Queensland Sentencing Round-up

Queensland Sentencing Advisory Council

2025: Third Quarter

Note to readers:

The Sentencing Round-Up summarises select sentencing publications and developments between 1 July to 30 September 2025 as identified by the Council. It is not intended to be exhaustive. Decisions and cases in this document are as at date of publication and may be subject to appeal. The Council welcomes feedback on additional resources that might be referenced in future issues.

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Queensland Sentencing Advisory Council publications

Sentencing DataHub update

The Council has updated its Sentencing Datahub to includes statistics on gender, age and location, as well as on custodial sentences for Aboriginal and Torres Strait Islander peoples.

The most recent update highlights those offences driving custodial sentences to help inform the development of responses to address the disproportionate representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.

For more information, see the Council's media release – New sentencing data helps communities act.

Practice Directions and Forms

Supreme Court of Queensland Practice Direction No 5 of 2025: Accuracy of References in Submissions (24 September 2025)

This Practice Direction addresses the risks with using generative artificial intelligence (AI). The direction requires a 'responsible person' to be identified in all written submissions and when they are a legal practitioner, the individual must be named, not the firm. In oral submissions the person making those submissions is the responsible person and they will also be a responsible person for related written submissions. When the responsible person is a legal practitioner, the Practice Direction sets out their obligations to ensure accuracy and relevance of information before the court.

The Practice Direction also provides guidance for self-represented litigants (non-lawyers), and refers them to the Queensland Courts *Guidelines for Responsible Use of Generative AI by Non-Lawyers* (revised issue on 15 September 2025)

An identical Practice Direction for the District Court was also issued on 25 September 2025: *District Court of Queensland Practice Direction Number 12 of 2025*.

The application and interpretation of the *Human Rights Act 2019* (Qld)

Under section 49 of the *Human Rights Act 2019* (Qld) (HRA), a question of law arising from the application of the HRA or the interpretation of another law in accordance with the HRA may be referred to the Supreme Court for decision (refer to *Supreme Court of Queensland Practice Direction No. 27 of 2019*). That decision may include a declaration of incompatibility under the HRA.

On 15 October 2025, updated forms were published to assist with this process:

- Form 1: Notice to the Attorney-General and/or the Queensland Human Rights Commission under the *Human Rights Act 2019*
- Form 2: Notice that the Supreme Court is considering make a declaration of incompatibility under the *Human Rights Act 2019*

Relevant Bills

Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill 2025

The Bill seeks to establish a new, 3-tiered community protection and public child sex offender register by building on the existing non-public register under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) (CPOROPOA) and existing information sharing mechanisms.

The new register is broadly modelled on schemes in Western Australia' and South Australia.

The 3 tiers of the Queensland model are:

- **Tier 1**: **Missing non-compliant offender website** – a public website with images and personal details of reportable offenders who have breached their CPOROPOA obligations and cannot be located by police.
- **Tier 2: Locality search** – allowing Queensland residents to apply to temporarily view images of particular reportable offenders living in their general location. Particular reportable offenders are those who post the greatest risk of reoffending against children such as people supervised under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) and those monitored under CPOROPOA for life. Locality is limited to where the person resides, usually the suburb or town they reside in.
- **Tier 3: Parent/guardian disclosure scheme** – an application-based scheme that enables parents or people with ongoing parental responsibility for a child to apply for confirmation about whether a particular person who has had, or will have, unsupervised contact with their child is a reportable offender.

The Bill also introduces three vigilantism offences for the misuse of information accessed or obtained using the public register. The information accessed and received is confidential and cannot be shared with other people. The new offences include:

- An offence targeting conduct intending to, or inciting others to, intimidate or harass another person they believe or suspect is an identified offender. This has a maximum penalty of 10 years.
- An offence targeting conduct that is likely to, or likely to incite others to, intimidate or harass another person they believe or suspect is an identified offender. This has a maximum penalty of 3 years.
- An offence for the unauthorised sharing of information obtained through the public register. This has a maximum penalty of 3 years.

Legislative amendments

Domestic and Family Violence Protection and Other Legislation Amendment Act 2025

This Act passed with amendment on 28 August 2025 and was assented to on 4 September 2025. Some parts of the Act commence on 1 October 2025. The Police Protection Directions (PPD) scheme which commence on 1 January 2026.

The Act amends the *Domestic and Family Violence Protection Act 2012* (Qld) to:

- establish the PPD scheme (Div 1A) including when police may issue an immediate 12-month protection direction without filing an application in court, (s 100B), circumstances when a PPD must not be issued (s 100C), the conditions which may be ordered –standard (s 100G), other (s 100H) and protecting an unborn child (s 100I) and the duration of an order (s 100R);

- create a new offence to contravene a PPD with a maximum penalty of 120 penalty units or 3 years' imprisonment (s 177A);
- enable judicial officers to order electronic monitoring as a condition of a domestic violence order (s 66B), including considerations for imposing this condition (s 66C), and other conditions a court considers necessary to facilitate the operation of the monitoring device (s 66E).

Amendments are also made to:

- the *Evidence Act 1977* (Qld) to expand the video-recorded evidence-in-chief framework (Div 2); and
- the *Penalties and Sentences Act 1992* (Qld) (PSA) to amend s 11 of the PSA (Matters to be considered in determining offender's character) to include (s 11(3)(ii) a PPD).

Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Act 2025

This Act, passed on 17 September 2025, amends the *Penalties and Sentences Act 1992* (Qld) (PSA) in response to recommendations made by the Queensland Sentencing Advisory Council in its report: *Sentencing of Sexual Assault and Rape: The Ripple Effect* (Final Report, December 2024). The Act:

- establishes a new statutory sentencing purpose: 'to recognise the harm done by the offender to a victim of the offence' (PSA s 9(1)(ca));
- changes existing sentencing guidelines regarding 'good character' evidence:
    - for offences of a sexual nature, 'good character' can only be treated as mitigating if it is relevant to the court in assessing the offender's prospects of rehabilitation or risk of reoffending (PSA s 9(3B));
    - the court may consider the nature and seriousness of the offence, including any physical, mental or emotional harm to the victim and the vulnerability of the victim and not treat it as mitigating (PSA s 9(3C));
    - sections 9(6A) and 9(7AA) are amended to state 'the court must not treat the good character as a mitigating factor if it assisted the offender in committing the offence' (prior to this change, the court was not permitted to have regard to the offender's good character in these circumstances at all).
- establishes a new statutory aggravating factor for an offence of sexual assault or rape committed against a child of 16 or 17 years (PSA s 9(9BA)). In those circumstances a court 'must treat the child's age as an aggravating factor, unless the court considers it is not reasonable because of the exceptional circumstances of the case'. The court may consider the closeness in age between the offender and the child in considering if the circumstances are exceptional (PSA s 9(9BB)). [Note: This differs to the Council's recommendation because it is limited to child victims aged 16 or 17 years only instead of applying to all child victims aged under 18 years and includes an exceptional circumstances exemption];
- amends section 179(5) of the PSA to state that if 'a victim impact statement is absent at the sentencing, or that details of the harm caused to a victim by the offence are otherwise absent at the sentencing, does not, of itself, give rise to any inference that the offence caused little or no harm to the victim'.

These amendments came into effect on 1 November 2025 and apply to offences sentenced on or after this date, even if the offence occurred prior.

Subordinate legislation

Penalties and Sentences Regulation 2025

The 2025 Regulation replaces the 2015 Regulation which automatically expired on 1 September 2025. It provides detail required for the practical operation of sentence orders, the offender levy and control orders. Minor amendments were made following the Department of Justice's review of the expiring 2015 Regulation. Section 9A was also amended to reflect changes to control order laws in Victoria. (Explanatory Notes, p. 1)

Parliamentary Committee Reports

Queensland Parliament, Justice Integrity and Community Safety Committee, *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025* (Report No 11, 58th Parliament, July 2025)

The Justice Integrity and Community Safety Committee's report following its inquiry into the Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 recommended the Bill be passed. Submissions made on the Bill, including with respect to limiting the use of good character evidence for offences of a sexual nature, are available on the Committee's website.

Queensland Court of Appeal decisions

R v PBR [2025] QCA 120

Keywords: indecent treatment of a child; cumulative period of imprisonment; manifestly excessive; domestic violence order; reasons for imposing a sentence

The appellant pleaded guilty to 7 counts of indecent treatment of a child under 16 years (6 involved a child under 12). Each count involved a circumstance of aggravation that the applicant was their foster father, and all were domestic violence offences. He was sentenced to 4.5 years' imprisonment, with parole eligibility set at 16 months (less than one-third of the head sentence). He appealed on the basis the sentence was manifestly excessive, arguing the sentencing judge had failed to give reasons for the cumulative sentence and that the sentence was too long.

The Court noted while the sentencing judge had not given 'elaborate reasons for the cumulative sentence' they had stated relevant considerations including 'the prospect of a "proportionate" sentence designed to serve dual interests of protecting the vulnerable and deterrence' which the Count found were 'adequate in the

circumstances.' [13] The Court observed that by 'fixing a parole eligibility date at 16 months (less than one third)', the sentencing judge was 'mindful of totality considerations'. [17]

The Court noted many of the comparable cases put forward by the applicant were 'dated' and referred to *R v O'Sullivan and Lee; Ex parte Attorney-General (Qld)* on the significant legislative changes in relation to violence against children. [15] The Court observed 'the tide of legislative amendment and innovation [since *O'Sullivan*] has not abated'. [16]

The Court concluded that while 4.5 years was 'high and a lesser sentence might have been imposed … the cumulative sentence is commensurate with the gravity of the whole of the criminal conduct'. [17]

R v OAE [2025] QCA 129

Keywords: manifestly excessive; domestic violence offence; torture; contravention of a domestic violence order ('CDVO'); mental illness; views of victim on sentencing outcome

This appellant pleaded guilty to one count of torture (domestic violence offence) and to one charge of aggravated CDVO and was sentenced to 5.5 years' imprisonment with no parole eligibility date set (meaning he would be eligible by operation of law after serving 50% of his sentence). He argued the sentence was manifestly excessive due to his mental health condition and the expressed views of the complainant that he have rehabilitative opportunities.

The applicant had a DV history, including 3 prior CDVOs, and a history of mental illness, including drug-induced psychosis and PTSD. The psychological report tendered found drug use was a maladaptive way the applicant coped with his PTSD. Morrison AJA noted this meant 'the applicant's drug induced state on the night of the offences … was the direct causative link' not his PTSD. [47]

The Court further found 'it would be wrong to allow [the complainant's views] to interfere with the imposition of a sentence that was otherwise just in all the circumstances' [49]. The appeal was refused.

R v WCI [2025] QCA 131

Keywords: grounds for interference; manifestly excessive; drug courier; pregnant female; domestic violence

The applicant pleaded guilty to possession of the dangerous drug methamphetamine where the quantity exceeded 200 grams and unlawful possession of the dangerous drug cocaine where the quantity exceeded 2 grams. She was sentenced to 6 years' imprisonment, with parole eligibility set at 12 months. She appealed on the basis the sentence was manifestly excessive – in particular, on the basis that she was required to serve a period of actual custody.

WCI was 24 years at the time of offending with no criminal history. Since 18, she had been a domestically violent intimate relationship with a man referred to in the remarks as 'X'. X perpetrated domestic violence and controlling behaviour on WCI throughout their relationship. He was the respondent in a protection order naming WCI as the aggrieved. In 2020, she was diagnosed with PTSD. In 2021, there was another DV incident and WCI felt isolated from family. It was in this context that she met people who asked her to become a drug courier. By the time of sentence, she was 'pursuing a prosocial lifestyle', 'had stable employment', was managing her 'substance misuse', had met a new partner and become pregnant. [5] –[6]

The Court noted although drug quantity was not a determinative sentencing factor, it remained 'most relevant'. Although there were substantial mitigating factors, including her lack of criminal history, her being subject to domestic violence which had 'an indirect connection to her offending', her 'significant cooperation', and her pregnancy and probable impact of imprisonment the baby, the sentence was 'not unreasonable or plainly unjust'. [16], [18] The appeal was refused.

R v Taylor [2025] QCA 141

Keywords: serious violent offence declaration; young adult offender; escalation in offence seriousness; need for adequate punishment and community protection as a basis for extending parole eligibility

The applicant, aged 19 years old at the time of sentence, appealed against an 8 year sentence of imprisonment, with parole eligibility after 5 years and 11 months on the basis it was manifestly excessive.

The most serious offences of attempted armed robbery in company and grievous bodily harm (GBH) resulted in concurrent 7-year sentences of imprisonment and declared serious violence offences (SVO) which meant he must serve 80 per cent of that sentence in custody prior to being eligible for parole. He was also given a cumulative sentence of 12 months' imprisonment for threatening violence at night committed the day prior to these offences sentenced.

The applicant pleaded guilty early, had no prior convictions for violent offences, and had a 'prejudicial and dysfunctional upbringing' including being exposed to serious family violence at a young age. [16] He argued the SVO declarations rendered the sentence manifestly excessive or, in the alternative, that the extension of his parole eligibility date by 4 months to account for the charges attracting the cumulative sentence made it manifestly excessive.

The Court found the circumstances of his offending 'suggested he posed an ongoing risk to the community' and that he had caused 'catastrophic injuries to a young woman' and 'he had not been deterred by four months on remand or by a lenient probation order'. [18] The Court affirmed the approach set in *R v Free; Ex parte Attorney-General (Qld)* [2020] QCA 58 that adequate punishment and protection of the community 'required the applicant to serve a longer period in actual custody … than would otherwise be required'.[18] In comparison with similar cases the sentence was not manifestly excessive and 'could not be described as unreasonable or unjust'. The appeal was refused.

R v CDU [2025] QCA 145

Keywords: maximum penalty; life imprisonment; rape; acts intended to cause grievous bodily harm; domestic violence; mitigating factors; remorse

The appellant was charged with several serious offences including 18 counts of rape and 2 counts of acts intended to cause grievous bodily harm and other malicious acts ('malicious acts'), torture, deprivation of liberty, assault, supplying dangerous drugs and sexual assault (all domestic violence offences). He was sentenced to the maximum penalty for several offences: life imprisonment for 4 counts of rape and one count of malicious acts; and 14 years for one count of torture. All counts of torture, malicious acts and 14 counts of rape were declared to be serious violent offences (meaning he would have to serve 80% of the sentence prior to being eligible for release on parole).

CDU argued the sentence was manifestly excessive because the judge had failed to have regard to mitigating factors when sentencing him to life imprisonment and had failed to give reasons for not giving a mitigating effect in relation to those factors. He submitted that while his criminality could be described as being 'in the worst category', the sentence failed to have regard to his actions in calling an ambulance and saving the victim's life, alongside his guilty plea, remorse and cooperation with the justice system. [7]

The Court regarded the appellant's conduct as 'utterly brutal and accompanied by unspeakable depravity' [46] and that such conduct 'called for a sentence where deterrence and denunciation was paramount' [47]. The Court concluded that despite his plea and that his call to 000 saved her life, 'a sentence of life imprisonment was warranted' [45] and that anything 'less than life imprisonment would not have been just in the circumstances'. [47]

The Court found the sentencing judge had provided carefully balanced reasons and 'correctly observed' that the appellant's actions in calling emergency services were not comparable to *R v Mahony & Shenfield* [2012] QCA 366. The Court also found the sentencing judge's conclusion that the appellant was not remorseful was wholly supported by consideration of the letter of apology. The appellant was 'remorseful for his predicament, rather than genuinely remorseful for the complainant's injuries and their consequences'. [51] The appeal against sentence was dismissed.

R v DCQ [2025] QCA 146

Keywords: domestic violence; serious violent offence scheme; fresh evidence; mental conditions affecting the offending; consideration of appropriate test; care using dated case law

The applicant pleaded guilty to multiple counts of rape, sexual assault (while armed), assault occasioning bodily harm (while armed), deprivation of liberty and unlawful possession of a category H weapon used to commit an indictable offence against his former partner and her new partner (all domestic violence offences). He was sentenced to 10 years and would be eligible for release on parole after serving 80 per cent of the sentence. He appealed on the sole ground that the sentencing judge had been missing relevant information and sought leave to adduce new evidence.

The Court noted the power to receive new evidence is 'not exercised lightly' and can be said to be 'exceptional' and 'very rare'. [46] The Court endorsed and adopted the preliminary view in *R v Shabanzadeh* [2025] QCA 92 and agreed with the 'significance' test set out in the Victorian case of *Alessawi and Snowball v R* [2025] VSCA 23. [53] The Court stated that new evidence should not be admitted unless it 'throws significant new light on the pre-existing facts' [49] and the new evidence must be 'of a kind, which if not permitted to be adduced, leads the appellate court to conclude there will be a miscarriage of justice if the sentence is left to stand'.[53] The Court found the new evidence did not meet this test. [54]

When considering case comparators, the Court noted the introduction of s 9(10A) of the PSA in 2016 and advised 'care' is required when considering cases prior to 2016. Similarly, 'dated decisions may lack contemporary relevance' on the 'community's greater understanding of harm caused by certain offences' (referring by analogy to *R v Free; Ex parte Attorney-General* [2020] QCA 58 and *R v VN* [2023] QCA 220). [59] Given the seriousness and premeditated nature of the offending and his history of violence in the context of relationship breakups, a penalty at 'the higher end of the range' was warranted. [65] The Court concluded that even if new evidence were permitted, there was no basis for a 'less severe sentence'. [66] The appeal was refused.

Justice Callaghan made further comments on the 'unsatisfactory aspect' of the applicant only being supervised for 'a maximum of two years'.[72] His Honour noted the applicant's criminal history and that 'in the interests of community protection, a longer period of supervision was necessary' (he referred to the Council's final report, *The 80 per cent Rule: The Serious Violence Offences Scheme in the Penalties and Sentences Act 1992 (Qld)*).

R v HCZ [2025] QCA 147

Keywords: *Youth Justice Act 1992* (Qld); acting on wrong principle; juvenile; murder; burglary in company; 'particularly heinous'; 'special circumstances'

The appellant, aged 17 years of age at the time of his offending, was sentenced to 14 years' imprisonment for murder. He appealed on three grounds: (1) the sentencing judge erred in finding the offence was 'particularly heinous' (meaning the maximum penalty that applied was life imprisonment, not 10 years imprisonment in accordance with the *Youth Justice Act 1992* (Qld) s 176(3)); (2) the judge failed to give adequate weight to his plea of guilty and personal circumstances; and (3) overall, the 14-year sentence was manifestly excessive.

The Court found no error in the sentencing judge's finding that in this case, the offence of murder was a particularly heinous offence despite his personal circumstances, including a deprived upbringing and exposure to violence. The second ground was also not made out. However, the Court found the sentence was manifestly excessive on the grounds of the requirement that he serve 70 per cent of the 14-year sentence in custody prior to release on parole and the appeal was allowed.

'When combined with the applicant's genuine remorse and prospects of rehabilitation, a finding that there were special circumstances justifying an order for release from detention, after serving less than the statutory requirement of 70 per cent, ought to have been made'. [61] The period was reduced to 60 per cent of the sentence for this reason.

[**Note**: If this offence had been committed following changes made to the law under the *Making Queensland Safer Act 2024* (Qld) in December 2024, the appellant would have been subject to a mandatory life sentence and a mandatory minimum non-parole period of 20 years' detention.]

R v Pacaci [2025] QCA 154

Keywords: suspended sentences and operational periods; sentencing purpose; proportionality; *Penalties and Sentencing Act 1992* (Qld) s 144

The appellant was sentenced to 2.5 years' imprisonment, suspended after 6 months with an operational period of 5 years, for producing and possessing dangerous drugs. He did not dispute the head term or period of imprisonment but argued a 5-year operational period was manifestly excessive.

The Court of Appeal noted past appellate observations on operational periods did not articulate 'principles of general application'. [17] It concluded that the purposes of sentencing should be considered when fixing the operational period. 'An extended operational period may … serve as a personal deterrent, and … work to cement an offender's rehabilitation in support of community protection' and '[t]he service of one or more of those purposes may … justify an extended operational period'. [36]

The principle of proportionality provided 'another dimension' in assessing 'the validity of an extended operational period'. [38]

The Court stated it is necessary for judicial officers to provide reasons for an extended operational period and to take into account 'the term of imprisonment which has been imposed'. [53]

Pacaci had good prospects of rehabilitation and did not require supervision after release from custody. The Court found an operational period that was double the term of imprisonment was 'not proportionate' to the 'gravity of the offence' or the 'other elements of the sentence'.[54] The Court reduced the operational period to 2.5 years.

R v BEU [2025] QCA 155

Keywords: suspended sentences and operational periods; sentencing purposes; proportionality; *Penalties and Sentencing Act 1992* (Qld) s 144; indecent treatment of children; relevance of reporting obligations

The applicant pleaded guilty to 3 counts of indecent treatment of a child under the age of 16, in circumstances where the child was under his care. The child had called the applicant 'granddad'. He was sentenced to 18 months' imprisonment, suspended after 6 months with an operational period of 5 years.

BEU argued the sentence was manifestly excessive both in terms of the 18-month head sentence and the 5-year operational period, as well as based on his reporting obligations under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (Qld)* ('CPOROPOA'). The Court rejected the submission [15], but agreed that the operational period was 'unreasonable and plainly unjust'[63].

This case was heard on the same day as *R v Pacaci* and the Court applied the same guidance ([18]–[54]).

The Court noted the sentencing judge had not provided reasons for imposing a 5-year operational period, and that neither the prosecutor nor applicant's legal representative had made submissions on it. The Court regarded the offending as 'situationally specific, apparently opportunistic and out of character' and stated personal deterrence, rehabilitation and community protection were less relevant due to the facts, his age (71) and that the family could 'ensure that the relevant situation would not be recreated'. [59]-[60] Given the extended operational period could not be justified on one of these purposes, it 'appeared to be random'. They also found the 5-year period was inappropriate because of the applicant's obligations under CPOROPOA which would end 5 years from the date of sentence. The appeal was allowed, and the operational period was reduced to 18 months.

R v Stephensen [2025] QCA 156

Keywords: dangerous operation of a motor vehicle causing grievous bodily harm; compassionate grounds to reduce sentence; new evidence on appeal

The applicant was convicted following a trial of one count of dangerous operation of a motor vehicle causing grievous bodily harm, before leaving the scene. He was sentenced to 5.5 years' imprisonment with parole

eligibility after serving one-half of the sentence. He was disqualified from holding or obtaining a driver's licence for 4 years.

The applicant got into a physical fight with the victim (the partner of his niece) which escalated to arming themselves with tools. Stephensen then got into his car and drove towards the victim (who was walking away) running over his leg causing multiple fractures. He then drove away and did not seek medical help. The offending was captured on CCTV.

He appealed on the grounds that his sentence was manifestly excessive and sought a reduction in sentence on compassionate grounds relating to the need for him to care for his children. The Court refused leave, stating 'the fact that the care arrangements have not turned out as he had hoped is not a proper ground' of appeal. [18] While there had been successful sentence appeals where evidence is adduced on appeal that was not available at the date of sentence, 'those cases are exceptional'. [16] His argument that the sentence was manifestly excessive also was rejected. [25]

R v GBT; ex parte Attorney-General (Qld) [2025] QCA 157

Keywords: dangerous operation of vehicle causing death and grievous bodily harm while excessively speeding; offence in the 'worst category'

The Attorney-General appealed a sentence of 6 years' detention with release after serving 60 per cent of the sentence. The child respondent was aged 13 years at the time of the offending which involved several counts of unlawfully using a motor vehicle at night and one count of dangerous operation of a vehicle causing death and grievous bodily harm (GBH) while excessively speeding. The Attorney-General submitted that the dangerous operation of a vehicle offending fell into the 'worst category' warranting the maximum sentence of 7 years, and that the period of actual detention should have been set at 70 per cent.

The most serious offence involved the child driving a stolen vehicle dangerously for approximately 30 minutes. The child hit the back of a vehicle causing it to move into the path of an oncoming vehicle. Three people died in the crash, and the fourth sustained GBH (significant brain injuries). The child crashed his vehicle into a tree, experiencing only minor injuries.

In dismissing the appeal, the Court found that while protracted dangerous driving may approach 'the worst category of conduct of that type of offending' there were 'significant mitigating factors warranting less than the maximum period of detention'. [31] Those factors included the child's age, no prior court history and positive engagement with schooling, programs and a counsellor while in detention that were supportive of a prospect of rehabilitation, as well as his pleas of guilty. Once factored in, it could not be said that 'the child's offending was of a nature where imposition of a sentence of detention for the maximum period, was the only appropriate sentence'. [33] Further a sentence of 6 years was 'a significant sentence' which recognised 'denunciation and deterrence' while not allowing the 'significant mitigating factors to overwhelm the importance of deterrence, both personally and generally'.[34]

[**Note:** If this offence had been committed following changes made to the law under the *Making Queensland Safer Act 2024* (Qld) in December 2024 and the increase to the maximum penalty for this offence in August 2024, a maximum penalty of 20 years imprisonment, not 7 years imprisonment, would have applied.]

R v CDV [2025] QCA 163

Keywords: Powers of appellate court; appeal regime under the *Youth Justice Act* 1992 (Qld); sentence review; chapter 67 of the *Criminal Code* (Qld)

The Court of Appeal refused leave to appeal a sentence originally imposed by a Childrens Court Magistrate and reviewed by a Childrens Court Judge under the sentence review scheme (the review scheme) in s 118 of the *Youth Justice Act 1992* (Qld) ('YJA'). The Court concluded it did not have jurisdiction to hear an appeal under the review scheme, in contrast to a sentence appeal via section 117 of the YJA.

The Court observed a sentence review is 'exclusive to the [YJA]' and provides 'an informal, inexpensive and fair resolution for a child dissatisfied with the sentence order of a Childrens Court magistrate'.[92] The Court determined the YJA regime for appeal and review 'plainly envisages two distinct processes: a formal, expensive, and slower option by way of…a s 222 Justices Act appeal to the Childrens Court judge (with leave

to appeal that decision to the Court of Appeal), or an informal, faster and less expensive path by way of a rehearing afresh before a Childrens Court judge, with that decision expressly stated to take effect as the decision of the Childrens Court magistrate'. [93]

The Court noted there is an 'obvious internal tension or inconsistency' in the YJA, with sections 125(2) and (3) contemplating an appeal by the review scheme, while the only avenue for such an appeal by a child is through chapter 67 of the *Criminal Code* (via YJA, s 116). However, chapter 67 'does not provide a child a right of appeal from a summary offence or an indictable offence'. [69] The applicant 'had no such right'.[95]

R v Oates [2025] QCA 173

Keywords: manifestly excessive; indecent treatment of children; delay as a factor in sentencing; exceptional circumstances s 9(4) *Penalties and Sentences Act 1992* (Qld)

The applicant pleaded guilty to 2 counts of indecent treatment of a child under 16, under 12 committed against the 4-year-old child of friend. He was sentenced to 6 months imprisonment on each count (to be served concurrently), suspended after 2 months for an operational period of 6 months. Oates appealed his sentence on the basis that the sentencing judge failed to take into account the delay of approximately 2.5 years between the commission of the offence and sentence and erred in finding that the circumstances did not amount to exceptional circumstances under section 9(4) of the *Penalties and Sentences Act 1992* (Qld) (this requires for an offence of a sexual nature against a child under 16 years, that a sentence of actual imprisonment be ordered unless there are exceptional circumstances). He further submitted that the sentences were manifestly excessive.

In the circumstances, a delay of 2.5 years was not found to be 'significant' and the Court dismissed this ground. In relation to exceptional circumstances, the Court found while the offending was 'of short duration and did not involve any physical touching of the child', it was still 'serious', 'the child was very young' and 'the offending occurred in her own home'. [26] Therefore the applicant's conduct (exposing his penis to the child and asking her to expose herself to him) 'could not be said to be so low level as to warrant a finding of exceptional circumstances in themselves'. [26] Further, the applicant's pleas 'were late', 'occurred after there had been positive denial of offending out to the child' and there was no evidence of steps taken to address his offending, nor insight or genuine remorse. [27] The original finding that there were not exceptional circumstances was found to be correct. [28]

Lastly, the Court determined the sentence was not 'unreasonable' or 'unjust'.[33] Leave to appeal was refused.

BEV v Commissioner of Police [2025] QCA 182

Keywords: aggravated contravention of a domestic violence order; manifest excess; imprisonment; conviction recorded; notice to allege previous conviction

The applicant pleaded guilty to one count of contravention of domestic violence order (aggravated) (CDVO). The offending involved him punching his chest, yelling at his ex-wife and blocking her from leaving. Police were called to the house and arrested him. He remained in custody until sentenced in the Magistrates Court.

BEV had a relevant history of CDVO offences and had previously been sentenced to non-custodial orders including recognisance, fines, community service orders and probation (all with no conviction recorded). When sentenced for the current offence, he was subject to a 12-month probation order and a breach of a community service order. At the time of sentence no breach proceedings had commenced. The magistrate ordered 3 months' imprisonment followed by 2 years' probation and revoked the community service and probation orders and resentenced the appellant for those. A conviction was recorded.

On appeal to the District Court, the judge found there had been a discretionary error by the magistrate and BEV should not have been sentenced before the breach proceedings had commenced (those orders were set aside). In relation to whether the sentence was manifestly excessive, the Judge took into account the circumstances of the offending: no actual or threatened violence took place (although he had intimidated her); he had a relevant criminal history; section 9 of the *Penalties and Sentences Act 1992* (in particular s

9(10A)) and various mitigating factors, including his plea and rehabilitation efforts. [16] Her Honour reduced the sentence to 2 months' imprisonment and declared 67 days served, with a conviction recorded.

BEV further appealed to the Court of Appeal on grounds the sentence was still manifestly excessive given his mental health at the time of the offence. He argued no notice alleging prior convictions had been provided and that it 'was wrong to characterise [the current] offence as an aggravated one' [on the basis he had prior convictions for CDVO committed within 5 years of the current offence]. [22] The Court rejected this, stating that as no such evidence had been put to either the magistrate or District Court judge, it 'cannot now be agitated on a strict appeal'. [22] Further, the Court rejected his argument that imprisonment and a conviction were unjust stating 'the seriousness of continued domestic violence offending has been explicitly recognised' in *CDL v Commissioner of Police [2025] QCA 245* [23]. Bond JA affirmed the judge's order of imprisonment as a 'proper exercise of her discretion'. [23]

District Court s 222 Appeals

Davies v Commissioner of Police [2025] QDC 37

Keywords: serious assaults; compensation orders; capacity to pay; victims' views on sentence

The appellant was sentenced in the Magistrates Court for 15 violent and property-related offences, including 4 counts of serious assault of a corrective services officer, and one count of assault occasioning bodily harm (scratching her brother) which also contravened a domestic violence order. She was convicted and not further punished for each offence (she had spent 318 days in pre-sentence custody for wilful damage and a further 158 days for the serious assaults) and ordered to pay $2,500 in compensation ($500 to each of the 5 complainants). [2] The compensation was immediately referred to the State Penalties Enforcement Registry (SPER).

Davies appealed her sentence on the basis that the compensation orders made the sentence manifestly excessive. At sentence, the Magistrate noted the appellant was on the National Disability Insurance Scheme (NDIS) which was assisting her to continue with mental health and that she was studying and had limited income.

Two of the corrective services officers who had been assaulted attended the appeal and both made submissions (written or oral) that they opposed any change to the sentence. [11] Richards J noted corrective officers have 'a very difficult job' involving 'danger and disinhibited prisoners on a daily basis', but that she was 'bound by the law in this particular matter. [12]

Richards J referred to comments by McMurdo P that ordering compensation where there is no capacity to do so 'may jeopardise the offender's prospects of rehabilitation…would be…a crushing sentence and risk setting [them] up to fail' (*R v Flint* [2015] QCA 275). She also referred to *R v Matauaina* [2011] QCA 344 that 'a lack of ability to pay compensation is not cured by an immediate referral to SPER'. [14] 'Where an offender has no capacity to pay compensation' and that was 'accepted by the Magistrate in her decision' then it 'is not an appropriate vehicle for punishment. The appeal was allowed, and the compensation orders set aside.

Taylor v Commissioner of Police [2025] QDC 102

Keywords: dangerous driving; evasion offence; mandatory minimum penalty; youthful first-time offender

The appellant, a 22-year-old male, appealed against a sentence imposed for one count of dangerous operation of a vehicle, one count of evasion at night, and one count of drink driving (middle alcohol limit). On the most serious charge (dangerous driving), he received a sentence of 9 months' imprisonment. He was also

disqualified from holding or obtaining a drivers licence for 2 years (ordered against the evasion offence, being the minimum mandatory period of disqualification for this offence).

The appellant was intercepted doing 'burnouts' in a park and after being followed he sped off before pulling over further up the road. He had covered up his number plate to hide the vehicle's identity. He had no previous criminal convictions, but a 'concerning history of traffic infringements'

In allowing the appeal, the Judge concluded the sentencing magistrate 'was influenced by considerations of deterrence to the exclusion of the personal factors which supported a strong claim to mitigation and rehabilitative prospects'. [25] The need for a particular deterrent effect had been achieved by 25 days in custody he had already served following his sentence. A sentence of 25 days' imprisonment with a 12-month probation order was substituted for the dangerous driving charge. For the evasion offence, a fine at the minimum level ($8,065) was ordered in place of 3 months' imprisonment.

Bradley v Commissioner of Police [2025] QDC 108

Keywords: manifestly excessive; totality; starting point; assault occasioning bodily harm; correctional facility

The appellant pleaded guilty to one charge of assault occasioning bodily harm (AOBH) and was sentenced to 2.5 years' imprisonment. Parole eligibility was set after 10 months of his sentence had been served (one third of the head sentence).

The appellant was 28 at the time of offending with an extensive criminal history. Both the appellant and victim were on remand at Arthur Gorrie Correctional Centre. The appellant punched the victim with closed fists more than 10 times, and after tackling him to the ground, stomped on him twice. The victim lost consciousness during the assault and was taken to the hospital with bleeding and bruising to the head and face.

The sentencing magistrate had recognised totality was relevant and moderated the sentence. However, Judge Allen KC thought the brevity of comments suggests there may have been 'insufficient consideration to the total time the appellant had spent in prison prior to the sentence being imposed'. [9]

Judge Allen KC noted that comments made by the sentencing magistrate that he would have referred the AOBH to the District Court because 'three years would not have been an adequate sentence…clearly indicate that he reasoned from a notional sentence of three or more years' imprisonment moderating…[for] reasons of totality'. [10]–[11] His Honour stated such a starting point was 'not one supported by comparative decisions'. [11]

After reviewing comparative decisions, Judge Allen KC concluded the sentence was manifestly excessive and reduced it to 2 years' imprisonment with immediate release on parole (as he had now served more than one-third of the substituted head sentence).

Martin v Commissioner of Police [2025] QDC 135

Keywords: manifestly excessive; assault occasioning bodily harm; sentencing principles; De Simoni; short term of actual imprisonment; compensation orders

The appellant, Martin, aged 24 years at the time of his offending, pleaded guilty to one count of assault occasioning bodily harm (simpliciter) (AOBH) and one count of public nuisance in the vicinity of a licensed premises. He was sentenced to 8 months' imprisonment, suspended after one month with an operational period of 12 months. His brother was involved in the same offence, although they were not charged with the circumstance of aggravation (in company).

Martin argued the sentence was manifestly excessive including because insufficient weight had been given to mitigating factors, including his remorse and offer of compensation, and disproportionate weight had been given to community protection.

He had punched and kicked a person not known to him resulting in facial bruising and swelling. His brother then held the victim so the appellant could kick him again and then pushed the victim's head into the pavement. Shortly after CCTV captured the appellant and his brother attack 3 unknown males (this conduct was the public nuisance offence).

He put $2,000 into his solicitor's trust account for the purposes of compensation. The magistrate said she took this into account in mitigation but made no order because 'it's a matter for these defendants what they do with that money that's held in trust'.[63]

The Judge described the magistrate's approach to the offer compensation as 'unorthodox'. [81] While it is not obligatory to order compensation, and there can reasons not to, Her Honour noted such reasons 'were not present here'. [82] The appellant's offer of compensation was 'a further tangible demonstration of [his] genuine remorse'. [83] Judge Wooldridge KC noted that while compensation 'cannot be seen to be able to buy their way out of serving an appropriate sentence or…custodial sentence', it is 'of benefit the victim and society more broadly' and 'may properly be taken into account in the overall exercise of sentencing discretion'. [83]

Martin argued one month in custody was excessive when contrasted with *Quartermass v The Commissioner of Police* [2015] QDC 169 and given his mitigating factors. The Judge referred to *R v Rogan* [2021] QCA 269 and comments by Sofronoff P on the significant impacts a very short sentence of imprisonment can have, particularly on first time, youthful offenders. [78]

Martin also argued the magistrate had treated the 'in company' conduct as an aggravating circumstance (in error of *De Simoni*). Judge Wooldridge KC did not accept that argument, observing that while they were not charged in company it was an 'incontrovertible' fact that 'it was a group activity' and the magistrate had expressly discussed that it was a simpliciter offence not subject to the higher maximum penalty. [65] – [66]

Her Honour concluded the sentence was excessive, particularly that he must 'serve one month in actual custody'.[84] The appeal was allowed, and he was resentenced to serve 8 months' imprisonment suspended after 5 days (time already served) for a 12-month operational period and ordered to pay compensation of $1,000 to the complainant in the AOBH charge.

Johnson v Commissioner of Police [2025] QDC 136

Keywords: sentence manifestly excessive; Commonwealth offences; section 16A, *Crimes Act 1914* (Cth); whether magistrate ought to have considered the appellant's release without conviction

The appellant pleaded guilty to one count of using a carriage service to menace or harass a young woman he met online. He was fined $400 and a conviction was recorded that was mandatory under Commonwealth legislation. He appealed on the basis the sentence was manifestly excessive, in particular due to the recording of a conviction.

Johnson, who was aged 21 years old at the time of his offending, had been communicating with the victim online. She requested that he stop contacting her and warned she would contact the police if he did not. He did not stop, so police became involved and told him not to contact her. Despite this, he then sent her a long message and spoke with her brother in an attempt to get her address. Cash J noted while there was no violence involved or threats of harm, the offending was 'not trivial' [13]. His Honour noted general and personal deterrence were relevant considerations, as well as to make 'clear to the community that offences of this type committed in these circumstances, will be met with condign punishment'.[15] Cash J concluded there was no error by the magistrate and the sentence was 'within acceptable scope of jurisdictional discretion in all of the circumstances' [19]. The appeal was dismissed.

MA v Director of Public Prosecutions [2025] QChC 4

Keywords: manifestly excessive; probation; community service; pre-sentence custody; watchhouse

The applicant was sentenced for 24 offences, mostly drug and property related. For the offence of entering a dwelling and commit an indictable offence she was sentenced to 15 months' probation with a special condition to undertake drug counselling and abstain from drug use. She was sentenced to 100 hours community service for the remaining offences. No convictions were recorded.

MA asked for the sentence to be reviewed on the basis that the sentence was manifestly excessive and insufficient weight had been given to her 34 days of pre-sentence custody (14 days had been in watchhouses). It was further argued and accepted by the Crown that the magistrate had erred in ordering community service on an offence which was a fine offence only (s 175(2) of the YJA provides that probation and community service orders can only be made in relation to offences for which an adult would be liable to imprisonment). [7]

The judge noted MA's disadvantaged upbringing (she had been in care of Child Safety since she was very young and her parents had been in and out of custody), she had been homeless during much of the offending period, and she was a young offender who had only been subject to one prior court order. [8] The judge agreed that the combination of probation and community service orders did not sufficiently recognise the time spent in custody. [10] Her Honour said, 'the time spent in custody, particularly the time spent in the unsuitable confines of the watchhouse, meant that the sentence should have been sufficiently ameliorated'. [10]

The sentence was set aside, and MA was sentenced to 12 months' probation for the most serious offence, with a special condition to undergo drug and alcohol counselling and/or rehabilitation and abstain from drug use. For the remaining offences she was reprimanded.

[**Note:** The offence of entering a dwelling and commit an indictable offence is classified as a significant offence to which adult penalties apply following changes made to the law under the *Making Queensland Safer Amendment Act 2024* (Qld) (MQSA) in December 2024]

R v TC [2025] QChC 8

Keywords: manifestly excessive; *Youth Justices Act 1992* (Qld) ('YJA'); *Making Queensland Safer Act 2024* (Qld) ('MQSA'); intergenerational trauma; sentencing purposes; primary regard to the impact on victims

The applicant appealed on the basis that his sentence was manifestly excessive. The mostly property-related offences spanned a 12-month period committed when he was 14 years old. He also breached bail, possessed a knife and assaulted police. For the offences postdating the MQSA he was given a sentence of 18 months' detention to be released after 4 months, and 12 months' probation for the remaining offences.

The Crown agreed on appeal that it 'had proceeded on a wrong basis of law' and detention was excessive. There were significant errors in the sentencing process, including relying on sentences imposed under the *Penalties and Sentences Act 1992* which is 'a different sentencing regime' [29], no plea was issued for an unlawful use of a motor vehicle offence committed post MQSA and no pre-sentence report (PSR) was ordered in relation to that offence (this is a mandatory requirement under the YJA for detention orders made under that Act).

The tendered PSR noted TC's extensive history of domestic violence victimisation, that inadequate supervision and adverse childhood experiences were 'significant contributing factor[s]' to his offending [11] and that 'intergenerational trauma has played a significant part in former his antisocial behaviours and attitudes'. [13] The magistrate's rejection of the PSR had 'no basis' and its findings were 'significant factors in mitigation'. [45] Her Honour recognised the magistrate had been provided with 'little information about the specific effect of the child's offending' on the victims [33], and that many of the victims focused on crimes not attributed to TC. Focusing on the impact on victims 'skewed the sentence in a way that was inappropriate'. [34] Lastly, her

Honour noted the magistrate erred in claiming the effective penalty had tripled; 'the magistrates' jurisdictional limit was increased threefold but that does not represent a tripling of penalties for offences'. [22] The original sentence was set aside, and TC was given probation on all charges.

Academic articles and reports of interest

Australia & New Zealand

Armin Alimardani and and Milda Istiqomah, 'Beyond black boxes and biases: advancing artificial intelligence in sentencing' , *Current Issues in Criminal Justice* (published online September 2025)

The paper discusses and proposes strategies for integrating artificial intelligence (AI) into sentencing decisions. Motivated by the rapid implementation of AI in legal systems and the complexity of its application in sentencing, the article addresses data quality concerns, over-reliance on AI predictions, and transparency. The authors advocate for the development of separate AI systems, each dedicated to individual sentencing factors, weighing all sentencing elements simultaneously. This steers from the typical machine learning approach that involves a single AI model trained to find correlation between the circumstances of the case and the corresponding punishment. The proposed system enhances bias detention, improves accuracy, and supports judges in systematically reviewing their decisions. The study uses the Indonesian Corruption Guidelines as a case study to illustrate the application of the framework as a responsible path toward AI-supported sentencing.

Natalia Antolak-Saper and Jonathan Clough, 'Unrepresented Accused in the Summary Courts: The Importance of Effective Legal Triage' (2025) 34(2) *Journal of Judicial Administration*

Based on a preliminary study of unrepresented accused in the Magistrates' Court of Victoria, this article considers the scale and impact of unrepresented accused on the courts, judicial officers and other court staff, and accused persons. It discusses the concept of legal triage and its application and presents recommendations for reforming legal triage systems to improve access to justice.

The authors conclude that legal advice is essential for sentencing pleas. Without a legal representative an accused may not adequately understand the factors that a magistrate considers for the purpose of sentencing; may not communicate their personal circumstances effectively and may not understand the consequences of their plea or opportunities to avoid conviction.

Australian Institute of Health and Welfare, *Young People Returning to Sentenced Youth Justice Supervision 2023-24* (Report, 4 September 2025)

The report presents data on the number of young people released from a supervised youth justice sentence (both community-based and detention) who then returned (received another supervised sentence after the end of their first). Between 2000-01 to 2023-24, 59 percent of young people aged 10-17 did not return to sentenced youth justice supervision. Young people with a first supervised sentence of detention were more likely to receive an additional supervised sentence (51%) than young people with a first supervised sentence of community-based supervision (41%). Of the young people aged 10-16 released from sentenced

supervision in 2022-23, 56 percent released from sentenced community-based supervision received another supervised sentence within 12 months and 84 percent released from sentenced detention received another supervised sentence within 12 months.

Robert Benjamin, 'Understanding trauma and the use of trauma-informed practices' (2025) 2(4) *Judicial Quarterly Review 75*

There has been an increased focus on the need for trauma-informed practice and policy in the court system. This article discusses the nature of trauma and its impacts and different forms of trauma, including vicarious trauma. It discusses trauma-informed practices based on the experiences of the Local Court of NSW Specialist Family Violence lists and identifies changes in courts that might be made to support trauma-informed practices. This includes the courtroom environment, the nature of a judicial officer's interactions with parties and the use of trauma-informed language.

Paulette Benton-Greig and Dr Alison J Towns, 'The "Strange" sentencing' (August 2025) *New Zealand Law Journal* 222

This article discusses the New Zealand's Government's plans to introduce a new stalking offence into the *Crimes Act 1961* (NZ) with a maximum penalty of 5 years imprisonment. It explores the nature and scope of stalking behaviours and a framework for its identification, considers the harm it causes to victims and discusses the proposed legislative changes. It includes a critical analysis of the New Zealand Court of Appeal decision, *Strange v R* [2024] NZCA 673 to illustrate how a stalking framework helps to articulate the operation of stalking in a factual scenario, how it aggravates harm and culpability, and the scope and limits of the proposed legislative changes.

Jodi Death et al, Victim-survivors' perspectives on post-custodial measures for people with convictions for sexual offending, *Trends & Issues in Crime and Criminal Justice* no 74 (Australian Institute of Criminology, 18 September 2025)

This paper presents victim-survivor perspectives on post-custodial measures for people with convictions for sexual offending (PCSOs). The study involved qualitative interviews with 26 victim-survivors of sexual violence, primarily male victim survivors. Researchers found that victim-survivors were supportive of PCSOs being subject to a range of measures, including electronic monitoring, (non-public) sex offender registers, psychological interventions, parole supervision and Circles of Support and Accountability. In contrast, victim-survivors had very mixed views about public sex offender registers. The study emphasises the importance of considering victim-survivor perspectives in shaping post-custodial interventions for PCSOs.

Stephen W Encisco, 'Mandatory Sentencing, Remand and "Actual Imprisonment" in the Northern Territory', *International Journal for Crime, Justice and Social Democracy* (published 22 September 2025)

This article discusses the impacts of mandatory sentencing with a focus on the position in the Northern Territory. The author notes that in the Northern Territory Indigenous people make up most of the adult prison population (89%) and the youth detention population (91%). The author raises concerns the impact of 'tough on crime' agendas is to entrench intergenerational trauma, poverty and criminalisation. While mandatory sentencing has been the focus of attention for scholars and activists, the driver of mass incarceration has been bail reforms, with legislated presumptions against bail. Across Australia over 40 percent of prisoners are being held on remand, while in the Northern Territory a record high of 45 percent of prisoners are on remand. The author argues that remand is a form of 'indefinite detention', thereby incentivising pleas to avoid that uncertainty.

Claire Grant and Catherine Stipis, 'Psychological Reports in Criminal Cases' (Video and Powerpoint), James Cook University Law Seminar Series (25 September 2025)

Criminal barrister Claire Grant and leading forensic psychologist Catherine Stipis provide expert insight into how psychological reports influence court outcomes, from charge negotiation to sentencing. With perspectives from both the legal and psychological fields, the session explores the process of preparing and presenting expert evidence, the weight it carries in court and its implications for justice.

Coel Healy, 'Beyond Restorative Justice: Prioritising Deliberative Self-Determination in Indigenous Sentencing Court Systems' (2025) 47 *Sydney Law Review* 1

This article explores frameworks for assessing the value of Indigenous sentencing courts and proposes 'deliberative democracy' provides an alternative conceptual framework for understanding the value of Indigenous sentencing courts beyond traditional conceptions of these as a form of restorative justice. The author suggests this would enable greater account to be given to the participatory role of Elders and Respected Persons and the broader social impact these courts seek to make as well as a broadened understanding of their value.

Ye In Jane Hwang, Nabila Chowdhury and Tony Butler, 'First-time violent offending following psychosis diagnosis: Exploring community treatment order uses and sociodemographic risk factors', *Trends & Issues in crime and criminal justice* no 715 (Australian Institute of Criminology, 25 September 2025)

This report presents the findings of research exploring the rate of violent offending after psychosis diagnosis of people with no history of violent offending prior to their diagnosis. It also examined a range of sociodemographic risk factors for violent offending, including community treatment order (CTO) involvement The study population consisted of 126,198 individuals with no history of violent offending prior to being diagnosed with psychosis in New South Wales between January 2002 and December 2019.

Researchers found that 15.2 per cent had committed a violent offence within 10 years of their diagnosis, most commonly within the first four years following diagnosis. Those who had offended tended to have histories of non-violent offending, to have been diagnosed at a younger age, to have substance-related psychosis and to have several risk factors associated with criminal behaviour. Being subject to a CTO was associated with a higher risk of violence, but results suggest a delay in violent offending for those subject to these orders.

Katherine J McLachlan, 'Using Trauma Theory to Explain the Victim-Offender Overlap and Examining Its Relevance in Sentencing' 20(5–6) *Victims and Offenders* (2025) 1187

The article explores how trauma theories may better explain the victim-offender overlap (where someone is identified as both a victim and an offender) than other theories. It presents findings based on a content analysis of a sample of 20 sentencing remarks published in South Australia of adults who identified as 'victim-offenders' and explores how judges understand and respond. Judges commonly mentioned adverse childhood events. Lifestyle factors such as lack of parental supervision, poor engagement with education or employment, substance abuse, antisocial behaviour, and antisocial friends and family were also mentioned. Judges typically relied on psychological and psychiatric evidence in acknowledging the victimisation-offending trajectory. The article concludes that there are opportunities for judges to move away from rational choice theories when dealing with victim-offenders and to instead use trauma and evidence-informed sanctions to better achieve community safety. A rehabilitative focus may more effectively reduce future offending.

Rochelle Morton et al, 'The Drivers of Community Expectations Surrounding Punishment for Animal Welfare Offences: Findings From Online Focus Group Discussions', *Anthrozoos*, Vol 38, No 6, 1055 (published 1 July 2025)

This study used qualitative data collected from an online focus group involving participants from all states and territories in Australia to understand community expectations around animal welfare law. The results showed the two main factors considered by participants when making judgements around acceptable sentencing were the perceived degree of suffering to the animal and the perceived intention of the offender. In cases where the offender has not intentionally inflicted suffering on an animal, participants were inclined to conclude that the offence was less serious, suggesting intention has a stronger influence than perceived suffering on the community's expectations in sentencing animal cruelty offences. Other themes identified in the focus groups included a greater focus on providing assistance and education over punishment, the role of media reporting, and the need for greater deterrence.

Consistent with other sentencing research, the authors conclude that while the public instinctively take a highly punitive approach to sentencing for animal cruelty offences, views become less punitive when provided with information about the facts and circumstances of the case.

New South Wales Bureau of Crime Statistics and Research, *Coercive Control Monitoring Report* (Quarterly Report June 2025, published September 2025)

In the 12 months since the legislation coming into effect, NSW Police recorded 297 incidents of coercive control. Of these, 92 percent of incidents involved a female victim and male alleged offender. There were 9 coercive control charges between July 2024 and June 2025. Three of these charges were finalised in court within the data period, two were withdrawn by the prosecution and one was proven (with the defendant sentenced to an Intensive Correction Order).

New South Wales Bureau of Crime Statistics and Research, *New South Wales Custody Statistics* (Quarterly Update June 2025, published 14 August 2025)

In June 2025, the adult prison population in NSW was 13,122 (12,219 men and 903 women), which is below pre-pandemic levels. In the two years from June 2023 the prison population increased by 6.9 percent (843 inmates). The remand population was at a record high of 5,800 people (44% of inmates), driven by domestic violence (DV) offences. Close to one-third of adults on remand (31.7%) were in custody for a DV-related offence. From June 2023 to June 2025, the number of Aboriginal adults in custody increased by 675 adults from 3,711 to 4,386 (up 18.2%). The proportion of Aboriginal adults in custody was the highest on record at 33.4 percent.

In terms of youth detention, there were 234 young people (225 boys and 9 girls) in custody in June 2025. This was a 34 percent increase since June 2023 (up 59 young people from 175). Of young people in detention, 71.8 per cent were on remand. Almost one-quarter of young people were in detention for a break and enter offence. Of the 234 young people in detention, 140 were Aboriginal young people (59.8% of the youth detention population).

New South Wales Sentencing Council, *Annual Report 2024: Sentencing Trends and Practices* (Report, August 2025)

The NSW Sentencing Council annual report presents statistical sentencing trends in NSW, information about sentencing-related research and cases of interest as well as information about the Council's work.

Productivity Commission, *Closing the Gap: Annual Data Compilation Report* (Report, 30 July 2025)

This report presents progress against the national targets of the National Agreement on Closing the Gap. Progress against four targets has worsened: incarceration rates for adults, children assessed as developmentally on track, children in out-of-home care, and suicide rates. Progress against some targets has

improved but they are still not on track: life expectancy rates, healthy birthweights, school completion rates, post school education, youth engagement, and overcrowded housing. There have been improvements in: pre-school enrolment rates, economic participation, and land and water rights for traditional owners.

The rate of incarceration of Aboriginal and Torres Strait Islander adults is increasing and the target of a 15 percent reduction by 2031 is not on track to be met. In the 12 months to 30 June 2024, the rate of Aboriginal and Torres Strait Islander prisoners increased from 2,041.5 per 100,000 adults to 2,304.4 per 100,000 adults.

The target to reduce the rate of Aboriginal and Torres Strait Islander young people in detention by at least 30% by 2031 is not on track to be met. Although detention rates initially declined, they have recently increased.

Queensland Law Reform Commission, *Non-fatal strangulation: Section 315A review –Investigating, Prosecuting and defending non-fatal strangulation in Queensland: The experiences of police and lawyers* (Research Report 2, July 2025)

In this research report, the Queensland Law Reform Commission (QLRC) presents findings based on 20 semi-structured interviews and 8 focus groups with 42 participants who had experience in policing, prosecuting, or defending non-fatal strangulation in Queensland. The report presents information on how non-fatal strangulation perpetrated in Queensland proceeds through the criminal justice system once police become involved. It explores how non-fatal strangulation is responded to, investigated, charged and how it proceeds through the courts, including how it is prosecuted and defended.

Bibi Sangha, 'Australia's Criminal Appeal Rights – Heading in the Wrong Direction?' (2025) 47 *Criminal Law Journal* 586

The article considers criminal appeal rights in Australia and argues for reform, including to provide a right of appeal against sentences imposed. The author notes in Queensland, 'the Court's usual practice is to disregard the [statutory] requirement for leave and to deal with such appeals on their merits with the leave requirement treated as 'a mere formality' (citing *R v Upson (No 2)* (2013) 229 A Crim R 275, [11]; [2013] QCA 149).

Sentencing Advisory Council (Victoria), *Sentencing in Victoria 2014–15 to 2023–24* (September 2025)

The Victorian Sentencing Advisory Council's report presents high-level data on sentencing practices in Victorian courts for the 10 years to 30 June 2024. Data is presented for cases sentenced in the: Supreme Court, County Court (equivalent to Queensland's District Court), Magistrates' Court and Children's Court.

It is the third report in an annual series designed to inform the community about sentencing trends in Victoria.

Steven Tudor, Kate Rossmanith, and Michael Proeve, 'Perspectives on how judicial officers can assess remorse in sentencing proceedings' (2025) 37(7) *Judicial Officers Bulletin* 69

This article considers judicial officers' assessment of remorse in sentencing proceedings. The article suggests key matters a judicial officer might consider when presented with evidence to make a finding of remorse organised by the three main sources of evidence – sentencing reports by a psychologist or psychiatrist, the offender's own evidence, and evidence of a person know to the offender. The article also considers the treatment of victims' views and mitigation as an exercise in justice rather than mercy.

Mary Jean Walker, Daniel B Cohen, 'Do Intoxicated Offenders Deserve Harsher Sentences? Questioning Veritas in Vino' *Journal of Social Philosophy* (published 26 July 2025)

This article discusses the treatment of intoxication as an aggravating factor. Previously, intoxication was considered a common law defence in Australia or accepted as a mitigating factor at sentence. However, increasingly intoxication is identified as a potential aggravating factor. The authors conclude that current sentencing guidance does not sufficiently distinguish between cases where aggravation is, and is not, justified on blameworthiness grounds. This means it may be more broadly applied than is justified and lead to a disproportionate increase in sentences. This same criticism is made of laws that remove judicial discretion, such as the 'one punch' laws in NSW introduced in 2014 that set a higher maximum penalty and mandatory minimum sentence without parole if an offence is committed while intoxicated. Under section 25A of the *Crimes Act 1900* (NSW), an intentional assault causing death committed by an adult while intoxicated carries a maximum penalty of 25 years imprisonment, with a mandatory minimum non-parole period of 8 years while the same offence committed while sober has a maximum penalty of 20 years with no mandatory non-parole period fixed, The authors argue the treatment of intoxication as an aggravating factor in all cases is problematic and can give rise to injustice.

United Kingdom and Ireland

Rory Kelly, Julian V Roberts, Jonathan Bild and Raphael Freund, *Public Opinion and the Language of Sentencing* (Sentencing Academy, Research Report, September 2025)

The report assesses public understanding of key sentencing terms in England and Wales and how terms influence perception of the appropriateness, leniency and severity of sentences. Findings include that 'victim impact statement' is better understood than 'victim personal statement', the term 'suspended sentence of imprisonment subject to good behaviour' is preferred to 'suspended sentence order', describing sentences of imprisonment with reference to their custodial and non-custodial components is strongly preferred, and including the minimum term to be served is the most successful way of informing the public about the meaning of life imprisonment. The report recommends that the Government consider a comprehensive review of all principal terms used in sentencing to determine if there is better terminology.

Kelly Mackenzie et al, 'The value of liminal cases in developing a narrative victimology: The case of families of people serving an indeterminate sentence for public protection' (2025) 25(4) *Criminology & Criminal Justice*

Imprisonment for Public Protection (IPP) was introduced in England and Wales in 2003. This sentence was aimed at 'dangerous offenders' and required their ongoing imprisonment until they could demonstrate their detention was no longer necessary for the protection of the public. This policy of preventive justice was highly controversial. The sentence was amended in 2008 before being abolished in 2012 when the Justice Secretary described it as 'discredited'. Abolition did not affect the sentence of the more than 8,000 people sentenced to an IPP during the period. In 2022, nearly 3,000 remained in prison. Calls for people sentenced to an IPP to be resentenced have been resisted. This article explores the impact on the families of people sentenced to an IPP. Although the injustice of the sentence and the harm caused to families has been officially acknowledged, the influence on policy and practice has been limited.

Rachel McPherson and Jay Gormley, *The Sentencing of Offences involving Modern Slavery and Human Trafficking in Scotland: Literature Review* (Prepared for the Scottish Sentencing Council, September 2025)

A literature review prepared for the Scottish Sentencing Council by Dr Rachel McPherson and Dr Jay Gormley of the School of Law, University of Glasgow. It discusses the legal and sentencing framework in Scotland relating to modern slavery offences, with reference to data on prosecutions and disposals and relevant case

law. It also discusses the approach in England and Wales and considers other issues from a socio-legal perspective, including the experiences of victims.

Shona Minson, Maya Sikand and Pippa Woodrow, 'Mitigating Motherhood: Centering the Rights of Children and Mothers in Criminal Sentencing in England and Wales' (2025) 46(1) *Columbia Journal of Gender and Law* 35

This article examines evolving legal and policy frameworks for the sentencing of mothers and pregnant women in England and Wales, focusing on balancing punitive justice with the rights of children. While case law and sentencing guidelines have established new principles and obligations for the sentencing of pregnant women and mothers, the authors note the process of change has been piecemeal and incremental. There is now a clear principle that the impact of a sentence on children or a pregnant woman must be a central consideration. Courts must explore custodial alternatives, including community and suspended sentences to mitigate harm. The article advocates for legislative change to limit custodial options, such as a statutory presumption against custodial sentences for mothers, pregnant women, and primary carers of young children, in conjunction with mandatory consideration of the effects of custodial sentences on dependent children and maternal health.

Dorothy Moorley, Gemma Birkett and Julian Roberts, *The Future of Deferred Sentencing: A Review of Recent Research and Developments* (Sentencing Academy and Centre for Justice Reform, September 2025)

The deferred sentencing provision was introduced in England and Wales in 1973. Sentences can be deferred for up to 6 months so that the court can have regard to the offender's conduct after conviction and any changes in the offender's circumstances. Deferred sentencing provides an opportunity to divert offenders from immediate custody. The report considers deferred sentencing provisions in other jurisdictions, including Victoria and New Zealand, which illustrate the benefits of focusing on certain categories of offences or offenders. The report concludes that deferred sentencing may be of particular benefit for female offenders, young offenders, and people who offend during a critical life period.

Scottish Sentencing Council, Report on the Scottish Sentencing Research Symposium – 'Efficacy in Sentencing: A Comparative Perspective' (September 2025)

This report presents a summary of the Scottish Sentencing Research Symposium – 'Efficacy in sentencing: a comparative perspective' hosted by the Scottish Sentencing Council, the Scottish Centre for Crime and Justice Research, and the Sentencing Academy on 20 May 2025.

Presentations available to view include:

- 'What does "effectiveness" mean?', Professor Melissa Hamilton
- 'Communicating the Legitimacy of Sentencing – Effectively', Dr Jay Gormley and Professor Cyrus Tata
- 'The Language of Sentencing', Dr Rory Kelly, University of Galway

Sentencing Academy Blog, The New Sentencing Bill (15 September 2025)

This article comments on the new Sentencing Bill. It welcomes the extension to the maximum period for which sentencing can be deferred from 6 to 12 months. It notes that the introduction of a presumption against short custodial sentences of 12 months or less in favour of a suspended sentence is likely to be controversial and something that may be targeted for amendment. The Bill also has a default release at the one-third mark (currently 40 or 50%) for people serving a standard determinate sentence. The article notes this will likely be a source of public criticism. The Bill includes a requirement that the Lord Chancellor and Chief Justice must give consent before new guidelines from the Sentencing Council can take effect. The article expresses concern that this will introduce a political element into the guidelines.

Sentencing Council for England and Wales, *Annual Report 2024-25* (Report, 16 July 2025)

The Council's Annual Report reports on the activities of the Sentencing Council throughout the year, including progress in meeting its strategic objectives.

John Todd-Kvam et al, 'Contrasts in legitimacy: Indefinite preventive sentencing in Norway and England and Wales' (2025) vol. 6 *Incarceration* 1

Post-conviction preventive detention to protect society from 'dangerous' individuals (in the form of an Imprisonment for Public Protection sentence) has been abolished in England and Wales, after widespread criticism. By contrast, preventive detention (forvaring) continues in Norway, where it has high levels of legitimacy. This article explores the differing attitudes to the legitimacy of preventive detention in the jurisdictions, in the context of an inverted burden of proof; scale, resourcing and delivery; position in the penal hierarchy; and differences in penal culture. Norway abolished life sentences in 1981, meaning that forvaring is the severest available sentence. Life sentences are the severest form of sentence available in England and Wales. The authors argue for this reason imprisonment for Public Protection sentences could be abolished without a major penal shift.

Liat Tuv, *Smaller, But Tougher: How the Criminal Justice System is Processing Young Adults* (Centre for Crime and Justice Studies, July 2025)

This Centre for Crime and Justice Studies report explores trends in the treatment of young adult offenders in the UK criminal justice system with a focus on the impact of gender and ethnicity. It notes overall that over the last 15 years there has been a sharp decline in the number of young adults (18-24) going through the courts. The number of young adults in court for more serious offences has decreased by 65 per cent while the number sent to prison for these offences has decreased. While the numbers have declined, those young adults who are prosecuted have been increasingly more likely to be remanded in custody, less likely to get a community sentence and more likely to get a prison sentence (and go to prison for longer).

Three questions are identified for further consideration. 1. Why has the criminal justice system appeared to concentrate with an increasingly smaller number of young adults (18–24) receiving harsher sentences; 2. Why are young women still more likely to be remanded in custody for offences that did not result in custodial sentences? 3. Why have ethnic disparities continued and what are the disparities at the intersection of gender and ethnicity?

US and other international jurisdictions

Jakub Drápal, 'Suspended Prison Sentences in Czechia: How They Came to Dominate the Penal Landscape and Their Consequences' 36 *Criminal Law Forum* 55 (published online 13 July 2025)

Suspended prison sentences are one of the most frequently used sanctions in many European continental countries (especially post-communist, like Czechia). By contrast, although suspended prison sentences are a feature of some common law systems they have rarely dominated. Suspended prison sentences have been frequently studied in common law countries but not in continental countries. This article explores the use of suspended sentences in Czechia, where these sentences are imposed on the majority of all offenders. This has complicated principled sentencing because the legal provisions governing them have not changed as their scope and use has increased. The revocation of very long suspended prison sentences is also a reason why Czechia has a very high prison population. The author argues that a main reason for the widespread use of suspended sentences without consideration of their harmful effects was because of an ill-considered penal policy created in the absence of sophisticated sentencing scholarship and a lack of attention to sentencing principles. Complex sentencing reform is needed in Czechia, taking account of contemporary sentencing rationales and what is to be achieved by sentencing.

Ross Kleinstuber, Jeremiah Coldsmith & Ellory Dabbs, '"Life means life", but does it mean less crime? Perpetual confinement and violent crime in Pennsylvania' 29(1) *Contemporary Justice Review* 71

People are familiar with the possibility of penalties; however, they struggle to estimate the probability and magnitude of the penalties. In 1997, under the governance of Tom Ridge, Pennsylvania voted to make it virtually impossible for offenders serving life sentences to be released. The campaign promise 'life means life' overhauled the clemency process by requiring a unanimous vote by the Board of Pardons which would now include a victim advocate to commute life sentences. The aim was to reduce crime and ensure public safety.

The results showed there was no significant difference on the homicide rate or forcible rape rate for the period after the policy change. The author suggests that increasing the severity of already severe sentences is unlikely to have a deterrent effect. The ability of a punishment to deter has a maximum point, and by the time sentences go beyond a certain point, those who can be deterred already have been. The article considers utilitarian sentencing goals and financial benefits that could justify ending the use of perpetual confinement.

Gwendolyn J. Koops-Geuze, 'I will, therefore I can? Desistance processes among court-convicted, community-sanctioned youth offenders' (2025) *Journal of Crime and Justice* 1

The article examines how court-convicted youth offenders in the Netherlands who are subject to community sanctions (community service or short behavioural intervention) experience desistance (discontinuance of offending trajectories and long-term abstinence from crime) processes by conducting interviews with offenders. Four desistance themes emerged: transformed life (perceptions); enhanced decision-making; altered social dynamics; and influential, pro-social adults. Some youths attributed these factors to the community sanction, while others attributed them to broader life events. Three non-desistance themes emerged: disappointment in unmet expectations by either the community sanction or broader criminal justice system; unresolved social deficits; and criminal fate. The study suggests that community sanctions and the broader youth justice system could better meet the specific social and psychological needs of youth offenders. Adults who model pro-social behaviours may be influential in helping youth offenders to lead law-abiding lives.

Tracy Sohoni, Sylwia Piatkowska & Briana Paige, 'Is the Defendant Mad or Bad? The Association Between Mental Health, Race and Sex in Sentencing in Federal Courts' (2025) 50 *American Journal of Criminal Justice* 966

Although mental health can be a mitigating or aggravating factor in sentencing, there is limited research on the issue, and less so on the interaction between mental health, race and sex in sentencing. This is addressed by this study. Mental illness may reduce a person's culpability, acting as a mitigating factor, especially when it is persistent and severe. It may also increase the risk of further offending, acting as an aggravating factor. The study found that the relationship between mental illness and sentence length differs by type of crime and type of mental illness. For example, mental illness was associated with longer sentences for public order crimes but shorter sentences for drug crimes. The study indicates significant interactions between race, sex and mental health.

Cases

Lombard (A Pseudonym) v The King [2025] VCSA 51

The applicant sought leave to appeal against a total effective sentence of 7 years and 9 months' imprisonment with a non-parole period of 4 years and 6 months on the grounds it was manifestly excessive. He was convicted following a trial of 3 charges of sexual assault of a child under the age of 16 and one charge of sexual penetration of a child under 12. The trial judge referred to the applicant's advanced age as being 'of itself a significant mitigating factor in sentencing'. The applicant was 80 at the time of the offence, and almost 85 at the time of the appeal, raising the risk of dying in custody.

The Court of Appeal referred to *R v RLP* (2009) 213 A Crim R 461; [2009] VSCA 271 in which the Court summarised the relevant principles to be applied. [27] They included that while the age and health of an offender are relevant to the exercise of the sentencing discretion, old age or ill health are not determinative of the quantum. 'Old age and ill health do not justify the imposition of an unacceptably inappropriate sentence'. Just punishment, proportionality and general and specific deterrence remain primary sentencing considerations. The application was refused on the grounds that imposing a lesser sentence on the most serious charge, a lesser total effective sentence or a lesser non-parole period would risk 'letting the age and health of the applicant swamp the sentencing synthesis'. [28]

Tsoumbanellis v R [2025] NSWCCA 107

The applicant sought leave to appeal against his sentence on the grounds that the sentencing judge (1) failed to apply a utilitarian discount for his guilty plea, (2) erred by including "the presence of children" as an aggravating factor, (3) failed to consider the applicant's remorse and age as mitigating factor, and (4) the sentence was manifestly excessive.

The sentencing judge imposed a total sentence of 4 years and 6 months' imprisonment with a non-parole period of 3 years for one count of commercial supply of a prohibited drug and one count of knowingly dealing with the proceeds of crime. At the time of the offending, the applicant was aged 68 years at the time of his offending and 70 years old at the time of sentence.

The Court rejected the ground relating to the argued failure to take the applicant's age into account as a mitigating factor. The Court inferred the applicant's advanced age was not overlooked in setting the head sentence despite the sentencing judge not expressly indicating how it was taken into account. [71] The applicant's age was clearly taken into account by the trial judge in finding special circumstances for adjusting the relationship between the non-parole period and the total sentence. [68] The Court referred to earlier consideration of the relevance of age in *Liu v R* [2023] NSWCCA 30; (2023) 306 A Crim R 105 at [39] adopting a summary from *Gulyas v Western Australia* [2007] WASCA 263; (2007) 178 A Crim R 539, noting that in this case some of these factors were also relevant, including the hardship for an offender arising from their knowledge a lengthy sentence of imprisonment may destroy any reasonable expectation of a useful life after release meaning such a sentence is more onerous.

The appeal was allowed as the applicant's entitlement to a mandatory discount for his guilty plea was not applied to the indicative sentences. A sentence of 4 years' imprisonment with a non-parole period of 2 years and 6 months was substituted.

R v CRG [2025] QDCSR 308

CRG pleaded guilty to multiple offences, including choking, assault occasioning bodily harm and contravening a domestic violence order. The complainant was the victim's wife of 35 years. Both CRG and his wife at the time of the offending were 71 years of age and aged 76 at the time of sentence. Offences of serious assault and obstruct police were committed when police attended his home, as well as wilful damage and the assault of an employee of a store, and the serious assault of a corrections officer while he was in custody. He had

prior convictions for contravention of a domestic violence order, using a carriage service to menace, and for common assault. He had not previously been required to serve a sentence involving actual imprisonment.

CRG had suffered a stroke some 25 years prior, that could account for his increased aggression. A psychological report expressed the view CRG was experiencing age related cognitive decline. There were signs of frontal lobe dysfunction meaning he may not have full capacity to control his actions when angered, leading to dysregulation and aggressive outbursts. He had also been diagnosed with prostate cancer while in custody and had other health issues. He was estranged from his wife and daughter.

CRG had spent 2 years in custody prior to sentence due to the need to ensure he had capacity to enter a guilty plea (longer than was accepted he otherwise would have been required to serve had he been sentenced earlier). In sentencing him to 3 years' probation, Loury DCJ identified the period in custody had sufficiently punished him and denounced his behaviour on behalf of the community. Deterrence was viewed as being 'of lesser significance' as he was not an appropriate vehicle for this. Community protection was also 'of lesser concern' due to his cognitive decline and that he was a 'frail man of advancing age'.

Articles, book chapters and reports

Yu Du, 'The Effect of Senior Status on Sentencing Decisions', *Journal of Crime and Justice* (2025)

The article considers the existence of a 'senior discount' in judicial outcomes for elderly offenders based on a review of data from the Pennsylvania Commission on Sentencing. While judges are not obligated to consider an offender's advanced age, the author's research found that judges are more likely to show leniency. This reflects a view that incarceration is ineffective in deterring elderly offenders as it does not provide an environment that fosters rehabilitation for this age group. Other factors considered simultaneously in sentencing elderly offenders were physical health issues, cognitive ability, and life expectancy. However, the author notes the inconsistent relationship between age and sentencing decisions, proposing policy changes to revise presumptive sentencing guidelines to allow judges to uniformly consider the defendant's advanced age in sentencing. These findings suggest while age status may influence blameworthiness, in the case of serious offences, protecting the community is the priority.

Paul Gavin, Cody Porter, Finley MacDonald, 'A Review of the Healthcare and Social Care Needs of the Older Prisoner Population in England and Wales' (2025) 14(4) *Social Sciences*

The paper focuses on the treatment of older adults in prisons and the need for new policies and practices to meet the complex age-sensitive health care needs of the demographic. The author calls for the broader reassessment of how older individuals are managed within the criminal justice system. Research highlights the inappropriateness of incarceration sentences in cases involving non-violent offences or where the declining health of the offender would suggest community-based sanctions would be more effective. Community-based sanctions would foster rehabilitation and reduce recidivism while balancing public safety and reducing the strain on prison resources.

Peter Kratcoski, Justice System Response to Elderly Criminality. In *Perspectives on Elderly Crime and Victimisation* (2025) pp. 91-112

The chapter discusses the criminal justice system's ability to consider advanced age in the sentencing process, acknowledging that the proportion of offences committed by older persons has increased significantly.

The article notes the willingness of the Courts to treat old age as a mitigating factor is case specific. The leniency provided by courts to offenders of advanced age generally stems from the high statistical chance they will face problems with matters such as their physical and mental health, substance addiction, employment and housing. In sentencing older criminal offenders, courts balance these factors with the offender's prior criminal history, the type and severity of the crime, surrounding circumstances and the risk of desistance if a sentence of imprisonment is not imposed.

Programs such as diversion from prison and participation in a drug court, mental health court or a residential treatment program may be more beneficial to the older offender and to the broader community, than imprisonment. A community setting provides the necessary resources and personnel to address the problems and reduce the risk of reoffending.

Peter C Kratcoski, 'Diversion and Community Treatment of Older Criminal Offenders' in Peter C Kratcoski and Maximilian Edelbacher, *Perspectives on Elderly Crime and Victimization* (2025, Springer, 2nd edition) pp. 113-133

This book chapter discusses the difficulties of determining the appropriate criminal justice response for the older criminal offender. It considers various responses of the justice system to older offenders based on their specific situational factors and special needs. The effectiveness of community-based programs and application of community-based supervision and treatment options is also considered with specific reference to their effectiveness for older offenders.

Meghan A. Novisky et al, 'Linkages between incarceration and health for older adults' *Health and Justice* (2025) 13

The ageing population in United States (US) correctional facilities has grown significantly over the last several decades. This paper outlines the impacts of incarceration on a range of individual health outcomes for older adults and offers targeted policy implications to address the health consequences suffered by older adults who are incarcerated. A research agenda which emphasises multiple approaches including interventions to enhance the health of older persons who are incarcerated, is provided.

Marc Peraire et al, 'Psychogeriatrics and criminal justice: Particularities and recommendations' (2025) 51(4) *Spanish Journal of Legal Medicine*

This article examines the impact of psychiatric conditions in older adults on the judicial process including pre-trial considerations, prison stays and post-sentence reintegration. The proportion of older inmates in the Unites States has increased by 282% in the last decade, with one in two prisoners over 60 years of age suffering from a psychiatric disorder (depression, bipolar disorder, substance abuse, anxiety and post-traumatic stress disorder).

Cognitive impairments prevalent in older adults can impact their ability to interact with the criminal justice system and access a fair outcome. The dynamic characteristic of mental state directly influences an offender's broad capacity to make decisions and consider the magnitude. The results indicate older adults receive worse outcomes as their communication deficits hinders their ability to participate in fair plea negotiations, comply with court orders and access required medical care.

The authors suggest the vulnerability of older inmates promotes the need to modify the prison environment by replacing traditional care models with more personalised ones. Sentencing purposes should prioritise mental awareness, dismantling distorted beliefs, and developing skills to manage impulse control issues associated with cognitive impairment. The authors encourage multidisciplinary cooperation between health and judicial bodies to overcome the barriers faced by older offenders.

Stefan Pohlmann, 'Imprisonment in old age: The case of Germany' (2025) 23(1) *Social Work and Society*

This study interviewed 22 individuals in Germany ranging from 62 to 78 years old who had been released from prison and were at least 60 years old at the time of their most recent prison sentence.

It found prison sentences have a profound impact on older offenders. Compared to a control group of former inmates between the ages of 36 and 51, older respondents faced greater social ostracism, negative self-image, higher risk of depression and did not benefit from reintegration programs offered which had a focus on younger offenders.

Maintaining social involvements and a familiar living space, the prospects of finding adequate living arrangements post their release and financial security are identified as important factors for older offenders. The author suggests alternative forms of sanctions, such as probation, suspended prison sentences, home detention with electronic monitoring, community service, reparation and rehabilitation programs, should be explored. For those cases where imprisonment is the only option due to the seriousness of the offending or the risk the person sentenced poses to the community, the development of specialist age-appropriate models of imprisonment are required.

Marion Vannier, 'On the Importance of "Hope-in-Practice" behind Bars' (2025) No. 4 *The February Journal* 32

This article considers the relevance of hope, in the form of possibility of release, in managing prison populations. The author notes that the prison population is ageing worldwide. In England and Wales, there are about four times the number of people aged 60 and over than there were in 2002. The number of life sentences is also increasing. A third of people serving a life sentence in England and Wales are aged 50 and over. Older people are more likely to be convicted of serious crimes, like murder or sexual offences, which have terms of life imprisonment. Due to the limited hope of being released and dying in prison, the experience of older people is viewed as being 'distinctively distressful' and the experience of imprisonment a 'more severe form of punishment' than for younger persons.

Marion Vannier and Netanel Dagan, 'Terminal Liminality, Life Imprisonment and the Paroled Body' (2025) 65(5) *The British Journal of Criminology* (2025) 960

About 20 percent of the general prison population in Israel is aged 60 or over. This is linked to an ageing population, harsh sentencing practices and parole policies for homicide and sexual offences driven by a tough on crime, law and order agenda. People experience transitions in prison, including rehabilitation, changes in prison regimes and personal development but life imprisonment stifles these transitions, with prisoners who have received a life sentence feeling 'stuck in limbo' or 'frozen'. People with life sentences experience ageing, physical and mental deterioration, and indifference from prison authorities.

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Queensland Sentencing Advisory Council

This Sentencing Round-up was prepared with the assistance of students from the University of Queensland's Law School – Lauren Hickson, Lauren McDowell, Vanessa KO, Zackary Keleher and Erin Van Hoeyen.