

## 2025: Fourth Quarter

### Note to readers:

The Sentencing Round-Up summarises select sentencing publications and developments between 1 October to 31 December 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

### Queensland Sentencing DataHub update

In November 2025, the Council released its annual update to the [Sentencing DataHub](#) to include information for cases sentenced in 2024–25.

For more information, see the Council's [media release – 'Imprisonment rates up, despite fewer cases sentenced'](#).

## Practice Directions and Forms

### Domestic and Family Violence Protection Act 2012

Several forms were updated relating to the [Domestic and Family Violence Protection Act 2012 \(Qld\)](#). New forms relating to Police Protection Directions were also published:

- [Form DV59A – Application for Court Review of Police Protection Direction \(version 1 – first published 19 December 2025\)](#)
- [Form DV59B – Police Protection Direction Respondent Application for Protection Order \(version 1 – first published 19 December 2025\)](#)
- [Form DV59C – Guide to completing an application for Court Review of Police Protection Direction \(version 1 – first published 19 December 2025\)](#)

## Relevant Bills

### Youth Justice (Electronic Monitoring) Amendment Bill 2025

This Bill seeks to establish 'electronic monitoring as a condition of youth bail' as a permanent measure to be implemented statewide. Electronic monitoring as a bail condition was first trialled in 2021 through the introduction of section 52AA of the *Youth Justice Act 1992*. Initially, section 52AA included an expiry provision but the findings at the end of the trial showed that electronic monitoring was related to higher bail completion, reduced reoffending, lower victimisation and less time spent in custody.

The Bill proposes to make electronic monitoring available to a wider range of people by removing the age limit and lowering the requirement of needing to commit a prescribed offence to be eligible.

The Bill amends the *Youth Justice Act 1992* to remove parts 2A and schedule 1AA because electronic monitoring will no longer be limited to prescribed geographical areas. Additionally, the Bill imposed the new section 52AA(1A), which governs services required to facilitate the electronic monitoring of a child.

### **Community Protection and Public Child Sex Offender Register (Daniel's Law) Act 2025**

Daniel's Law establishes the Queensland Community Protection and Public Child Sex Offender Register. The scheme enables controlled access to certain information about reported offenders listed on Queensland's Child Protection Register and particular offenders subject to a current supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld).

The legislation provides for three tiers of information disclosure:

- 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 Act establishes 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 (maximum penalty: 10 years imprisonment).
- 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 (maximum penalty: 3 years imprisonment).
- An offence for the unauthorised sharing of information obtained through the public register (maximum penalty: 3 years).

### [Justice, Integrity and Community Safety Committee, \*Community Protection and Public Child Sex Offender Register \(Daniel's Law\) Bill 2025\* \(Report No. 19, 58th Parliament, October 2025\)](#)

This report presents a summary of the Justice, Integrity and Community Safety Committee's examination of the Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill 2025. The Committee made one recommendation, that the Bill be passed.

### [R v TBH; Ex parte Attorney-General \(Qld\) \[2025\] QCA 190](#)

**Keywords:** Attorney-General appeal; conditional release order; conviction; community protection; youth justice principle 18 (prior to 13 December 2024 amendment); public confidence

The Court of Appeal allowed an Attorney-General appeal against a sentence of 12 months' detention suspended immediately under a conditional release order imposed for wounding and a 15 month probation order for two co-sentenced offences. No convictions were recorded. The respondent had spent 189 days (just over 6 months) in detention prior to sentence.

TBH, aged 17 years at the time of the offending, attacked a 49-year victim unknown to him after a confrontation in a shopping centre car park. TBH and others kicked and verbally abused the victim (common assault) and TBH, after pursuing him into the shopping centre, used a knife to slash the victim's leg (assault occasioning bodily harm (AOBH) whilst armed) and stabbed the victim's upper back near the armpit area (wounding).

TBH had experienced homelessness due to family incarceration and relationship breakdown, and abused alcohol due to maladaptive coping skills. He was exposed to drugs his entire upbringing which the Court found had 'likely normalised drugs as a coping strategy'. He had been willing to participate in restorative justice but the victim was not.

The Court increased the sentence for the wounding count to 18 months' detention with release after serving 50 per cent, with the Court finding the 'significant mitigating factors' supported a conclusion there were 'exceptional circumstances' justifying an earlier release. The 15-month probation order for other charges was not changed. Convictions were ordered to be recorded for the two most serious counts (AOBH whilst armed and wounding).

The Court found: 'Such a deliberate act of violence, with a weapon, in public, warranted a substantial sentence of actual detention ... to ensure public safety'. 'Other non-custodial measures were not sufficient in respect of such wanton violence, in a public place.' [39] The Court referred to the significance of community protection in relation to the sentencing of children having recently been 'elevated by legislative reform' under the *Making Queensland Safer Act 2024* (Qld) although the offending pre-dated these reforms.

While interference with a sentence on a prosecution appeal is justified only in 'rare and exceptional cases', in this case such interference was necessary 'to establish and maintain adequate standards of sentence for crimes of the present nature, even when committed by children.' A failure to do so 'would undermine public confidence in the administration of justice'. [44]

### **R v Ullman [2025] QCA 191**

**Keywords: drug offence; manifestly excessive; plea of guilty; parole eligibility date; 'one-third' rule; 'starting point'; double benefit; instinctive synthesis**

The Court of Appeal dismissed an appeal against a sentence of 6.5 years' imprisonment with parole eligibility set at 50 per cent for serious drug offending (one count of drug trafficking involving Schedule 2 prescription drugs (primarily benzodiazepines) and 9 counts of supplying a dangerous drug). At the time of his offending, the applicant was a registered medical practitioner and trafficked drugs out of his clinic and through a gym owner.

The applicant's grounds of appeal included that the sentencing judge failed to give adequate reasons for setting his parole eligibility at 50 per cent and that parole eligibility should have been set, following the 'orthodox position', at one-third (or less) of his head sentence given his early plea and other mitigating circumstances.

In dismissing the appeal, the Court found that is wrong to view the head sentence arrived at taking relevant mitigating factors into account as a 'starting point' before the sentencing court considers whether a non-parole period different to the one-third of the head sentence should be applied to the reduced head sentence, taking into account the mitigating factors. Such an approach 'artificially fragments the sentencing process' and 'it should not be accepted that the plea of guilty (or indeed other mitigating factors) *must* be taken into account in some analysis separately twice'. [28], [31] The approach taken by the sentencing judge was consistent with the instinctive synthesis approach endorsed by the High Court.

In this case, the offending was serious. The appellant had continually misused his position as a medical practitioner for the purposes of personal and considerable commercial gain and ceased his activities only after being detected. [36]

The Court observed that while the 'one-third mark of the sentence of imprisonment [has long been] seen as an appropriate starting point to recognise a plea of guilty' in Queensland, the 'level of discount' for a guilty plea 'will depend on a range of factors'. [30]

### **R v MEU [2025] QCA 193**

**Keywords: manifestly excessive; rape; domestic violence offence**

The applicant sought leave to appeal against a sentence of 6 years' imprisonment with parole eligibility set at 2.5 years for one count of rape (domestic violence offence). The victim was the 16-year-old younger sister of the applicant's then partner. The applicant argued the sentence was manifestly excessive and his parole eligibility should have been set at one-third of the 6-year sentence.

The Court considered several comparator cases and ultimately concluded the sentence was not unreasonable or unjust. In doing so it noted that one decision of *R v Conway* (2012) 223 A Crim R 244; [2012] QCA 142 involved a sentence imposed 13 years prior, well before the introduction of domestic violence as an aggravating factor. It was noted s 9(10A) 'reflects changes in community attitudes to sentences imposed for serious sexual offences that are domestic violence offences'. [39]

### **R v GBU [2025] QCA 196**

**Keywords: manifestly excessive; manslaughter; diminished responsibility; domestic violence offence; general deterrence; mental illness; voluntary intoxication**

The Court of Appeal refused an application for leave to appeal against a sentence of 12 years' imprisonment with an automatic serious violent offence declaration (meaning he would have to serve 80% prior to parole eligibility) for one count of manslaughter (domestic violence offence) that involved the applicant killing his wife. GBU argued two grounds of appeal. First, that due to his mental illness the sentencing judge had erred in finding general deterrence was relevant rather than a mitigating factor, and secondly, that the sentence was manifestly excessive.

Initially charged with murder, the Mental Health Court found that 'at the time of the offence the applicant was suffering a drug-induced psychosis, which resulted in delusional beliefs involving the deceased'. It was

accepted that the applicant's disease was caused by 'a history of sustained methamphetamine abuse and dependence' rather than using substances at the time of the offence. [19] He was therefore found to be of diminished responsibility under section 304A of the *Criminal Code* (Qld).

The Court noted that 'if the offending is not solely caused by ... voluntary intoxication [of alcohol or drugs] because of an underlying mental disorder that is established by evidence', section 9(9A) of the *Penalties and Sentences Act 1992* (Qld) (PSA) does not preclude 'a voluntarily intoxicated offender receiving mitigation of their sentence'. [52]

In considering the relevance of general deterrence, the sentencing judge had applied the approach in *R v Verdins* (2007) 16 VR 269, and *R v Neumann; Ex parte Attorney-General* [2007] 1 Qd R 53. The Court affirmed 'how and the extent to which sentencing principles will be affected by ... a mental illness or impaired functioning will vary from case to case' and the [36] 'extent to which general deterrence was moderated by the circumstances of this case was a matter within the sentencing judge's discretion'. [40]

The applicant's offences were 'objectively serious' involving two acts to inflict harm intending to kill the deceased when she was 'in a vulnerable position' and the applicant had the capacity to understand what he was doing and to control his actions'. [69] While the sentence was 'higher than some imposed in other cases', it was not unreasonable or unjust. [69]

### **R v RBP [2025] QCA 228**

**Keywords: rape; domestic violence; plea of guilty**

The Court of Appeal refused leave to appeal in circumstances where the applicant had been convicted of 23 counts of rape, 1 count of sexual assault and 1 count of stupefying to commit an indictable offence (all domestic violence offences) and sentenced to 12 years' imprisonment for the most serious charge. The sentence included a mandatory serious violent offence declaration, meaning he would have to serve 80 per cent of his sentence before being eligible for parole. The applicant argued his sentence was manifestly excessive and that a head sentence of 10 to 11 years was the appropriate range.

RBP and the victim had been in a relationship and were living together. The offending was sustained and prolonged on 6 occasions when the victim was drunk, unconscious or barely conscious and was incapable of giving consent. On all occasions, the applicant filmed and engaged in multiple offending.

The applicant had prior convictions for three sexual offences committed against a child. He had been on probation for drug and weapon offences, when he committed the subject offences.

The sentencing judge gave significant weight to the plea of guilty as it saved the victim further victimisation and potential harm and trauma to a jury by playing the video material. [17]

In refusing leave to appeal, the Court distinguished the case from *R v Buchanan* [2016] QCA 33 and noted there had been 'prolonged criminality', the victim was 'in a vulnerable position unable to defend herself' due in part to their domestic relationship 'which he took advantage of when she was not in a state to resist' and he had ignored 'signs that she did not want the offending to occur'. [24] It noted that 'While other sentences can serve as yardsticks to some extent' they 'do not determine the sentence or mark the outerbounds of a sentencing judge's discretion'. [26] The applicant's offending as 'objectively serious and extreme' requiring 'deterrence, both general and specific and 'called for a heavy sentence, as did the aggravating feature that the offences were domestic violence offences'. [27]

### **R v Karl [2025] QCA 229**

**Keywords: rape; grounds of appeal; manifestly excessive; role of comparable cases as 'yardsticks'**

The Court of Appeal dismissed an application for leave to appeal against a sentence of 7 years' imprisonment imposed for rape. He was sentenced to 7 years' imprisonment for the most serious count, and to 3 years for a second count ordered to be served concurrently. He had spent 443 days in pre-sentence custody which was declared as time served under the sentence. Parole eligibility was set at 2 years and 3 months after he had gone into custody.

The applicant engaged in deceptive conduct by pretending to be another person who the complainant, who was 19 years of age, had intended to meet up with. The applicant ignored the complainant's request to leave his unit and her resistance to his sexual advances. He subsequently held her down and committed two acts of rape.

The Court found there was no evidence the sentence imposed was unreasonable or plainly unjust or where error could be inferred despite the applicant being 22 years old at the time of the offending, facing deportation, having no previous criminal history and having entered an early plea of guilty. [25] The applicant's non-compliance with his bail conditions was noted to have caused significant delays in finalising the matter. [25] The sentencing judge accepted the Crown's submission that the complainant was a young girl in a vulnerable position.

The applicant argued that the sentence of 7 years' imprisonment was manifestly excessive in comparison with the outcome in other comparable cases.

The Court in dismissing the application for leave, concluded that a comparison with the authorities did 'not demonstrate the sentence is unreasonable or plainly unjust or gives rise to an inference of error'. Rather, 'at best they suggest a lower sentence of six years could have been imposed'. [25]

### **R v Senhenn [2025] QCA 237**

**Keywords: money laundering; Criminal Proceeds Confiscation Act 2002 (Qld); repeat offender**

The Court of Appeal refused an application for leave to appeal against a sentence of 12 months' imprisonment with parole release after 3 months for recklessly engaging in money laundering.

The basis of the money laundering charge involved Senhenn opening a bank account at the request of an unknown person for the purposes of a money laundering scheme involving a payment of \$67,000 intended by a person to be deposited into the account of her conveyancer. Senhenn was sentenced on the basis that she had no knowledge of the conveyancing funds scam. She received a financial benefit of only \$2,094.90.

Senhenn, aged 35 at the time of her offending, had no prior offending for dishonesty offences apart from a 'minor offence of a fuel drive off' involving \$15 of fuel. [4] She also had convictions for drug offences and breach of bail. She had been on a treatment authority under the *Mental Health Act 2016* (Qld) 10 years prior to being sentenced as she had been diagnosed with paranoid schizophrenia and had a history of polysubstance drug abuse. She was on a disability support pension at the time of her offending.

The appeal was on the basis that the sentence length was 'unreasonable or plainly unjust' due to the minor profit Senhenn made in comparison to the full amount received in the bank account. The Court however noted that the seriousness of the offence of recklessly engaging in money laundering 'is that the person is aware there is a substantial risk that the property dealt with by the offender is tainted property and it is unjustifiable for the person to take the risk, but the person takes the risk'. Her mental conditions did not preclude her have the requisite state of mind for the offence to be committed. General deterrence remained an important sentencing purpose. [12]

### *Commissioner of the Queensland Police Service v Toby [2025] ODC 22*

**Keywords: pre-sentence custody; totality principle; declaration of pre-sentence custody**

The District Court allowed an appeal by the Commissioner of Police against the respondent's sentence on the grounds that it was manifestly inadequate, due to the sentencing magistrate's 'double accounting' for the respondent's time in pre-sentence custody by declaring this as time served and also reducing the sentence on this basis.

The respondent was convicted on his own plea of guilty and sentenced to 12 months' imprisonment with a parole eligibility date fixed as the date of sentence for 23 property-related offence and one offence of obstructing a police officer. A total of 174 days of pre-sentence custody were declared as time served for all sentences. The sentencing judge ordered the head sentence to be served cumulatively on another sentence he was currently serving of 20 months' imprisonment.

The appeal focused on totality issues regarding the respondent's pre-existing period of imprisonment, the reduction of the head sentences for the current offences, the effect of the time spent in pre-sentence custody and the apparent inconsistency with the order for cumulative sentences.

The Court noted that when sentences are required to be served cumulatively, it is necessary to consider the aggregate of current sentences and the imposed sentence before the application of the totality principle 'to ensure there is an appropriate relativity between the whole criminality and the length of the sentences imposed'. [23]

It was found that the sentencing magistrate erred acting on a wrong principle regarding the effect of the pre-sentence custody on the order of cumulative sentences, having also ameliorated the sentences in the circumstances. Consequently, the magistrate had imposed 'an inadequate sentence outside the permissible range in the circumstances of the case'. [40]

The respondent was resented to 15 months' imprisonment in lieu of the original 12-month sentence for the most serious burglary offence, with no time in presentence custody declared. No change was made to the respondent's parole eligibility date.

### *Morrison v Queensland Police Service [2025] ODC 200*

**Keywords: manifestly excessive; imprisonment as a last resort; error of law; breach of bail**

The District Court allowed an appeal against a sentence in respect of a sentence of 28 days of imprisonment wholly suspended for an operational period of 12 months with no pre-sentence custody declared for one charge of breach of bail.

The appellant was an Aboriginal and Torres Strait Islander man who was homeless in the lead up to the offence and was said to be 'engaging well with the Court Link program' to address issues associated with his offending. [46] He had spent one and a half days in custody relating to the offending and had been of good behaviour for the 4.5 months on the suspended prison sentence prior to the appeal.

The bail order that was breached included conditions that prohibited the appellant from entering a specific premise and from contacting certain prosecution witnesses. Ten days following the undertaking of his bail, the police attended the specific premise after receiving a phone call from one of the witnesses and found the appellant in the front yard holding a metal bar.

The appellant argued that his sentence was excessive because the magistrate placed unnecessarily significant weight on his criminal history, failed to apply the principle that imprisonment is a sanction of last resort and to take into account his plea of guilty, and failed to consider the principle of proportionality when determining the operational period.

The respondent conceded the sentence was excessive because the 12-month operational period offended the principle of proportionality.

Morzone DCJ agreed that the sentencing discretion had miscarried because the sentencing magistrate allowed irrelevant matters in the appellant's criminal history to guide or affect them, did not explicitly consider that a sentence of imprisonment should only be imposed as a last resort, or the appellant's very early plea of guilty, and imposed a disproportionately long operational period. [4] He substituted a sentence of convicted but not further punished taking into account the time spent in pre-sentence custody, and his good behaviour since the original sentence.

### **Kent v Commissioner of Police [2025] QDC 211**

**Keywords: activating the whole suspended sentence; comparable cases; breach of domestic violence order**

The District Court allowed an appeal against a sentence of 6 months' imprisonment on the grounds it was manifestly excessive for 7 offences, including: possession of a knife in public, driving unlicensed, 3 charges of contravention of a domestic violence order (CDVO), drug possession and possession of property suspected of being used in drug offending. The appellant had pleaded guilty to these offences. For the most serious charge or CDVO, a 6-month sentence of imprisonment was ordered with other sentences to run concurrently, including an activated one month suspended prison sentence for drug possession. A parole release date was fixed after he had served one month in custody.

The most serious breach involved over a period of 2.5 weeks, making calls and sending text messages to the complainant in breach of a no contact condition after the protection order was made. Police also located a "selfie" taken by the appellant, in bed with the complainant, The prosecutor at sentence inferred that the aggrieved appeared to consent to this ongoing contact. The appellant had no prior DV convictions, and a dated but significant violent history with the remaining offences mostly drug-related and failures to appear. [17]–[18]

The head sentence of 6 months was found to be excessive and 'fell outside the permissible range' taking into account the nature of the behaviour. [5], [55]–[56] Morzone DCJ emphasised the significance of viewing the totality of the criminal behavior. A sentence of one month imprisonment was substituted, to be served concurrently with the other sentences, but cumulatively on the activated one month suspended sentence for previous drug possession. As the appellant was now on remand for other charges, his parole release date was set as the date of the current sentence.

*Queensland Police Service v KBH* [2023] QDC 26 was distinguished, including on the basis that in KBH, the suspended sentence was for a 'much longer term of 12 months imprisonment for prior domestic violence breaches in contrast to 1 month here for minor drug possession for personal use.' The contact in the present case also was presumed to have occurred with the cooperation of the complainant. [50]

### *R v CJS and Jenkyn [2025] ODC 195*

**Keywords:** section 9(10B) of the *Penalties and Sentences Act 1992 (Qld)*; domestic violence; child sexual offences

The District Court allowed an appeal against sentence for CJS and Jenkyn and reduced their sentences. The co-offenders were sentenced for over 30 serious sexual violence offences committed against the 8-year-old daughter and 5-year-old niece of one of the offenders (CJS), as well as producing and distributing child exploitation material of other known children and acts of bestiality. The sentencing judge was required to consider section 9(10B) of the PSA when sentencing CJS.

CJS alleged serious domestic violence during their relationship which was refuted by Jenkyn. The judge noted it would be a 'relevant aggravating circumstance' for Jenkyn's sentence if he found 'that Jenkyn had coerced his co-offender to commit serious criminal acts by combination of serious violence, threats and manipulation'. [163] Judge Chowdhury accepted CJS was subjected to domestic violence but was cautious about her allegations of extreme physical violence and threats of violence, noting there was 'an obvious motivation to make these allegations' because they could 'significantly reduce' her sentence. [190] CJS gave evidence and was cross-examined on those allegations. She was not found to be a 'satisfactory witness' and there were inconsistencies in her evidence. [172]

In accordance with *R v BEM [2024] QCA 175*, His Honour found there were no exceptional circumstances to justify not treating the domestic violence as a mitigating factor. [197] He then had to make an assessment of the extent to which her offending was attributable to the effect of that violence. He concluded that while her offending was not wholly attributable to the effect of domestic violence on her, the domestic violence had 'played a significant role in the offending', but it was 'impossible to quantify it'. [198] He noted she had had opportunities to get away from Jenkyn where she could have protected her daughter and niece and other children from what was happening. [199] In relation to Jenkyn's sentence, His Honour noted a 'very high level of satisfaction' was required for the domestic violence conduct to aggravate the sentence and he 'was not convinced of CJS's evidence'. [200]

His Honour noted 'this is not a case where a woman endured domestic violence to protect children of a relationship'. Rather, 'CJS deliberately harmed her own daughter, her niece and other children' and as such 'general deterrence and specific deterrence weigh more heavily than the mitigating features'. [205] The starting point was 10 years' imprisonment and the judge reduced it to 8 years 'in recognition of the mitigating feature of domestic violence'. [212] There was a further reduction of 1 year to 'reflect the particular psychiatric and psychological conditions that she has' and she was sentenced to 7 years' imprisonment. [212] A total of 828 days spent in pre-sentence custody was declared as time served under her sentence and her parole eligibility was set as the day of sentence reflecting her guilty pleas. Jenkyn's sentence of 11 years' imprisonment was reduced to 8 years' imprisonment, cumulative on an existing sentence. The reduced sentence reflected his plea of guilty and totality considerations. A period of 828 days in pre-sentence custody could not be declared.

### [HZK v DPP \[2025\] QChC 11](#)

**Keywords: manifestly excessive; whether sentences are unlawful; attempted entering of dwelling with intent, at night, in company, damaging property; s 175A of the YJA; Making Queensland Safer Act 2024 (Qld) and attempts; ‘significant offence to which adult penalties apply’**

The applicant pleaded guilty to one count of attempt to enter dwelling with intent at night in company, damages property (*Criminal Code*, s 419(1) & (2) and s 535). He was sentenced to a 3 year probation order and declared to be a serious repeat offender.

While drinking with 5 others, the group verbally abused and harassed a neighbour who complained about their noise. The applicant followed the victim, punching him in the face and kicking and damaging his front door. He later admitted he intended to assault the victim further. Both prosecution and defence were of the view that the attempted enter dwelling offence was a significant offence to which adult sentences apply (YJA, s 175A) which meant the court could order probation or detention for up to 3 years.

On appeal, Dearden DCJ held that Parliament would have articulated if attempts to commit significant offences to which adult sentences apply contained in s 175A(1) ‘were to be covered by that provision’ [17], citing other attempted offences expressly inserted – attempted murder (*Criminal Code*, s 306) and attempt to commit robbery (*Criminal Code*, s 412). His Honour stated that ‘any ambiguity in construing YJA s 175A and what constitutes a significant offence...should be resolved in favour of the defendant’ and ‘unless specifically identified, attempts to commit any of the offences specified in s 175A(1) are not covered by that provision’ [18]. His Honour set aside the sentence and substituted 12 months’ probation with no conviction recorded.

### [JATC v DPP \[2025\] QChC 13](#)

**Keywords: Grounds for interference; unlawful use of motor vehicle and published on social media; manifestly excessive.**

The applicant pleaded guilty to enter premises and commit indictable offence by break and unlawful use of motor vehicle in company, at night and published on social media. Those offences were committed when he was 15 years old. He was sentenced to 12 months’ detention with immediate release on a supervised release order after serving 37 days.

Dearden DCJ found several errors, including ‘a fixed view from the outset prior to any submissions on sentence or considering the pre-sentence report, that detention was inevitable’. [14] In addition, despite adjourning the sentence for 3 weeks to produce written reasons and remanding the child in custody over this time, the magistrate delivered oral (not written) reasons and the remarks ‘did not, in their content, demonstrate consideration or application of the sentencing principles in YJA s 150 nor the Youth Justice Principles or the significant matters in mitigation’. [15] Lastly, the magistrate had placed ‘undue weight’ on the victim impact statement when the ‘applicant child was not responsible (and was not being sentenced) either for the break-in to the victim’s premises, nor the theft and destruction of his vehicle’. [22] It was further noted that the defence lawyer had not read the pre-sentence report in full and was therefore unable to articulate all of the mitigating factors to the magistrate. [16]

Dearden DCJ also found the magistrate had been influenced by *R v KTB* [2025] QChC 3, ordering an identical sentence to that case despite being ‘clearly distinguishable’ from *JATC*. *KTB* involved ‘much more serious offending’ and even if it had not been distinguishable (although ‘clearly it is’) it would not bind the magistrate but rather provides ‘a statement of principles that could guide how...discretion should be exercised’. [20]

His Honour reiterated that while detention is no longer a sentence of last resort and primary regard must be given to any impact on the victim, the general sentencing principles and YJ principles continue to apply. In particular, regard must be given to the child’s experience of domestic violence (a significant issue beginning before the child was born) and whether it contributed to the offending and as an Aboriginal child, the effect of systemic disadvantage and intergenerational trauma. [26]

The applicant was resentenced to 50 hours’ community service.

## Australia & New Zealand

### [Mirko Bagaric, 'Editorial: Crime Without Punishment and the Scourge of Youth Violence' \(2025\) 47\(6\) \*Criminal Law Journal\* 1016](#)

In this editorial, Bagaric argues in favour of sentencing frameworks for children that give greater weight to the principle of community protection alongside investment in high-quality education within youth detention centres. He suggests current youth justice sentencing policies need to be recalibrated to better reflect the harms caused by this form of offending and on community safety grounds.

### [Marilyn Bromberg, "The Future's Made of Virtual Insanity": The Urgent Need to Modify Unjust Australian Post and Boast Laws' \(2005\) 47\(6\) \*Criminal Law Journal\* 635](#)

This article suggests that despite evidence that 'Post and Boast Laws', which create separate offences for defendants who post on social media about committing offences, are unlikely to be effective, several Australian jurisdictions have either enacted or are considering enacting these laws. The author argues these laws should be amended to allow police to compel social media companies to remove posts bragging about offending, impose a 'digital duty of care' on these companies, and implement early-intervention programs to educate young people about the consequences of posting about offending. The author also argues that, if a defendant brags about committing an offence on social media, this can already be taken into account by sentencing judges – either under sentencing legislation or common law - when they are considering whether the person being sentenced demonstrates remorse for their offending.

### [Larissa Christensen et al. 'Words that Carry Weight: Messages of Reprimand Delivered by Judicial Officers in Child Sexual Abuse Material Cases' \(2025\) \*Sexuality & Culture\* \(published online 6 October 2025\)](#)

This research presents findings of an analysis of sentencing remarks for 46 cases involving offenders were being sentenced for child sexual abuse material (CSAM) in one jurisdiction between January 1, 2011 and April 30, 2020 examining the messages communicated by the judiciary in sentencing. Two themes were identified: (1) the impact that offending has in contributing to market demand; and (2) the harm extends beyond the offending. Harms included the likelihood of exploitation beyond the creation of the CSAM, impacts from circulation, and the negative impact on law enforcement personal and judicial officers themselves. The authors suggests sentencing remarks may be used as an educational tool to communicate the wrongfulness of viewing CSAM and the magnitude of harm caused.

### [Caitlin Davey, Kylie Mulrooney and Susan Watt, 'Punitive Attitudes in Australia: Investigating the Rural-Urban Divide' \(2025\) 119 \*Journal of Rural Studies\*](#)

This study explores differences in punitive attitudes to crimes among rural and urban Australians and examines the contributing factors. Spatiality shapes attitudes to crime and punishment. The findings of the study indicate that Australians hold somewhat punitive attitudes towards offenders but people in rural areas were significantly more punitive than people in urban areas. This is consistent with previous research. The study found that fear of crime and confidence in the criminal justice system are key to understanding punitive attitudes in rural areas.

### [Department of Youth Justice and Victim Support, \*Nous Group: Evaluation of the Electronic Monitoring Trial\* \(Final Report, 9 October 2025\)](#)

The Queensland Government introduced the Electronic Monitoring (EM) trial in May 2021 to allow courts to impose an Electronic Monitoring Device (EMD) as a condition of bail for eligible high-risk young offenders. In

November 2024, the Department of Youth Justice and Victim Support engaged Nous Group to conduct an evaluation of the trial, identifying strengths and areas for improvement.

Outcomes of the EM trial were reported as being generally positive, with EMD conditions associated with high bail completion and reduced reoffending, with a 24 percent reduction in offending likelihood and 26 percent fewer offences involving victims. However, outcomes were influenced by the young person's motivation, family situation and engagement with support services. The EM trial was found to have had both positive and negative unintended outcomes for young people and their families.

While the cost of EMD-based supervision is considerably lower than detention-based supervision, it is higher than community-based supervision. The evaluation suggests economies of scale and operational improvements could reduce the cost per young person per day.

The report identifies several future considerations including: 1. Evidence that EMDs, when used in conjunction with wrap-around supports, may be effective in reducing reoffending and supporting bail compliance; 2. Opportunities to widen usage of EMDs, including by expanding eligibility requirements and locations; 3. Increasing awareness and usage of wrap-around supports; 4. Strengthening the model to better support vulnerable cohorts and ensure conditions are proportionate and responsive to individual progress; 5. Operational improvements; and 6. Shared inter-agency arrangements for monitoring and evaluation.

**Clare Farmer, Tahnee Guala and Peter Miller, 'Sentencing Sexual Offenders in Victoria, Australia: An Analysis of the Presence, Recognition, and Application of Offender Trauma Experiences within Sentencing Pronouncements and Outcomes' (2025) *American Journal of Criminal Justice* (published online)**

The impact of trauma experiences is being increasingly acknowledged, along with the importance of criminal justice system responses that are trauma-informed. This article explores findings of a Victorian study based on an analysis of 68 County Court sentencing transcripts that used the US Substance Abuse and Mental Health Services Administration's 4-Rs framework to explore the presence, recognition, and application of offender trauma experiences within sentencing decisions. The nature and timing of offender trauma experiences were noted to vary alongside with judicial acknowledgment and consideration of those experiences and the association with offending. The authors note there is a strong relationship between offender trauma experiences and serious sexual offending and that further research should examine the extent to which judicial practice aligns with a trauma-informed perspective, particularly for population groups for whom trauma experiences are prevalent and persistent.

**Margo van Felius, Elena Marchetti & Christine Bond, 'Why Do People Fail to Comply with Bail? An Exploratory Case Study of Two Court Jurisdictions in Queensland, Australia' (2025) *Current Issues in Criminal Justice* (published online)**

This article presents the findings of a Queensland study that explored compliance with bail conditions based on semi-structured interviews with 28 legal and community stakeholders, an examination of 52 police court briefs (QP9s) and semi-structured interviews with 23 adults on bail. It discusses the type of bail conditions most commonly given and factors impacting compliance. Reporting obligations and curfew conditions were commonly imposed, and also the most difficult conditions for bailees to comply with. Stakeholders reported that bailees typically agree to conditions without understanding the implications and the difficulty of adhering to these motivated by a desire to be released from custody. Some bailees reported that reporting conditions interfered with their employment and were dependent on their access to transport. Compliance with curfew conditions was also reported as impacting negatively on bailees, including impacting their ability to socialise. The authors argue some of the current challenges with compliance could be addressed through a shift to individualised bail assessments, culturally safe practices, and greater investment in supportive bail programs.

**Anusha Kelly and Natalia Antolak-Saper, 'The Role of Trauma as a Mitigating Factor in the Sentencing of Offenders: The Victorian Experience' (2025) 46(2) *Adelaide Law Review* 370**

Research suggests that a significant majority of offenders have experienced trauma. This article explores the treatment of trauma as a mitigating factor in the sentencing process within the State of Victoria. The author examines the intersection of trauma and sentencing and proposes an approach that integrates contemporary understandings of trauma into legal decision-making and supports consistent and fair consideration.

**Siobhan Lawler, 'Victim-Survivors' Reflections on Best Practice in Restorative Justice for Domestic, Family and Sexual Violence' (Trends & Issues in Crime and Criminal Justice No 720, Australian Institute of Criminology, October 2025)**

Drawing on a study involving interviews and surveys of 13 victim-survivors who participated in a restorative justice (RJ) program for DFV and sexual violence, this article explores best practice in RJ for victim-survivors of domestic, family and sexual violence. It notes that while victim-survivors have only peripheral involvement in the court process in determinations of guilt and sentencing, they are centrally involved in RJ as active participants and decision-makers. The article discusses best practices in the context of four main themes; convenor skills and expertise, victim-centred processes, intensive preparation and risk management, and collaboration with other services and experts.

**Jia-Xin Joyce Li, 'Expanding Corporate Criminal Punishment When Convicted Corporations Cannot Be Imprisoned' (2025) 40 *Australian Journal of Corporate Law* 381**

Corporations convicted of crimes cannot be imprisoned, meaning that fines are the main form of punishment. There has been interest in expanding non-monetary penalty options because fines are often perceived as inadequate penalties for corporate criminal activity. This article seeks to recontextualise non-monetary criminal punishments applying characteristics of imprisonment for the purposes of corporate criminal punishment to meet relevant sentencing purposes (deterrence, rehabilitation, incapacitation and punishment). The author proposes expanding corrective orders such as corporate probation and/or punitive sanctions for offences committed by corporations and permitting Special Manager and Manager appointments, similar to the casino industry.

**NSW Bureau of Crime Statistics and Research, 'NSW Closing the Gap Quarterly Update June 2025' (Statistical Report, 16 October 2025)**

The NSW Bureau of Crime Statistics and Research (BOCSAR) monitors two targets in the Closing the Gap National Agreement:

- Target 10, which aims to reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration, and
- Target 11, which aims to reduce the rate of Aboriginal and Torres Strait Islander young people in detention.

This report found that, from June 2023 to June 2025, there was an 18.2% increase in the number of Aboriginal adults held in prison, which was mainly driven by increasing remand rates. Additionally, while more Aboriginal young people were diverted from prison and fewer were proceeded against by police compared to the previous year, Aboriginal children still comprised of 59.8% of the youth detention population.

**Michael Roberts and Kelley Burton, 'Sentencing Outcomes for Female and Male Sexual Offenders in Queensland: Advocating for Nuanced Matching Protocols' (2025) 31 *James Cook University Law Review* 113**

Differences in sentencing outcomes between female sexual offenders (FSOs) and male sexual offenders (MSOs) has been a widely studied topic. Previous research suggests that FSOs receive more leniency than

MSOs due to gender bias. This article reports on research that matched 15 FSO cases in the Queensland Court of Appeal with MSO cases from the same jurisdiction with similar circumstances. The matching protocol involved consideration of circumstances of the offending. The study highlights the complexities of undertaking this type of analysis and concludes that without rigorous matching protocols, there is no evidence base for asserting gender bias in sentencing outcomes. Further, due to the instinctive synthesis approach to sentencing, it is impossible for any apparent differences in sentencing outcomes to be quantified.

**Steven Tudor and Michael Proeve, 'Who Can Tell if an Offender is Truly Remorseful? Judges' Use of Psychologists' and Psychiatrists' Evidence of Remorse' in Luca Silquini-Cinelli and Joshua Neoh (eds), *Research Handbook on Epistemologies of Law* (Edward Elgar Publishing, 11 December 2025)**

This article analyses how sentencing judges in South Australia use professional reports in assessing an offender's remorse. It is at the discretion of the judge to decide what evidence to take into consideration and what inferences can be drawn from the evidence. The analysis of South Australian judges' sentencing remarks showed the two most common sources of evidence about remorse were actions of the defendants themselves and professional reports by psychologists and psychiatrists. The consensus in the sentencing remarks was judges do not uncritically accept opinions of professionals regarding remorse, rather, they rely on the content of these reports to critically evaluate whether the offender is truly remorseful.

**Sentencing Advisory Council (Victoria), *Serious Offending by People Serving a Community Correction Order 2023-24* (Factsheet, 21 October 2025)**

This factsheet reports on the number of people sentenced in Victoria in 2023-24 for a serious offence committed while the person was serving a community correction order, including the types of serious offences committed.

**Alexandra Voce et al, 'The Extent of Illicit Drug and Alcohol Involvement in Crime: An Updated Estimate' (Trends & Issues in Crime and Criminal Justice No 723, Australian Institute of Criminology, November 2025)**

This paper explores the connection between illicit drug and alcohol misuse and criminal offending. In 2019, 45 percent of detainees attributed their offending to substance use. In that year, it is estimated that substance use contributed to approximately 156,760 principal offences in Australia. Demand reduction programs that target people in contact with the criminal justice system can reduce crime and the cost to victims.

**Tamara Walsh, "Making Queensland Safer"? A New Wave of Punitive Populism in Youth Justice' (2025) 25(3) *Youth Justice* 282**

The article explores the impacts of reforms to Queensland's youth justice laws impacting bail and sentencing and the context in which they were introduced. Following the state-election in October 2024, when sentencing children, courts 'must not' have regard to the principle that detention should be a last resort or the principle that a sentence allowing the child to stay in the community is preferable, primary regard must be had to the impact of the offence on the victim and all aspects of a child's criminal history must now be disclosed to the court. 'Adult crime, adult time' reforms introduced also mean that children are subject to adult penalties for certain offences.

The author questions the approach and whether the reforms have made Queensland safer, with reference to international literature that shows that punitive responses to youth offending are not effective in reducing youth crime because they do not address the root causes. The author suggests that community safety would be better served by taking an evidence-based approach to prevent youth offending by therapeutic responses focused on rehabilitation.

**Bronwyn Arnold. 'The Presumption of Harm and Descriptions of Child Sexual Victimization: Sentencing the Victim-Offender' (2025) 65(6) *The British Journal of Criminology* 1332**

This article reports on findings based on a sample of sentencing remarks of sexually abused child sexual offenders in three Australian jurisdictions (New South Wales, Victoria and Tasmania) between 2005 and 2018. The author argues while the presumption of harm is routinely extended to immediate victims, this same presumption is rarely extended to victim-offenders. The author identifies in some cases, language used by judges minimises the victim-offender's experiences and argues that the presumption of harm should be extended to victim-offenders and the harm they would have suffered acknowledged to further promote sentencing's communicative function and to help facilitate its rehabilitative purpose.

**Livvy Mitchell. 'A Policy Evaluation of Non-Custodial Sentencing for First-Time Offenders: Evidence from New Zealand' (2025) *New Zealand Economic Papers* 1 (published online)**

This article explores the impact of non-custodial sentences on recidivism by exploring a reform in New Zealand that came into effect on 1 October and changed the likelihood of receiving a non-custodial sentence over one involving a short sentence of imprisonment. Estimates from the regression discontinuity design suggested that, relative to short-term imprisonment, receiving a non-custodial sentence after the 1 October 2007 policy changes significantly increased first time offenders' recidivism by 8.7% points after one year, 9.5% points after two years and 9.6% points after five years. However, these effects were identified as stemming from administrative non-compliance, such as breach of sentence conditions, rather than new criminal activity. The author suggests policymakers should consider not only the higher recidivism rate, but also the nature of reoffending when considering economic and societal benefits of non-custodial options.

**Child Death Review Board (Queensland). *In Plain Sight: Review into System Responses to Child Sexual Abuse* (Published 8 December 2025)**

The Attorney-General requested the Child Death Review Board to carry out a review under the powers vested in section 29I of the *Family and Child Commission Act 2014* (Qld) (the Review). The Review used the Ashley Paul Griffith matter as a case study to examine the following matters:

- the laws, policies and procedures that should have been implemented to prevent offending at an earlier stage;
- Queensland's legislative and policy framework regarding early childhood education and care, police and blue care systems;
- the conduct and response from early childhood education and care, police and blue card systems; and
- cross jurisdictional analysis of practices regarding child protection from sexual abuse, identifying perpetrators and responding to allegations.

The Griffith matter illustrated the failures regarding the safeguarding and protection of children in sexual abuse. The evidence suggested that the offending conduct should have been detected and prevented at an earlier stage. Some identified factors to the detection delay were police thresholds for action and resourcing limitation, which resulted in unprotected children and unsupported families. The Review emphasised the ineffectiveness of receiving protection for suspected child sexual abuse, even after raising concerns. The Review highlights the 'need for a stronger whole-of-system approach, underpinned by proactive detection, coordinated responses, investment in prevention, and sustained recovery pathways'.

## United Kingdom

### Jay Gormley and Cyrus Tata, 'Public Attitudes to Sentences for Environmental and Wildlife Offences: Findings from a Mixed Methods Research Project' (Research Report, Scottish Sentencing Council, December 2025)

The Scottish Sentencing Council commissioned this research to explore public perspectives of sentencing for environmental and wildlife offences. The research is based on focus groups with 55 people and an online survey of 1,053 adults. In the survey, over half of respondents when asked if sentences were too lenient, about right, or too harsh responded that they did not know and of the remainder, most said they were too lenient. Across both the survey and focus groups, self-reported knowledge of sentences for these offences was low. Focus group participants also had low knowledge and understanding of sentencing options suggesting more work to communicate how sentencing may achieve relevant aims may be useful. The authors conclude that what the participants want from sentencing is complex, although their overall wish was for a fair and effective sentencing system that meets various aims. Consistent with caselaw and sentencing guidelines, harm and culpability were both identified by participants were important factors. Views on the use of fines were mixed being seen both as ineffective in some instances, but meaningful in others. The cost of committing these crimes should be greater than the direct and indirect benefits of committing them – although some were concerned the costs not be passed on to consumers.

### Carly Lightowers, 'Exploring "Problematizations" of Alcohol Intoxication in Sentencing' (2025) *Criminology & Criminal Justice* 1

Consumption of alcohol is a feature of numerous crimes and people who come in contact with the criminal justice system have higher rates of alcohol use disorders. In England and Wales, sentencing guidelines cover the relevance of alcohol intoxication and the weight it carries in deciding the sentence. This is to mitigate disparities and inequalities in punishment. The way in which alcohol intoxication shapes blame and culpability is not straightforward and how it should influence sentencing is contested. The article seeks to advance understanding of how the 'problem' of alcohol-related crime is represented in the sentencing guidelines, the effects of this, and the scope for alternative conceptualisations of the 'problem'.

Being under the influence of alcohol is an aggravating factor which can result in a higher sentence. The consumption of alcohol is problematised and viewed as voluntary and irresponsible and dangerous and intoxicated offenders are more blameworthy. This reflects the prominence of judicial ideals of objectivity, autonomy and freedom of choice and cements simplistic narratives around alcohol and crime. There is a tendency to downplay the myriad reasons for drinking, the variety of relationships with alcohol and the ways in which this can shape behaviour, and the uneven distribution of alcohol-related crime and harm. By casting alcohol consumption in terms of voluntariness, problem drinkers may be seen as involuntary consumers of alcohol, making them more vulnerable, potentially mitigating their responsibility, but only if they conform to stereotypes and are 'ideal defendants' who have committed to abstinence. The article notes the contradictory logic of a therapeutic versus criminal response speaks to different ideals and purposes of punishment, with potential for disparities in approach.

The article concludes by encouraging broader consideration of competing representations of alcohol use and intoxication in sentencing policy.

### Jose Pina- Sánchez and Eoin Guilfoyle, 'Ethnic Disparities in Sentencing in England and Wales: Review of Recent Findings' (2025) 4(1) *Journal of Legal Research Methodology* 26

Since the Lammy Review in 2017, there has been increasing research into ethnic disparities in sentencing in England and Wales. This article reviews the main findings of recent studies and concludes that ethnic disparities are mostly present in male offenders, drug offences, decisions of custody and personal mitigating factors. Ethnic disparities do not appear to be present amongst female offenders, non-drug related offences, decisions of sentence length, and objective sentencing factors listed in the sentencing guidelines. Ethnic disparities are not as widespread as previously thought, are far smaller in size, and heavily concentrated around drug offences.

The authors suggest initiatives to redress ethnic disparities by the Judicial College and Sentencing Council should continue and be enhanced. Other measures that could be taken are to increase the availability and quality of pre-sentence reports, to develop a national race equality strategy, and to improve access to legal aid.

The article also identifies research gaps and a need to improve access to and the use of sentencing data.

### **Jay Gormley, 'Public Attitudes to Sentencing Following a Guilty Plea – Research Findings', Spotlight on Sentencing Blog (Blog Post, Scottish Sentencing Council, 20 November 2025)**

In Scotland, courts are required to consider a guilty plea when deciding a sentence, with a maximum permitted sentence reduction of one-third for early guilty pleas. This blog article focuses on research commissioned by the Scottish Sentencing Council to explore public knowledge and perceptions of the relationship between sentencing and the type of plea and outlines key findings. The development and publication of a sentencing guideline would help to explain to the public how sentencing reductions are applied, their legitimate aims, and how sentences can do justice.

### **Scottish Sentencing Council, Offences of rape: A Scottish Sentencing Council public consultation - Analysis of responses (October 2025)**

From 25 July 2024 and 18 October 2024, the Scottish Sentencing Council engaged in public consultation on two draft guidelines on sentencing for rape offences. This report provides an analysis of the consultation responses. There was general agreement among respondents about the appropriateness of the features of culpability and harm and the aggravating factors listed in the guidelines. There was less agreement about the proposed mitigating factors.

### **Scottish Sentencing Council, Rape Sentencing Guideline (approved 3 December 2025)**

The guideline applies to all people convicted of the offence of rape under section 1 of the *Sexual Offences (Scotland) Act 2009* or the common law offence of rape who are sentenced from 3 March 2026. The guideline provides that the seriousness of an offence is assessed by reference to the culpability of the offender and the harm caused, or which might have been caused, by the offence. It lists matters to be considered in determining the level of culpability and harm. After determining the seriousness, the court should identify the appropriate sentencing range. The next step is to identify aggravating and mitigating factors and the guideline provides a table of these factors. The next step is to determine the headline sentence.

### **Scottish Sentencing Council, Rape of a Young Child Sentencing Guideline (approved 3 December 2025)**

The guideline applies to all people convicted of the offence of rape of a young child under section 18 of the *Sexual Offences (Scotland) Act 2009* or the common law offence of rape where the victim is a child under the age of 13 who are sentenced from 3 March 2026. The seriousness of the offence is determined by the culpability of the offender and the harm caused, or which might have been caused, by the offence. It lists matters to be considered in determining the level of culpability and harm. The next step is to select the sentencing range. The third step is to identify aggravating and mitigating factors. The guideline includes a table of these factors. The next step is to determine the headline sentence.

### **Sentencing Council for England and Wales, Analysis and Research at the Sentencing Council (Roundup, December 2025)**

The Sentencing Council of England and Wales conducts research and analysis to monitor sentencing guidelines and evaluate whether they are operating as intended and meeting the needs of users. This roundup summarises the research since the last roundup was published in September 2023. It focuses on research to develop the guidelines, research and evaluation publications, and forthcoming publications and research.

**Sentencing Council for England and Wales, *Manslaughter Offences: Guideline evaluation* (17 December 2025)**

The Sentencing Council of England and Wales published four guidelines for the sentencing of manslaughter on 31 July 2018. This report examines the operation and effect of the guidelines, including the impact on sentencing outcomes and any issues with implementation by analysing courts data, sentencing transcripts and by interviews with sentencers.

**Sentencing Council for England and Wales, *Breach offences: Guideline evaluation* (17 December 2025)**

In 2018 the Sentencing Council of England and Wales published a package of guidelines covering 11 types of breaches across 10 guidelines. This evaluation assesses the impact and implementation of seven of these guidelines for seven breaches:

- breach of a community order
- breach of a suspended sentence order
- breach of a protective order
- failure to surrender to bail
- breach of a criminal behaviour order
- fail to comply with notification requirements
- breach of a sexual harm prevention order.

The report analyses court data and a survey of sentencers and probation staff.

**Julian Roberts and Lyndon Harris, 'Legislate in Haste, Amend at Leisure: The Gauke Sentencing Review and Beyond' (2025) 9 *Criminal Law Review* 539**

This article raises questions about some proposals made in the report of the Gauke Sentencing Review published in May 2025. These include the introduction of 'crime reduction' as an overarching principle that governs the 5 purposes of sentencing and the introduction of a presumption against short prison sentences with a presumption in favour of suspended prison sentences. The maximum length of suspended prison sentences would also be increased from 2 years to 3 years. The authors urge caution and the need for further examination and scrutiny by the Justice Select Committee before the proposed changes are legislated.

**Sentencing Academy (United Kingdom), 'The Sentencing Hub is Live' (Blog Post, 18 November 2025)**

In November 2025, Sentencing Academy UK launched 'The Sentencing Hub' which is an online resource that aims to be the central database for delivering clear, accessible and evidence-based information about sentencing. The Sentencing Hub is user driven by the practitioners, researchers, policymakers, sentencers, journalist and the general public of England and Wales. There were no articles published on the Sentencing Hub during quarter four.

**Sentencing Academy of the United Kingdom, *The Future of Deferred Sentencing* (Published September 2025)**

This report addresses the rising contention and interest in alternative sentencing options such as deferred sentencing. Deferred sentencing is suggested to meet policy priorities, address the ineffectiveness of short custodial sentences and contribute to the rising prison population and conditions. Despite deferred sentencing's benefits, it is significantly under-researched in the UK. The report explores how deferred sentencing is approached in other jurisdictions and calls for more comprehensive guidance on the issue.

**Sentencing Academy of the United Kingdom, *Public opinion on sentencing alcohol-related offending* (Published November 2025)**

The relevance of intoxication in assessments of blameworthiness and sentencing is complex and contested. In England and Wales sentencing guidelines treat voluntary intoxication as an aggravating factor because a defendant is viewed as more culpable for their intoxicated behaviour. Mitigation is allowed where someone is dependent on alcohol but seeking help or treatment. This is at odds with cultural understandings of alcohol and culpability which may view intoxication as an explanation or excuse for the offending conduct. This article examines public attitudes to intoxication in sentencing. There are indications that the public has a more liberal attitude to intoxication than the sentencing guidelines, with a preference that alcohol intoxication should be considered as a neutral factor in sentencing decisions.

**Sentencing Academy of the United Kingdom, *Pre-sentence reports: A review of policy, practice and research* (Published December 2025)**

This report examines the role of pre-sentence reports (PSR) in sentencing. PSR are the most important source of information about the offender and their personal circumstances and are for the purpose of assisting the court to determine the most appropriate sentence that facilitates the administration of justice to reduce re-offending and to protect the public or victim from further harm. Courts have discretion in whether to obtain a PSR, so that some people are being sentenced without the benefit of a PSR. There has been a move away from written reports to oral reports in the interests of efficiency of criminal justice processes but there are concerns this has been at the expense of the quality of PSRs which fail to consider all relevant factors which may result in more punitive sentences. There are particular concerns about the impact on ethnic minority defendants.

**Annalena Wolcke, Jay Gormley and Julian Roberts, *Sentence Reductions for Guilty Pleas: A Review of Policy, Practice and Research* (Sentencing Academy (United Kingdom), October 2025)**

This report examines the role of guilty pleas in England and Wales. Most convictions in the Crown Court and magistrates' courts are due to guilty pleas. People who plead guilty and waive their right to a trial are normally entitled to a sentence reduction. The report outlines two justifications for this – saving witnesses from the time-consuming and stressful experience of giving evidence and the conservation of criminal justice resources by avoiding a trial. There is a sentencing guideline with a sliding scale of sentencing reductions so that early pleas receive a one-third reduction of the custodial sentence, with the reduction gradually decreasing the closer to a trial, so that a guilty plea on the first day of trial reduces the custodial period by one-tenth. However, there are exceptions to these recommended reductions. A plea of guilty may also affect the type of sentence imposed, such as reducing what would otherwise be a custodial sentence to a community order, or reducing a community order to a fine.

**Carly Lightowlers, 'Intoxication and Sentencing Intoxication and Sentencing: A Review of Policy, Practice and Research' (Report, Sentencing Academy (United Kingdom), October 2025)**

This UK Sentencing Academy report examines the role of intoxication in sentencing. Guidelines in England and Wales mandate that alcohol and drug intoxication be considered an aggravating factor. Intoxication can be considered in sentencing both as part of the offending context and in terms of the treatment needs of the person. Although the guidelines suggest that an intoxicated offender is more culpable which should be reflected in an increased sentence, the report outlines complicating factors for sentencers. In practice, intoxication may aggravate or mitigate a sentence depending on the context and offender demographics. The report concludes that ambiguities in sentencing guidance means that sentencers draw on their own sentencing philosophies and beliefs about intoxication, with the potential for disparities and bias in sentencing outcomes. The role of intoxication has received little research attention and the report identifies several research priorities.

**Jamie Bennett, 'The Future of Sentencing' (2025) 281 *Prison Service Journal* 6 (Published 19 December 2025)**

Dr. Jamie Bennett (prison group director in HM Prison and Probation Service) interviewed Nicola Padfield KC (Hon) (Professor at University of Cambridge) and Michael Spurr CB (Chief Executive of the National Offender Management Service) about the Independent Sentencing Review for England and Wales. This review chaired by the former Lord Chancellor and Secretary of State for Justice, David Gauke, and assisted by an independent panel of experts, detailed the causes of the acute prison population crisis and made recommendations to address the growth in prisoner numbers. Recommendations included: reducing the use of short term prison sentences; strengthening alternative options, such as extending the use of suspended prison sentences, deferred sentencing and confiscation orders; improving community sentences; and creating simpler processes for early release from custody.

The discussion includes reflections on the review, including the practical effect of changing statutory sentencing purposes to incorporate the needs of victims and to make reducing crime the overarching aim of sentencing, the experience in other jurisdictions which have adopted a presumption against the use of short prison sentences, how public support can be maintained for early release, the potential for unintended impacts of reforms to increase the flexibility of conditions and introduce options for community sentences and for positive changes for women in the criminal justice system, the use of technology in supporting probation, and the potential establishment of an external advisory body with 3 functions: an authority on what works to reduce crime; analysis of proposed policy changes; and annual reporting.

**Antje du Bois-Pedain, 'Relational Morality at Conviction and Sentencing' (2025) *Criminal Law and Philosophy* (published online)**

The role of sentencing in communicating social condemnation of offending behaviour is emphasised as an important feature of the criminal law. While idealised conceptions of criminal punishment argue that, for a penalty to be justified, the defendant must accept the legitimacy of the judge's decision, this article argues that these theories overlook the importance of the interpersonal aspect of the judicial role. The author argues that people who are being sentenced are more likely to accept a court's judgment if the judge makes an effort to relate to the defendant on a personal level.

**Eric Deane, 'Less is More? A Critical Appraisal into Minimum Intervention and Maximum Diversion in The Youth Justice System' (2025) 15 *Southampton Student Law Review* 41**

Offenders under 18 years old in England and Wales accounted for 21 per cent of all individuals cautioned or convicted of an indictable offence, and 22 per cent of 10- to 25-year-olds reported offending in the previous year. This article critiques the current approach of the youth justice system in England and Wales, arguing it is ineffective and accelerates youth offending. Criticisms include that current sentencing responses fail to recognise the significance of a child's age and welfare when considering a just sentence. A minimum intervention and maximum diversion approach is proposed to better achieve the prevention of offending by focusing on rehabilitation, building relationships with the community, and linking to reintegration support networks. The barriers to implementation of the proposed approach are discussed and an alternative approach to youth crime through individual positivism is discussed.

## **US and Other International Jurisdictions**

**Kevin Petersen, et al, 'The Hidden Discount: Examining Racial Disparity in the Use of Suspended Sentences' (2025) *Criminology* (Published 31 December 2025)**

Research on criminal sentencing generally concludes that racial differences in sentence lengths are small and inconsistent but rarely considers whether sentences are partially or fully suspended. This study uses 24 years (2000-2023) of sentencing guideline data from the state of Maryland in the United States of America to test for racial/ethnic disparity in the use of suspended sentences. The study found significant and meaningful disparities in suspended sentences that are largest for minority defendants but that this disparity has been declining over time.

**Mingyang Chen and Zhipeng Wu, Machine Judges Reduce Sentencing Bias? A Computational Social Science Evaluation (Published on Open Review, 13 December 2025)**

The article by academics based in China reports on a study to determine if machine learning models can reduce individual biases in sentencing. The study found that if a person was sentenced by a machine judge instead of a human judge the probability of being sentenced to an unfair result was 35 percent lower. If judges use machine learning to assist their work it is argued, 55 percent of biased cases can be sentenced in a more fair way.

**Wing-Cheong Chan, 'Death Penalty for Drug Offenders in Southeast Asia: Weakening of Resistance to Change?' (2025) 14(4) *International Journal for Crime, Justice and Social Democracy* 133**

Despite an increasing number of countries abolishing the death penalty, the number of countries that utilise the death penalty for drug offences has increased by 55 percent, from 22 countries in 1985 to 34 countries in 2023. It is noted that almost all ASEAN member states have the death penalty. The article explores the use of the death penalty for drug offences and shifts in drug policies in Southeast Asia. It concludes that ASEAN member states are best described as 'reductionist' rather than abolitionist with the death penalty. There are hopes of change in Indonesia, Malaysia and Thailand and it is suggested that should those countries eventually abolish the death penalty it may provide impetus for other ASEAN countries to reconsider their use of the death penalty.

**Helene Love and Stephanie Wiley, 'Less Law, More Justice: Rethinking Sentencing in the Youth Criminal Justice Act' (2025) 41(1) *Canadian Journal of Law and Society* 128**

This article evaluates whether the *Youth Criminal Justice Act* in Canada has achieved its goals of reducing the number of young people sentenced to detention and promoting consistency in sentencing, since its introduction in 2003. While there has been a significant reduction in the number of children sentenced to detention, Indigenous children are sentenced to detention at higher rates than non-Indigenous children. The author raises concerns that the shift in sentencing legislation from a flexible, standards-based approach to a more prescriptive rules-based approach, combined with the enactment of multiple, overlapping principles in the *Youth Criminal Justice Act*, may have contributed to harsher sentences for Indigenous young people. The article recommends redrafting duplicative and unclear provisions and expanding the use of specialised courts for young people.

**Yu Du and Megan Kurlychek, 'Sentencing for Youthful Offenders: The Impact of Youthfulness on the Sentencing Decisions' (2025) 71(11) *Crime & Delinquency* 3619**

Science indicates that the human brain is not fully developed until the mid-20s. This article discusses how judges consider age in sentencing offenders in the 18-to-25 years old age group. Current American sentencing policies assume that upon reaching 18 years old, adults are rational and can effectively evaluate the consequences of their behaviour. However, those under 25 years old do not have a fully developed prefrontal lobe of the brain, which justifies characteristics such as impulsivity, lack of consideration, and greater subjectivity to social pressures.

The results suggest judges attempt to balance the culpability of the offender and the risk of recidivism. Subsequently, younger offenders are more likely to be sentenced to incarceration than older offenders but receive a "youth discount" regarding the length of the sentence. The article suggests to recognise the developmental distinction and reduce disparities, sentencing guidelines should be updated to take into account the age of offenders who are not juveniles but not yet fully adults.

**Molly McEachern, 'Coerced into Confession: Prosecutorial Pressure and the Misuse of Plea Bargaining' (2025) 13(1) *Belmont Law Review* 245**

In the American criminal justice system, defendants must decide whether to plead guilty or go to trial which could result in significantly higher penalties. Plea bargains account for approximately 95% of adjudicated criminal cases. This article recognises the important role of plea bargains on reducing pressure on the courts, but in application, it can be used as a coercive bargaining method. The disproportionate sentencing guidelines and exaggerated mandatory minimum sentences allow prosecutors to compel defendants to plead guilty, waiving their right to trial. The author discusses how the power dynamic poses a unique risk to innocent defendants who are driven by the fear of a guilty verdict at trial and facing a lengthy sentence. To reduce misuse and coercive practice, the article suggests recording plea bargains separately from convicted at trial. This would incentivise prosecutors to act with integrity and safeguard the right to a fair trial.

**JaneAnne Murray and Logan Weimer, *Second Look Sentencing and Trauma-Informed Advocacy* (Minnesota Legal Studies Research Paper, 5 December 2025)**

This paper examines 'second look' sentencing and the role of trauma-informed advocacy in the United States of America. Driven by concerns about the punitiveness of the criminal justice system, second look measures of people serving lengthy sentences are releasing thousands of convicted offenders from prison earlier than originally scheduled. The article describes the varied form that second look sentencing can take. It is exposing errors and blind spots in past practices and policies, like failures to consider mitigating factors or traumatic life histories or emerging scientific evidence. Although receiving support across the political spectrum, the movement is not without its critics, concerned about recidivism and the impact on victims of crime, among other matters. Offenders may have a higher incidence of individual and structural adversity and it is helpful if defence lawyers take a trauma-informed approach to give a full picture of their client's story and to build rapport. A second look petition must show that continuing the sentence would be unjust and reassure the decision-maker that the offender can reintegrate into the community and not reoffend.

**Yolokazi Ngobane, 'Examining the Implications of an Inference of Remorse or Lack Thereof Drawn from a Convicted Offender's Plea of Guilty or Not Guilty' (2025) 46(3) *Obiter* 577 (Published 1 October 2025)**

In South Africa, remorse may be either an aggravating or mitigating factor at sentencing and seems to have a higher status than other factors because of the weight given to it. It can be to the detriment of a convicted person if they are deemed to lack remorse because of a plea of not guilty. It can also be a miscarriage of justice if a person pleads guilty and this is perceived as an act of remorse attracting a reduced sentence. This article seeks to answer the question of whether the inference of remorse or lack thereof, drawn by sentencing courts from a plea of guilty or not guilty, is a blind one; and if it is not a blind inference, then how do sentencing officers ensure that a balance between the aggravating and mitigating factors is maintained to ensure that the punishment fits the crime. It is noted that remorse is a feeling of sorrow that may be inferred from the conduct of the convicted person from the moment they committed the crime, which should be differentiated from guilt. Remorse may be in the form of a sincere apology that is accepted by the court as indicating remorse. It is concluded that identifying remorse is a complex exercise going far beyond whether a person has pleaded guilty or not. An understanding of human behaviour is needed to identify if a person is remorseful, which may benefit from the expertise of psychologists and psychiatrists.

**[Elie Alhajjar, 'AI in the Legal System: A Transformative Force in Criminal Justice' \(2025\) 37 Federal Sentencing Reporter 3 \(Published 1 November 2025\)](#)**

The article explores the use of artificial intelligence in the United States criminal justice system and its transformative potential. AI can assist lawyers to estimate sentencing ranges. Courts throughout the world are using AI to make sentencing recommendations. AI is being used by judges to make decisions about bail and sentencing. An ethical consideration around the use of AI in sentencing is the potential for an algorithmic bias resulting in unfair or discriminatory outcomes. People could be disproportionately disadvantaged based on demographic factors, such as race or socioeconomic status, with the potential for harsher sentences for certain groups. This highlights the need for rigorous oversight mechanisms.

**[Armin Alimardani and Milda Istiqomah, 'Beyond Black Boxes and Biases: Advancing Artificial Intelligence in Sentencing' \(2025\) Current Issues in Criminal Justice 1 \(Published 08 September 2025\)](#)**

Inconsistencies in sentencing have pushed the integration of AI into the legal system. This article examines the potential role of AI in addressing inconsistencies and the appropriate model in which could be used to aid sentencing outcomes. The use of AI use in sentencing remains controversial due to issues of transparency, bias and accountability. Key challenges relating to the inclusion of AI in sentencing relate to the weight the system gives to all sentencing elements simultaneously. This study suggests the development of a separate AI system which is dedicated to assessing the individual sentencing factors. Rather than replacing judicial discretion. This approach seeks to support judges in systematically reviewing their decisions. To illustrate, this study uses Indonesia's experimental sentencing guidelines for corruption cases as a case study.

**[Mirko Bagaric and Maya Arguello Gomez, 'The Misalignment Between Sentencing and Artificial Intelligence' \(2025\) 99\(6\) Australian Law Journal 459](#)**

Artificial intelligence increasingly is being embraced, and there is potential for it to play a significant role in legal decision-making. This article explores the challenges of using artificial intelligence in the context of sentencing, including the instinctive synthesis approach to sentencing in Australia. It concludes while such systems may lack the sophistication required to play a key role in sentencing, it may serve other functions, including in assessing the likelihood of reoffending and in informing defendants, victims, lawyers and the general community of the likely outcome of sentencing decisions.

**[Tatiana Dancy, 'Guiding Action in the Age of Artificial Intelligence' \(2025\) 48\(4\) University of NSW Law Journal 1236](#)**

In 2017, Justice Gordon delivered a speech addressing 'Courts and the Future of the Rule of Law'. A focus was the use of predictive algorithms to inform judicial decision-making in a criminal justice context. This article addresses the use of risk assessment tools to inform and guide judicial decisions, including regarding the type and length of sentence imposed, and related to this, the function of the law. The article argues there are two elements to the guidance function of the law; it is essential that the law is transparent and that it provides opportunity for people to act on it. The policies of risk assessment are unlikely to satisfy either element, thereby failing to effectively guide the function of law.

**[Belinda McSherry, 'Algorithmic Risk Assessment and Expert Evidence' \(2025\) 32\(2\) Journal of Law and Medicine 294](#)**

Although risk assessment frameworks are widely used by psychologists and psychiatrists, including as part of pre-sentence reports, this article identifies ethical issues associated with the use of algorithms by private companies to create empirical risk assessment tools. A US case involving the use of a risk assessment system developed by a private company was highlighted as an example. The applicant in this case raised concerns about racially biased outcomes and a lack of transparency from the company about the data used by the system. This is a particular concern where these tools are used to justify imprisonment. The author warns

against judicial reliance on these tools, especially where the court does not have an in-depth understanding of how the risk assessment tool works.

**Jake Smith and Ashley Hirashima, 'The Five Pitfalls of Data-Driven Sentencing' (2025) 37(3) Federal Sentencing Reporter 278**

The use of artificial intelligence in sentencing is expanding, allowing judicial officers to increase transparency and fairness, and reduce subjectivity and bias. This article identifies five drawbacks of artificial intelligence from achieving fair sentencing results: (1) unbalanced data, (2) biased data from past judicial errors, (3) inconsistent variables, (4) lack of discretion, and (5) improper modeling choices. The overarching argument is that artificial intelligence models are not an accurate reflection of the world and based predictions on averages, failing to consider individual circumstances. The article also provides suggestions for mitigating these challenges.

