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A wider look at the impact of the domestic violence aggravating factor on sentencing outcomes

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OVERVIEW

AIM To explore whether there is a difference in sentencing outcomes in Queensland for cases sentenced as domestic violence offences ('DV offences') compared with cases sentenced as non-DV offences.

METHOD This study used quantitative analysis of administrative data from Queensland's Courts Database to compare sentencing outcomes for cases sentenced as DV offences compared with non-DV offences.

The sample included cases involving adult offenders sentenced from 1 July 2016 to 30 June 2024. Offences were analysed if there were at least 30 cases sentenced as DV offences and 30 cases sentenced as non-DV offences during the data period.

Bivariate analyses were used to compare the penalty types and custodial sentence lengths imposed for the most serious offence (MSO) sentenced in each case.

Analysis was conducted separately for cases sentenced in the District and Supreme Courts ('the higher courts') and the Magistrates Courts.

RESULTS For many offences, in both the Magistrates Courts and higher courts, DV offences were more likely to have received a custodial penalty and a longer median custodial sentence than non-DV offences.

Significant differences were observed for assaults occasioning bodily harm ('AOBH') across both court levels. AOBH sentenced as DV offences were significantly more likely to receive custodial penalties and to have longer median custodial penalties than non-DV AOBH offences, across both court levels.

In the higher courts, there were few differences in the proportion of DV offences receiving custodial penalties compared with non-DV offences. Generally physical violence and sexual violence offences received longer custodial sentences overall. Some significant differences in the custodial sentence length for non-physical violence offences of attempting to pervert justice and arson.

In the Magistrates Courts, many DV offences were more likely to have resulted in custodial penalties being imposed and to receive longer custodial sentences than non-DV offences. Significant differences were seen for a variety of non-physical violence offences, including stalking, breach of bail, public violence, threatening violence, and wilful damage.

CONCLUSION Both the Magistrates Courts and higher courts generally treat DV offences as more serious than non-DV offences. This is evident in the greater use of custodial penalties and longer custodial sentences imposed for DV offences.

This suggests the introduction of the DV aggravating factor in section 9(10A) of the *Penalties and Sentences Act 1992 (Qld)* ('PSA') in 2016 is having its intended impact on sentencing outcomes. However, further research is required to determine whether these changes are directly attributable to the DV aggravating factor or if they reflect pre-existing, common law sentencing practices. Prior to December 2015, it was not possible to separately identify and record offences as DV offences for reporting purposes.

INTRODUCTION

Domestic and family violence is a pervasive social harm that affects the lives of many Queenslanders. The *Personal Safety Survey*, conducted by the Australian Bureau of Statistics (ABS) in 2021–22, collected information about the nature and extent of Australians' experiences of violence. The survey reported that, since the age of 15:

- 1 in 4 women experienced violence by an intimate partner or family member (27%); and
- 1 in 8 men experienced violence by an intimate partner or family member (12%).¹

Significant reforms have been introduced in Queensland and in other Australian jurisdictions to improve responses to domestic and family violence.

Sentencing is an important part of the justice system's response to domestic and family violence and holding offenders to account. Since 1997, significant legislative reforms have been introduced in Queensland to guide courts in the sentencing of violent offences and to strengthen responses to domestic violence. Two Taskforce reviews in Queensland to address domestic and family violence have contributed to significant reforms, including the sentencing factor examined in this research.

The following sections provide an overview of these reforms.

Domestic and family violence sentencing reforms

In September 2012, the *Domestic and Family Violence Act 1989* (Qld) was repealed and replaced by the *Domestic and Family Violence Protection Act 2012* (Qld) ('DFVPA'). The new Act expanded the meaning of 'domestic violence' to include a wider range of actions and behaviours.

Significant reforms were later implemented as a result of the 2015 *Not Now, Not Ever: Putting an end to domestic and*

family violence in Queensland report by the Special Taskforce on Domestic and Family Violence in Queensland ('Special Taskforce').² The Special Taskforce made 140 recommendations to address domestic and family violence in Queensland, including the introduction of a new circumstance of aggravation of domestic and family violence to be applied to all criminal offences.³ The Queensland Government chose to give effect to this recommendation through the introduction of a new statutory aggravating factor rather than a circumstance of aggravation. The difference between an aggravating factor and a circumstance of aggravation is explained in **Appendix 1**.

On 5 May 2016, section 9(10A) of the PSA ('DV aggravating factor') came into effect.⁴ If an offence is a 'domestic violence offence', in most cases the court must treat this as an aggravating factor.⁵

An offence involves 'domestic violence' if, first, the offender shares a relevant relationship (intimate personal, family or informal care) with the victim.⁶ Second, if that relationship is abusive (physically, sexually, emotionally, psychologically or economically), threatening, coercive, or must control or dominate the second person in another way and cause them to fear for their safety or wellbeing (or someone else's).⁷

Any offence under a Queensland Act, other than the DFVPA can be a DV offence if the offending behaviour is also domestic violence and/or is a contravention of a domestic violence order (DVO).⁸ There does not need to be a current DVO in place for the person to be convicted of a 'domestic violence offence'.

The DV aggravating factor increases the seriousness of the offence and may result in the person receiving a more severe penalty,⁹ but it does not change the maximum penalty that applies.¹⁰ Parliament's expectation was it would 'increase the culpability of an offender', leading to offenders receiving 'a higher sentence within the existing sentencing range up to the maximum penalty' for these offences.¹¹ The introduction of this change was justified on the basis it would protect vulnerable community members,

¹ Australian Bureau of Statistics, *Personal Safety, Australia, 2021–22* (Report, March 2023).

² Special Taskforce on Domestic and Family Violence in Queensland, *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland* (February 2015) ('*Special Taskforce Report*').

³ *Ibid* Recommendation 118.

⁴ Inserted by the *Criminal Law (Domestic Violence) Amendment Act 2016* (Qld) s 5, which came into effect on the date of assent (5 May 2016).

⁵ PSA (n 2) s 9(10A). This section was inserted by section 5 of the *Criminal Law (Domestic Violence) Amendment Act* (n 5) which commenced on 5 May 2016. (see *Acts Interpretation Act 1954* (Qld) s 15A). The aggravating factor applies to all offences sentenced on or after 5 May 2016, regardless of when committed. See: *R v CLN* [2016] QDC 111, [15] (Jones DCJ); *R v BNQ* [2016] QDC 113 (Moynihan QC DCJ); *R v Hutchinson* (2018) 3 Qd R 505, [43] ('Hutchinson') (Mullins J, Fraser and Morrison JJA agreeing); *R v O'Malley* [2019] QCA 130, [94] (Bradley J, Gotterson and McMurdo JJA agreeing). ; .

⁶ *Domestic and Family Violence Protection Act 2012* (Qld) s 13 ('DFVPA').

⁷ *Ibid* s 8(1).

⁸ Criminal Code (Qld) (n 1) s 1 definitions ('domestic violence offence').

⁹ See *R v RBO* [2024] QCA 214, [119] ('RBO') (Henry J, Mullins P and Brown JA agreeing).

¹⁰ Cf a circumstances of aggravation, such as under s 177(2) of the DFVPA (n 2). As to the definition of a 'circumstance of aggravation', see Criminal Code (Qld) (n 1) s 1.

¹¹ Explanatory Notes, *Criminal Law (Domestic Violence) Amendment Bill (No. 2) 2015* (Qld) 2.

denounce relevant offending and 'provide adequate deterrence to perpetrators of this type of offending'.¹²

A court may choose not to apply the DV aggravating factor where it considers it is not reasonable due to the exceptional circumstances of the case¹³ – for example, if the victim of the offence committed serious or repeated acts of domestic violence against the person being sentenced.¹⁴

The Court of Appeal has found the DV aggravating factor is likely to have an effect on sentencing for DV offences over time,¹⁵ and that general deterrence may now be a more significant sentencing factor.¹⁶ However, 'the effect in any particular case will depend on the balancing of all the relevant factors related to that offending and offender'.¹⁷

The Court of Appeal has also held that section 9(10A) is a procedural, rather than a substantive, provision.¹⁸ This means it is not subject to a presumption against retrospective operation – it applies 'to all sentencing from its commencement, whether or not the offending was committed before or after the commencement'.¹⁹

Council's prior analysis of DV aggravating factor

In May 2021, the Council published a Research Brief which analysed the sentencing outcomes for cases sentenced between 5 May 2016 and 30 June 2019, involving common assault or AOBH sentenced as DV offences compared with offences that were not.²⁰

In this 2021 Research Brief, the Council found cases involving DV offences were more likely to receive a custodial penalty compared with non-DV cases. This finding was statistically significant for cases involving common assault and AOBH (non-aggravated and aggravated) in the Magistrates Courts. For cases heard in the higher courts, statistically significant findings were observed only for non-aggravated AOBH cases.

Key Term: Statistical Significance

In this report, when we say something is 'statistically significant', we mean it is unlikely to be a coincidence. While numbers naturally fluctuate from year to year or from offence to offence, a statistically significant result is large enough that we are confident it represents a genuine shift in the data rather than just random chance.

On average, courts imposed longer custodial sentences on DV offences compared with non-DV offences – however this was not the case for common assault DV offences sentenced in the higher courts.

The Council concluded that its findings indicated courts were treating DV offences as more serious offending than non-DV offences, demonstrated by the greater use of custodial penalties. Based on the analysis for these two offences, it was suggested that the DV aggravating factor is having its desired impact on sentencing outcomes, but further research is required to determine if this was due to the introduction of the DV aggravating factor or reflects pre-existing, common law sentencing practices. Prior to December 2015, it was not possible to separately identify and record offences as DV offences for reporting purposes.

Women's Safety Justice Taskforce

In March 2021, the Queensland Government established the Women's Safety and Justice Taskforce ('WSJ Taskforce') to examine the experiences of women across the criminal justice system. The WSJ Taskforce was asked to examine:

1. How best to legislate against coercive control as a form of domestic violence and the need for a specific offence of 'commit domestic violence'; and
2. The experiences of women with the criminal justice system.

The WSJ Taskforce undertook its work in two phases. It delivered its first report, *Hear Her Voice: Report One - Addressing Coercive Control and Domestic and Family*

¹² Ibid 3; Note the Court of Appeal's analysis of this, discussed below in *R v Hutchinson* (2018) 3 Qd R 505, 515 [41] ('*Hutchinson*') (Mullins J, Fraser and Morrison JJA agreeing).

¹³ PSA (n 2) s 9(10A).

¹⁴ Ibid example 1 provided under the provision.

¹⁵ *Hutchinson* (n 6) 515 [40] (Mullins J, Fraser and Morrison JJA agreeing), following *R v Pham* (2009) 197 A Crim R 246, 247–8 [5]–[7] (Keane JA).

¹⁶ *R v Castel* [2020] QCA 91, 9 [37] (Mullins JA, Sofronoff P agreeing): 'the enactment of s 9(10A) ... necessarily makes general deterrence now a more significant factor for sentencing for the killing of a domestic partner'.

¹⁷ *Hutchinson* (n 6) 515 [40] (Mullins J, Fraser and Morrison JJA agreeing), following *R v Pham* (n 12) 24–8 [5]–[7] (Keane JA). See also *R v Castel* (n 13) 8 [35] (Mullins JA, Sofronoff P agreeing).

¹⁸ As to the difference between procedural and substantive provisions, the Court of Appeal had earlier stated that 'procedural law is the body of rules setting out the manner, form and order in which matters may be dealt with and enforced in a court. It includes the formal steps in an action including pleadings, process, evidence and practice. On the other hand, substantive law creates, defines and regulates people's rights, duties, powers and liabilities, and contains the actual rules and principles administered by courts, both under statute law and common law': *R v Carlton* [2010] QCA 340, 350 [35] (McMurdo P, dissenting as to the result).

¹⁹ *Hutchinson* (n 6) 516 [44] (Mullins J, Fraser and Morrison JJA agreeing). The unsuccessful argument against this was based on the presence of the words 'must' and 'aggravating': 511 [24].

²⁰ Laura Hilderley, Samuel Jeffs and Lauren Banning, *The Impact of Domestic Violence as an Aggravating Factor on Sentencing Outcomes* (Research Brief No 1, Queensland Sentencing Advisory Council, May 2021).

Violence in Queensland ('Report One') to the Attorney-General in December 2021. The second report, *Hear Her Voice: Report Two – Women and Girls' Experiences Across the Criminal Justice System* was released in July 2022.

Report One made several recommendations to amend the PSA, including that the government:

Ask the Queensland Sentencing Advisory Council to give advice on the impact of the operation of the aggravating factor in section 9(10A) of the *Penalties and Sentences Act 1992* on sentencing outcomes for domestic violence offences beyond outcomes for cases involving charges of assault and assault occasioning bodily harm (recommendation 73).

The WSJ Taskforce noted this would build on the earlier work undertaken by the Council, as reported in the Council's Research Brief, and recommended that the Council:

Include consideration of the impact of the aggravating factor on sentencing outcomes for charges involving all forms of domestic and family violence including non-physical violence and coercive control.

This recommendation by the WSJ Taskforce formed part of the Terms of Reference issued to the Council by the Attorney-General in May 2023, to review sentencing for crimes involving sexual violence and domestic and family violence in Queensland.²¹

METHOD

The purpose of this *Research Brief* is to respond to the recommendation of the WSJ Taskforce. The current study aims to answer the following question:

Is there a difference in sentencing outcomes (penalty types and penalty lengths) for cases that are DV offences triggering the application of the DV aggravating factor in section 9(10A) PSA compared with cases sentenced for the same offence that did not?

Data

The data used for this analysis was the Courts Database as maintained by the Queensland Government Statistician's Office ('QGSO'), Queensland Treasury. The Courts Database comprises data collected by the Department of Justice ('DoJ') from the administrative information systems used by Queensland's criminal courts. The analysis contained within this report was conducted using data extracted from the Courts Database in September 2024.²²

Bivariate analysis was used to examine the relationship between the presence of domestic violence and the proportion of cases that resulted in a custodial penalty. Bivariate analysis was also used to determine whether the length of custodial penalties varied depending on the presence of domestic violence.

Key Term: Bivariate Analysis

In this report, 'bivariate analysis' is used to examine the relationship between two specific variables. For example, whether the sentencing outcome (variable 1) is different based on the presence of domestic violence (variable 2). We then test these relationships for statistical significance to ensure any observed differences are not just due to chance.

Sample

This research examined offences sentenced as the most serious offence (MSO) where there were at least 30 cases sentenced as 'DV offences' and section 9(10A) of the PSA applied and at least 30 'non-DV offences'.²³ Cases examined were sentenced in the Queensland Magistrates Courts and the higher courts over the period 1 July 2016 to 30 June 2024 and involved people sentenced as adults.²⁴

The MSO is defined as the offence that received the most serious sentence, as ranked by the classification scheme used by the ABS.²⁵

DV offences were identified by those flagged as being a DV offence in the Courts Database.²⁶ Some offences were

²¹ Queensland Sentencing Advisory Council, *The Tangled Web: Examining domestic and family violence sentencing reforms* (Final Report, February 2026).

²² The Courts Database is continually updated as more information is entered into the administrative systems. The information presented in this report may vary from data published elsewhere due to differences in the dates data were extracted.

²³ A domestic violence offence is an offence against an Act, other than the DFVPA (n 9), committed by a person where the act done, or omission made, which constitutes the offence is also (a) domestic violence or associated domestic violence under the DFVPA, committed by the person or (b) a contravention of the DFVPA, s 177(2): Criminal Code (Qld) (n 8) s 1. Section 9(10A) of the PSA does not apply to DFVPA offences and the Court of Appeal has held it does not apply to the offence of choking, suffocation or strangulation in a domestic setting because 'all sentences under s 315A will be in respect of domestic violence offences': *R v MCW* [2018] QCA 241, [35] (Mullins, J, Philippides JA and Boddice J agreeing).

²⁴ The DV aggravating factor provision commenced operation on 5 May 2016. 1 July 2016 is the beginning of the first complete year of data available following its introduction.

²⁵ Australian Bureau of Statistics, *Criminal Courts, Australia Methodology* (Report, April 2025) Sentence Type Classification.

²⁶ This is now possible with the operation of PSA (n 8) s 12A that allows for a charge for an offence of which the offender is convicted to be recorded as being a conviction for a DV offence, or if no conviction is recorded, entered in the offender's criminal history as a DV offence. This provision was inserted into the PSA by Criminal Law (Domestic Violence) Amendment Act (n 8) s 18 and came into effect

excluded from our analysis because DV is an element of the offence, so 'all sentences ... will be in respect of domestic violence offences',²⁷ and section 9(10A) will therefore not apply.²⁸ These were the offences of choking, suffocation or strangulation in a domestic setting (*Criminal Code* 1899 (Qld) s315A; commenced 5 May 2016) and unlawful stalking, intimidation, harassment, or abuse in a domestic violence relationship (*Criminal Code* (Qld), s359E(4); commenced on 1 August 2023).

Analysis was conducted separately for cases sentenced in the higher and Magistrates Courts, therefore different offences met the sample size criteria for each court level.

There were 23 offences included at the Magistrates Courts level and 20 offences included at the higher courts level.²⁹ Offences ranged from summary offences to indictable offences. Summary offences are generally minor offences that must be prosecuted within 12 months of the matter arising. They are usually heard in a Magistrates Court. Indictable offences are generally more serious than summary offences and may be dealt with in the higher courts, although some indictable offences can or must be dealt with by a Magistrates Court.

The analysis involved several different Queensland Acts:

- Criminal Code 1899 (Qld)
- Bail Act 1980 (Qld)
- Summary Offences Act 2005 (Qld)
- Weapons Act 1990 (Qld)

See Table 7 and Table 8 in the appendix for further details on the offences included in the analysis, including the Act, section number, and maximum penalty.

Definitions

A 'case' is the collection of offences for a single offender that are finalised on the same day at the same court level and court location. Where there are multiple offenders dealt with jointly during a court event, the event is recorded as separate cases. A single offender may appear in multiple cases over the reporting period.

This paper uses the term 'domestic violence' when presenting and discussing the data. This is because relevant provisions in the *Criminal Code* and PSA, including section 9(10A), use the term 'domestic violence offence'.

FINDINGS

Analysis was conducted separately for cases sentenced in the Magistrates Courts and higher courts, as different

offences met the sample size criteria at each court level. The results are presented in two parts.

First, the sentencing outcomes for cases heard in the Magistrates Courts will be discussed, followed by the results for cases heard in the higher courts.

Magistrates Courts results

Magistrates Courts - Key findings:

The offences with the highest proportion of DV offences were deprivation of liberty, non-aggravated assault occasioning bodily harm, and common assault.

For most offences, the most common penalty was the same for both DV and non-DV offences.

For 7 offences, there were significant differences in the types of penalties imposed. Descriptive analysis suggests this is because DV offences resulted in imprisonment more often (and monetary or probation orders less often) than non-DV offences.

- 3 of these offences were non-physical violence offences – breach of bail, stalking, and wilful damage.

DV offences were generally more likely to result in custodial penalties compared with non-DV offences.

- The one exception to this was the offence of burglary and commit an indictable offence where the non-DV offences were more likely to result in custodial penalties.

More than half of the offences had a significant difference in the distribution of custodial sentence lengths.

- Almost all DV offences had the same or longer median sentence than non-DV offences.
- For 7 offences, DV offences were significantly more likely to have sentences in the higher range of possible penalties than non-DV offences.

Figure 1 presents the Magistrates Courts offences analysed in this research, sorted by offences with the highest volume of DV offences. The grey bars represent the volume of each offence, the purple bars represent the number of DV offences, and the percentage represents the proportion of cases that were DV offences. Table 9 (in the appendix) presents the underlying numbers.

The offences with the highest proportion of DV offences were deprivation of liberty (45.5%), non-aggravated AOBH (40.9%), common assault (30.7%), aggravated AOBH (26.8%) and non-aggravated unlawful stalking, intimidation, harassment or abuse ('stalking', 26.4%).

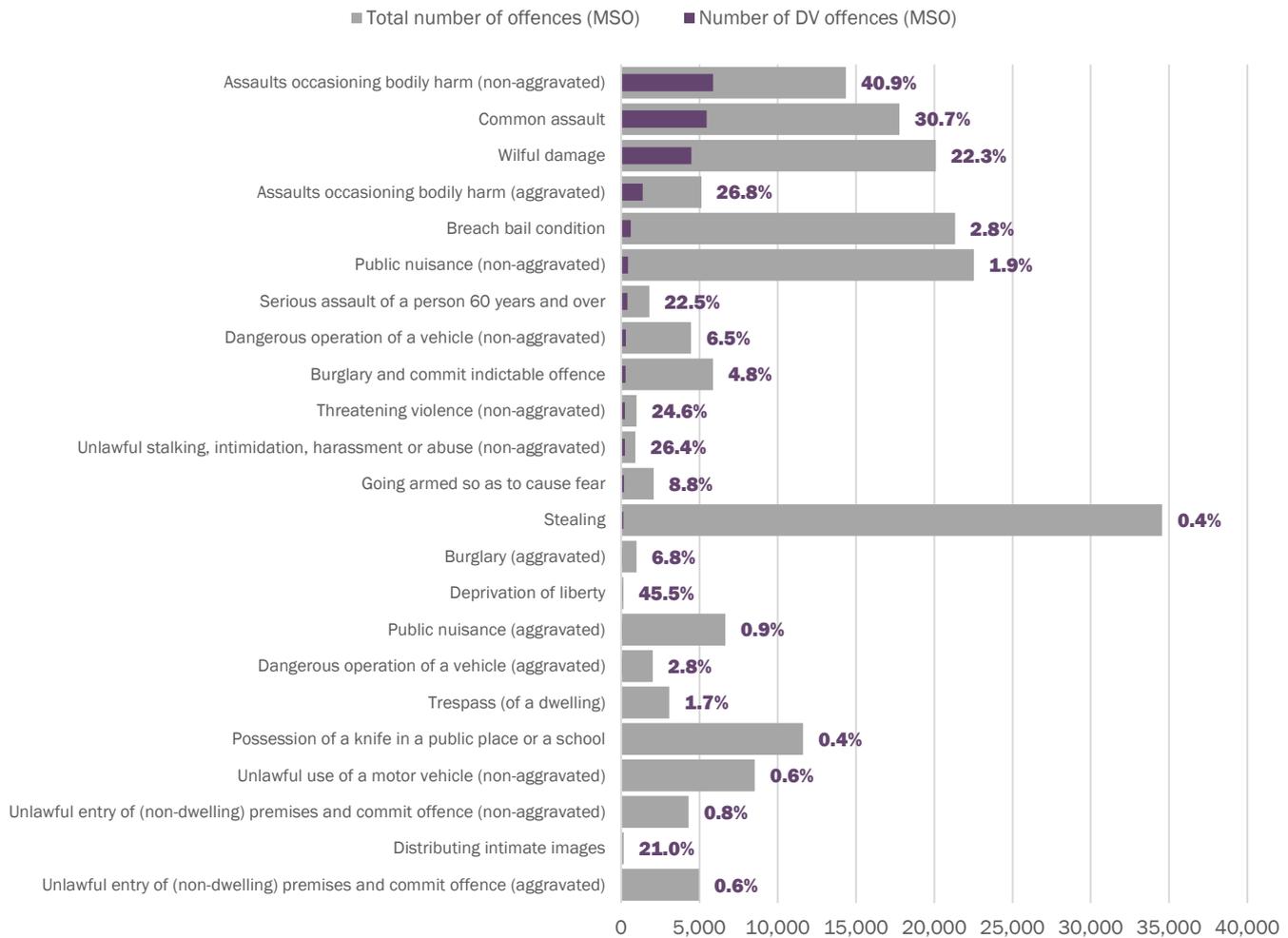
by operation of s 1A of that Act on 1 December 2015. Offences can only be charged as a DV offence if they were committed on or after 17 September 2012 (when the DFVPA came into effect): *R v Poynter* [2016] QDC 82 [11] (McGill SC).

²⁷ See *R v MCW* (n 19) 352–3 [35] (Mullins J, Philippides JA and Boddice J agreeing).

²⁸ Offences sentenced under Criminal Code (Qld) (n 8) s 359E(4) have been excluded from this analysis. This exclusion is on the basis that the Court of Appeal's reasoning for the exclusion of s 315A from PSA (n 8) s 9(10A) also applies to this offence.

²⁹ Three offences were excluded from this analysis as the DV indicator was deemed to be unreliable. These were: breach of bail – failure to appear *Bail Act 1980* (Qld) s 33, assault or obstruct police officer *Police Powers and Responsibilities Act 2000* (Qld) s 790(1), and careless driving of motor vehicles (non-aggravated) *Transport Operations (Road Use Management) Act 1995* (Qld) s 83(1)(c).

Figure 1: Total number of offences and number of DV offences sentenced (MSO) in the Magistrates Courts, sorted by volume of DV offences



Data include adult offenders, MSO, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment, or abuse).
 Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Penalties imposed in the Magistrates Courts

All penalty types

For most offences (n=20/23), the most common penalty was the same regardless of whether the case was sentenced as a DV offence. The most common penalty was imprisonment for 12 offences, and a monetary order for 8 offences. The most common penalty differed between the groups for only 3 offences.

Statistically significant differences were found for 7 offences regarding the distribution of penalty types imposed in the Magistrates Courts, based on whether it was a DV offence or not. The penalties imposed for these offences are presented in Table 1. Table 10 (in the appendix) presents the penalty type imposed in the Magistrates Courts for all 23 offences analysed, regardless of whether statistically significant differences were found.

Nearly two-thirds of DV AOBH (aggravated) received an imprisonment sentence (64.8%), compared with over one-third of non-DV offences (36.5%).

Non-DV AOBH (aggravated) offences were more likely to receive a wholly suspended sentence (18.1% compared with 11.4%) or a probation order (15.2% compared with 13.8%).

More than half of DV AOBH (non-aggravated) offences received an imprisonment sentence (55.9%), compared with 27.8 per cent of non-DV offences. One-quarter of non-DV AOBH (non-aggravated) offences received a monetary penalty (24.6%), compared with 6.8 per cent of DV offences. Similar proportions of wholly suspended sentences were imposed for DV and non-DV offences (12.8% compared with 14.6%).

The most common penalty for DV common assault was imprisonment (28.7%), closely followed by a probation order (25.6%) and a monetary order (21.5%). A monetary order was the most common penalty for non-DV common assault (40.3%).

Imprisonment was the most common penalty type for a DV serious assault of a person 60 years and over (41.9%) followed by probation (23.1%). Imprisonment was also the most common penalty for the non-DV offence; however, it was imposed in a smaller proportion of cases (27.8%) and is closely followed by monetary orders (24.7%).

Table 1: Penalty types imposed in the Magistrates Courts by type of offence (MSO) and whether the offence was a DV offence (offences with statistically significant differences between DV and non-DV offences)

		AOBH (aggravated)		AOBH (non-aggravated)	
		Non-DV (n=3,749)	DV (n=1,375)	Non-DV (n=8,483)	DV (n=5,875)
Custodial	Imprisonment	36.5%	64.8%	27.8%	55.9%
	Partially suspended	2.3%	4.1%	1.4%	2.7%
	Wholly suspended	18.1%	11.4%	14.6%	12.8%
Non-custodial	Community service	15.8%	2.5%	5.4%	1.6%
	Probation	15.2%	13.8%	21.8%	18.0%
	Monetary	9.7%	1.8%	24.6%	6.8%
	Good behaviour	1.3%	0.7%	3.2%	1.4%
	Convicted NFP	0.2%	0.1%	0.3%	0.2%

		Breach bail condition		Common assault	
		Non-DV (n=20,717)	DV (n=605)	Non-DV (n=12,330)	DV (n=5,453)
Custodial	Imprisonment	4.1%	8.8%	11.4%	28.7%
	Partially suspended	0.2%	0.3%	0.6%	1.4%
	Wholly suspended	4.1%	7.1%	7.5%	11.7%
Non-custodial	Community service	1.5%	2.8%	9.9%	3.6%
	Probation	4.6%	21.5%	15.5%	25.6%
	Monetary	60.6%	41.8%	40.3%	21.5%
	Good behaviour	2.8%	4.3%	12.1%	6.1%
	Convicted NFP	22.0%	13.2%	2.4%	1.1%

		Serious assault of person 60 years & over		Stalking (non-aggravated)	
		Non-DV (n=1,392)	DV (n=403)	Non-DV (n=667)	DV (n=239)
Custodial	Imprisonment	27.8%	41.9%	21.4%	38.9%
	Partially suspended	1.7%	3.0%	2.4%	4.2%
	Wholly suspended	15.5%	15.6%	15.9%	13.8%
Non-custodial	Community service	5.1%	2.0%	3.6%	1.7%
	Probation	17.2%	23.1%	30.6%	28.9%
	Monetary	24.7%	9.4%	17.8%	9.2%
	Good behaviour	6.2%	4.5%	6.7%	2.5%
	Convicted NFP	1.0%	0.0%	0.9%	0.4%

		Wilful damage	
		Non-DV (n=15,620)	DV (n=4,472)
Custodial	Imprisonment	6.6%	13.1%
	Partially suspended	0.3%	0.7%
	Wholly suspended	4.8%	7.9%
Non-custodial	Community service	10.5%	4.1%
	Probation	8.2%	22.4%
	Monetary	60.8%	43.5%
	Good behaviour	6.2%	6.2%
	Convicted NFP	2.5%	1.9%

Data include adult offenders, MSO, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse). Intensive correction orders and rising of the court are not presented in the table but are included in the calculations. Offences with statistically significant differences in the penalties imposed for DV and non-DV offences are presented in this table – see Table 10 in the appendix to see this for all offences.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

A monetary penalty was the most common penalty imposed for both DV and non-DV breach bail condition offences (41.8% and 60.6% respectively). More than one in five DV breach bail condition offences received a

probation order (21.5%) compared with 4.6 per cent of non-DV offences. Nearly one-quarter of non-DV offences received a conviction with no further punishment (22.0%) compared with 13.2 per cent of DV offences.

Monetary orders were the most common penalty type for both DV and non-DV wilful damage offences (43.5% and 60.8% respectively). Nearly one-quarter of DV offences received a probation order (22.4%) and 13.1 per cent received a sentence of imprisonment.

Imprisonment was the most common penalty imposed for DV stalking (non-aggravated) (38.9%) followed by a probation order (28.9%). For non-DV offences this order was reversed, with a probation order being the most common (30.6%) followed by an imprisonment sentence (21.4%).

Table 2: Proportion of cases sentenced in the Magistrates Courts that resulted in a custodial penalty, by type of offence and whether the offence was a DV offence

Offence	Non-DV offence		DV offence		Pearson's Chi-Squared p-value
	N	% custodial penalty	N	% custodial penalty	
Assaults occasioning bodily harm (aggravated)	3,749	57.8%	1,375	81.1%	<.0001 *
Assaults occasioning bodily harm (non-aggravated)	8,483	44.7%	5,875	72.1%	<.0001 *
Breach bail condition	20,717	8.5%	605	16.4%	<.0001 *
Burglary (aggravated)	907	76.3%	66	78.8%	0.6449
Burglary and commit indictable offence	5,582	74.7%	281	67.6%	0.0081 *
Common assault	12,330	19.9%	5,453	42.1%	<.0001 *
Dangerous operation of a vehicle (aggravated)	1,957	71.4%	56	78.6%	0.2397
Dangerous operation of a vehicle (non-aggravated)	4,179	52.4%	290	60.7%	0.0063 *
Deprivation of liberty	78	66.7%	65	63.1%	0.6540
Distributing intimate images	128	17.2%	34	26.5%	0.2213
Going armed so as to cause fear	1,898	39.3%	184	44.0%	0.2067
Possession of a knife in a public place or a school	11,569	5.6%	50	4.0%	0.6279
Public nuisance (aggravated)	6,593	5.3%	62	9.7%	0.1299
Public nuisance (non-aggravated)	22,085	7.4%	431	13.9%	<.0001 *
Serious assault of a person 60 years and over	1,392	45.7%	403	61.0%	<.0001 *
Stealing	34,403	21.8%	151	29.1%	0.0294 *
Threatening violence (non-aggravated)	740	44.1%	241	60.6%	<.0001 *
Trespass (of a dwelling)	3,028	4.0%	53	5.7%	0.5507
Unlawful entry of (non-dwelling) premises and commit offence (aggravated)	4,935	68.5%	30	60.0%	0.3185
Unlawful entry of (non-dwelling) premises and commit offence (non-aggravated)	4,274	60.0%	34	58.8%	0.8878
Unlawful stalking, intimidation, harassment, or abuse (non-aggravated)	667	40.3%	239	57.3%	<.0001 *
Unlawful use of a motor vehicle (non-aggravated)	8,483	62.4%	48	62.5%	0.9935
Wilful damage	15,620	11.8%	4,472	21.8%	<.0001 *

Data include adult offenders, MSO, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse).

* statistically significant relationship between the presence of DV and whether a custodial penalty was imposed, with a confidence level of 0.05.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Custodial penalties

Table 2 shows the proportion of cases for each offence type that resulted in a custodial penalty depending on whether the offence was a DV offence or not. The p-values displayed in this table represent the outcomes of the Pearson's Chi-squared test for bivariate significance, with the asterisk indicating a significant difference between offence types.

Key Term: Pearson's Chi-squared Test

A statistical test used to compare proportions between groups. In this report, we use it to see if the likelihood of receiving a custodial sentence is significantly different for DV offences compared with non-DV offences.

For 18 of the 23 Magistrates Courts offences analysed, DV offences were more likely to have a custodial penalty imposed than non-DV offences. This difference was statistically significant for 11 of these offences.

However, for burglary and commit an indictable offence, DV offences were significantly less likely to receive a custodial penalty (74.7% compared with 67.6%).

For a further 4 offences, DV offences were also less likely to receive a custodial penalty – unlawful entry of (non-dwelling) premises and commit offence in both aggravated

and non-aggravated forms, deprivation of liberty, and possession of a knife in a public place or a school – however, these were not statistically significant differences.

Length of custodial penalties

Wilcoxon rank-sum tests were conducted to determine if there was a significant difference in the distribution of the length of custodial penalties imposed for DV offences compared with the same non-DV offence in the Magistrates Courts – see Table 3. The p-values displayed

How to Read the Data Tables

Throughout this report, we use statistical tests (such as the Chi-squared test) to compare groups.

The P-value: This number measures the probability that the result happened by chance. A very low p-value (typically under 0.05) means the result is statistically significant.

The Asterisk (*): To make the tables easier to read, we use an asterisk to flag results that are statistically significant. If you see an asterisk, it means there is a meaningful difference between the DV and non-DV groups.

Table 3: Comparison of median custodial sentence length imposed in the Magistrates Courts, by type of offence and whether the offence was a DV offence

Offence	Custodial sentence length for non-DV offences (months)			Custodial sentence length for DV offences (months)			Wilcoxon rank-sum test p-value	
	N	Average	Median	N	Average	Median		
Assaults occasioning bodily harm (aggravated)	2,166	11.6	12.0	1,115	14.6	12.0	<.0001	*
Assaults occasioning bodily harm (non-aggravated)	3,789	10.0	9.0	4233	12.2	12.0	<.0001	*
Breach bail condition	1,751	2.0	1.0	99	3.0	2.1	0.0001	*
Burglary (aggravated)	692	14.6	12.0	52	14.0	12.0	0.8388	
Burglary and commit indictable offence	4,169	15.1	12.0	190	11.7	12.0	<.0001	*
Common assault	2,453	5.5	5.0	2,298	6.9	6.0	<.0001	*
Dangerous operation of a vehicle (aggravated)	1,397	14.2	12.0	44	14.6	13.5	0.5481	
Dangerous operation of a vehicle (non-aggravated)	2,190	11.8	12.0	176	11.5	12.0	0.8293	
Deprivation of liberty	52	10.6	9.0	41	11.6	12.0	0.1703	
Going armed so as to cause fear	745	6.6	6.0	81	7.0	6.0	0.1826	
Public nuisance (non-aggravated)	1,629	2.5	2.0	60	3.3	3.0	0.0002	*
Serious assault of a person 60 years and over	636	8.5	8.0	246	9.3	9.0	0.0410	*
Stealing	7,500	5.0	4.0	44	5.4	5.4	0.1499	
Threatening violence (non-aggravated)	326	6.9	6.0	146	7.9	6.0	0.0037	*
Unlawful entry of (non-dwelling) premises and commit offence (aggravated)	3,380	13.2	12.0	18	9.8	11.0	0.0990	
Unlawful entry of (non-dwelling) premises and commit offence (non-aggravated)	2,565	10.4	9.0	20	8.6	6.1	0.2560	
Unlawful stalking, intimidation, harassment, or abuse (non-aggravated)	269	8.8	8.7	137	10.6	9.0	0.0030	*
Unlawful use of a motor vehicle (non-aggravated)	5,297	9.6	9.0	30	8.8	6.7	0.4107	
Wilful damage	1,849	4.2	3.0	977	5.2	4.0	<.0001	*

Data include adult offenders, MSO, custodial penalties only, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse). Distributing intimate images, possession of a knife in a public place or school, public nuisance (aggravated), trespass (of a dwelling) were not presented due to having sample sizes smaller than 10

* statistically significant with a confidence level of 0.05.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

in this table represent the outcomes of the Wilcoxon rank-sum test for bivariate significance, with the asterisk indicating a significant difference between offence types.

Of the 19 offences analysed,³⁰ more than half (n=10/19) were found to have a statistically significant difference in the distribution of custodial sentence lengths for DV offences compared with the same non-DV offences:

- AOBH (aggravated)
- AOBH (non-aggravated)
- breach bail condition
- burglary and commit an indicatable offence
- common assault
- public nuisance (non-aggravated)
- serious assault of a person 60 years and over
- threatening violence (non-aggravated)
- stalking (non-aggravated)
- wilful damage

Almost all DV offences had the same or longer median sentence lengths than the equivalent non-DV offences. However, the median custodial sentence length was slightly longer for non-DV offences for 3 offences - unlawful entry of (non-dwelling) premises and commit offence (aggravated), unlawful entry of (non-dwelling) premises and commit offence (non-aggravated) and unlawful use of

a motor vehicle (non-aggravated). These were not statistically significant differences.

The median custodial sentence for AOBH (aggravated), burglary and commit indictable offence, and threatening violence (non-aggravated) was the same for the DV and non-DV comparison. However, the Wilcoxon rank-sum test showed a statistically significant difference, which indicates that, while the medians are identical, the overall distribution of penalty lengths differs between the two groups. For both AOBH (aggravated) and threatening violence (non-aggravated) the sentence distribution was higher for the DV offence than the non-DV offence, while for burglary and commit indictable offence the sentence distribution was lower for the DV offence.

As discussed above, in most circumstances, DV offences sentenced in the Magistrates Courts received longer custodial sentences.

Key Term: Wilcoxon rank-sum test

A statistical test used to compare continuous values between two groups. In this report, we use it to compare sentence lengths. It helps determine if the sentences for DV offences tend to be longer or shorter than those for non-DV offences.

³⁰ Four DV offences had fewer than 10 custodial orders imposed, therefore the sample was too small to be reliably included in statistical tests, so were not presented in the table. These were: distributing intimate images, possession of a knife in a public place or school, public nuisance (aggravated), and trespass (of a dwelling).

Figure 2: Custodial penalty lengths imposed in the Magistrates Courts as a proportion of the maximum penalty available, by type of offence (MSO) and whether the offence was a DV offence (offences with a significant difference between DV and non-DV offences)

	Maximum penalty: Jurisdictional limit (3 years)							
Quintile 5 (80% or more of maximum penalty)	2.0%	6.1%	1.2%	1.9%	9.0%	2.6%	0.1%	0.0%
Quintile 4 (60% up to 80% of maximum penalty)	4.7%	10.2%	2.6%	6.4%	12.4%	6.3%	0.2%	0.2%
Quintile 3 (40% up to 60% of maximum penalty)	22.9%	32.4%	15.7%	26.2%	25.8%	22.1%	0.9%	1.4%
Quintile 2 (20% up to 40% of maximum penalty)	44.8%	37.9%	43.6%	42.5%	36.4%	40.0%	10.1%	18.8%
Quintile 1 (less than 20% of maximum penalty)	25.6%	13.4%	36.9%	23.0%	16.3%	28.9%	88.8%	79.5%
	Non-DV (n=2,166)	DV (n=1,115)	Non-DV (n=3,789)	DV (n=4,233)	Non-DV (n=4,169)	DV (n=190)	Non-DV (n=1,849)	DV (n=977)
	AOBH (aggravated)		AOBH (non-aggravated)		Burglary and commit indictable offence		Wilful damage	

	Max penalty: 0.5 years		Max penalty: 2 years		Max penalty: 3 years	
Quintile 5 (80% or more of maximum penalty)	8.8%	13.3%	0.0%	0.0%	0.2%	0.1%
Quintile 4 (60% up to 80% of maximum penalty)	10.8%	20.0%	0.1%	0.0%	0.2%	0.3%
Quintile 3 (40% up to 60% of maximum penalty)	28.2%	38.3%	0.5%	4.0%	2.1%	4.7%
Quintile 2 (20% up to 40% of maximum penalty)	23.7%	16.7%	6.5%	14.1%	20.4%	33.3%
Quintile 1 (less than 20% of maximum penalty)	28.4%	11.7%	92.9%	81.8%	77.2%	61.6%
	Non-DV (n=1,629)	DV (n=607)	Non-DV (n=1,751)	DV (n=99)	Non-DV (n=2,453)	DV (n=2,298)
	Public nuisance (non-aggravated)		Breach bail condition		Common assault	

Data include adult offenders, MSO, custodial penalties only, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024. Offences with a significant difference between the DV and non-DV offence are presented – see Table 12 in the appendix for all offences. Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Additional summary statistics on the length of custodial penalties imposed are available in Table 11 (in the appendix). It includes the average, median, mode, lowest and highest custodial penalty imposed, the lower quartile (the lowest 25% of penalty lengths) and the upper quartile (top 25% of penalty lengths) for each offence by DV and non-DV.

Distribution of sentence lengths

Figure 2 displays the distribution of custodial sentences in the Magistrates Courts by presenting the sentence as a proportion of the maximum sentence available for each offence, shown in quintiles. Magistrates Courts cannot impose a sentence longer than 3 years imprisonment for any offence.³¹

Table 11 (in the appendix) depicts this data for all 23 Magistrates Courts offences analysed.

Figure 2 presents the 7 offences where a significant difference was seen between DV and non-DV offences:

- AOBH (aggravated)
- AOBH (non-aggravated)
- breach bail condition
- burglary and commit indictable offence
- common assault
- public nuisance (non-aggravated)
- wilful damage

³¹ An exception to this is if the Magistrates Court constituted by a Magistrate is imposing a drug and alcohol treatment order under the PSA (n 8) Part 8A in which case the Court can impose a sentence of up to 4 years.

Key Term: Quintiles

This method divides a set of data into 5 equal groups, with each group representing 20% of the cases. In Figure 2, using quintiles allows us to compare the range of outcomes from the bottom 20% (lowest proportion of the maximum sentence) to the top 20% (highest proportion).

For non-DV AOBH (aggravated), the majority of custodial sentences (70.4%) were below 40 per cent of the 3-year jurisdictional limit. However, for DV AOBH (aggravated) this was 51.3 per cent, meaning that nearly half of the custodial penalties imposed were set at 40 per cent or more of the jurisdictional limit.

Similarly for non-aggravated AOBH, a higher proportion of custodial penalties were in the third quintile for DV offences, and a higher proportion were in the first quintile for non-DV offences.

Breach bail condition has a maximum custodial penalty of 2 years. For breach bail condition, the vast majority (92.9%) of custodial penalties for non-DV offences were less than 20 percent of the maximum penalty (approximately 5 months). For DV offences close to one in five custodial sentences (18.2%) were greater than 20 per cent of the maximum penalty. Neither offence type had penalties in the fifth quintile (80% or more).

For non-DV common assault cases, 77.2 per cent of custodial sentence lengths were less than 20 per cent of the 3-year maximum penalty (approximately 7.2 months). Where DV was involved in a common assault offence, this was less than two-thirds of cases (61.6%) with one-third of sentences in the second quintile.

Public nuisance (non-aggravated) has a maximum custodial penalty of 6 months. Both DV and non-DV offences had penalties imposed in quintile 5 (80% or more of the maximum penalty). Nearly three-quarters of DV sentences were 40 per cent or more of the maximum available penalty (71.7%), compared with less than half of non-DV offences (47.9%).

A higher proportion of non-DV wilful damage offences received a custodial penalty below 20 per cent of the maximum available penalty than DV offences – 88.8 per cent compared with 79.5 per cent.

Burglary and commit indictable offence had a higher proportion of non-DV offences receive penalties at or above 40 per cent of the maximum available penalty (47.3%), compared with DV offences (31.1%). Burglary and commit indictable offence also had a higher proportion of

Higher courts - Key findings:

The offences with the highest proportion of DV offences were aggravated stalking, non-aggravated assaults occasioning bodily harm, and wounding.

Imprisonment was the most common penalty imposed for both DV and non-DV offences.

For 7 offences, there were significant differences in the types of penalties imposed. Descriptive analysis suggests this is because DV offences resulted in imprisonment more often (and suspended sentences less often) than non-DV offences.

- This included attempting to pervert justice, a non-physical violence offence.

DV offences generally had higher proportions of custodial penalties.

Most offences had longer or the same median custodial sentence.

For 5 offences, DV offences were significantly more likely to have sentences in the higher range of possible penalties.

sentences in the fifth quintile (80% or more of the maximum available penalty).

Higher courts results

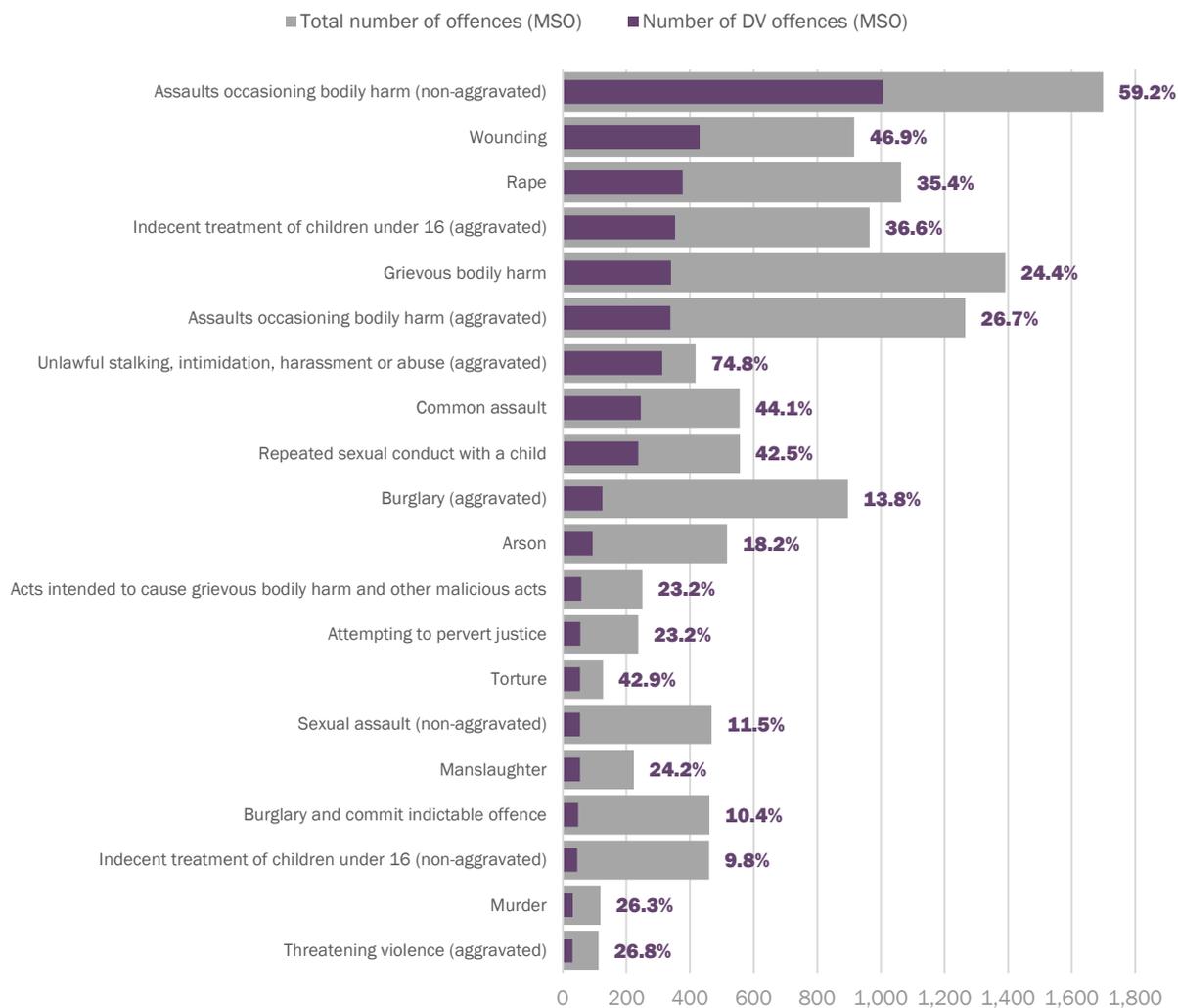
Figure 3 presents the higher courts offences analysed in this research sorted by the highest volume of DV offences. The grey bars represent the volume of each offence, the purple bars represent the number of DV offences, and the percentage represents the proportion of cases that were DV offences. Table 13 (in the appendix) presents the underlying numbers.

The offences with the highest proportion of offences (MSO) sentenced as a DV offence were stalking (aggravated) (74.8%), non-aggravated AOBH (59.2%), wounding (46.9%), common assault (44.1%), torture (42.9%) and repeated sexual conduct with a child (42.5%).³²

Non-physical violence offences sentenced in the higher courts, include arson, attempting to pervert justice, burglary (aggravated), burglary and commit indictable offences, threatening violence (aggravated) and stalking (aggravated). The proportion of these offences that involved DV varied widely, from three-quarters of stalking offences being DV (74.8%; the highest proportion DV of the higher court offences analysed), to one in ten cases for burglary and commit indictable offences (10.4%). Close to half of threatening violence (aggravated) offences were DV (42.9%), as was nearly one-quarter of attempting to pervert justice offences (23.2%).

³² The offence of indecent treatment of a child includes a circumstance of aggravation when the offender-victim relationship is “lineal descendent or ascendant /guardian/carer” Criminal Code (Qld) (n 8) s 210(4). There is inconsistency in the data regarding DV indicators for this subsection. Examination of the data found that approximately 60 per cent of these offences sentenced in the higher courts had a DV indicator when the criteria of the circumstance of aggravation suggests a DV relationship. Examination of a sample of cases without a DV indicator found that most, but not all, met the criteria of a DV offence. Examples of non-DV cases included offending against a friend of their child/stepchild who was visiting/staying over or otherwise in the care of the offender.

Figure 3: Total number of offences and number of DV offences sentenced (MSO) in the higher courts, sorted by volume of DV offences



Data include adult offenders, MSO, higher courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse).
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Penalties imposed in the higher courts

All penalty types

Imprisonment was the most common penalty imposed for both DV and non-DV offences for the majority of offences analysed (n=17/20).

Statistically significant differences were found for 7 offences regarding the distribution of penalty types imposed in the higher courts, based on whether it was a DV offence or not. The penalties imposed for the offences with significant differences are presented in Table 4 below.

Table 14 (in the appendix) presents the specific sentencing orders imposed in the higher courts for all 20 offences analysed, regardless of whether a statistically significant difference was found.

As shown in Table 4, imprisonment sentences were often imposed and there were no differences in the most common penalty by whether the offence was a DV offence or not, but proportionally imprisonment is higher for cases that involved DV. The exception was acts intended to cause grievous bodily harm and other malicious acts ('malicious acts'). For this offence, the proportion of partially suspended sentences was double for DV offences

than non-DV and wholly suspended sentences were also more likely for the DV offences.

How to Read the Data Tables

Throughout this report, we use statistical tests (such as the Chi-squared test) to compare groups.

The P-value: This number measures the probability that the result happened by chance. A very low p-value (typically under 0.05) means the result is statistically significant.

The Asterisk (*): To make the tables easier to read, we use an asterisk to flag results that are statistically significant. If you see an asterisk, it means there is a meaningful difference between the DV and non-DV groups.

Table 4: Penalty types imposed in the higher courts by type of offence (MSO) and whether the offence was a DV offence with a statistically significant difference between groups

		Acts intended to cause grievous bodily harm and other malicious acts		AOBH (non-aggravated)	
		Non-DV (n=192)	DV (n=58)	Non-DV (n=693)	DV (n=1,006)
Custodial	Imprisonment	93.2%	81.0%	46.2%	60.6%
	Partially suspended	6.3%	13.8%	4.8%	9.0%
	Wholly suspended	0.5%	5.2%	20.2%	12.9%
Non-custodial	Community service	0.0%	0.0%	5.8%	1.9%
	Probation	0.0%	0.0%	12.7%	8.5%
	Monetary	0.0%	0.0%	7.2%	4.1%
	Good behaviour	0.0%	0.0%	1.4%	1.0%
	Convicted NFP	0.0%	0.0%	0.6%	0.7%

		AOBH (aggravated)		Attempting to pervert justice	
		Non-DV (n=928)	DV (n=338)	Non-DV (n=182)	DV (n=55)
Custodial	Imprisonment	52.4%	69.2%	55.5%	85.5%
	Partially suspended	8.5%	8.9%	10.4%	9.1%
	Wholly suspended	19.3%	10.7%	27.5%	3.6%
Non-custodial	Community service	5.7%	0.9%	1.1%	0.0%
	Probation	10.1%	8.6%	3.8%	1.8%
	Monetary	1.9%	0.6%	0.5%	0.0%
	Good behaviour	0.9%	0.6%	0.5%	0.0%
	Convicted NFP	0.3%	0.0%	0.0%	0.0%

		Common assault		Grievous bodily harm	
		Non-DV (n=311)	DV (n=245)	Non-DV (n=1,051)	DV (n=340)
Custodial	Imprisonment	21.2%	31.0%	62.7%	77.9%
	Partially suspended	1.0%	4.1%	20.8%	14.7%
	Wholly suspended	15.1%	8.6%	15.2%	6.5%
Non-custodial	Community service	8.4%	4.1%	0.9%	0.3%
	Probation	19.0%	21.2%	0.3%	0.6%
	Monetary	16.1%	11.8%	0.0%	0.0%
	Good behaviour	13.2%	9.8%	0.0%	0.0%
	Convicted NFP	4.5%	7.8%	0.0%	0.0%

		Rape	
		Non-DV (n=687)	DV (n=377)
Custodial	Imprisonment	61.9%	71.1%
	Partially suspended	30.4%	25.7%
	Wholly suspended	5.2%	1.6%
Non-custodial	Community service	0.3%	0.0%
	Probation	1.7%	1.3%
	Monetary	0.1%	0.0%
	Good behaviour	0.1%	0.0%
	Convicted NFP	0.1%	0.0%

Data include adult offenders, MSO, higher court cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse). Intensive correction orders and rising of the court are not presented in the table but are included in the calculations. Offences with statistically significant differences in the penalties imposed for DV and non-DV offences are presented in this table – see Table 14 in the appendix to see this for all offences.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Custodial penalties

As with the Magistrates Courts analysis, bivariate analysis was used to compare whether there was a difference in the percentage of custodial penalties issued in the higher courts for offences that were DV offences, compared with non-DV offences.

Table 5 shows the percentage of cases for each offence that resulted in a custodial penalty by whether the offence was a DV offence. The p-values displayed in this table represent the outcomes of the Pearson’s Chi-square test and the asterisk indicates a significant difference between offence types.

Key Term: Pearson’s Chi-squared Test

A statistical test used to compare proportions between groups. In this report, we use it to see if the likelihood of receiving a custodial sentence is significantly different for DV offences compared with non-DV offences.

For 4 offences, all DV and non-DV cases received a custodial penalty and therefore a bivariate analysis could not be conducted (shown as a dash in the table below). Of the remaining 16 higher courts offences analysed, 15 had a higher proportion of custodial penalties imposed for DV offences than non-DV offences.

For aggravated AOBH, non-aggravated AOBH, and arson, DV offences were statistically significantly more likely to

Table 5: Proportion of cases sentenced in the higher courts that resulted in a custodial penalty, by type of offence (MSO) and whether the offence was a DV offence

Offence	Non-DV offence		DV offence		Pearson's chi square p-value
	N	% custodial	N	% custodial	
Acts intended to cause grievous bodily harm and other malicious acts	192	100.0%	58	100.0%	- -
Arson	422	95.7%	94	100.0%	0.0415 *
Assaults occasioning bodily harm (aggravated)	928	81.0%	338	89.3%	0.0005 *
Assaults occasioning bodily harm (non-aggravated)	693	72.3%	1,006	83.8%	<.0001 *
Attempting to pervert justice	182	94.0%	55	98.2%	0.2103
Burglary (aggravated)	772	97.2%	124	97.6%	0.7871
Burglary and commit indictable offence	413	97.3%	48	95.8%	0.5515
Common assault	311	38.9%	245	45.3%	0.1287
Grievous bodily harm	1,051	98.9%	340	99.1%	0.6873
Indecent treatment of children under 16 (aggravated)	612	88.6%	353	88.7%	0.9600
Indecent treatment of children under 16 (non-aggravated)	415	75.9%	45	80.0%	0.5393
Manslaughter	169	100.0%	54	100.0%	- -
Murder	87	100.0%	31	100.0%	- -
Rape	687	97.5%	377	98.7%	0.2080
Repeated sexual conduct with a child	320	100.0%	237	100.0%	- -
Sexual assault (non-aggravated)	414	80.7%	54	83.3%	0.6398
Threatening violence (aggravated)	82	68.3%	30	70.0%	0.8629
Torture	72	97.2%	54	100.0%	0.2170
Unlawful stalking, intimidation, harassment or abuse (aggravated)	105	91.4%	312	93.9%	0.3795
Wounding	486	95.9%	430	97.0%	0.3761

Data include adult offenders, MSO, higher court cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse).

* indicates statistically significant relationship between the presence of DV and whether a custodial penalty was imposed with a confidence level of 0.05

- indicates significance testing was not conducted

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

result in a custodial penalty than non-DV offences. For burglary and commit an indictable offence, DV offences were less slightly likely to receive a custodial penalty but was not a significant difference.

Length of custodial penalties

Wilcoxon rank-sum tests were conducted to determine if there was a significant difference in the distribution of the length of custodial penalties for DV offences compared with the same non-DV offence in the higher courts – see Table 6. The p-values displayed in this table represent the outcomes of the Wilcoxon rank-sum test for bivariate significance, with the asterisk indicating a significant difference between offence types.

Additional summary statistics on the length of custodial penalties are presented in Table 15 (in the appendix). It includes the average, median, mode, lowest and highest custodial penalties imposed, the lower quartile (the lowest 25% of penalty lengths) and the upper quartile (the top 25% of penalty lengths) for each offence by DV and non-DV.

Key Term: Wilcoxon rank-sum test

A statistical test used to compare continuous values between two groups. In this report, we use it to compare sentence lengths. It helps determine if the sentences for DV offences tend to be longer or shorter than those for non-DV offences.

A life sentence was imposed for 5 rape cases (MSO), 4 repeated sexual conduct with a child cases (MSO), and all murder cases (MSO). For this analysis, a life sentence has been assigned a nominal value of 30 years.³³

Of the 19 offences analysed,³⁴ 9 had longer median custodial sentences for the DV offence compared with the non-DV offence. Statistically significant differences were found in the sentence distribution for 4 of those 9 offences:

- AOBH (aggravated)
- AOBH (non-aggravated)
- attempting to pervert justice
- sexual assault (non-aggravated)

There were 4 offences where the non-DV offence had a longer median custodial sentence, however a statistically

³³ Thirty years was selected as the nominal term for a life sentence because it had to be longer than the highest fixed term maximum penalty in Queensland which is 25 years for the offences of involving a child in making child exploitation material (using hidden network or anonymising service) *Criminal Code (Qld) s 228A* and making child exploitation material (using hidden network of an anonymising service) *Criminal Code (Qld) s 228B*.

³⁴ Murder has a mandatory penalty of life imprisonment which was imposed for all cases so was not included in this analysis.

Table 6: Comparison of median custodial sentence length imposed in the higher courts, by type of offence and whether the offence was a DV offence

Offence	Custodial sentence length for non-DV offences (years)			Custodial sentence length for DV offences (years)			Wilcoxon rank-sum test
	N	Average	Median	N	Average	Median	p-value
Acts intended to cause GBH and other malicious acts	192	6.7	7.0	58	6.2	6.0	0.0379 *
Arson	404	3.0	3.0	94	3.3	3.0	0.0001 *
Assaults occasioning bodily harm (aggravated)	752	1.6	1.5	302	2.0	2.0	<.0001 *
Assaults occasioning bodily harm (non-aggravated)	501	1.3	1.2	843	1.7	1.5	<.0001 *
Attempting to pervert justice	171	1.3	1.3	54	1.5	1.5	0.0037 *
Burglary (aggravated)	750	2.9	3.0	121	2.7	2.5	0.1840
Burglary and commit indictable offence	402	2.8	3.0	46	2.4	2.3	0.0182 *
Common assault	121	0.6	0.5	111	0.7	0.6	0.0861
Grievous bodily harm	1,039	3.0	3.0	337	3.6	3.0	<.0001 *
Indecent treatment of children under 16 (aggravated)	542	1.5	1.3	313	1.6	1.5	0.4362
Indecent treatment of children under 16 (non-aggravated)	315	1.3	1.0	36	1.5	1.5	0.4521
Manslaughter	169	8.7	9.0	54	9.3	9.0	0.1615
Rape	670	5.5	5.0	372	5.9	5.0	0.0041 *
Repeated sexual conduct with a child	320	7.2	6.0	237	7.6	7.0	0.1427
Sexual assault (non-aggravated)	334	1.0	0.8	45	1.5	1.0	0.0048 *
Threatening violence (aggravated)	56	1.2	1.0	21	1.0	0.8	0.2294
Torture	70	5.8	6.0	54	5.9	6.0	0.4024
Unlawful stalking, intimidation, harassment or abuse (aggravated)	96	1.8	1.5	293	1.9	2.0	0.1413
Wounding	466	2.2	2.0	417	2.1	2.0	0.0743

Data include adult offenders, MSO, custodial penalties only, higher court cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse).

Life sentences (imposed for rape, and repeated sexual conduct with a child) were substituted with the nominal value of 30 years for this analysis. Murder has not been presented due to a mandatory life sentence.

* statistically significant with a confidence level of 0.05.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024

significant difference in the sentence distribution was only found for 2 of those offences – burglary and commit indictable offence and malicious acts.

The same median sentence length was found for both the DV and non-DV offences for the remaining 6 offences. But for 3 of these offences – arson, grievous bodily harm ('GBH') and rape - a statistically significant difference was found. This means there was a significant difference in the distribution of sentences for DV offences compared with non-DV offences. For arson and GBH, DV offences had a higher distribution of custodial penalties, with less variation in shorter sentence lengths. DV rape offences had a slightly higher sentence distribution, with fewer sentences at the lower end of the sentence range.

Distribution of sentence lengths

Figure 4 displays the distribution of custodial sentences in the higher courts by presenting the sentence as a proportion of the maximum penalty (or, in the case of offences with a maximum penalty of life imprisonment, the nominal maximum penalty) for each offence, shown in quintiles. It presents only the offences where a significant difference is seen between DV and non-DV offences in the quintile distribution:

- AOBH (aggravated)
- AOBH (non-aggravated)
- GBH
- rape
- sexual assault (non-aggravated)

Table 7 (in the appendix) provides the maximum penalty for each offence. Table 16 (in the appendix) provides the quintile analysis for all 20 higher court offences analysed.

Cases involving AOBH were predominately below 40 per cent of the available maximum penalty, regardless of whether it was aggravated or not or involved DV. For non-DV AOBH (non-aggravated), the overwhelming majority of custodial sentences (95.8%) were below 40 per cent of the 7-year maximum penalty (less than 2.8 years or approximately 34 months).

Similarly, the majority of DV AOBH (non-aggravated) cases were also below 40 per cent of the maximum penalty (87.8%), with 11.6 per cent of sentences between 40 and 60 per cent of the maximum penalty.

For AOBH (aggravated), the results were very similar with nearly all sentences being below 40 per cent of the 10-year maximum penalty (4 years or less), constituting 97.9 per cent of custodial sentences imposed for offences without DV and 96.7 per cent of custodial sentences for offences with DV.

For both AOBH offences, the majority of non-DV offences received a sentence in the bottom quintile (66% and 60.1% respectively). In contrast, the highest proportion of DV AOBH offences were sentenced in the second quintile (50.3% and 47%).

Figure 4: Higher court custodial penalty length as a proportion of the maximum penalty available, with a statistically significant difference between groups

Quintile	Max penalty: 7 years		Max penalty: 10 years		Max penalty: 10 years		Max penalty: 14 years		Max penalty: Life		40%
	Non-DV (n=501)	DV (n=843)	Non-DV (n=752)	DV (n=302)	Non-DV (n=334)	DV (n=45)	Non-DV (n=1,039)	DV (n=337)	Non-DV (n=670)	DV (n=372)	
Quintile 5 (80% or more of maximum penalty)	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.4%	0.0%	
Quintile 4 (60% up to 80% of maximum penalty)	0.2%	0.5%	0.4%	0.0%	0.0%	2.2%	0.2%	0.0%	0.1%	0.0%	
Quintile 3 (40% up to 60% of maximum penalty)	4.0%	11.6%	1.7%	3.3%	0.6%	4.4%	4.7%	7.7%	3.3%	1.6%	
Quintile 2 (20% up to 40% of maximum penalty)	35.7%	47.0%	31.9%	50.3%	9.0%	20.0%	45.3%	68.0%	36.4%	45.2%	
Quintile 1 (less than 20% of maximum penalty)	60.1%	40.8%	66.0%	46.4%	90.4%	73.3%	49.8%	24.3%	59.7%	52.4%	
	AOBH (non-aggravated)		AOBH (aggravated)		Sexual assault (non-aggravated)		Grievous bodily harm		Rape		

Data includes adult offenders, MSO, custodial penalties only, higher court cases sentenced between 1 July 2016 and 30 June 2024. Only offences with a significant difference between the DV and non-DV offence are presented here – see Table 16 in the appendix for all offences. Life sentences imposed for rape were substituted with the nominal value of 30 years for this analysis. Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

For GBH, a larger proportion of sentences for DV offences were between 20 and 60 per cent of the 14-year maximum penalty (75.7%) than non-DV offences (50.0%).

For non-DV rape, the vast majority of cases (96.1%) received custodial sentence lengths that were less than 40 per cent of the 30-year (life sentence) maximum penalty (approximately 12 years). Where DV was involved in a rape offence, a slightly larger proportion (97.6%) received custodial penalties that were less than 40 per cent of the 30-year maximum penalty but had a larger proportion in the 20 to 40 per cent range.

The majority of non-DV sexual assault (non-aggravated) offences received a custodial sentence below 20 per cent of the 10-year maximum penalty (90.4%).

For DV sexual assault (non-aggravated), 73.3 per cent of penalties were below 20 per cent of the maximum penalty, and 20.0 per cent were 20 per cent up to 40 per cent of the maximum penalty. There were 6.7 per cent that were at or above 40 per cent (compared with 0.6% of non-DV cases).

CONCLUSION

This research set out to determine if there was a difference in sentencing outcomes (penalty types and penalty lengths) for DV offences which were subject to the DV aggravating factor compared with cases that did not, in both the Magistrates Courts and the higher courts.

Comparison with our previous research

Our previous Research Brief looking at the DV aggravating factor on AOBH and common assault offences only. We found cases involving common assault and AOBH (non-aggravated and aggravated) in the Magistrates Courts were statistically significantly more likely to result in a custodial penalty compared with non-DV cases.

For cases heard in the higher courts, statistically significant findings were observed only for cases involving non-aggravated AOBH. We found that, generally, courts imposed longer custodial sentences on DV offences compared with non-DV offences – however, that was not the case for DV common assault offences sentenced in the higher courts for which a slightly shorter average sentence was found.

Very similar results were found for AOBH in our latest research. For both non-aggravated and aggravated AOBH, DV offences were more likely to receive a custodial penalty and to receive a longer custodial sentence. This was found for both the higher courts and the Magistrates courts. This strongly aligns with the findings from our previous paper.

In our latest research, a higher proportion of custodial penalties and longer custodial penalties were imposed for DV common assault compared with non-DV in both the Magistrates and higher courts. However, statistically significant differences were only found in the Magistrates Courts. These findings differ slightly from our previous research, where shorter sentences were found for higher court DV common assaults. Possible reasons for the increase in sentence lengths for this may be the larger sample size now available to be analysed and/or changes in sentencing practices since 2021.

DV offences more likely to get custodial penalties

DV offences were generally more likely to receive a custodial penalty than non-DV offences. For some Magistrates Courts offences, the proportion of custodial penalties imposed for DV offences was around double that of non-DV offences, including breach bail condition, common assault, public nuisance (non-aggravated and aggravated), and wilful damage. This difference was not seen for higher courts offences, likely due to the higher proportion of custodial penalties imposed overall.

The most common penalty type imposed was the often same for both DV and non-DV offences, and for many

offences this was an imprisonment sentence. For some offences sentenced in the Magistrates Courts, monetary orders were the most common penalty type given to both DV and non-DV offences, however the proportion receiving a fine was higher for non-DV offences. In contrast to non-DV offences, the lower use of fines for DV offences suggests courts are treating DV offences as more serious forms of offending and/or fines are more likely to be seen as an inappropriate penalty type.

Longer custodial sentences for DV offences

Our findings also showed that, in most circumstances, DV offences received the same or longer median custodial sentence lengths than the equivalent non-DV offences.

In the Magistrates Courts significantly longer custodial sentences were imposed for a range of DV offence types, including breach bail condition, public nuisance (non-aggravated), stalking and wilful damage. DV offences tended to have a higher proportion of longer sentences. Many of the Magistrates Courts offences had sentences imposed which were at or above 40 per cent of the maximum penalty. This may be due to the 3-year jurisdictional limit.

In the higher courts, nearly all offences had the same or higher custodial sentence imposed for DV offences as compared with non-DV offences. Fewer higher courts offences received sentences at or above 40 per cent of the maximum penalty, but this may be impacted by the Serious Violent Offence (SVO) scheme. Many of the higher courts offences analysed in this research are SVO offences.

There were exceptions

While DV offences were generally treated more seriously than non-DV offences, there were a small number of offences which showed a different trend.

The first of these offences is burglary and commit an indictable offence. Unlike other offences, the DV offences for burglary and commit indictable offence received less serious outcomes, and in the higher courts statistically significantly shorter custodial sentences was observed. Similar trends were seen for the offences of burglary (aggravated), unlawful entry of (non-dwelling) premises and commit an indictable offence (both aggravated and non-aggravated), and unlawful use of a motor vehicle, but the differences were not statistically significant.

Malicious acts did not follow the overall trend. We found custodial sentences were shorter for DV offences and there was a statistically significant difference in custodial sentence length distributions. A small-scale review of higher court cases³⁵, as well as discussion with

stakeholders,³⁶ provided possible explanations for lower sentences for DV burglary and commit indictable offence and DV malicious acts, compared with non-DV offences.

For burglary and commit indictable offences, DV offences may be more likely to involve someone who normally or previously had been allowed in the home (such as the home of an ex-partner) and may be more likely to involve a single offence. Whereas non-DV offences may be more likely to involve someone who never had a right to enter the home and had gone there to steal. Also, non-DV burglary offenders were also more likely to be sentenced for a high volume of similar offences and have a significant and relevant criminal history.

Possible explanations for why DV malicious acts had shorter sentences, were differences in the context and nature of the offending. Non-DV offences may involve more violence or use of weapons, more planning and premeditation, multiple victims, or the defendant may have a more extensive criminal history.

Non-physical violence offences

Recommendation 73 of the WSJ Taskforce Report One asked the Council to consider “the impact of the aggravating factor on sentencing outcomes for charges involving all forms of domestic and family violence including non-physical violence and coercive control”.³⁷

The offences included in this research were not selected by the type of offence. Rather, all offences that met the minimum required number of MSO cases sentenced (n=30) were included.

Non-physical violence offences, or offences that could represent instances of non-physical violence, analysed in the research include:

- arson
- attempting to pervert justice
- breach bail condition
- burglary
- burglary and commit indictable offence
- dangerous operation of a vehicle
- deprivation of liberty
- distributing intimate images
- going armed so as to cause fear
- possession of a knife in a public place or school
- public nuisance
- stalking
- stealing
- threatening violence
- trespass (of a dwelling)

³⁵ The review of sentencing remarks was undertaken as part of the Council's Terms of Reference on sentencing for crimes involving sexual violence and domestic and family violence in Queensland. Sentencing remarks for approximately 5 DV and 5 non-DV cases with the shortest and longest custodial penalties were manually reviewed. See our final report for further information - Queensland Sentencing Advisory Council, *The Tangled Web: Examining domestic and family violence sentencing reforms* (Final Report, February 2026).

³⁶ Stakeholders were legal practitioners and judicial officers were involved in discussions relating to the Council's Terms of Reference.

³⁷ Women's Safety and Justice Taskforce, *Hear Her Voice Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland* (Final Report No 1, Vol 1, Women's Safety and Justice Taskforce, 2021) lxxiii-ixxiv ('*Hear Her Voice Report 1 (Vol 1)*').

- unlawful entry of a (non-dwelling) premises and commit an indictable offence
- unlawful use of a motor vehicle
- wilful damage

There was wide variation in the proportion of non-physical violence offences that involved DV. Ranging from 74.8 per cent of cases for aggravated stalking (sentenced in the higher courts) to less than 1 per cent for stealing and possession of a knife in a public place or school (0.4%; sentenced in the Magistrates Courts).

Distributing intimate images, possession of a knife in a public place or school, and public nuisance (aggravated) each had a small volume of DV cases and were not included in all analyses.

Broadly, DV non-physical violence offences were found to be following the same trend as other DV offences analysed. They were more likely to receive a custodial penalty and to receive a longer custodial sentence, compared with the non-DV offence. However, there are anomalies, with a lower proportion of custodial penalties and a shorter custodial sentence imposed for DV burglary and commit indictable offence (sentenced in the higher courts) and DV non-aggravated unlawful entry of (non-dwelling) premises and commit an indictable offence (sentenced in the Magistrates Courts).

Coercive control and further non-physical violence offences warrant future analysis once there is sufficient cases numbers for reliable analysis.

Conclusion

This research suggests Queensland courts, both the Magistrates Court and the higher courts, are treating DV offending as a more serious form of conduct. Across most offence types, we found that there was a significant difference in the distribution of penalty outcomes for DV offences compared with non-DV offences.

Across both courts, we found:

- DV offences were more likely to result in a custodial sentence compared with non-DV offences.
- Median custodial sentence lengths for DV offences were generally longer with significant difference in the sentence distribution for some offences.

However, further research is needed to determine if this is due to the operation of the DV aggravating factor.

Limitations of the analysis

The data presented in this report is a simplified representation of Queensland's complex criminal justice system and is subject to a range of limitations. Caution therefore should be used when interpreting this information. For instance, data is derived from an administrative system that is designed for operational, rather than research, purposes. The accuracy of information presented in this Research Brief reflects how administrative information is structured, entered, maintained and extracted from administrative systems.

This analysis does not assess whether sentencing courts were already sentencing offences that involved domestic violence to higher sentences prior to the introduction of the DV aggravating factor. There are many factors the courts may consider when sentencing an offender. It is impossible to measure and control for them all. This means not all relevant variables were examined (e.g., type of conduct, harm caused, criminal history, Aboriginal and Torres Strait Islander status, age of the victim) due to the limitations of the data available from the Courts Database.

It was also not possible to identify (and therefore exclude from the analysis) those DV cases to which the DV aggravating factor was not applied, as a result of the court finding there were exceptional circumstances.

Appendix 1

What is domestic violence?

For the purpose of applying the aggravating factor in section 9(10A) of the PSA, a domestic violence offence is one where the act or omission which forms the offence is also domestic violence, associated domestic violence, or the contravention of a domestic violence order. However, the offence itself cannot be one under the *Domestic and Family Violence Protection Act 2012* (Qld).³⁸ It can be an offence against any other Queensland Act.

In this context, an offence involves 'domestic violence' if, first, the offender shares a relevant relationship (intimate personal, family or informal care) with the victim.³⁹ Second, that relationship must be abusive (physically, sexually, emotionally, psychologically or economically), threatening, coercive or must control or dominate the second person in another way and cause them to fear for their safety or wellbeing (or someone else's).⁴⁰

'Associated domestic violence' widens the law to include children, relatives and associates of an 'aggrieved' person (victim).⁴¹ This means that any Queensland criminal offence (apart from those in the DV legislation) can attract the aggravating factor, depending on the facts of the individual case.

The fact that the DV aggravating factor was specifically legislated for the first time in May 2016 does not mean that the courts did not give weight to such factors before then. There are sentencing laws that pre-date the introduction of the legislated aggravating factor and contribute to the seriousness with which courts treat DV offending. This is an important qualification to keep in mind when reading this paper.

There are three particularly relevant sentencing laws that pre-dated the DV aggravating factor –

1. Common law recognition of the aggravation that DV adds to sentencing;
2. A more general legislative requirement that sentencing courts have regard to the presence of any aggravating or mitigating factor concerning the offender, in section 9(2)(g) of the PSA; and
3. The removal of the brake on imprisonment as the order of 'last resort' when offending involves violence or physical injury, in section 9(2A) of the PSA, and other factors set out under section 9(3) directing

courts to have primary regard to certain factors in sentencing for these offences, including the risk of physical harm if a custodial sentence were not imposed and the need to protect members of the community from that risk.

Aggravating factors v circumstances of aggravation

Aggravating factors that apply for sentencing purposes and circumstances of aggravation have similar intended purposes. That is, to indicate Parliament's intention that offences with these features should be considered as being more serious, and therefore attract higher sentences or more severe penalties. However, these two approaches aim to achieve this outcome using different mechanisms – one, requiring courts to treat the stated factor as aggravating at the point of determining the appropriate sentence (but not affecting the maximum penalty that applies to the offence), and the second, by creating statutory circumstances of aggravation that, when charged and proven, generally result in courts sentencing in the context of a higher maximum penalty (or in some cases, mandatory penalty)⁴² applying than where such factors are not present.⁴³

Examples of circumstances of aggravation in Queensland include, for example:

- AOBH under section 339 of the *Criminal Code* discussed above, where the person is or pretends to be armed, or is in company with someone else, increasing the maximum penalty from 7 to 10 years;
- Serious assault of police, corrective services officers and other public officers under section 340 of the *Criminal Code* where such assault causes bodily harm to the victim, the offender is or pretends to be armed, or bites or spits on the victim or throws at or applies to the victim bodily fluid or faeces, increasing the maximum penalty from 7 years to 14 years;
- For certain prescribed offences, committing the offence in a public place while adversely affected by an intoxicating substance, which triggers a requirement to make a community service order in addition to any other sentence imposed unless the court is satisfied the person is not capable of complying due to any physical, intellectual or psychiatric disability.⁴⁴

³⁸ The definition of a 'domestic violence offence' is provided in the PSA (n 8) s 4. This definition refers back to the Criminal Code (Qld) (n 8) s 1. That definition of a 'domestic violence offence' took effect from 22 October 2015. It was inserted into the Code by the Criminal Law (Domestic Violence) Amendment Act (n 8) s 3.

³⁹ DFVPA (n 9) s 13.

⁴⁰ Ibid s 8(1).

⁴¹ Ibid s 9.

⁴² See for example, the serious organised crime circumstance of aggravation that requires a court to impose imprisonment when sentencing an offender for certain prescribed offences where committed with this circumstance of aggravation, and an additional cumulative component of 7 years or the maximum penalty for the offence (whichever is less) PSA (n 8) ss 161Q and 161R.

⁴³ A 'circumstance of aggravation' means: 'any circumstance by reason whereof an offender is liable to a greater punishment than that to which the offender would be liable if the offence were committed without the existence of that circumstance.' Criminal Code (Qld) (n 8) s 1.

⁴⁴ PSA (n 8) pt 5, div 2, subdiv 2.

Appendix 2

Table 7: Magistrates Courts offences included in the analysis (presented in alphabetical order by offence)

Act	Section	Offence	Maximum penalty
Criminal Code 1899 (QLD)	s 339 (1)	Assaults occasioning bodily harm (non-aggravated)	7 years
Criminal Code 1899 (QLD)	s 339 (3)	Assaults occasioning bodily harm (aggravated)	10 years
Bail Act 1980	s 29	Breach bail condition	40 penalty units or 2 years
Criminal Code 1899 (QLD)	s 419 (2/3)	Burglary (aggravated)	Life
Criminal Code 1899 (QLD)	s 419(5)	Burglary and commit indictable offence	Life
Criminal Code 1899 (QLD)	s 335(1)	Common assault	3 years
Criminal Code 1899 (QLD)	s 328A(1)	Dangerous operation of a vehicle (non-aggravated)	200 penalty units or 3 years
Criminal Code 1899 (QLD)	s 328A (2/3)	Dangerous operation of a vehicle (aggravated)	400 penalty units or 5 years
Criminal Code 1899 (QLD)	s 355	Deprivation of liberty	3 years
Criminal Code 1899 (QLD)	s 223	Distributing intimate images	3 years
Criminal Code 1899 (QLD)	s 69(1)	Going armed so as to cause fear	2 years
Weapons Act 1990	s 51 (1)(a)	Possession of a knife in a public place or a school	50 penalty units or 1.5 years
Summary Offences Act 2005	s 6(1)(A)	Public nuisance (aggravated)	25 penalty units or 0.5 years
Summary Offences Act 2005	s 6(1)(B)	Public nuisance (non-aggravated)	10 penalty units or 0.5 years
Criminal Code 1899 (QLD)	s 340(1)(g)	Serious assault of a person 60 years and over	7 years
Criminal Code 1899 (QLD)	s 398	Stealing	5 years
Criminal Code 1899 (QLD)	s 75(1)	Threatening violence (non-aggravated)	2 years
Summary Offences Act 2005	s 11(1)	Trespass (of a dwelling)	1 year
Criminal Code 1899 (QLD)	s 421(2)	Unlawful entry of (non-dwelling) premises and commit offence (non-aggravated)	14 years
Criminal Code 1899 (QLD)	s 421(3)	Unlawful entry of (non-dwelling) premises and commit offence (aggravated)	Life
Criminal Code 1899 (QLD)	s 359E(2)	Unlawful stalking, intimidation, harassment, or abuse (non-aggravated)	5 years
Criminal Code 1899 (QLD)	s 408A(1)	Unlawful use of a motor vehicle (non-aggravated)	10 years
Criminal Code 1899 (QLD)	s 469	Wilful damage	5 years

Table 8: Higher court offences included in the analysis (presented in alphabetical order by offence)

Act	Section	Offence	Maximum penalty
Criminal Code 1899 (QLD)	s 317	Acts intended to cause grievous bodily harm and other malicious acts	Life
Criminal Code 1899 (QLD)	s 461	Arson	Life
Criminal Code 1899 (QLD)	s 339 (1)	Assaults occasioning bodily harm (non-aggravated)	7 years
Criminal Code 1899 (QLD)	s 339 (3)	Assaults occasioning bodily harm (aggravated)	10 years
Criminal Code 1899 (QLD)	s 140	Attempting to pervert justice	7 years
Criminal Code 1899 (QLD)	s 419(2/3)	Burglary (aggravated)	Life
Criminal Code 1899 (QLD)	s 419(5)	Burglary and commit indictable offence	Life
Criminal Code 1899 (QLD)	s 335	Common assault	3 years
Criminal Code 1899 (QLD)	s 320	Grievous bodily harm	14 years
Criminal Code 1899 (QLD)	s 210(3/4, 4A)	Indecent treatment of children under 16 (aggravated)	20 years
Criminal Code 1899 (QLD)	s 210(2)	Indecent treatment of children under 16 (non-aggravated)	14 years
Criminal Code 1899 (QLD)	s 310	Manslaughter	Life
Criminal Code 1899 (QLD)	s 305	Murder	Life
Criminal Code 1899 (QLD)	s 349	Rape	Life
Criminal Code 1899 (QLD)	s 229B	Repeated sexual conduct with a child	Life
Criminal Code 1899 (QLD)	s 352(1)	Sexual assault (non-aggravated)	10 years
Criminal Code 1899 (QLD)	s 75(3)	Threatening violence (aggravated)	5 years
Criminal Code 1899 (QLD)	s 320A	Torture	14 years
Criminal Code 1899 (QLD)	s 359E(3)	Unlawful stalking, intimidation, harassment, or abuse (aggravated)	7 years
Criminal Code 1899 (QLD)	s 323	Wounding	7 years

Table 9: Magistrates Courts offences (MSO) and proportion of DV cases (presented in alphabetical order by offence)

Offence	Total number of sentenced cases	Number of DV cases (% DV cases)
Assaults occasioning bodily harm (aggravated)	5,124	1,375 (26.8%)
Assaults occasioning bodily harm (non-aggravated)	14,358	5,875 (40.9%)
Breach bail condition	21,322	605 (2.8%)
Burglary (aggravated)	973	66 (6.8%)
Burglary and commit indictable offence	5,863	281 (4.8%)
Common assault	17,783	5,453 (30.7%)
Dangerous operation of a vehicle (aggravated)	2,013	56 (2.8%)
Dangerous operation of a vehicle (non-aggravated)	4,469	290 (6.5%)
Deprivation of liberty	143	65 (45.5%)
Distributing intimate images	162	34 (21.0%)
Going armed so as to cause fear	2,082	184 (8.8%)
Possession of a knife in a public place or a school	11,619	50 (0.4%)
Public nuisance (aggravated)	6,655	62 (0.9%)
Public nuisance (non-aggravated)	22,516	431 (1.9%)
Serious assault of a person 60 years and over	1,795	403 (22.5%)
Stealing	34,554	151 (0.4%)
Threatening violence (non-aggravated)	981	241 (24.6%)
Trespass (of a dwelling)	3,081	53 (1.7%)
Unlawful entry of (non-dwelling) premises and commit offence (aggravated)	4,965	30 (0.6%)
Unlawful entry of (non-dwelling) premises and commit offence (non-aggravated)	4,308	34 (0.8%)
Unlawful stalking, intimidation, harassment, or abuse (non-aggravated)	906	239 (26.4%)
Unlawful use of a motor vehicle (non-aggravated)	8,531	48 (0.6%)
Wilful damage	20,092	4,472 (22.3%)

Data include adult offenders, MSO, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment, or abuse).

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Table 10: Types of penalties imposed in the Magistrates Courts, by type of offence and whether the offence was a DV offence

Offence		N	Imprisonment (%)	Partially suspended (%)	Wholly suspended (%)	Community service order (%)	Probation (%)	Monetary order (%)	Good behaviour, recognisance (%)	Convicted, nfp (%)
Assaults occasioning bodily harm (aggravated) *	Non-DV	3,749	36.5	2.3	18.1	15.8	15.2	9.7	1.3	0.2
	DV	1,375	64.8	4.1	11.4	2.5	13.8	1.8	0.7	0.1
Assaults occasioning bodily harm (non-aggravated) *	Non-DV	8,483	27.8	1.4	14.6	5.4	21.8	24.6	3.2	0.3
	DV	5,875	55.9	2.7	12.8	1.6	18.0	6.8	1.4	0.2
Breach bail condition *	Non-DV	20,717	4.1	0.2	4.1	1.5	4.6	60.6	2.8	22.0
	DV	605	8.8	0.3	7.1	2.8	21.5	41.8	4.3	13.2
Burglary (aggravated)	Non-DV	907	61.3	1.4	12.6	4.0	12.5	4.6	1.1	1.5
	DV	66	66.7	4.5	7.6	3.0	12.1	6.1	0.0	0.0
Burglary and commit indictable offence	Non-DV	5,582	61.3	2.0	10.5	4.5	13.5	4.7	1.2	1.5
	DV	281	51.3	3.6	12.8	1.1	21.4	7.5	1.4	1.1
Common assault *	Non-DV	12,330	11.4	0.6	7.5	9.9	15.5	40.3	12.1	2.4
	DV	5,453	28.7	1.4	11.7	3.6	25.6	21.5	6.1	1.1
Dangerous operation of a vehicle (aggravated) †	Non-DV	1,957	47.8	2.9	19.7	3.1	13.4	11.8	0.2	0.0
	DV	56	51.8	0.0	26.8	1.8	12.5	7.1	0.0	0.0
Dangerous operation of a vehicle (non-aggravated) †	Non-DV	4,179	38.1	1.9	11.8	4.4	15.6	26.1	0.5	0.1
	DV	290	40.0	2.4	17.6	1.7	25.5	11.4	0.0	0.0
Deprivation of liberty	Non-DV	78	43.6	2.6	19.2	5.1	17.9	5.1	1.3	3.8
	DV	65	53.8	3.1	6.2	1.5	23.1	10.8	0.0	1.5
Distributing intimate images	Non-DV	128	10.9	0.0	6.3	10.9	22.7	40.6	8.6	0.0
	DV	34	14.7	0.0	11.8	14.7	23.5	32.4	2.9	0.0
Going armed so as to cause fear	Non-DV	1,898	24.9	1.4	12.7	5.9	23.0	25.1	4.6	2.2
	DV	184	28.8	1.1	14.1	4.3	26.6	19.0	5.4	0.5
Possession of a knife in a public place or a school	Non-DV	11,569	2.7	0.1	2.6	3.0	12.9	66.8	6.8	5.0
	DV	50	0.0	0.0	4.0	2.0	30.0	48.0	8.0	8.0
Public nuisance (aggravated)	Non-DV	6,593	2.3	0.1	2.8	10.5	3.1	69.9	8.9	2.2
	DV	62	3.2	0.0	6.5	21.0	1.6	61.3	6.5	0.0
Public nuisance (non-aggravated)	Non-DV	22,085	3.7	0.1	3.5	5.0	4.1	72.5	7.7	3.3
	DV	431	8.6	0.0	5.3	4.9	7.7	61.7	9.0	2.8
Serious assault of a person 60 years and over *	Non-DV	1,392	27.8	1.7	15.5	5.1	17.2	24.7	6.2	1.0
	DV	403	41.9	3.0	15.6	2.0	23.1	9.4	4.5	0.0
Stealing †	Non-DV	34,403	12.1	0.5	8.9	4.4	10.4	53.7	5.8	3.9
	DV	151	17.2	0.0	11.3	2.0	22.5	38.4	4.6	3.3
Threatening violence (non-aggravated)	Non-DV	740	27.3	1.4	15.1	5.4	20.5	23.9	5.1	0.9
	DV	241	46.9	2.1	11.6	1.7	22.8	10.8	2.1	2.1
Trespass (of a dwelling)	Non-DV	3,028	2.0	0.1	1.9	2.2	2.2	71.2	11.3	8.9
	DV	53	3.8	0.0	1.9	3.8	1.9	56.6	26.4	5.7
Unlawful entry of (non-dwelling) premises and commit offence (aggravated)	Non-DV	4,935	53.9	1.5	12.2	6.7	13.9	8.2	1.1	1.7
	DV	30	50.0	0.0	10.0	0.0	13.3	20.0	6.7	0.0
Unlawful entry of (non-dwelling) premises and commit offence (non-aggravated)	Non-DV	4,274	44.4	1.2	13.6	5.8	15.7	14.2	2.1	2.2
	DV	34	38.2	2.9	17.7	0.0	26.5	5.9	5.9	2.9
Unlawful stalking, intimidation, harassment or abuse (non-aggravated) *	Non-DV	667	21.4	2.4	15.9	3.6	30.6	17.8	6.7	0.9
	DV	239	38.9	4.2	13.8	1.7	28.9	9.2	2.5	0.4
Unlawful use of a motor vehicle (non-aggravated) †	Non-DV	8,483	46.4	1.7	13.6	4.1	14.3	13.9	2.1	3.1
	DV	48	50.0	2.1	10.4	2.1	20.8	12.5	2.1	0.0
Wilful damage *	Non-DV	15,620	6.6	0.3	4.8	10.5	8.2	60.8	6.2	2.5
	DV	4,472	13.1	0.7	7.9	4.1	22.4	43.5	6.2	1.9

Data include adult offenders, MSO, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment, or abuse).

Note: Intensive correction orders and rising of the court are not presented in the table but are included in the calculations.

* statistically significant relationship between the presence of DV and the type of penalty imposed, a confidence level of 0.05.

† these offences had a small number of drivers licence disqualifications imposed. This penalty was included in the calculations but has not been presented in the table due to the small number of cases.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Table 11: Summary statistics of the length of custodial penalties imposed in the Magistrates Courts, by type of offence and whether the offence was a DV offence

Offence	DV offence	N	Custodial sentence length (months)						
			Average	Median	Mode	Min	Max	Lower quartile	Upper quartile
Assaults occasioning bodily harm (aggravated)	Non-DV	2,166	11.6	12.0	12.0	0.2	36.0	6.0	15.0
	DV	1,115	14.6	12.0	12.0	0.9	36.0	9.0	18.0
Assaults occasioning bodily harm (non-aggravated)	Non-DV	3,789	10.0	9.0	12.0	0.0	36.0	6.0	12.0
	DV	4,233	12.2	12.0	12.0	0.2	36.0	9.0	15.0
Breach bail condition	Non-DV	1,751	2.0	1.0	1.0	0.0	15.0	1.0	3.0
	DV	99	3.0	2.1	3.0	0.1	12.0	1.0	4.0
Burglary (aggravated)	Non-DV	8,481	1.5	1.0	1.0	0.0	28.0	1.0	2.0
	DV	12	2.0	1.0	1.0	0.5	6.0	1.0	2.0
Burglary and commit indictable offence	Non-DV	4,169	15.1	12.0	12.0	0.0	36.0	9.0	18.0
	DV	190	11.7	12.0	12.0	1.0	36.0	6.0	15.0
Common assault	Non-DV	2,453	5.5	5.0	6.0	0.0	36.0	3.0	6.0
	DV	2,298	6.9	6.0	6.0	0.0	30.0	4.0	9.0
Dangerous operation of a vehicle (aggravated)	Non-DV	1,397	14.2	12.0	12.0	1.0	36.0	9.0	18.0
	DV	44	14.6	13.5	12.0	3.0	36.0	10.5	18.0
Dangerous operation of a vehicle (non-aggravated)	Non-DV	2,190	11.8	12.0	12.0	0.2	36.0	6.0	15.0
	DV	176	11.5	12.0	12.0	0.6	30.0	6.0	15.0
Deprivation of liberty	Non-DV	52	10.6	9.0	6.0	0.8	30.0	6.0	12.0
	DV	41	11.6	12.0	12.0	2.0	24.0	9.0	15.0
Distributing intimate images	Non-DV	22	8.8	9.0	12.0	2.0	18.0	6.0	12.0
	DV	9*	-	-	-	-	-	6.0	6.0
Going armed so as to cause fear	Non-DV	745	6.6	6.0	6.0	0.4	24.0	3.0	9.0
	DV	81	7.0	6.0	6.0	1.0	18.0	4.0	9.0
Possession of a knife in a public place or a school	Non-DV	645	3.1	3.0	3.0	0.0	30.0	1.0	3.6
	DV	2*	-	-	-	-	-	2.0	3.0
Public nuisance (aggravated)	Non-DV	351	2.7	3.0	3.0	0.0	11.0	1.4	3.0
	DV	6*	-	-	-	-	-	1.0	3.0
Public nuisance (non-aggravated)	Non-DV	1,629	2.5	2.0	3.0	0.0	9.4	1.0	3.0
	DV	60	3.3	3.0	3.0	0.3	12.0	2.0	4.0
Serious assault of a person 60 years and over	Non-DV	636	8.5	8.0	6.0	0.2	30.0	6.0	12.0
	DV	246	9.3	9.0	9.0	1.0	30.0	6.0	12.0
Stealing	Non-DV	7,500	5.0	4.0	3.0	0.0	36.0	2.0	6.0
	DV	44	5.4	5.4	6.0	1.0	18.0	3.0	7.5
Threatening violence (non-aggravated)	Non-DV	326	6.9	6.0	6.0	0.0	30.0	3.4	9.0
	DV	146	7.9	6.0	6.0	1.7	24.0	6.0	9.0
Trespass (of a dwelling)	Non-DV	122	2.7	2.0	1.0	0.0	14.0	1.0	3.0
	DV	3*	-	-	-	-	-	2.0	3.0
Unlawful entry of (non-dwelling) premises and commit offence (aggravated)	Non-DV	3,380	13.2	12.0	12.0	0.0	36.0	8.0	18.0
	DV	18	9.8	11.0	12.0	2.0	18.0	7.0	12.0
Unlawful entry of (non-dwelling) premises and commit offence (non-aggravated)	Non-DV	2,565	10.4	9.0	12.0	0.2	36.0	6.0	12.0
	DV	20	8.6	6.1	6.0	1.0	18.0	6.0	12.0
Unlawful stalking, intimidation, harassment or abuse (non-aggravated)	Non-DV	269	8.8	8.0	6.0	0.1	30.0	5.0	12.0
	DV	137	10.6	9.0	6.0	1.0	30.0	6.0	12.0
Unlawful use of a motor vehicle (non-aggravated)	Non-DV	5,297	9.6	9.0	12.0	0.0	36.0	6.0	12.0
	DV	30	8.8	6.7	6.0	2.0	24.0	6.0	12.0
Wilful damage	Non-DV	1,849	4.2	3.0	3.0	0.0	36.0	2.0	6.0
	DV	977	5.2	4.0	6.0	0.1	24.0	3.0	6.0

Data include adult offenders, MSO, custodial penalties only, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment, or abuse).

* Summary statistics have not been presented for sample sizes smaller than 10.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Table 12: Custodial penalty lengths imposed in the Magistrates courts as a proportion of the maximum penalty available (by quintiles), by type of offence (MSO) and whether the offence was a DV offence

Offence		N	Q1	Q2	Q3	Q4	Q5
Assaults occasioning bodily harm (aggravated) *	Non-DV	2,166	25.6%	44.8%	22.9%	4.7%	2.0%
	DV	1,115	13.4%	37.9%	32.4%	10.2%	6.1%
Assaults occasioning bodily harm (non-aggravated) *	Non-DV	3,789	36.9%	43.6%	15.7%	2.6%	1.2%
	DV	4,233	23.0%	42.5%	26.2%	6.4%	1.9%
Breach bail condition *†	Non-DV	1,751	92.9%	6.5%	0.5%	0.1%	0.0%
	DV	99	81.8%	14.1%	4.0%	0.0%	0.0%
Burglary (aggravated)	Non-DV	692	19.8%	34.8%	26.0%	10.7%	8.7%
	DV	52	17.3%	40.4%	26.9%	9.6%	5.8%
Burglary and commit indictable offence *	Non-DV	4,169	16.3%	36.4%	25.8%	12.4%	9.0%
	DV	190	28.9%	40.0%	22.1%	6.3%	2.6%
Common assault *	Non-DV	2,453	77.2%	20.4%	2.1%	0.2%	0.2%
	DV	2,298	61.6%	33.3%	4.7%	0.3%	0.1%
Dangerous operation of a vehicle (aggravated)	Non-DV	1,397	16.8%	36.7%	31.1%	11.2%	4.1%
	DV	44	15.9%	34.1%	36.4%	11.4%	2.3%
Dangerous operation of a vehicle (non-aggravated)	Non-DV	2,190	29.4%	39.2%	22.4%	6.8%	2.2%
	DV	176	30.7%	36.9%	25.0%	5.1%	2.3%
Deprivation of liberty	Non-DV	52	44.2%	34.6%	11.5%	7.7%	1.9%
	DV	41	22.0%	48.8%	22.0%	7.3%	0.0%
Distributing intimate images	Non-DV	22	40.9%	50.0%	9.1%	0.0%	0.0%
	DV	9‡					
Going armed so as to cause fear †	Non-DV	745	37.6%	44.8%	12.9%	3.9%	0.8%
	DV	81	34.6%	46.9%	13.6%	4.9%	0.0%
Possession of a knife in a public place or a school †	Non-DV	645	75.0%	18.1%	4.2%	2.0%	0.6%
	DV	2‡					
Public nuisance (aggravated) †	Non-DV	351	24.5%	21.9%	31.3%	10.8%	11.4%
	DV	6‡					
Public nuisance (non-aggravated) *†	Non-DV	1,629	28.4%	23.7%	28.2%	10.8%	8.8%
	DV	60	11.7%	16.7%	38.3%	20.0%	13.3%
Serious assault of a person 60 years and over	Non-DV	636	49.7%	37.7%	9.9%	2.2%	0.5%
	DV	246	39.0%	45.1%	11.8%	3.3%	0.8%
Stealing	Non-DV	7,500	81.5%	14.7%	2.5%	0.9%	0.4%
	DV	44	75.0%	22.7%	2.3%	0.0%	0.0%
Threatening violence (non-aggravated) †	Non-DV	326	35.6%	44.2%	14.1%	5.2%	0.9%
	DV	146	23.3%	52.1%	14.4%	9.6%	0.7%
Trespass (of a dwelling) †	Non-DV	122	54.9%	32.8%	8.2%	3.3%	0.8%
	DV	3‡					
Unlawful entry of (non-dwelling) premises and commit offence (aggravated)	Non-DV	3,380	24.4%	38.3%	22.2%	8.7%	6.5%
	DV	18	27.8%	66.7%	5.6%	0.0%	0.0%
Unlawful entry of (non-dwelling) premises and commit offence (non-aggravated)	Non-DV	2,565	37.2%	40.4%	15.8%	4.8%	1.8%
	DV	20	55.0%	25.0%	20.0%	0.0%	0.0%
Unlawful stalking, intimidation, harassment or abuse (non-aggravated)	Non-DV	269	49.4%	32.7%	14.1%	3.3%	0.4%
	DV	137	35.8%	40.9%	16.1%	5.8%	1.5%
Unlawful use of a motor vehicle (non-aggravated)	Non-DV	5,297	40.1%	43.1%	13.4%	2.7%	0.7%
	DV	30	50.0%	40.0%	6.7%	3.3%	0.0%
Wilful damage *	Non-DV	1,849	88.8%	10.1%	0.9%	0.2%	0.1%
	DV	977	79.5%	18.8%	1.4%	0.2%	0.0%

Data include adult offenders, MSO, custodial penalties, Magistrates courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment, or abuse). Quintile 1: less than 20% of max penalty, quintile 2: 20% up to 40% of max penalty, quintile 3: 40% up to 60% of max penalty, quintile 4: 60% up to 80% of max penalty, quintile 5: 80% or more of max penalty. Refer to Table 7 for the maximum custodial penalties applicable for each offence.

* statistically significant relationship between the presence of DV and the sentence length quintile, confidence level of 0.05.

† offences with a maximum custodial penalty less than 3 years. All other offences are calculated with a maximum penalty of 3 years, the jurisdictional limit of the Magistrates Courts.

‡ Data has not been presented for sample sizes smaller than 10.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Table 13: Higher courts offences (MSO) and proportion of DV cases (presented in alphabetical order by offence)

Offence	Total number of sentenced cases	Number of DV cases (% DV cases)
Acts intended to cause grievous bodily harm and other malicious acts	250	58 (23.2%)
Arson	516	94 (18.2%)
Assaults occasioning bodily harm (aggravated)	1,266	338 (26.7%)
Assaults occasioning bodily harm (non-aggravated)	1,699	1,006 (59.2%)
Attempting to pervert justice	237	55 (23.2%)
Burglary (aggravated)	896	124 (13.8%)
Burglary and commit indictable offence	461	48 (10.4%)
Common assault	556	245 (44.1%)
Grievous bodily harm	1,391	340 (24.4%)
Indecent treatment of children under 16 (aggravated)	965	353 (36.6%)
Indecent treatment of children under 16 (non-aggravated)	460	45 (9.8%)
Manslaughter	223	54 (24.2%)
Murder	118	31 (26.3%)
Rape	1,064	377 (35.4%)
Repeated sexual conduct with a child	557	237 (42.5%)
Sexual assault (non-aggravated)	468	54 (11.5%)
Threatening violence (aggravated)	112	30 (26.8%)
Torture	126	54 (42.9%)
Unlawful stalking, intimidation, harassment, or abuse (aggravated)	417	312 (74.8%)
Wounding	916	430 (46.9%)

Data include adult offenders, MSO, higher courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse).

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Table 14: Type of penalties imposed in the higher courts, by type of offence and whether the offence was a DV offence

Offence		N	Imprisonment (%)	Partially suspended (%)	Wholly suspended (%)	Community service order (%)	Probation (%)	Monetary order (%)	Good behaviour, recognisance (%)	Convicted, ntp (%)
Acts intended to cause grievous bodily harm and other malicious acts *	Non-DV	192	93.2	6.3	0.5	0.0	0.0	0.0	0.0	0.0
	DV	58	81.0	13.8	5.2	0.0	0.0	0.0	0.0	0.0
Arson	Non-DV	422	67.3	14.9	13.3	1.2	3.1	0.0	0.0	0.0
	DV	94	68.1	24.5	7.4	0.0	0.0	0.0	0.0	0.0
Assaults occasioning bodily harm (aggravated) *	Non-DV	928	52.4	8.5	19.3	5.7	10.1	1.9	0.9	0.3
	DV	338	69.2	8.9	10.7	0.9	8.6	0.6	0.6	0.0
Assaults occasioning bodily harm (non-aggravated) *	Non-DV	693	46.2	4.8	20.2	5.8	12.7	7.2	1.4	0.6
	DV	1,006	60.6	9.0	12.9	1.9	8.5	4.1	1.0	0.7
Attempting to pervert justice *	Non-DV	182	55.5	10.4	27.5	1.1	3.8	0.5	0.5	0.0
	DV	55	85.5	9.1	3.6	0.0	1.8	0.0	0.0	0.0
Burglary (aggravated)	Non-DV	772	71.2	15.5	10.1	0.6	1.8	0.3	0.1	0.0
	DV	124	71.8	18.5	6.5	0.0	2.4	0.0	0.0	0.0
Burglary and commit indictable offence	Non-DV	413	80.4	7.0	9.9	0.7	1.9	0.0	0.0	0.0
	DV	48	64.6	12.5	18.8	0.0	4.2	0.0	0.0	0.0
Common assault *	Non-DV	311	21.2	1.0	15.1	8.4	19.0	16.1	13.2	4.5
	DV	245	31.0	4.1	8.6	4.1	21.2	11.8	9.8	7.8
Grievous bodily harm *	Non-DV	1,051	62.7	20.8	15.2	0.9	0.3	0.0	0.0	0.0
	DV	340	77.9	14.7	6.5	0.3	0.6	0.0	0.0	0.0
Indecent treatment of children under 16 (aggravated)	Non-DV	612	24.2	42.3	21.6	0.5	8.2	0.8	1.6	0.3
	DV	353	23.2	44.2	20.1	0.3	7.6	1.1	1.4	0.8
Indecent treatment of children under 16 (non-aggravated)	Non-DV	415	14.9	33.0	26.7	1.9	18.8	0.7	2.2	0.5
	DV	45	15.6	37.8	26.7	2.2	17.8	0.0	0.0	0.0
Manslaughter	Non-DV	169	91.1	5.9	3.0	0.0	0.0	0.0	0.0	0.0
	DV	54	90.7	5.6	3.7	0.0	0.0	0.0	0.0	0.0
Murder	Non-DV	87	100.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	DV	31	100.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Rape *	Non-DV	687	61.9	30.4	5.2	0.3	1.7	0.1	0.1	0.1
	DV	377	71.1	25.7	1.6	0.0	1.3	0.0	0.0	0.0
Repeated sexual conduct with a child	Non-DV	320	72.8	24.7	2.5	0.0	0.0	0.0	0.0	0.0
	DV	237	80.6	17.3	2.1	0.0	0.0	0.0	0.0	0.0
Sexual assault (non-aggravated)	Non-DV	414	11.8	18.8	48.1	3.4	8.9	5.1	1.9	0.0
	DV	54	18.5	22.2	40.7	5.6	7.4	0.0	3.7	0.0
Threatening violence (aggravated)	Non-DV	82	45.1	4.9	15.9	2.4	18.3	7.3	3.7	0.0
	DV	30	56.7	3.3	10.0	3.3	16.7	3.3	6.7	0.0
Torture	Non-DV	72	81.9	12.5	2.8	0.0	2.8	0.0	0.0	0.0
	DV	54	94.4	5.6	0.0	0.0	0.0	0.0	0.0	0.0
Unlawful stalking, intimidation, harassment or abuse (aggravated)	Non-DV	105	61.9	9.5	19.1	1.0	7.6	0.0	0.0	0.0
	DV	312	70.2	10.9	12.5	0.0	4.8	0.6	0.6	0.0
Wounding	Non-DV	486	72.0	10.9	12.3	1.2	2.7	0.2	0.0	0.0
	DV	430	73.3	10.5	13.3	0.7	2.1	0.0	0.2	0.0

Data include adult offenders, MSO, higher court cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment, or abuse).

Intensive correction orders and rising of the court are not presented in the table but are included in the calculations.

* statistically significant relationship between the presence of DV and type of penalty imposed, confidence level of 0.05.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Table 15: Summary statistics on the length of custodial penalties imposed in the higher courts, by type of offence and whether the offence was a DV offence

Offence	DV offence	N	Custodial sentence length (years)						
			Average	Median	Mode	Minimum	Maximum	Lower quartile	Upper quartile
Acts intended to cause grievous bodily harm and other malicious acts	Non-DV	192	6.7	7.0	7.0	1.0	12.0	5.5	8.0
	DV	58	6.2	6.0	6.0	3.0	11.0	5.0	7.0
Arson	Non-DV	404	3.0	3.0	3.0	0.2	9.0	2.2	3.4
	DV	94	3.3	3.0	3.0	1.5	7.0	3.0	4.0
Assaults occasioning bodily harm (aggravated)	Non-DV	752	1.6	1.5	1.0	0.0	6.0	1.0	2.0
	DV	302	2.0	2.0	3.0	0.0	5.0	1.3	3.0
Assaults occasioning bodily harm (non-aggravated)	Non-DV	501	1.3	1.2	1.0	0.0	4.5	0.8	1.5
	DV	843	1.7	1.5	1.0	0.2	6.0	1.0	2.0
Attempting to pervert justice	Non-DV	171	1.3	1.3	1.0	0.2	3.0	0.8	1.5
	DV	54	1.5	1.5	1.5	0.3	3.0	1.0	2.0
Burglary (aggravated)	Non-DV	750	2.9	3.0	3.0	0.0	10.0	1.8	4.0
	DV	121	2.7	2.5	2.0	0.3	8.0	2.0	3.0
Burglary and commit indictable offence	Non-DV	402	2.8	3.0	3.0	0.2	7.5	1.7	3.8
	DV	46	2.4	2.3	3.0	0.3	7.5	1.5	3.0
Common assault	Non-DV	121	0.6	0.5	0.5	0.0	2.5	0.3	0.8
	DV	111	0.7	0.6	0.5	0.0	3.0	0.3	1.0
Grievous bodily harm	Non-DV	1,039	3.0	3.0	3.0	0.2	9.0	2.0	4.0
	DV	337	3.6	3.0	3.0	1.3	7.5	3.0	4.0
Indecent treatment of children under 16 (aggravated)	Non-DV	542	1.5	1.3	1.0	0.0	7.0	0.9	2.0
	DV	313	1.6	1.5	1.0	0.2	6.0	1.0	2.0
Indecent treatment of children under 16 (non-aggravated)	Non-DV	315	1.3	1.0	1.0	0.0	8.0	0.8	1.5
	DV	36	1.5	1.5	0.5	0.3	3.7	0.7	1.9
Manslaughter	Non-DV	169	8.7	9.0	9.0	3.0	20.0	7.5	9.5
	DV	54	9.3	9.0	9.0	5.0	16.0	8.0	10.0
Murder*	Non-DV	87	30.0	30.0	30.0	30.0	30.0	30.0	30.0
	DV	31	30.0	30.0	30.0	30.0	30.0	30.0	30.0
Rape*	Non-DV	670	5.5	5.0	3.0	0.5	30.0	3.0	7.0
	DV	372	5.9	5.0	5.0	0.2	30.0	3.6	7.3
Repeated sexual conduct with a child*	Non-DV	320	7.2	6.0	5.0	1.0	30.0	4.0	9.5
	DV	237	7.6	7.0	9.0	1.5	30.0	4.5	9.5
Sexual assault (non-aggravated)	Non-DV	334	1.0	0.8	1.0	0.1	4.5	0.5	1.3
	DV	45	1.5	1.0	1.0	0.2	7.0	0.8	2.0
Threatening violence (aggravated)	Non-DV	56	1.2	1.0	1.0	0.1	3.0	0.7	1.5
	DV	21	1.0	0.8	0.5	0.5	3.0	0.6	1.0
Torture	Non-DV	70	5.8	6.0	6.0	3.0	12.0	5.0	7.0
	DV	54	5.9	6.0	5.0	1.2	9.5	5.0	7.0
Unlawful stalking, intimidation, harassment or abuse (aggravated)	Non-DV	96	1.8	1.5	2.0	0.0	4.5	1.3	2.5
	DV	293	1.9	2.0	2.0	0.3	4.5	1.3	2.5
Wounding	Non-DV	466	2.2	2.0	2.0	0.2	7.0	1.5	2.8
	DV	417	2.1	2.0	2.0	0.3	5.0	1.5	2.5

Data include adult offenders, MSO, custodial penalties only, higher court cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment, or abuse).

* Life sentences (imposed for murder, rape, and repeated sexual conduct with a child) have been substituted with the nominal value of 30 years for this analysis.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Table 16: Custodial penalty lengths imposed in the higher courts as a proportion of the maximum penalty (in quintiles), by type of offence (MSO) and whether the offence was a DV offence

Offence		N	Q1	Q2	Q3	Q4	Q5
Acts intended to cause grievous bodily harm and other malicious acts	Non-DV	192	29.7%	69.8%	0.5%	0.0%	0.0%
	DV	58	34.5%	65.5%	0.0%	0.0%	0.0%
Arson	Non-DV	404	98.0%	2.0%	0.0%	0.0%	0.0%
	DV	94	97.9%	2.1%	0.0%	0.0%	0.0%
Assaults occasioning bodily harm (aggravated) *	Non-DV	752	66.0%	31.9%	1.7%	0.4%	0.0%
	DV	302	46.4%	50.3%	3.3%	0.0%	0.0%
Assaults occasioning bodily harm (non-aggravated) *	Non-DV	501	60.1%	35.7%	4.0%	0.2%	0.0%
	DV	843	40.8%	47.0%	11.6%	0.5%	0.1%
Attempting to pervert justice	Non-DV	171	59.1%	38.6%	2.3%	0.0%	0.0%
	DV	54	40.7%	55.6%	3.7%	0.0%	0.0%
Burglary (aggravated)	Non-DV	750	95.7%	4.3%	0.0%	0.0%	0.0%
	DV	121	97.5%	2.5%	0.0%	0.0%	0.0%
Burglary and commit indictable offence	Non-DV	402	95.3%	4.7%	0.0%	0.0%	0.0%
	DV	46	97.8%	2.2%	0.0%	0.0%	0.0%
Common assault	Non-DV	121	61.2%	28.1%	6.6%	2.5%	1.7%
	DV	111	48.6%	36.9%	9.0%	4.5%	0.9%
Grievous bodily harm *	Non-DV	1,039	49.8%	45.3%	4.7%	0.2%	0.0%
	DV	337	24.3%	68.0%	7.7%	0.0%	0.0%
Indecent treatment of children under 16 (aggravated)	Non-DV	542	97.0%	3.0%	0.0%	0.0%	0.0%
	DV	313	98.1%	1.9%	0.0%	0.0%	0.0%
Indecent treatment of children under 16 (non-aggravated)	Non-DV	315	92.4%	7.0%	0.6%	0.0%	0.0%
	DV	36	86.1%	13.9%	0.0%	0.0%	0.0%
Manslaughter	Non-DV	169	11.2%	77.5%	10.7%	0.6%	0.0%
	DV	54	11.1%	75.9%	13.0%	0.0%	0.0%
Murder	Non-DV	87	0.0%	0.0%	0.0%	0.0%	100.0%
	DV	31	0.0%	0.0%	0.0%	0.0%	100.0%
Rape *	Non-DV	670	59.7%	36.4%	3.3%	0.1%	0.4%
	DV	372	52.4%	45.2%	1.6%	0.0%	0.8%
Repeated sexual conduct with a child	Non-DV	320	45.0%	41.9%	11.6%	1.3%	0.3%
	DV	237	38.4%	48.9%	10.5%	0.8%	1.3%
Sexual assault (non-aggravated) *	Non-DV	334	90.4%	9.0%	0.6%	0.0%	0.0%
	DV	45	73.3%	20.0%	4.4%	2.2%	0.0%
Threatening violence (aggravated)	Non-DV	56	41.1%	35.7%	16.1%	7.1%	0.0%
	DV	21	57.1%	28.6%	9.5%	4.8%	0.0%
Torture	Non-DV	70	0.0%	48.6%	44.3%	5.7%	1.4%
	DV	54	1.9%	42.6%	50.0%	5.6%	0.0%
Unlawful stalking, intimidation, harassment or abuse (aggravated)	Non-DV	96	32.3%	55.2%	11.5%	1.0%	0.0%
	DV	293	25.9%	58.0%	15.0%	1.0%	0.0%
Wounding	Non-DV	466	10.5%	65.2%	21.5%	2.6%	0.2%
	DV	417	12.0%	67.6%	19.7%	0.7%	0.0%

Data include adult offenders, MSO, higher court cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment, or abuse).

Quintile 1: less than 20% of max penalty, quintile 2: 20% up to 40% of max penalty, quintile 3: 40% up to 60% of max penalty, quintile 4: 60% up to 80% of max penalty, quintile 5: 80% or more of max penalty.

A life sentence is the maximum penalty for acts intended to cause grievous bodily harm and other malicious acts, arson, burglary (aggravated), burglary and commit indictable offence, manslaughter, murder, rape, and repeated sexual conduct with a child. A life sentence was substituted with the nominal value of 30 years for this analysis.

* statistically significant relationship between the presence of DV and the sentence length quintile, confidence level of 0.05.

Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

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