

Sentencing in Victoria 2012–13 to 2021–22



This statistical report presents data on sentencing practices in Victoria in the decade to June 2022. The data includes the number and gender of people sentenced each year, the types of offences people were sentenced for, the types of sentences people received, and the imprisonment or detention lengths and fine amounts imposed in the Supreme Court, County Court, Magistrates' Court and Children's Court.

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This version incorporates the following corrections:

Page	Line	Original text	Text in this version
5	6	71.1%	78.7%
5	6	88.4%	90.3%
9	5	41.6%	41.9%
9	6	60.4%	61.2%
13	2	38.6% of cases (in 2021–22)	38.4% of cases (in 2019–20)

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Key events influencing sentencing practices in Victoria

Sentencing in Victoria is governed by a combination of legislation and common law.¹ The following changes to legislation and common law occurred in the decade to June 2022. These changes are likely to have contributed to some of the changes in sentencing practices in Victoria during the 10-year period:

2012: intensive correction orders and community-based orders are repealed, and community correction orders (CCOs) are introduced instead²

2014: suspended prison sentences are no longer available for offences committed on or after 1 September³

2014: the Court of Appeal delivers a guideline judgment in *Boulton* in relation to CCOs⁴

2017: the High Court says that current sentencing practices should be just one factor to take into account in sentencing, not a controlling factor⁵

2017: some offences are classified as category 1 and category 2 offences, making a prison sentence presumptive or mandatory⁶

2017: the Children's Court Youth Diversion Service is rolled out across Victoria⁷

2018: some offences are classified as standard sentence offences, requiring courts to consider a numerical sentence that represents the middle of the range of objective seriousness for the offence⁸

2018: the maximum term of a youth justice centre order is increased from 3 years to 4 years⁹

2020–2023: COVID-19 significantly affects court operations, resulting in fewer cases being sentenced, more serious cases being prioritised, greater sentencing discounts being given to reflect the harsher conditions of prison, and enhanced guilty plea discounts being given to reflect the value of guilty pleas in clearing court backlogs.¹⁰

1 For example, the sentencing of adults is governed by the *Sentencing Act 1991* (Vic) while the sentencing of children is governed by the *Children, Youth and Families Act 2005* (Vic).

2 *Sentencing Amendment (Community Correction Reform) Act 2011* (Vic).

3 *Sentencing Amendment (Abolition of Suspended Sentences and Other Matters) Act 2013* (Vic).

4 *Boulton & Ors v The Queen* [2014] VSCA 342.

5 *DPP v Dalgliesh (a pseudonym)* [2017] HCA 41.

6 *Sentencing (Community Correction Order) and Other Acts Amendment Act 2016* (Vic).

7 *Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017* (Vic).

8 *Sentencing Amendment (Sentencing Standards) Act 2017* (Vic).

9 *Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017* (Vic) s 52(2).

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

Terminology in this report

Principal offence: The *principal offence* is the most serious offence in a case. Offence seriousness is measured by the offence that received the most severe sentence, or alternatively according to the National Offence Index.

Principal offence type: Principal offence types are categories of offences according to the offence types in the Australian Bureau of Statistics' standard offence classification. For example, if a principal offence is murder, the *principal offence type* is a homicide offence (ANZSOC 1).

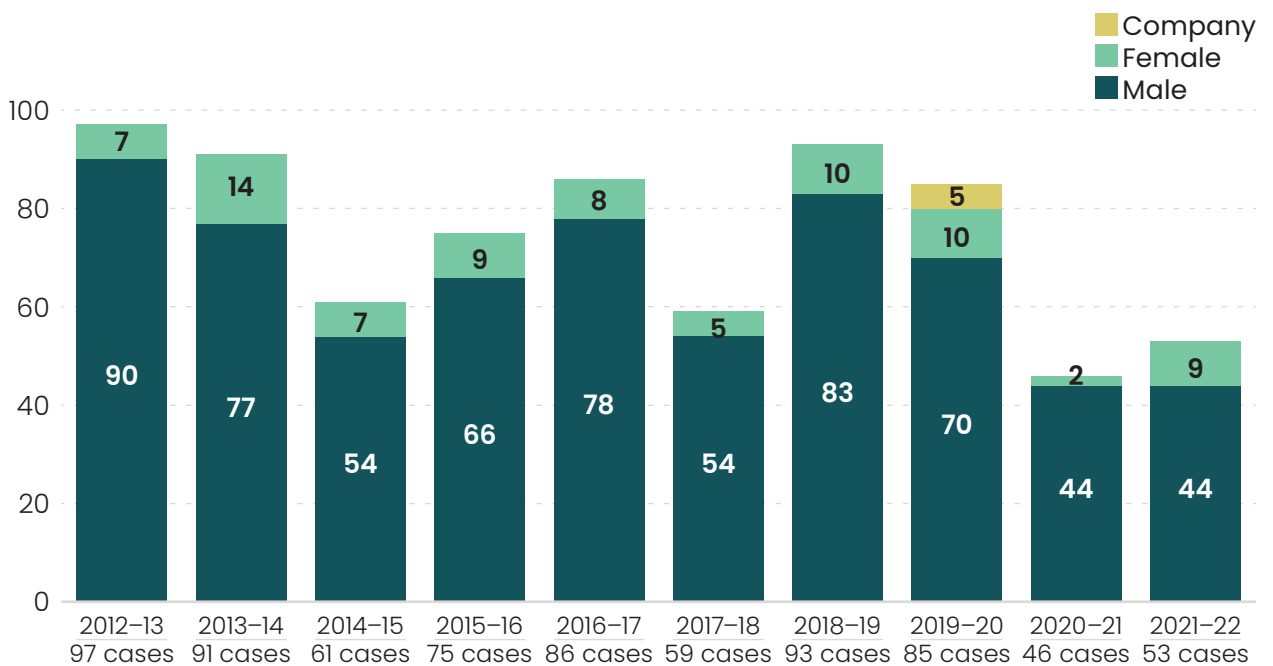
Principal sentence type: The *principal sentence type* is the most severe sentence type in a case, according to the sentencing hierarchy in sections 5(4)–(7) of the *Sentencing Act 1991* (Vic). If a court imposes one type of sentence – for example, imprisonment – in the case, that sentence is the principal sentence. In most instances, if a court imposes more than one type of sentence in the same case – for example, both imprisonment and a fine – the *principal sentence* is imprisonment. The one exception is combined orders of imprisonment with a community correction order, which in the County and Supreme Courts are represented separately to imprisonment only, due to their increasing prevalence.

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

Supreme Court

In the 10 years to June 2022, there were 746 cases sentenced in the Supreme Court (Figure 1). The offender was male in 660 of those cases (88.5%), the offender was female in 81 cases (10.9%), and the offender was a company in 5 cases (0.6%).

Figure 1: Number of cases sentenced in the Supreme Court, by financial year and whether the offender was male, female or a company (746 cases)

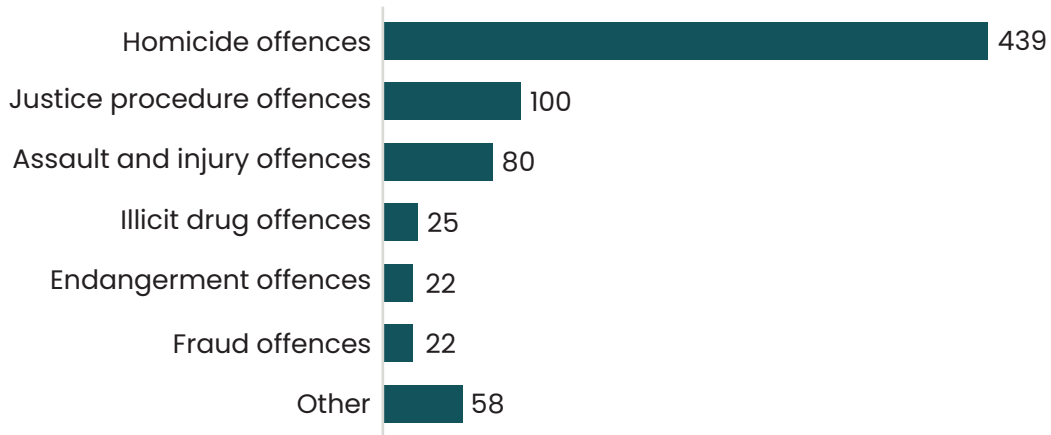


A homicide offence was the most common principal offence type sentenced in the Supreme Court (439 or 58.8% of cases) (Figure 2, page 4). In turn, the most common homicide offence was murder (214 cases).¹¹

Murder was the most common homicide offence in the Supreme Court (214 cases)

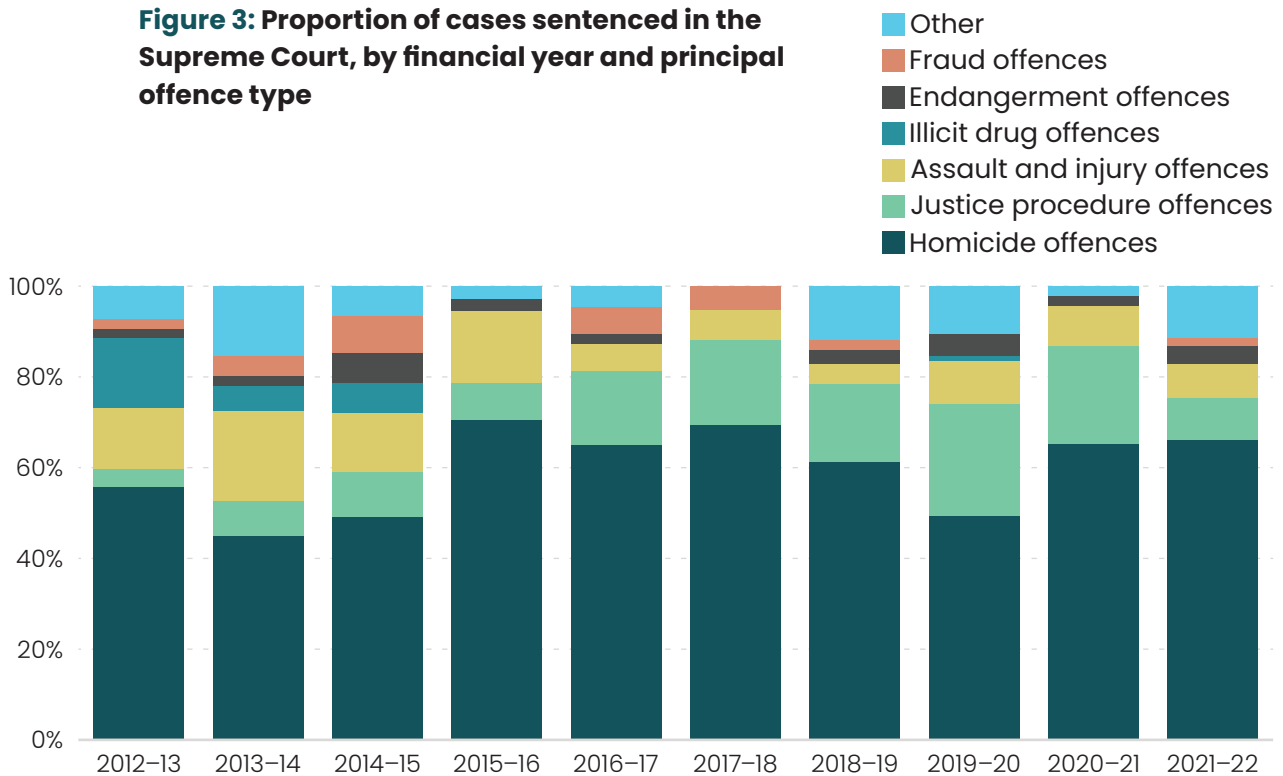
¹¹ Murder is a common law offence, with a maximum penalty of life imprisonment: *Crimes Act 1958* (Vic) s 3.

Figure 2: Number of cases sentenced in the Supreme Court, by principal offence type (746 cases)



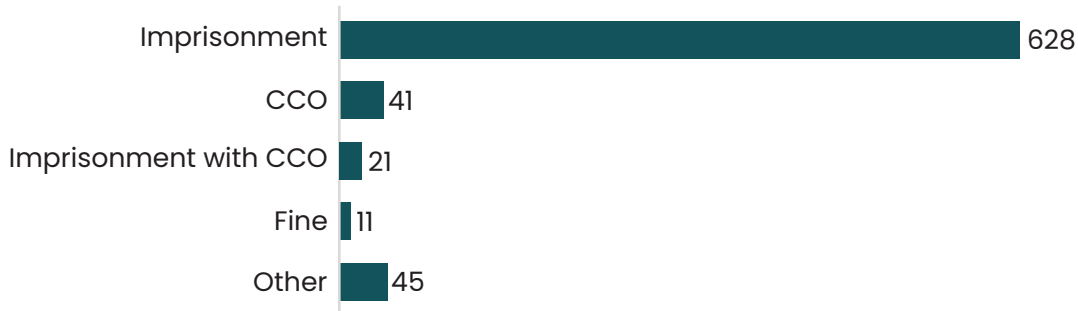
Homicide offences were the most common principal offence type each year, ranging from 45.1% of cases (in 2013–14) to 70.7% (in 2015–16) (Figure 3). Since 2016–17, justice procedure offences were the second most common principal offence type, ranging from 9.4% of cases (in 2021–22) to 24.7% (in 2019–20).

Figure 3: Proportion of cases sentenced in the Supreme Court, by financial year and principal offence type



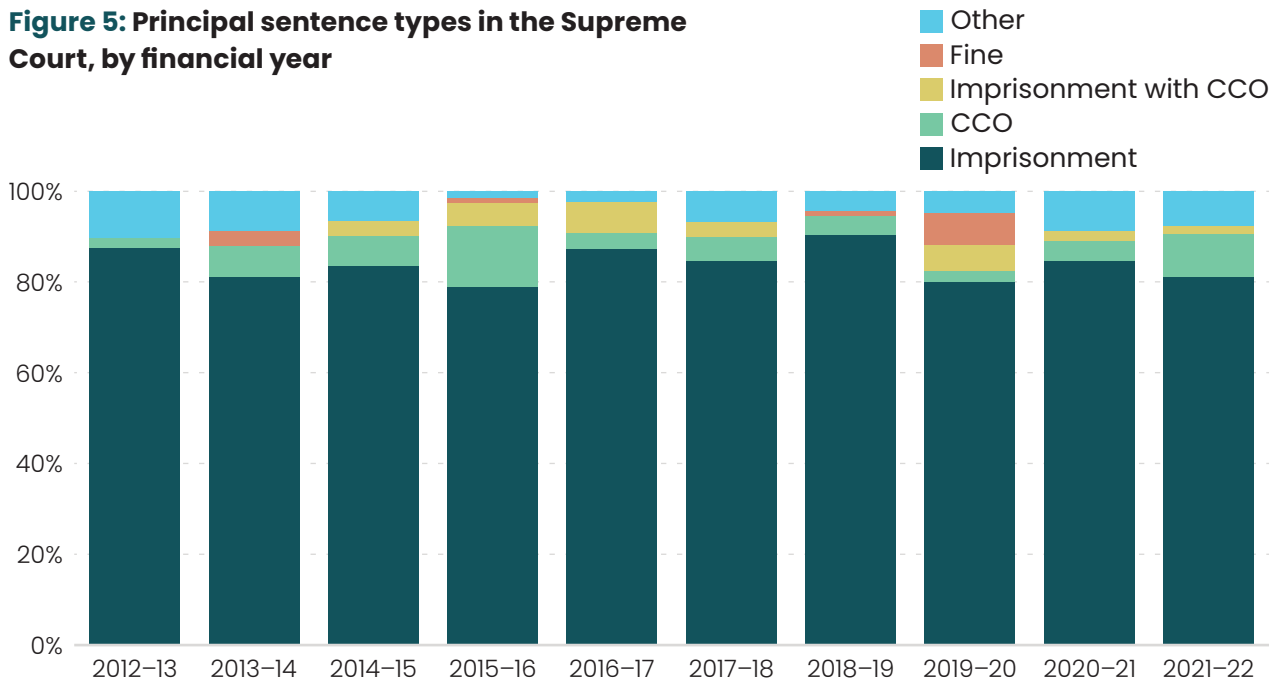
Imprisonment was the most common principal sentence type in the Supreme Court (628 cases or 79.9%) (Figure 4). The remaining principal sentence types were CCOs (5.2% of cases), combined orders of imprisonment with a CCO (2.7%), fines (1.4%) and *other* sentence types (10.8%).¹²

Figure 4: Principal sentence types in the Supreme Court (746 cases)



During the 10-year period, the proportion of cases receiving imprisonment without a CCO ranged from 78.7% (in 2015–16) to 90.3% (in 2018–19) (Figure 5).

Figure 5: Principal sentence types in the Supreme Court, by financial year

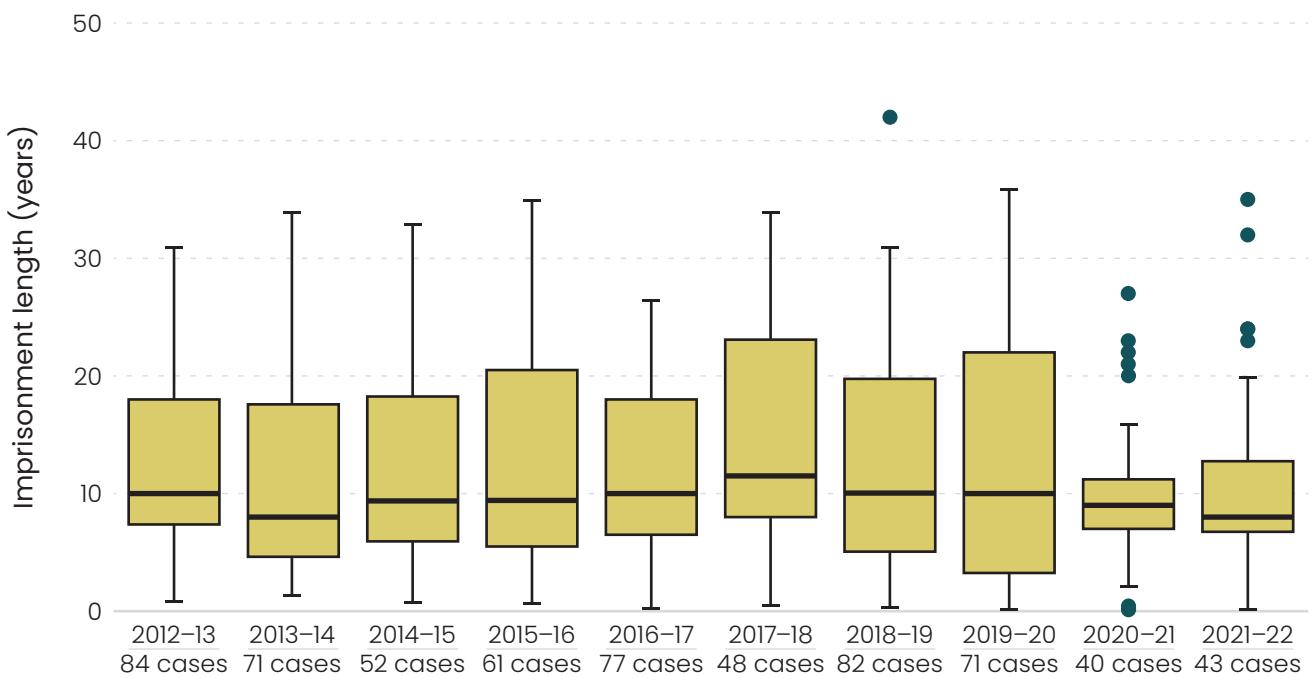


¹² *Other* sentence types included 16 suspended sentences, 13 adjourned undertakings, 8 youth justice centre orders, 1 youth training order, 1 youth supervision order, 5 Commonwealth orders and 1 probation order (10.8%).

Imprisonment (with and without a CCO) was imposed in 649 cases in the Supreme Court during the 10-year period. Figure 6 uses box plots to represent the range of imprisonment lengths for the total effective sentence in those cases, including the minimum, median and maximum imprisonment lengths imposed.¹³

Imprisonment lengths ranged from 0.32 years to life imprisonment.¹⁴ The median length (excluding life sentences) was 9 years, and the average length (excluding life sentences) was 12 years. The median length ranged from 8 years (in 2013–14 and 2021–22) to 11.5 years (in 2017–18).

Figure 6: Box plots of imprisonment lengths (excluding life sentences) in the Supreme Court, by financial year (629 cases)



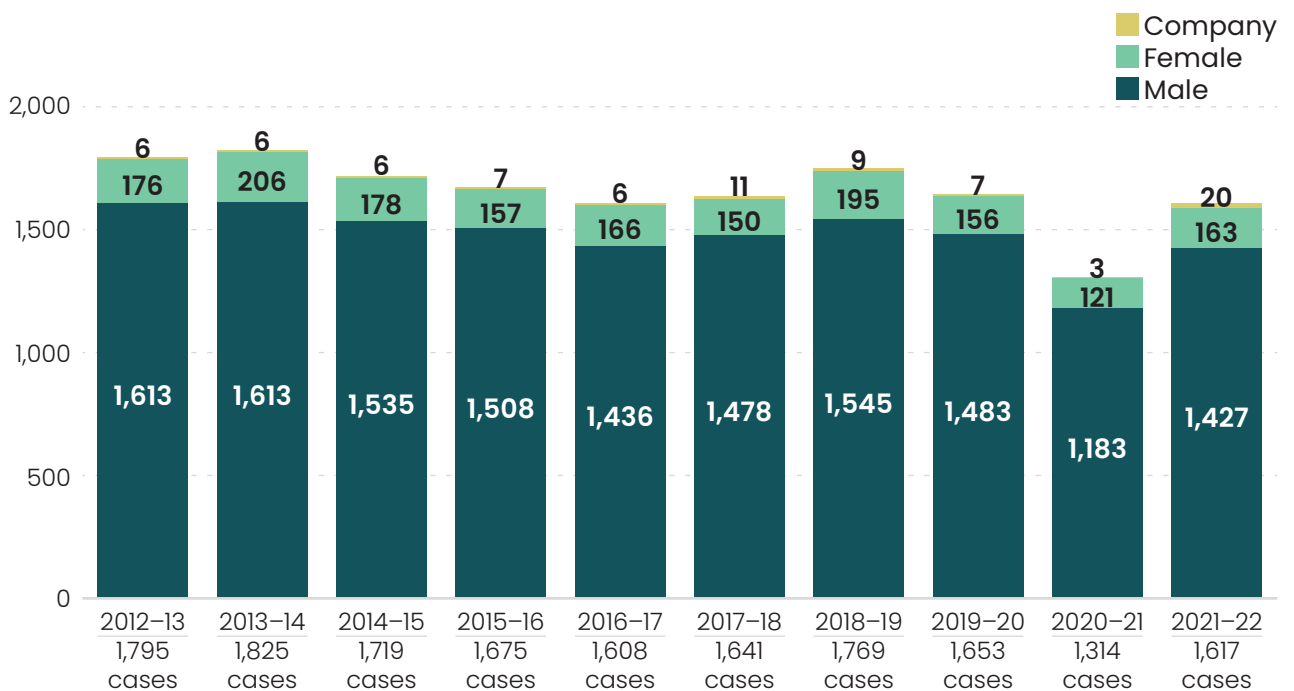
¹³ For an explanation of box plots, see 'Reading the data' below.

¹⁴ Life imprisonment was imposed in 20 cases, all of which involved a principal offence of murder.

County Court

In the 10 years to June 2022, there were 16,616 cases sentenced in the County Court. The gender of the offender (or whether the offender was a company) could be determined for 16,570 cases (Figure 7). Of those, the offender was male in 14,821 cases (89.2%), the offender was female in 1,668 cases (10.0%), and the offender was a company in 81 cases (0.5%).

Figure 7: Number of cases sentenced in the County Court, by financial year and whether the offender was male, female or a company (16,616 cases, including 16,570 where gender or company status was known)¹⁵



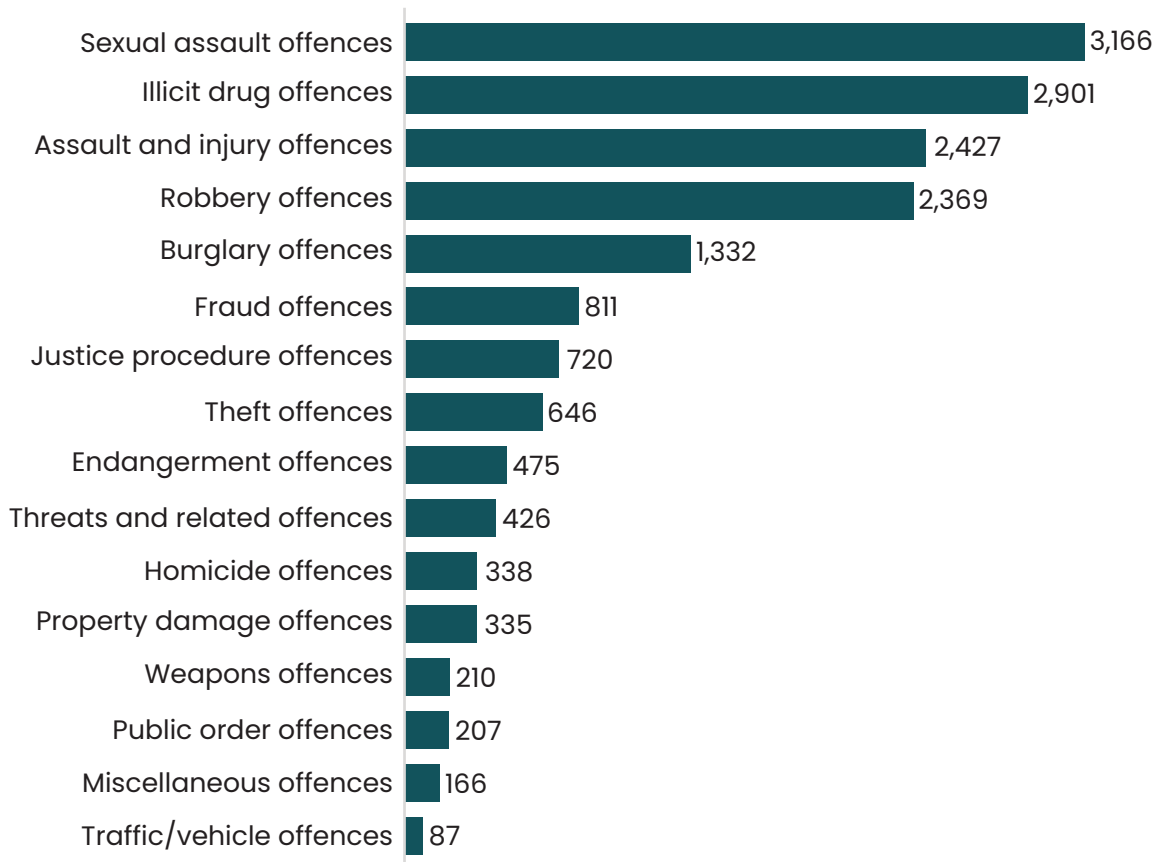
Sexual assault offences were the most common principal offence type in the County Court (19.1% of cases), followed by illicit drug offences (17.3%) and assault and injury offences (15.0%) (Figure 8, page 8). In turn, the most common sexual assault offence was sexual penetration of a child aged 12 to under 16 years (564 cases).¹⁶

Sexual penetration of a child aged 12 to under 16 years was the most common sexual assault offence in the County Court (564 cases)

¹⁵ The gender of the offender was unknown in 3 cases in 2015–16, 2 cases in 2017–18, 20 cases in 2018–19, and 7 cases in 2019–20, 2020–21 and 2021–22.

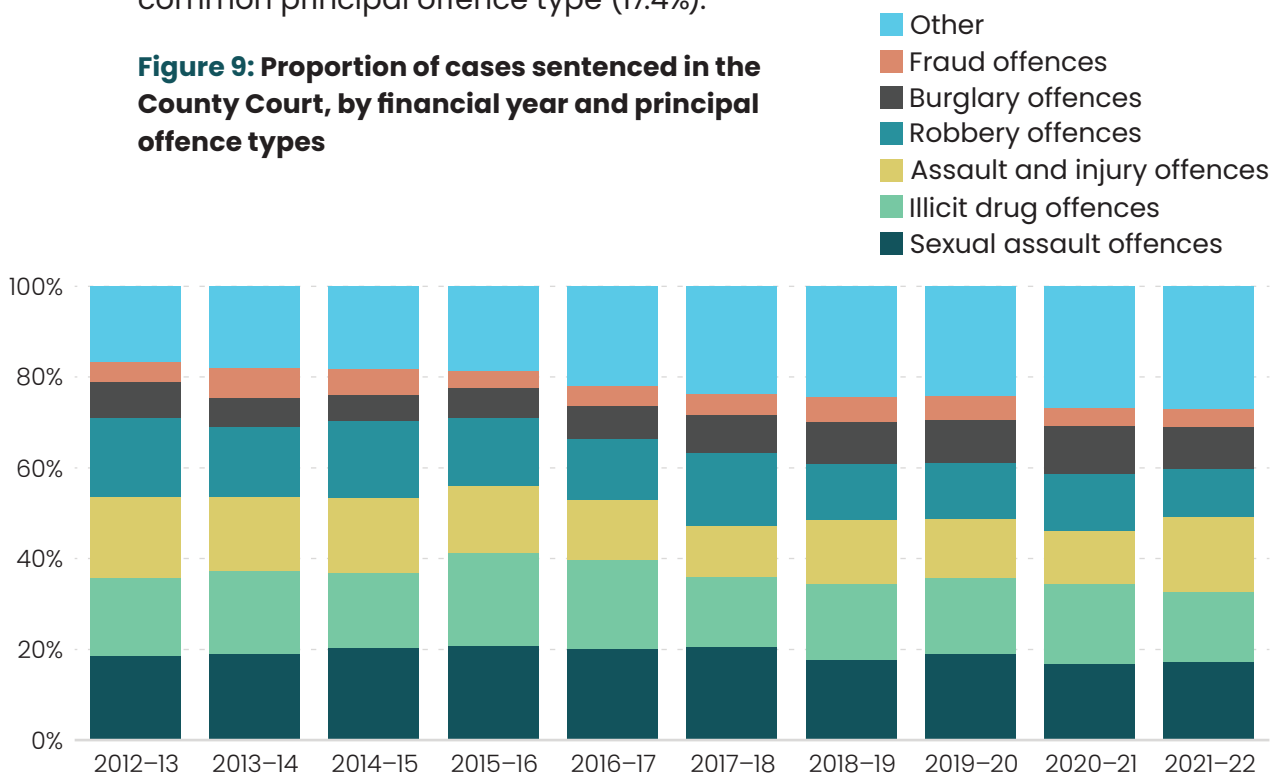
¹⁶ In this report, the offence of sexual penetration of a child aged 12 to under 16 includes the offence of sexual penetration of a child aged between 10 and 16 (*Crimes Act 1958* (Vic) s 49(b), repealed), sexual penetration of a child aged between 12 and 16 (*Crimes Act 1958* (Vic) s 49(b)), and sexual penetration of a child aged between 12 and 16 under care, supervision or authority (*Crimes Act 1958* (Vic) s 45(2)(c), repealed).

Figure 8: Number of cases sentenced in the County Court, by principal offence type (16,616 cases)



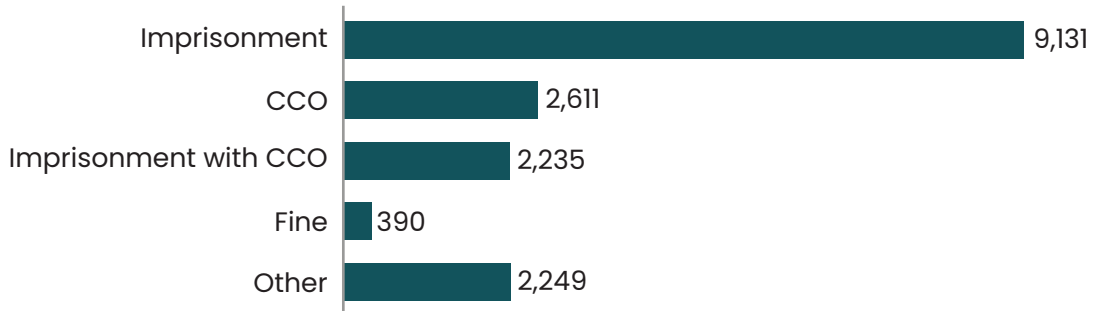
Sexual assault offences were the most common principal offence type each year except 2020–21, ranging from 17.2% of cases (in 2021–22) to 20.7% of cases (in 2017–18) (Figure 9). In 2020–21, illicit drug offences were the most common principal offence type (17.4%).

Figure 9: Proportion of cases sentenced in the County Court, by financial year and principal offence types



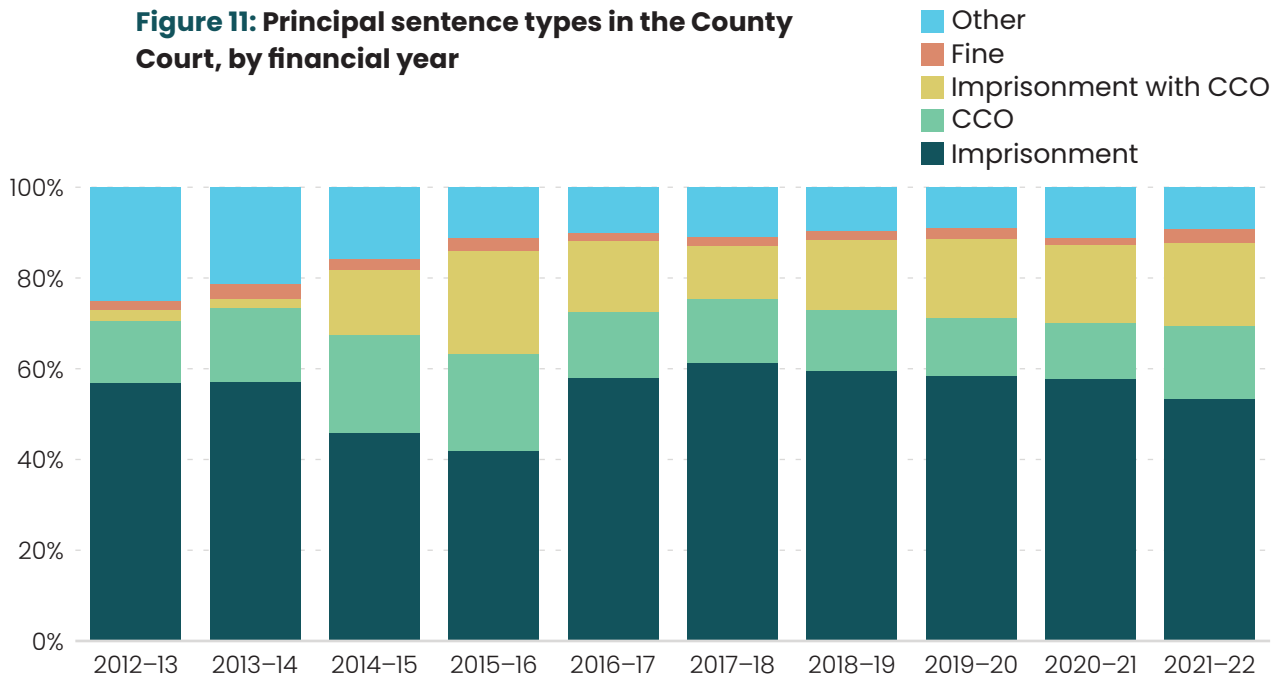
Imprisonment was the most common principal sentence in the County Court (54.4% of cases) (Figure 10). The remaining principal sentences were CCOs (15.6% of cases), combined orders of imprisonment with a CCO (13.3%) and other sentence types (16.7%).¹⁷

Figure 10: Principal sentence types in the County Court (16,616 cases)



The proportion of cases receiving imprisonment ranged from 41.9% (in 2015–16) to 61.2% (in 2017–18) (Figure 11).

Figure 11: Principal sentence types in the County Court, by financial year

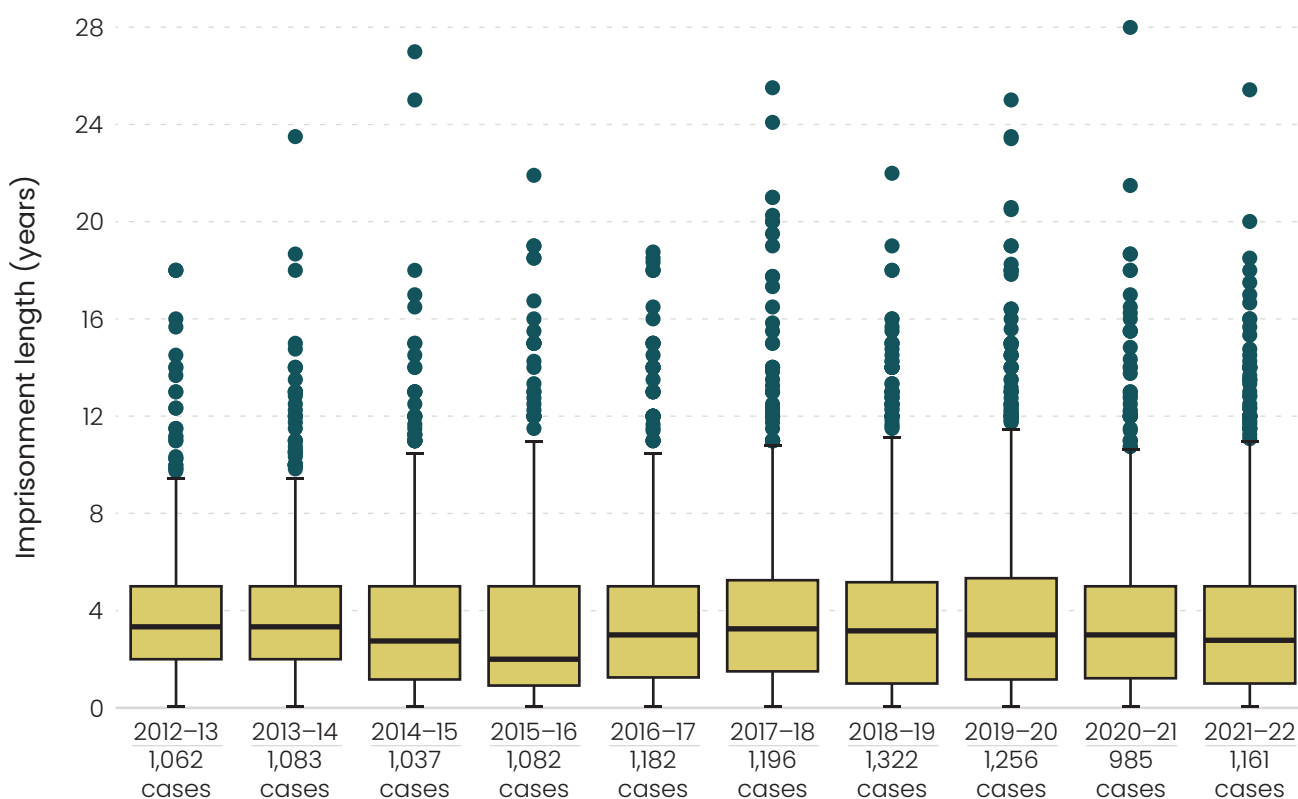


¹⁷ Other sentence types included 857 suspended sentences, 755 Commonwealth orders, 350 youth justice centre orders, 211 adjourned undertakings, 32 unconditional release orders, 23 drug and alcohol treatment orders, and 11 discharges and dismissals.

Imprisonment (with and without a CCO) was imposed in 11,366 cases in the County Court during the 10-year period. Figure 12 uses box plots to represent the range of imprisonment lengths for the total effective sentence in those cases, including the minimum, median and maximum imprisonment lengths imposed.¹⁸

Imprisonment lengths ranged from 1 day to 28 years¹⁹ (Figure 12). The median length was 3 years, and the average length was 3 years and 8 months. Imprisonment lengths were less than or equal to 5 years in 76% of cases.

Figure 12: Box plots of imprisonment lengths in the County Court, by financial year (11,366 cases)



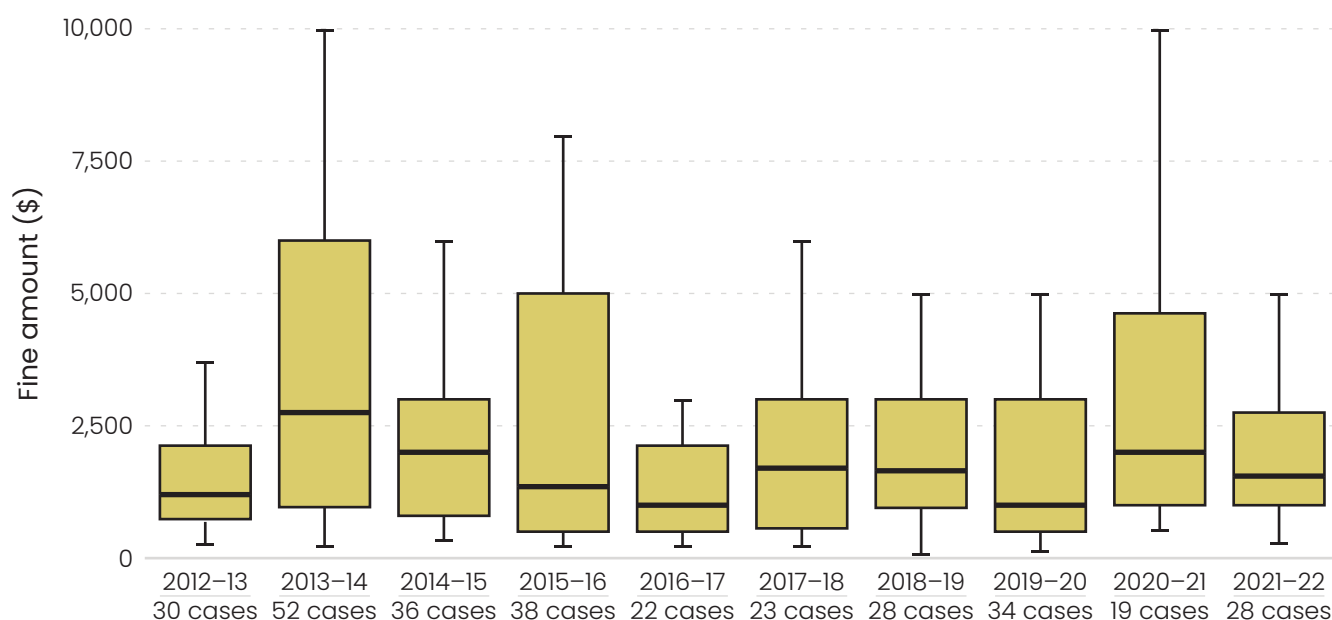
¹⁸ For an explanation of box plots, see 'Reading the data' below.

¹⁹ A sentence of 28 years' imprisonment was imposed in *DPP v Henderson* (a pseudonym) [2021] VCC 17 for various child sex offences. The second longest sentence was 27 years' imprisonment: *R v Karam* [2015] VCC 855 (trafficking a commercial quantity of drugs).

A fine was the principal sentence in 390 cases in the County Court during the 10-year period. In 310 of those cases, the offender was an individual, and in 80 cases, the offender was a company. Fine amounts for individuals and companies are considered separately because maximum penalties for companies are typically 5 times greater than maximum penalties for individuals.²⁰

The fines imposed on individuals ranged from \$50 to \$180,000.²¹ The median fine was \$2,000, and the average fine was \$7,047. The median fine ranged from \$1,000 (in 2016–17) to \$2,750 (in 2013–14) (Figure 13).

Figure 13: Box plots of fine amounts for individuals in the County Court, by financial year



The fines imposed on companies ranged from \$8,060 to \$1,710,000.²² The median fine was \$292,500, and the average fine was \$331,425.²³

²⁰ *Sentencing Act 1991* (Vic) s 113D(1).

²¹ A fine of \$180,000 was imposed on one offender in *DPP v Fergusson* [2017] VCC 1276 (the offender was sentenced for a workplace health and safety offence that had resulted in a workplace fatality).

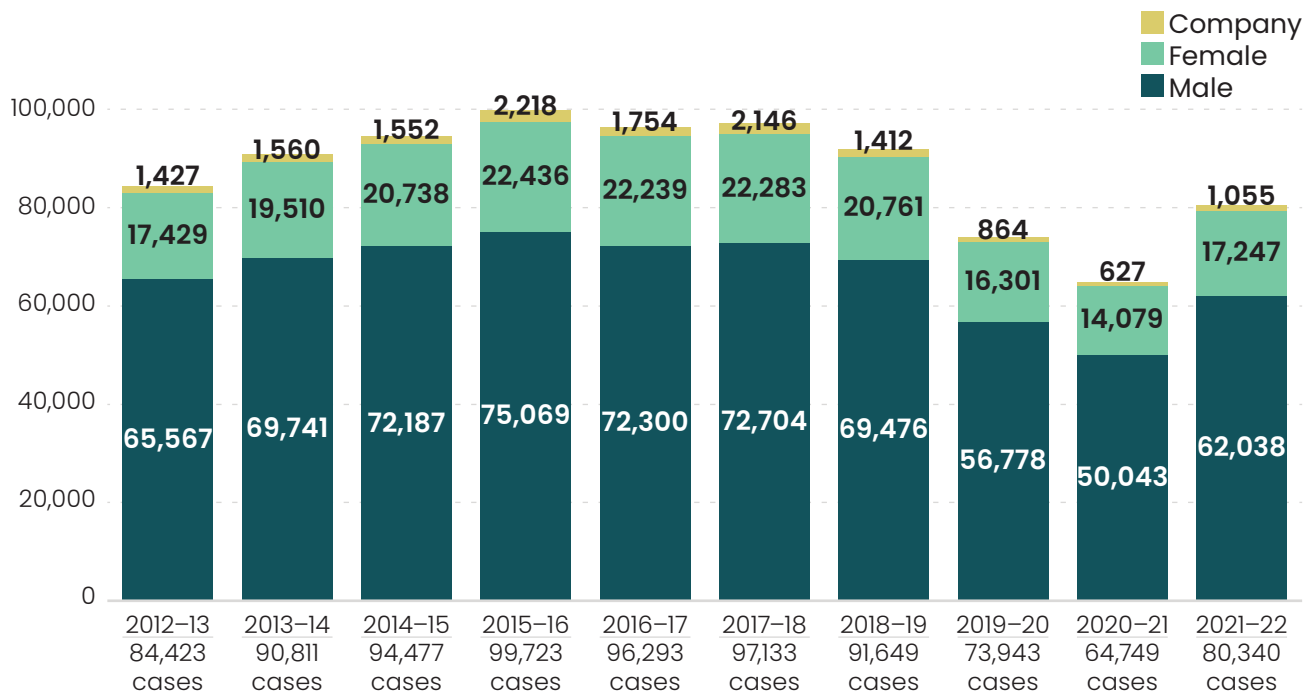
²² In *The Queen v Avanteos Investments Ltd* [2022] VCC 869, a company received 18 fines of \$95,000 for offences contrary to the *Corporations Act 2001* (Cth), together totalling \$1,710,000.

²³ Box plots were not provided for companies as there was not a sufficient number of fines each year to identify a meaningful trend.

Magistrates' Court

In the 10 years to 30 June 2022, there were 873,541 cases sentenced in the Magistrates' Court (Figure 14). The offender was male in 665,903 of those cases (76.2%), the offender was female in 193,023 cases (22.1%), and the offender was a company in 14,615 cases (1.7%).

Figure 14: Number of cases sentenced in the Magistrates' Court, by financial year and whether the offender was male, female or a company (873,541 cases)



Driving while suspended was the most common traffic and vehicle offence in the Magistrates' Court (80,079 cases)

It was possible to determine the principal offence type in 873,534 cases. In those cases, traffic and vehicle offences were the most common principal offence type (42.1% of cases) (Figure 15, page 13). In turn, the most common traffic and vehicle offence was driving while suspended (80,079 cases).²⁴

²⁴ Road Safety Act 1986 (Vic) s 30. The maximum penalty is 240 penalty units or 2 years' imprisonment.

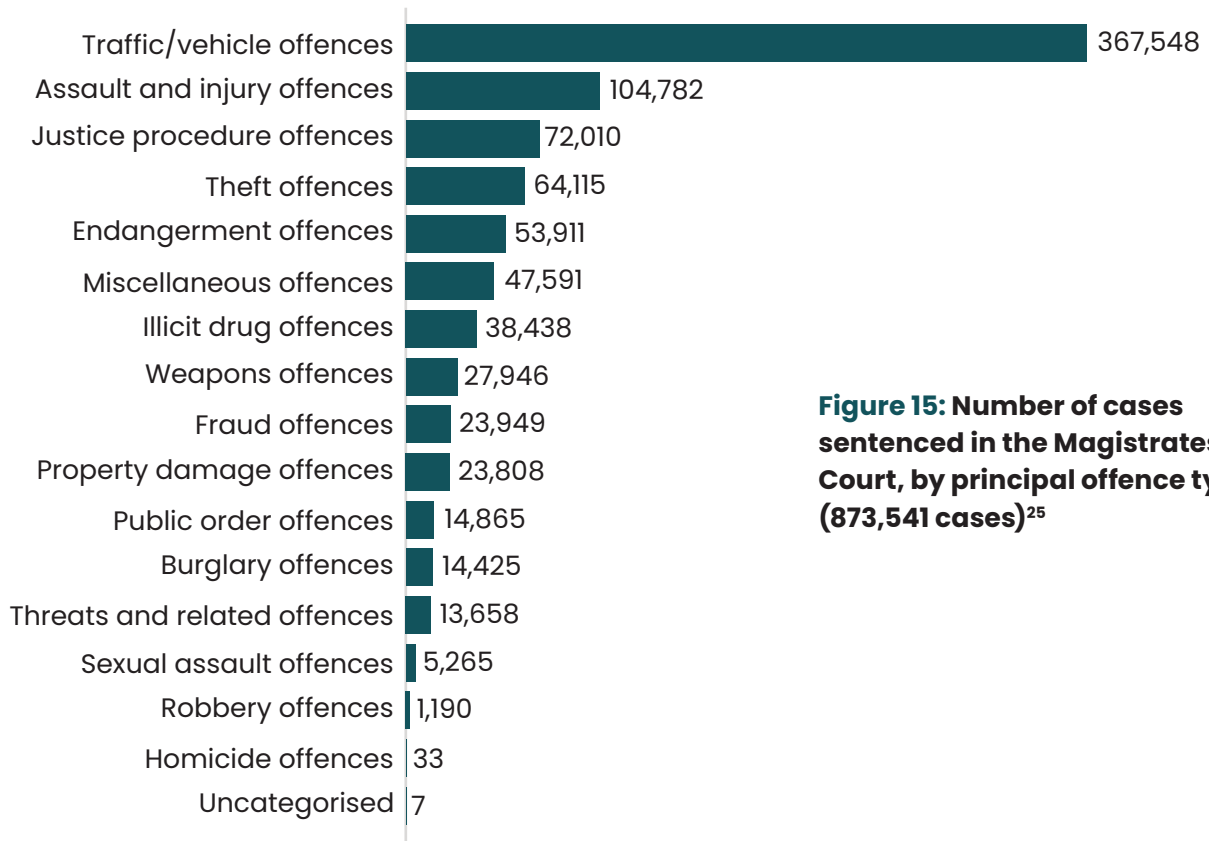
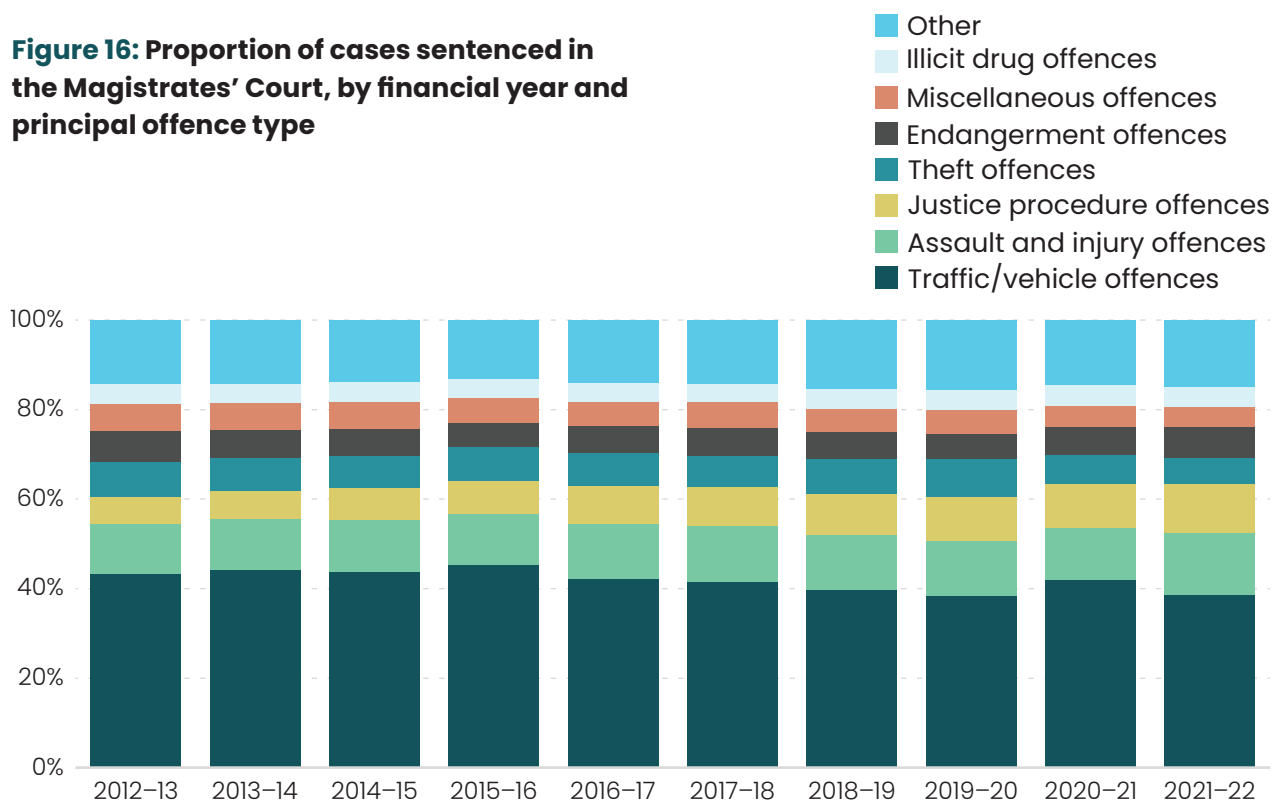


Figure 15: Number of cases sentenced in the Magistrates' Court, by principal offence type (873,541 cases)²⁵

Traffic and vehicle offences were the most common principal offence type each year, ranging from 38.4% of cases (in 2019–20) to 45.4% of cases (in 2015–16) (Figure 16). Assault and injury offences were the second most common principal offence type (between 11.1% and 13.9% of cases each year).

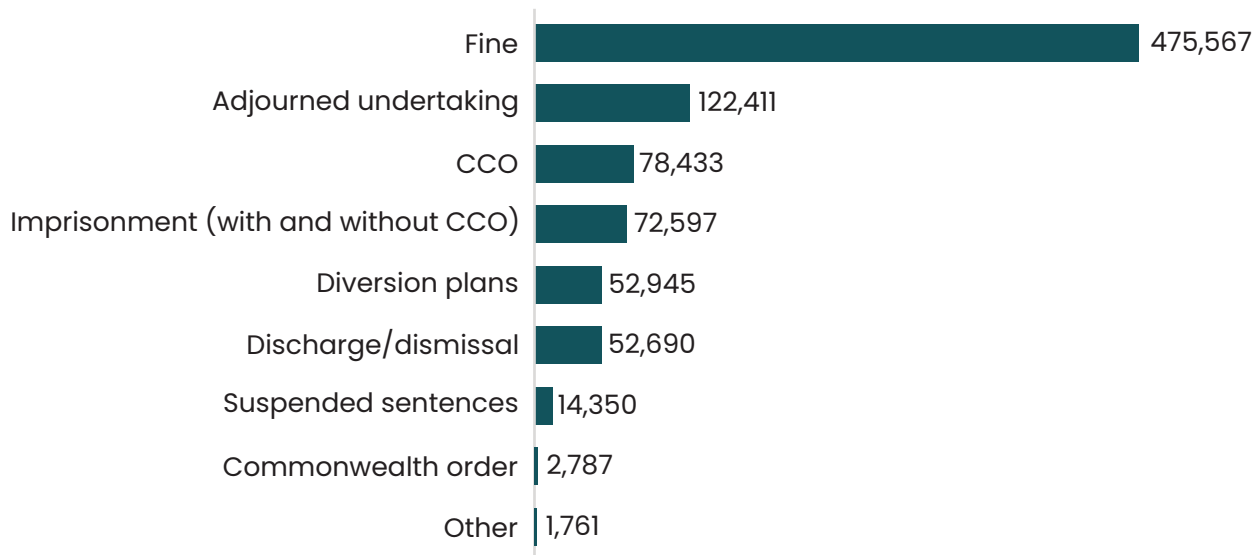
Figure 16: Proportion of cases sentenced in the Magistrates' Court, by financial year and principal offence type



²⁵ The 33 homicide offences sentenced in the Magistrates' Court included dog attack causing death (26 cases), dangerous driving causing death (4 cases), incite suicide (2 cases) and aid and abet suicide (1 case).

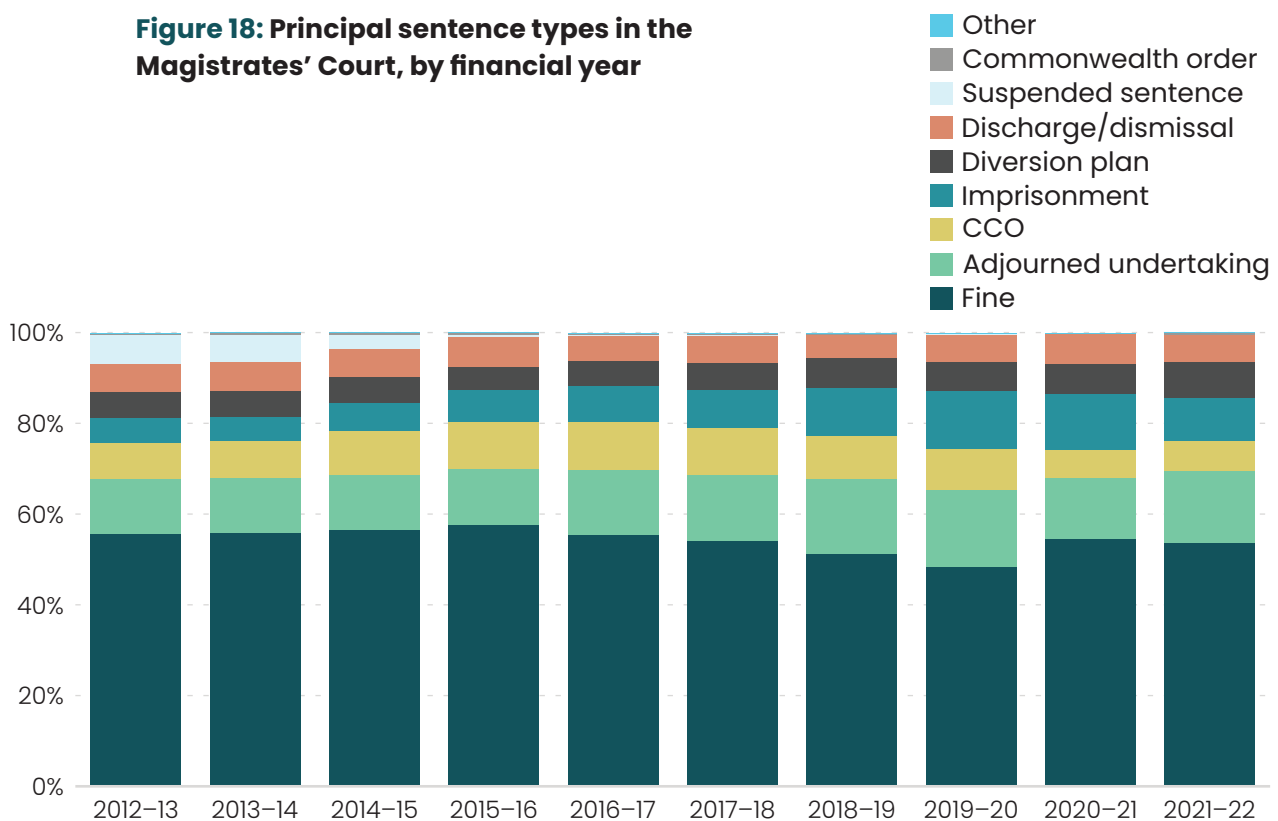
A fine was the most common principal sentence type in the Magistrates' Court (54.4% of cases) (Figure 17). The remaining principal sentence types were adjourned undertakings (14.0% of cases), CCOs (9.0%), imprisonment (8.3%), diversion plans (6.1%), discharges and dismissals (6.0%), suspended sentences (1.6%), Commonwealth orders (0.3%) and other sentence types (0.2%).²⁶

Figure 17: Principal sentence types in the Magistrates' Court (873,541 cases)



The proportion of cases receiving a fine ranged from 48.4% (in 2019–20) to 57.6% (in 2015–16) (Figure 18).

Figure 18: Principal sentence types in the Magistrates' Court, by financial year

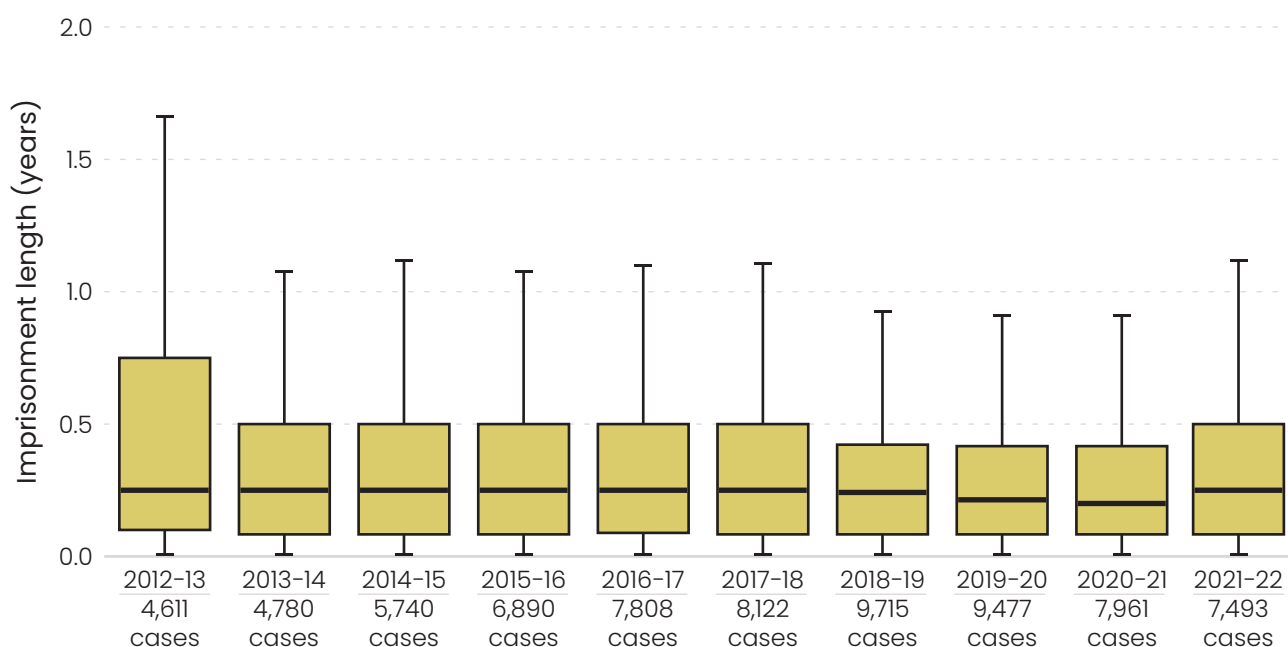


²⁶ Other sentence types included 802 youth justice centre orders, 958 drug treatment orders and 1 hospital order.

Imprisonment was the principal sentence in 72,597 cases in the Magistrates' Court during the 10-year period. Figure 19 uses box plots to represent the range of imprisonment lengths for the total effective sentence in those cases, including the minimum, median and maximum imprisonment lengths imposed.²⁷

Imprisonment lengths ranged from 1 day to 5 years.²⁸ The median length was 3 months, and the average length was 4 months and 2 weeks. The median length was 3 months in all years except 2019–20 and 2020–21, when it was 2.4 and 2.6 months respectively.

Figure 19: Box plots of imprisonment lengths in the Magistrates' Court, by financial year (72,597 cases)



A fine was the principal sentence in 475,567 cases in the Magistrates' Court during the 10-year period. In 463,012 cases, the offender was an individual, and in 12,555 cases, the offender was a company. Maximum penalties for companies are typically 5 times greater than the maximum penalties for individuals.²⁹ In the Magistrates' Court, the jurisdictional limit for fines also varies by whether the offender is an individual or a company: fines can be up to 500 penalty units for an individual (\$96,155 in 2023–24) and 2,500 penalty units for a company (\$480,775 in 2023–24).³⁰

²⁷ For an explanation of box plots, see 'Reading the data' below.

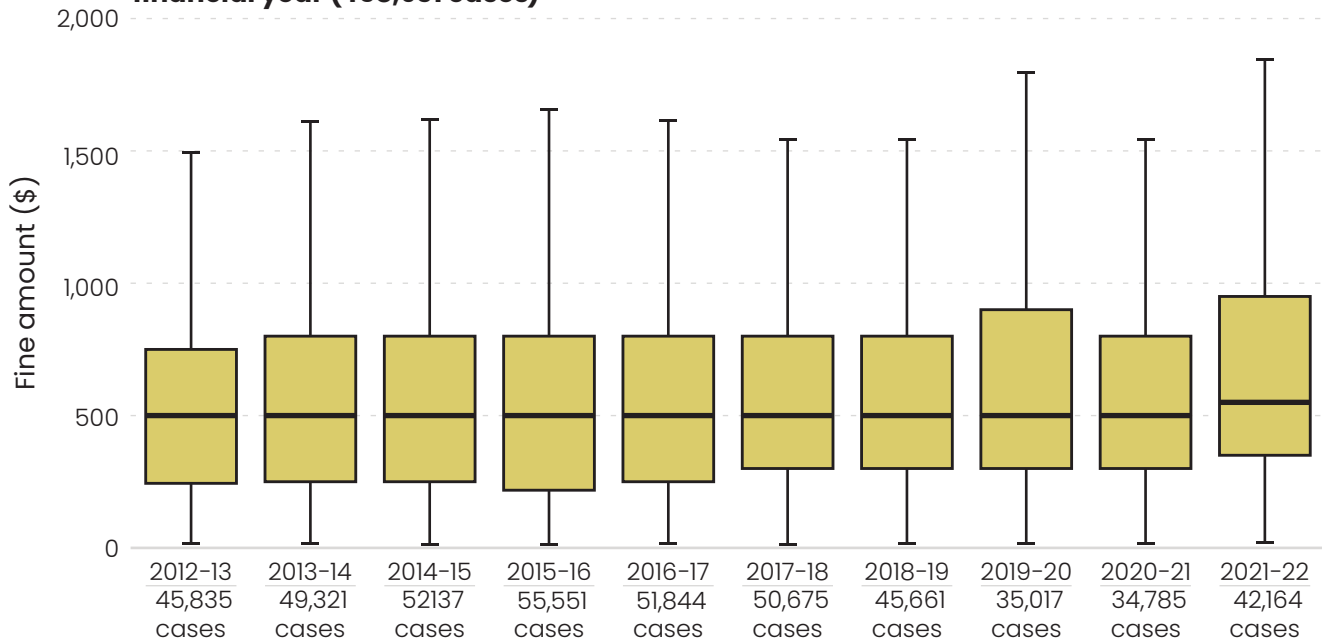
²⁸ The jurisdictional limit in the Magistrates' Court is 5 years' imprisonment: *Sentencing Act 1991* (Vic) s 113B. A sentence of 5 years' imprisonment was imposed in 1 case in the Magistrates' Court.

²⁹ *Sentencing Act 1991* (Vic) s 113D(1).

³⁰ *Sentencing Act 1991* (Vic) ss 112A, 113D(1A).

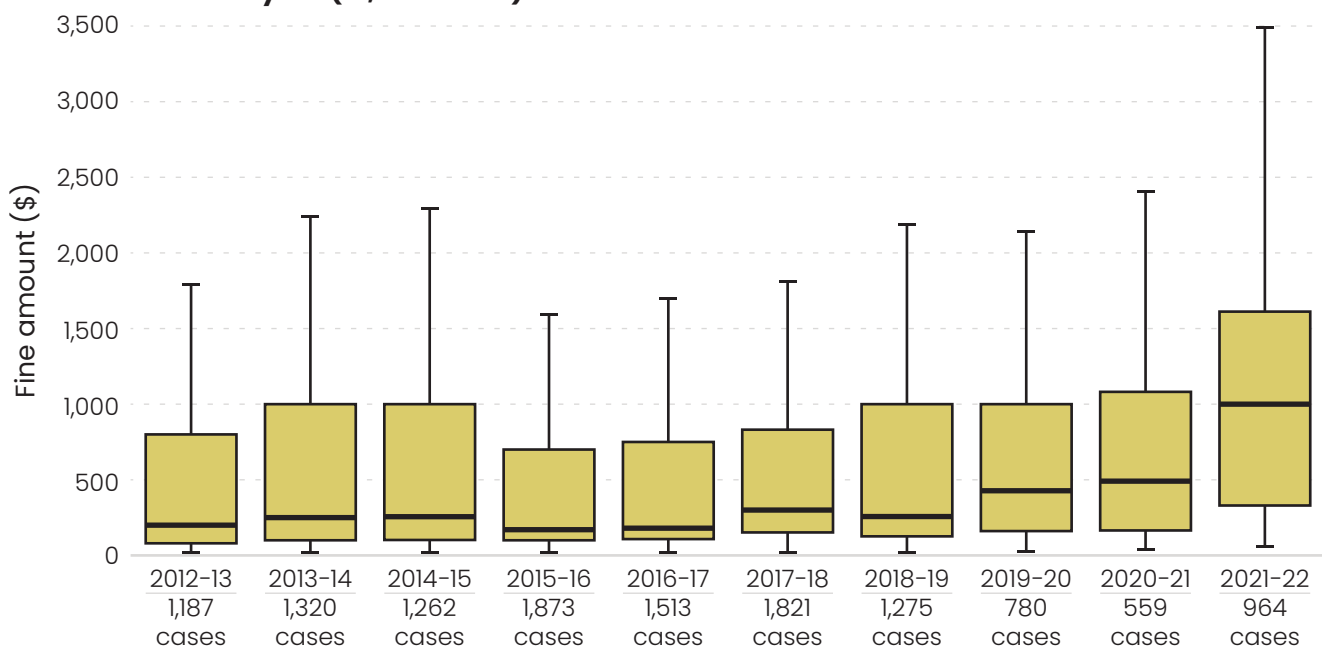
The fines imposed on individuals ranged from \$7.80 to \$255,000.³¹ The median fine was \$500, and the average fine was \$719.60. The median fine was \$500 each year except in 2021–22, when the median was \$600 (Figure 20).

Figure 20: Box plots of fine amounts for individuals in the Magistrates’ Court, by financial year (458,931 cases)



The fines imposed on companies ranged from \$10 to \$1,137,525. The median fine was \$420, and the average fine was \$3,955. The median fine ranged from \$200 (in 2015–16) to \$1,000 (in 2021–22) (Figure 21).

Figure 21: Box plots of fine amounts for companies in the Magistrates’ Court, by financial year (12,555 cases)

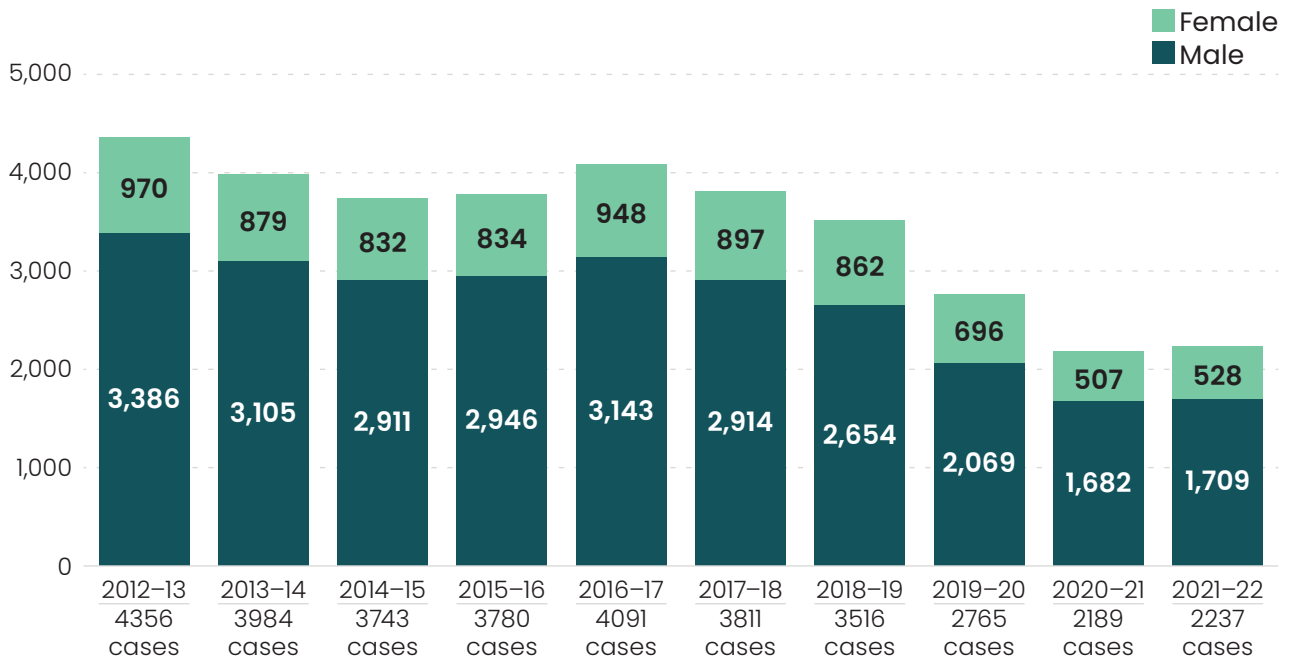


³¹ There were 23 fines that were less than \$5. These amounts were excluded as possible data-entry errors.

Children's Court

In the 10 years to June 2022, there were 34,472 cases sentenced in the Children's Court (Figure 22). In 26,519 of those cases (76.9%) the children and young people were male, and in 7,953 cases (23.1%) the children and young people were female.

Figure 22: Number of cases sentenced in the Children's Court (34,472 cases)



Assault and injury offences were the most common principal offence types in the Children's Court (29.9% of cases), followed by theft offences (21.9%) (Figure 23, page 18). In turn, the most common assault and injury offence was unlawful assault (3,782 cases).³²

Unlawful assault was the most common assault and injury offence in the Children's Court (3,782 cases)

³² Summary Offences Act 1966 (Vic) s 23. The maximum penalty is 15 penalty units or 3 months' imprisonment.

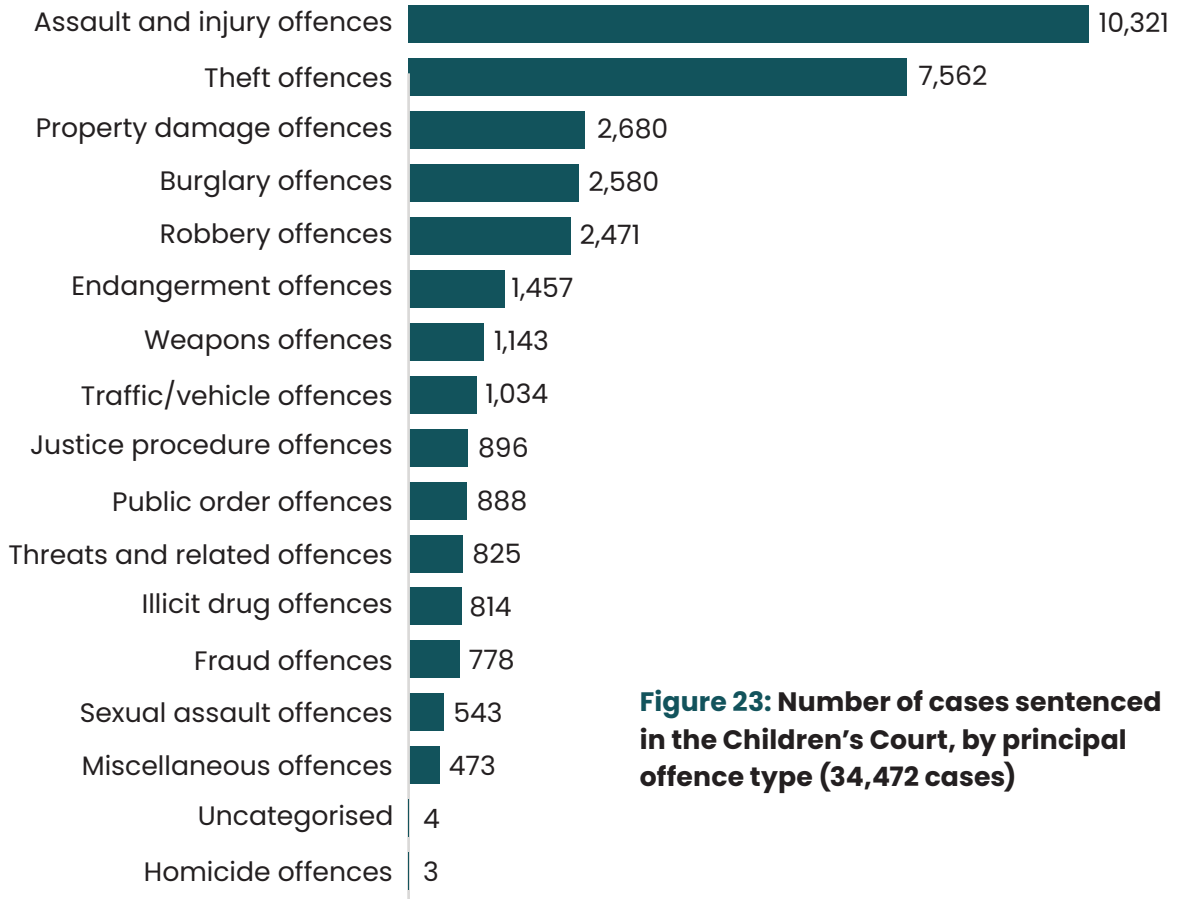
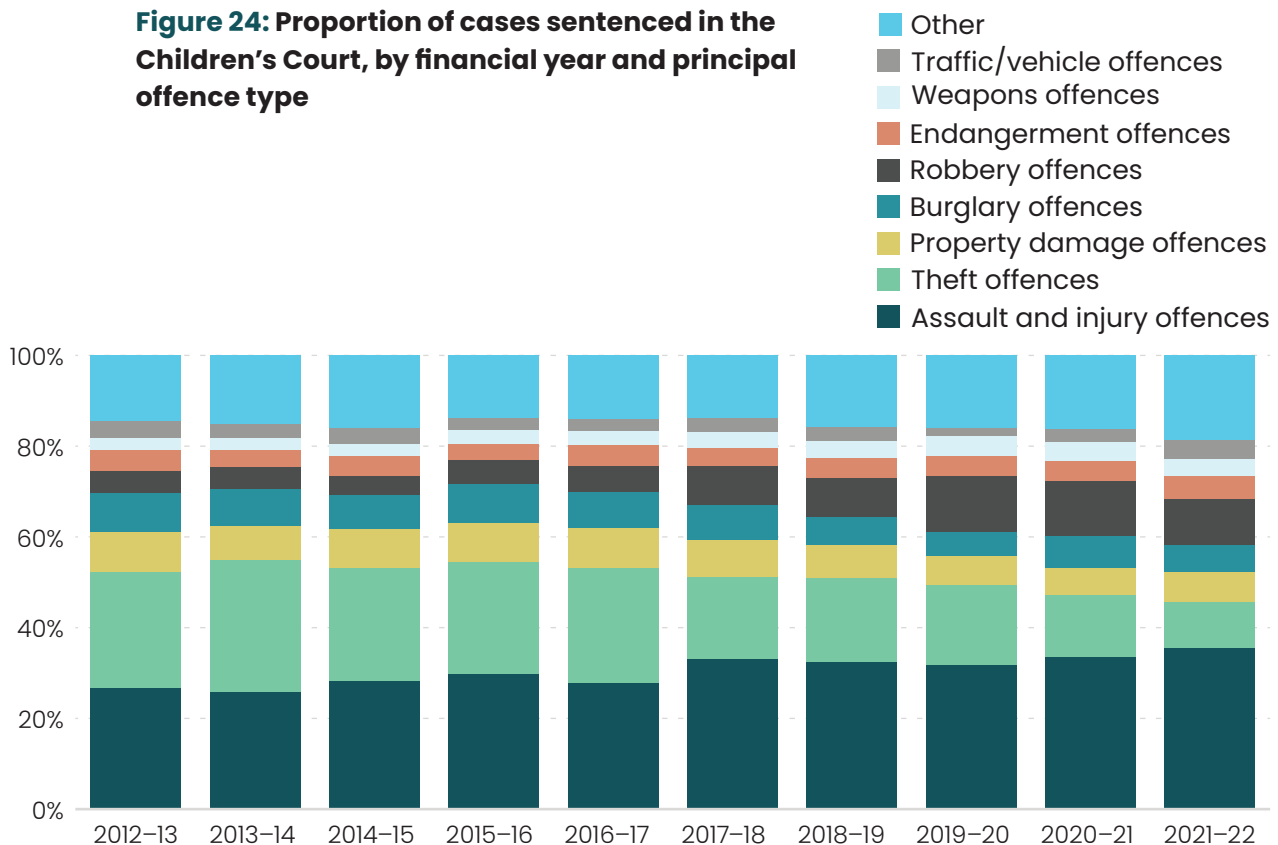


Figure 23: Number of cases sentenced in the Children's Court, by principal offence type (34,472 cases)

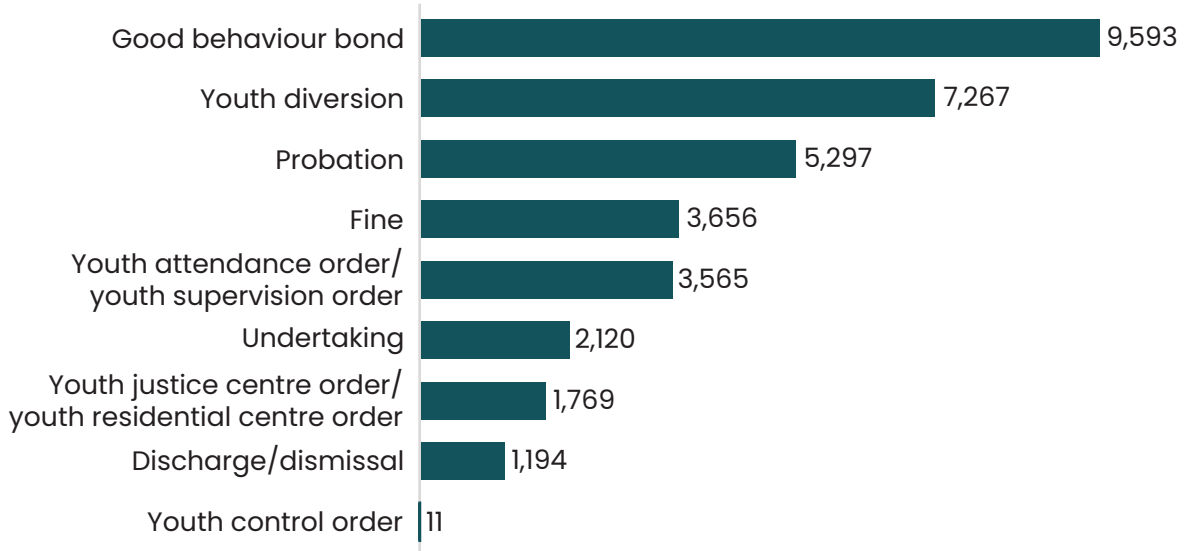
Assault and injury offences were the most common offence type each year, ranging from 25.8% of cases (in 2013–14) to 35.5% (in 2021–22) (Figure 24).

Figure 24: Proportion of cases sentenced in the Children's Court, by financial year and principal offence type



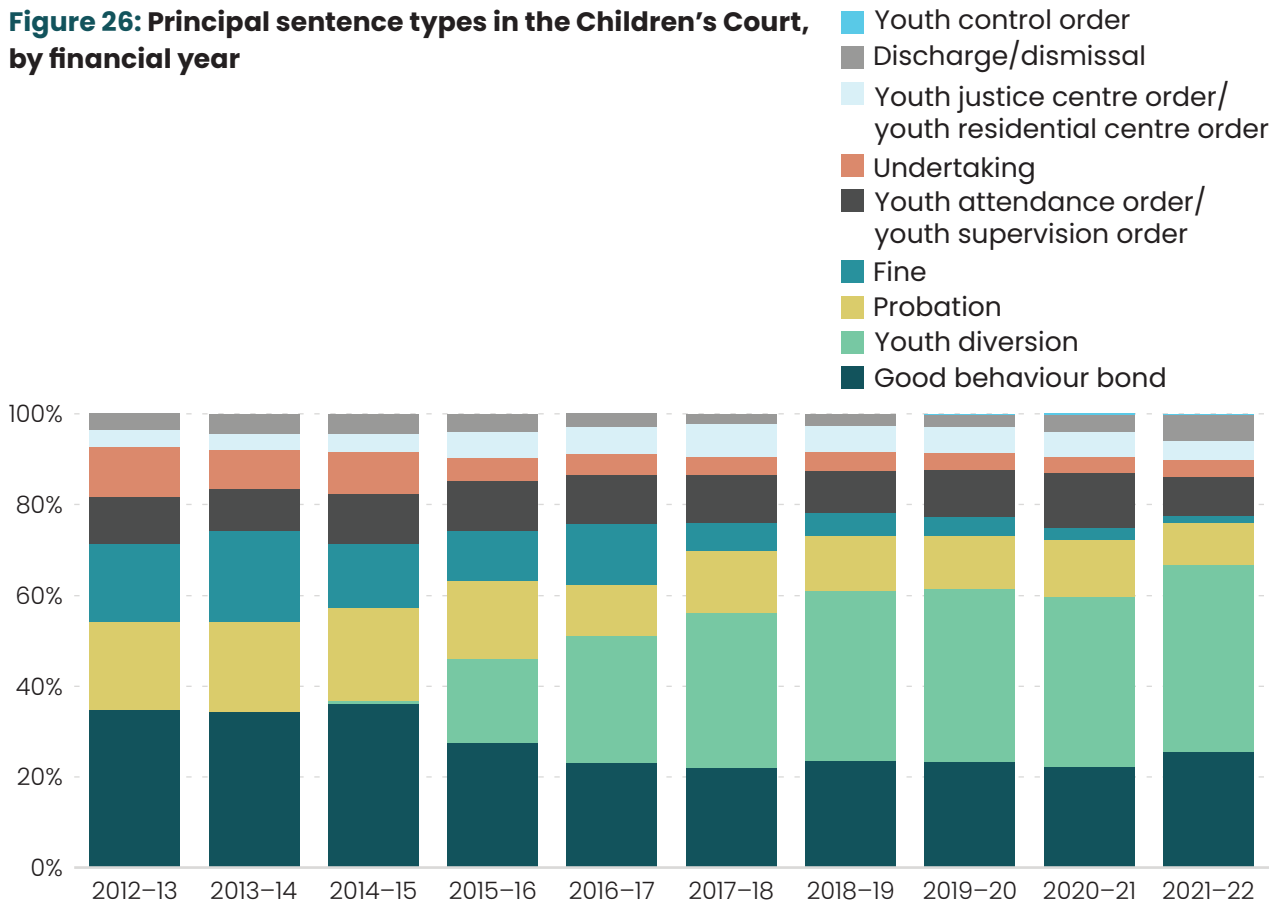
A good behaviour bond was the most common principal sentence in the Children’s Court (9,593 cases or 27.1%) (Figure 25).

Figure 25: Principal sentence types in the Children’s Court (34,472 cases)



Good behaviour bonds were also the most common sentence each year from 2012–13 to 2015–16. Since then, youth diversion has been the most common principal sentence in the Children’s Court each year (Figure 26).

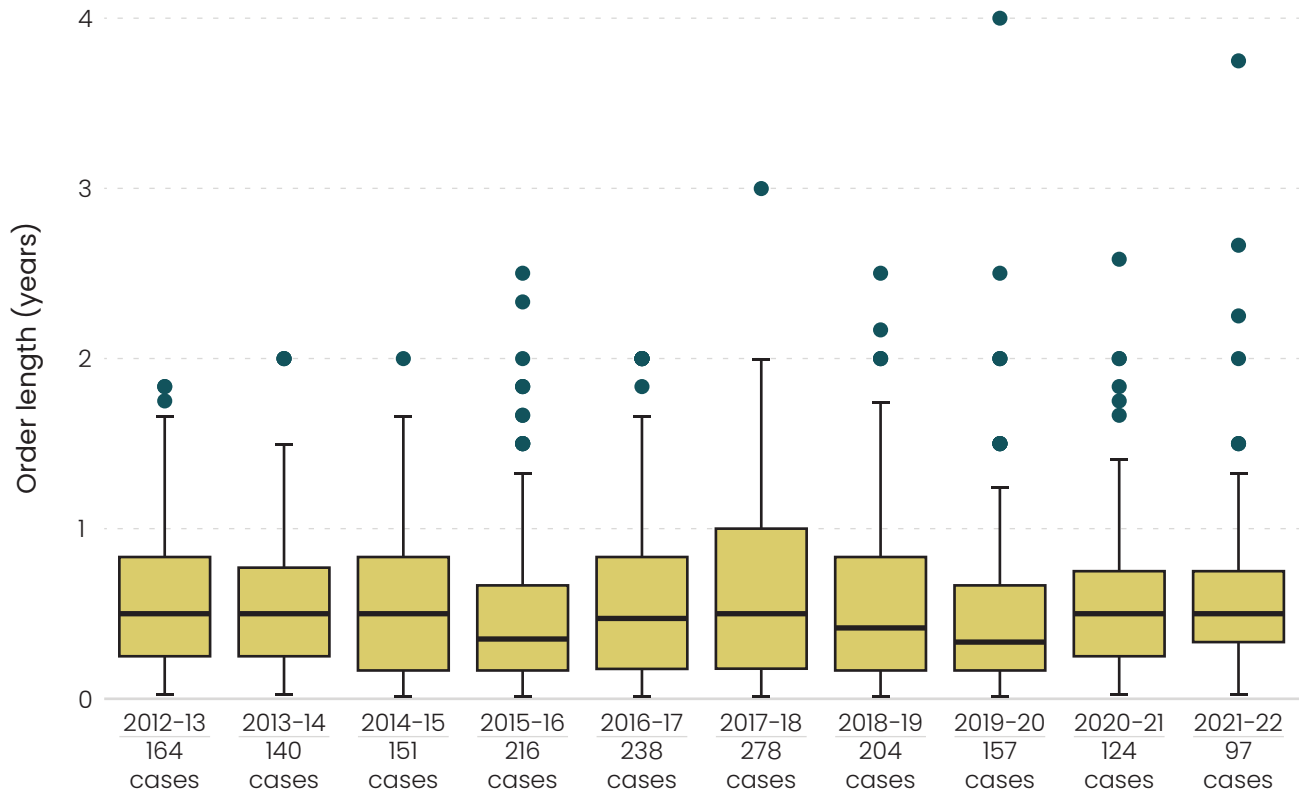
Figure 26: Principal sentence types in the Children’s Court, by financial year



A youth justice centre order or youth residential centre order was imposed in 1,769 cases in the Children’s Court during the 10-year period. Figure 27 uses box plots to represent the range of youth justice centre and youth residential centre order lengths in those cases, including the minimum, median and maximum lengths imposed.³³

Order lengths ranged from 1 day to 4 years.³⁴ The median length was 6 months, and the average length was 6.79 months. The median length ranged from 4 months (in 2019–20) to 6 months (in 2012–13 to 2014–15, 2017–18, 2020–21 and 2021–22).

Figure 27: Box plots of youth justice centre order and youth residential centre order lengths in the Children’s Court, by financial year

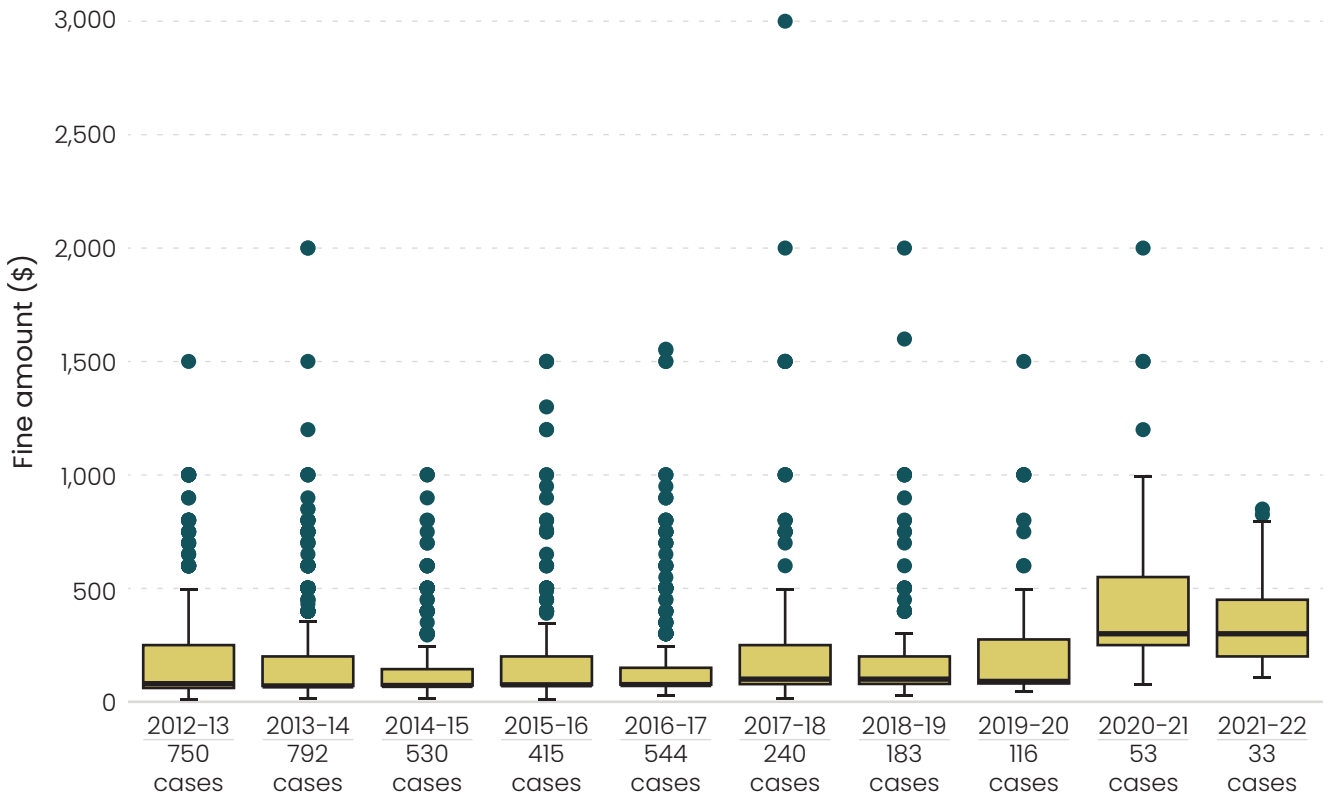


³³ For an explanation of box plots, see ‘Reading the data’ below.

³⁴ The maximum period of a youth justice centre order is 4 years: *Children, Youth and Families Act 2005* (Vic) s 413((3)(b)). A 4-year youth justice centre order was imposed in just 1 case in the Children’s Court.

A fine was the principal sentence in 3,413 cases in the Children’s Court during the 10-year period. The maximum fine that can be imposed in the Children’s Court is 5 penalty units per offence (or the maximum fine that an adult can receive for the same offence if that amount is less than 5 penalty units).³⁵ Fine amounts ranged from \$5 to \$3,000.³⁶ The median fine was \$79, and the average fine was \$192 (Figure 28).

Figure 28: Box plots of fine amounts in the Children’s Court, by financial year



³⁵ Children, Youth and Families Act 2005 (Vic) s 373(a).

³⁶ One child or young person was sentenced to an aggregate fine of \$3,000 for 7 offences.

Reading the data

Counting rules

This report presents data on the number of cases sentenced in the Victorian courts. For case data, the counting rule for principal proven offences counts just one charge per case: the offence that received the most severe sentence within a case (or the most serious offence according to the Australian Bureau of Statistics' National Offence Index if multiple offences received an equally severe sentence). This counting rule is useful for understanding the number of people sentenced and for understanding how their most serious offence is usually sentenced. Our SACStat database includes the prevalence of different offences at a charge level (i.e. SACStat includes all principal and non-principal offences).

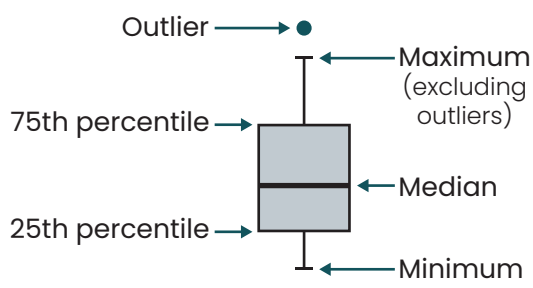
This report excludes custodial or non-custodial supervision orders for people who have been found not guilty because of mental impairment or found guilty at a special hearing, and it excludes unconditional release orders under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic).

Although not classified as a 'sentence', diversion plans have been included in this report due to the critical role they play as an outcome for people who become involved in the criminal justice system.

Box plots

A box plot (also known as a box-and-whisker plot) shows key points in the distribution of a series of numbers, including:

- the median, represented by the horizontal line within each box. Half of all values in that distribution are above the median, and half are below
- the 25th percentile, represented by the bottom line of the box. This is the value that 25% of the values in the distribution fall below
- the 75th percentile, represented by the top line of the box. This is the value that 75% of the values in the distribution fall below.



Apart from some values, which are statistical outliers³⁷, the full range of the data (from the smallest to the largest value) is represented by the tips of the vertical lines ('whiskers') extending from the box.

³⁷ Outliers are based on a standard measure: a value beyond the 75th percentile by more than one-and-a-half times the interquartile range (for moderate outliers) or 3 times the interquartile range (extreme outliers). See John Tukey, *Exploratory Data Analysis* (1977) 43–44.

Fine amounts

In this report, fine data is presented in dollar amounts. Maximum fines for offences are, however, set by reference to a particular number of penalty units. Penalty units in Victoria are indexed annually by the Victorian Treasurer, increasing from \$100 in 2003–04 to \$192.31 in 2023–24.³⁸

³⁸ Sentencing Advisory Council, 'Fine' (sentencingcouncil.vic.gov.au, 2023).

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