offence and were therefore assumed to have been recorded correctly in the first instance.

4. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) ss 72–72B.
5. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 70.
6. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 72A.
7. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 70.
8. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) sch 11 pt 2.
9. See 'aggregate commercial quantity': *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 70.
10. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 72A.
11. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette and on the Office of the Chief Parliamentary Counsel's website <[www.ocpc.vic.gov.au](http://www.ocpc.vic.gov.au)>.
12. If a person is sentenced for a case with a single charge, the offence for that charge is the principal offence. If a person is sentenced for more than one charge in a single case, the principal offence is the offence for the charge that attracted the most serious sentence according to the sentencing hierarchy.
13. Immediate custodial sentence includes imprisonment, partially suspended sentences, youth justice centre orders, and aggregate partially suspended sentences.
14. The County and Supreme Courts cannot make an order to wholly or partially suspend a period of imprisonment for any offences committed on or after 1 September 2013. Offences of cultivating a commercial quantity of narcotic plants that were committed prior to this date may still be eligible for a wholly or partially suspended sentence.
15. Age is at the time of sentencing.
16. Some defendants who were under the age of 18 at the time of committing the alleged offence and who were not 19 years or older at the time proceedings commenced may have been dealt with in the Children's Court of Victoria.
17. One person was excluded from Figure 3 because their age was not stated in the source data.
18. One person was excluded from Figures 4, 5 and 6 because their age was not stated in the source data.
19. Refer to endnote 12.
20. All 235 people who were given a principal sentence of imprisonment were also given a total effective sentence of imprisonment.
21. A total of 10 people were not eligible for parole because they were given a total effective sentence length of less than 1 year.
22. A non-parole period was not set for 3 people who were eligible for a non-parole period.
23. Appeals data were collected by the Sentencing Advisory Council from transcripts of sentencing remarks of criminal appeals on the Australasian Legal Information Institute's website <[www.austlii.edu.au](http://www.austlii.edu.au)>.

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