

SENTENCING
SPOTLIGHT ON...

stalking



Queensland Sentencing
Advisory Council
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Sentencing Spotlight on... stalking

This Sentencing Spotlight examines sentencing outcomes for stalking offences under s 359E of the *Criminal Code* (Qld) finalised in Queensland courts between 2005–06 to 2018–19.

Summary of offences 2005–06 to 2018–19



2,155 cases

Stalking was the most serious offence (MSO) in

1,698 cases



27.2%

of cases had
**aggravating
circumstances**



**Use or threat
of violence**

is the most common
aggravating circumstance



85.7%

male offenders



8.4%

Aboriginal and/or Torres
Strait Islander



Average age

36.7 years



2.7%

young offenders



97.0%

pleaded guilty



**Contravention of a
domestic violence order**

is the most common
associated offence



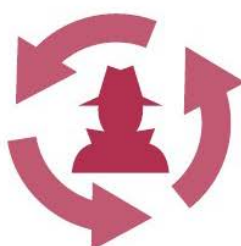
31.2%

adult offenders
imprisoned



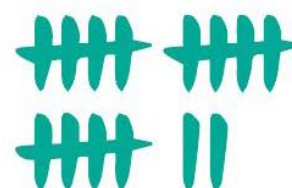
900 restraining orders

made in cases between
2005 and 2019



5.8%

repeat offenders



Average imprisonment

1.4 years for

adult offenders

Source: Department of Justice and Attorney-General's Queensland Wide Inter-linked Courts (QWIC) database, as maintained by the Queensland Government Statistician's Office (QGSO).

Stalking

Queensland was the first Australian state to enact specific anti-stalking legislation. The offence of unlawful stalking commenced on 23 November 1993.¹

Unlawful stalking is defined in the *Criminal Code* (Qld).² Its definition is very broad and can be split into four parts.

First, it involves conduct that is ‘intentionally directed at a person’. It does not matter whether the offender intends the victim to be aware that the conduct is directed at them. It also does not matter if the offender is mistaken about the identity of the person they intentionally direct their conduct at.

Second, the conduct can occur on multiple occasions, or involve protracted conduct on one occasion.

Third, the conduct must consist of one or more of the following acts (or a similar type of act):

- following, loitering near, watching or approaching a person;
- contacting a person in any way, including through the use of any technology;
- loitering near, watching, approaching or entering a place where a person lives, works or visits;
- giving offensive material to a person (directly or indirectly), or leaving it where it will be found by, given to or brought to the attention of a person;
- an intimidating, harassing or threatening act against a person, whether or not it involves the act or threat of violence; or
- an act or threat of violence against, or against the property of, anyone (including the offender).

It does not matter whether the conduct directed at the victim consists of conduct carried out in relation to another person, or the property of another person.

The fourth aspect is that the conduct would cause the stalked person to reasonably apprehend or fear violence to any person (or against the property of any person), or the conduct causes detriment to any person (reasonably arising in all the circumstances).

In this context ‘detriment’ includes apprehension or fear of violence to anyone or against anyone’s property, serious mental, psychological or emotional harm, prevention from doing an act, or compulsion to do an act.³

It does not matter whether the offender intended to cause the apprehension or fear, or the detriment mentioned. It also does not matter whether the apprehension or fear of violence, or the violence itself, is actually caused or not.

The penalty for unlawful stalking

A person who commits the crime of unlawfully stalking is liable to a maximum penalty of five years’ imprisonment.⁴

Where there are circumstances of aggravation, the maximum penalty increases to seven years. These are where any act being part of the stalking involves:

- using or threatening to use violence against any person or property;⁵
- possessing a weapon;⁶ or
- contravening or threatening to contravene a court or tribunal order or injunction.⁷

A fourth circumstance of aggravation attracts a maximum penalty of 10 years’ imprisonment — where the unlawful stalking is done when or because an officer is investigating the activities of a criminal organisation. This circumstance of aggravation commenced during the Council’s data period, on 15 April 2010.⁸

Circumstances of aggravation are an important part of this *Sentencing Spotlight* because their presence makes the offender’s conduct more serious. This phrase is used repeatedly in this *Sentencing Spotlight* and refers only to these circumstances, and not other types of aggravating factors, such as relevant prior criminal history. It also does not refer to the aggravating factor of a stalking offence also being a domestic violence offence.

Throughout this *Sentencing Spotlight*, the offence of ‘unlawful stalking’ will be referred to as **stalking**.

Number of offenders

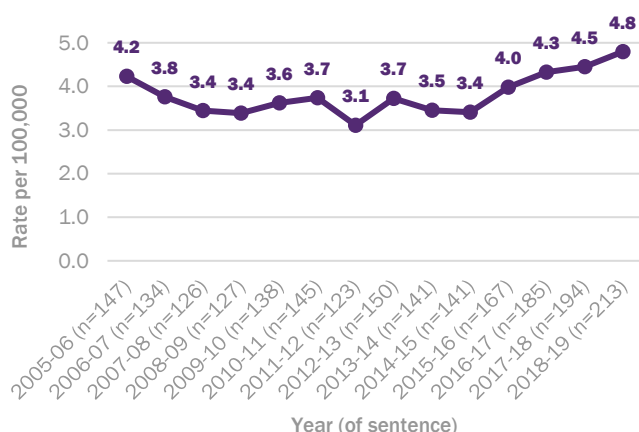
A total of 1,594 individuals were sentenced for 2,155 cases involving a stalking offence between 2005–06 and 2018–19. For 1,698 (78.8%) of those cases, stalking was the most serious offence (MSO) heard at the sentencing event.⁹ For the remaining 457 cases (21.2%) where stalking was not the MSO, the most common MSO was an assault (n=183, 40.0%), a sexual assault (n=63, 13.8%) or a break and enter offence (n=41, 9.0%).

This *Sentencing Spotlight* focuses primarily on the 1,698 sentences where stalking was the MSO.

In 2005–06, there were 113 cases involving stalking (MSO). This increased by 49.6 per cent to a high of 169 cases in 2018–19.

Figure 1 shows the rate of unique offenders per 100,000 population for cases involving a stalking offence, by financial year.¹⁰ The rate shows an increase in stalking cases over time.

Figure 1: Rate of unique offenders sentenced for stalking per 100,000 estimated resident population, 2005–06 to 2018–19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019. Rates calculated using estimated resident population data from Australian Bureau of Statistics, cat. no. 3101.0.

Stalking as a 'domestic violence offence'

From 1 December 2015, Queensland legislation was amended to enable a conviction for an offence committed in a domestic violence context to be recorded or entered in that person's criminal history as a domestic violence offence.¹¹ A person's behaviour is 'domestic violence' if they share a relevant relationship (intimate personal, family or informal care) with the victim. That relationship must be abusive (physically, sexually, emotionally or psychologically), threatening, coercive or must control or dominate the second person in another way and cause them to fear for their safety or wellbeing (or someone else's).¹² Stalking is included in the legislation as an example of domestic violence in such relationships.¹³ 'Associated domestic violence'

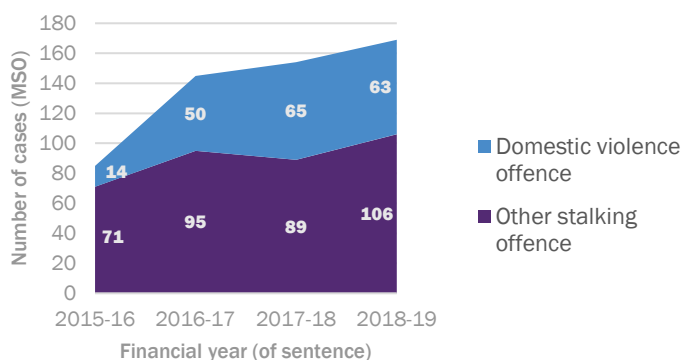
widens the law to include children, relatives and associates of an 'aggrieved' person (victim).

Stalking is a 'domestic violence offence' in the following circumstances:¹⁴

- it also breaches an existing domestic violence order, or
- the act/s of stalking are also 'domestic violence' or 'associated domestic violence'.

Figure 2 shows the number of stalking cases which have been recorded as domestic violence offences since this started being recorded on 1 December 2015. Overall, one-third of stalking cases were recorded as a domestic violence offence (n=192, 34.7%).¹⁵

Figure 2: Number of stalking offences (MSO) recorded as domestic violence offences, 2015–16 to 2018–19



Note: includes offences sentenced from 1 December 2015.
Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

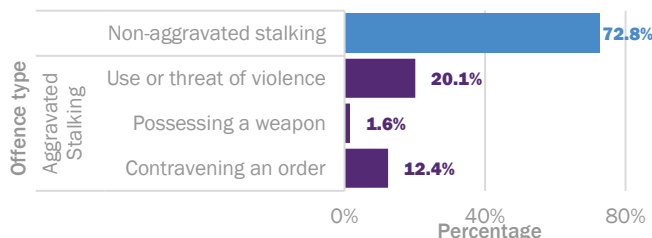
Further changes, from 5 May 2016, require sentencing courts to treat the fact that an offence (including a stalking offence) is a domestic violence offence as an 'aggravating factor',¹⁶ even if the offence was committed at an earlier time.¹⁷ This requirement applies 'unless the court considers it is not reasonable because of the exceptional circumstances of the case' (for example, if the offender is a victim of serious or repeated domestic violence perpetrated by the victim).¹⁸

This does not increase the maximum penalty for the offence. It therefore differs from the 'circumstances of aggravation' discussed throughout this paper and is not included the data relating to them.

Circumstances of aggravation

Figure 3 shows that most stalking cases (MSO) (n=1,227, 72.8%) did not have any aggravating circumstances. The most frequent aggravating circumstance was the use or threat of violence (n=342, 20.1%), followed by contravening an injunction or order (n=210, 12.4%) and possession of a weapon during the offence (n=27, 1.6%).

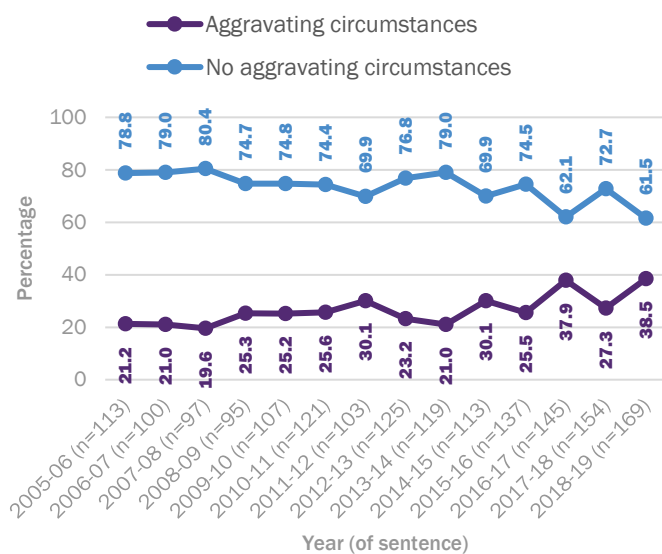
Figure 3: Proportion of offenders sentenced for stalking (MSO) by the presence of aggravating circumstances, 2005–06 to 2018–19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

While most of the total stalking cases (MSO) from 2005–06 to 2018–19 were not aggravated, Figure 4 shows that the proportion of aggravated stalking cases (MSO) is increasing over time.

Figure 4: Proportion of offenders sentenced for stalking (MSO) by year and presence of aggravating circumstances, 2005–06 to 2018–19

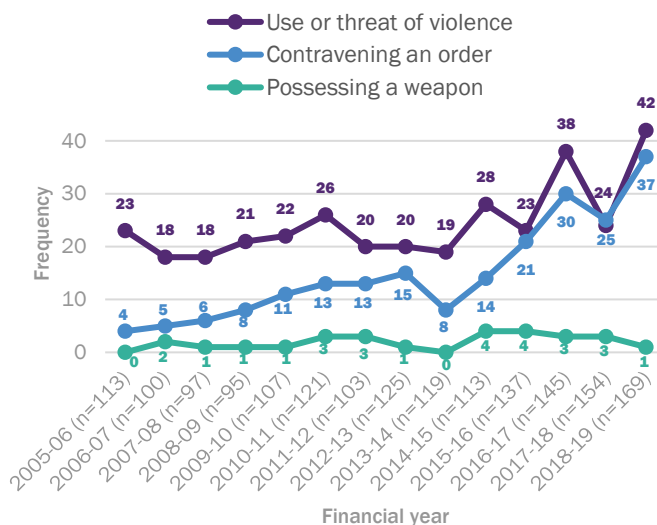


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

27.2% of stalking cases (MSO) were
AGGRAVATED

Figure 5 shows that the use or threat of violence and contravening an order or an injunction are driving the increase in aggravated stalking cases (MSO). Stalking with possession of a weapon has remained relatively stable with small numbers over the data period.

Figure 5: Frequency of different types of aggravating circumstance for stalking (MSO), 2005–06 to 2018–19

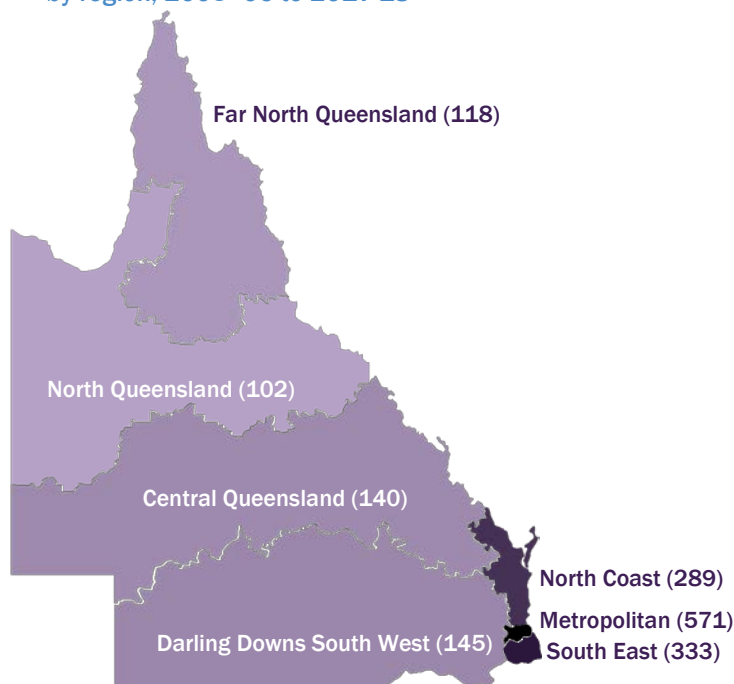


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Region

Figure 6 illustrates the regions within Queensland in which stalking cases (MSO) were sentenced. The region with the most cases sentenced was the Metropolitan region with 571 cases. North Queensland had the least with 102 cases.

Figure 6: Number of cases sentenced for stalking (MSO) by region, 2005–06 to 2017–18



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Offender characteristics

This section compares the age, gender and Aboriginal and Torres Strait Islander status of all cases sentenced for stalking (MSO) over the period from 2005–06 to 2018–19.

Young offenders

If, at the time of offence, a person was aged 10–17 years, they will be dealt with as a child under the *Youth Justice Act 1992* (Qld).¹⁹ Across all offences



in Queensland, 4.2 per cent were young offenders who were sentenced as a child. In comparison, the offence of stalking (MSO) had a lower proportion of young offenders, with 2.7 per cent of stalking committed by those aged 10–17 years (n=45).

The average age at time of sentencing for young offenders was 15.3 years (median=15.3 years).

Young offenders were more likely to be Aboriginal or Torres Strait Islander, and considerably more likely to be female compared to adults. Females accounted for almost half of young offenders (46.7%), which was much higher than the 13.4 per cent of adults who were female. Aboriginal and Torres Strait Islander people made up 22.7 per cent (n=10) of young offenders. This was much higher than the 8.1 per cent of adults who were Aboriginal or Torres Strait Islander.

There was no difference in the proportion of cases with aggravating circumstances for young offenders. Aggravating circumstances were present in 28.9 per cent of these cases, which is roughly similar to the 27.2 per cent of aggravating circumstances present in adult cases.

The remaining analysis in this section includes both adult offenders and young offenders.

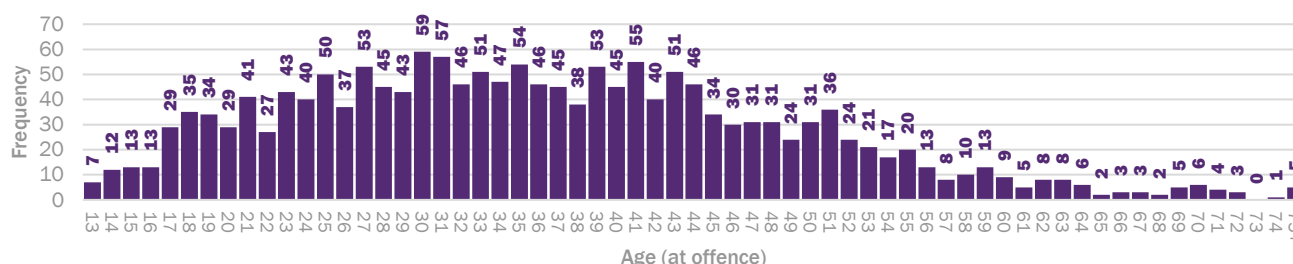
Age

At the time of committing the offence, the average age those sentenced for stalking (MSO) was 36.7 years (median=35.7 years), which is older than the average age of all offenders sentenced in Queensland from 2005–06 to 2018–19 (31.1 years).



The youngest person sentenced for stalking (MSO) was 13 years old and the oldest was 81 years old. Figure 7 shows the offender's age at the time of committing the offence.

Figure 7: Number of offenders sentenced for stalking (MSO) by age at offence, 2005–06 to 2018–19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Note: one case was excluded as the age of the offender was unknown.

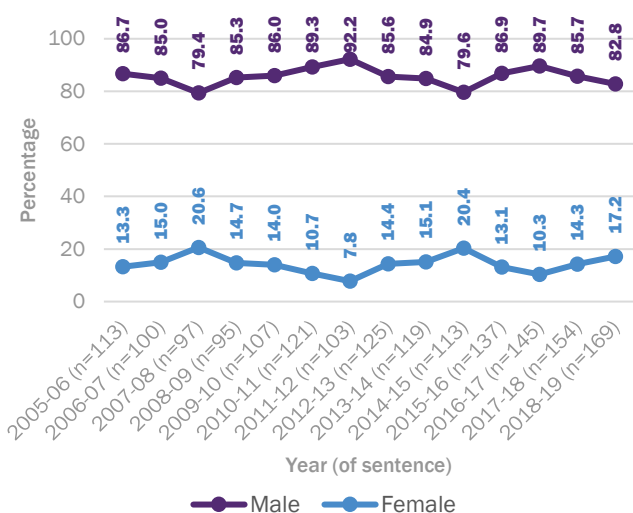
Gender

The majority of those sentenced for stalking (MSO) were male (1,455, 85.7%). This represents a higher proportion of males compared to all other offences sentenced in Queensland (76.1%).



Over time, the proportion of male and females sentenced for stalking (MSO) has remained stable, with more males being sentenced for stalking than females – see Figure 8. In 2011-12, the proportion of males sentenced for stalking (MSO) reached a high of 92.2 per cent. Conversely, in 2007-08 and 2014-15, the proportion of females reached a high of 20.6 per cent and 20.4 per cent respectively. Aside from these periods, the proportion of females has remained under 20 per cent.

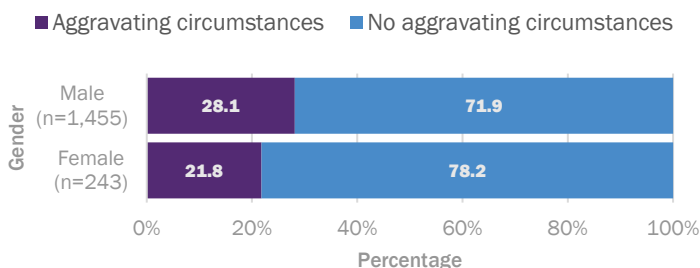
Figure 8: Proportion of offenders sentenced for stalking (MSO) by gender and year of sentence, 2005-06 to 2018-19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

The proportion of male offenders with aggravating circumstances was significantly higher (28.1%, n=409) than for females (21.8%, n=53) – see Figure 9.²⁰

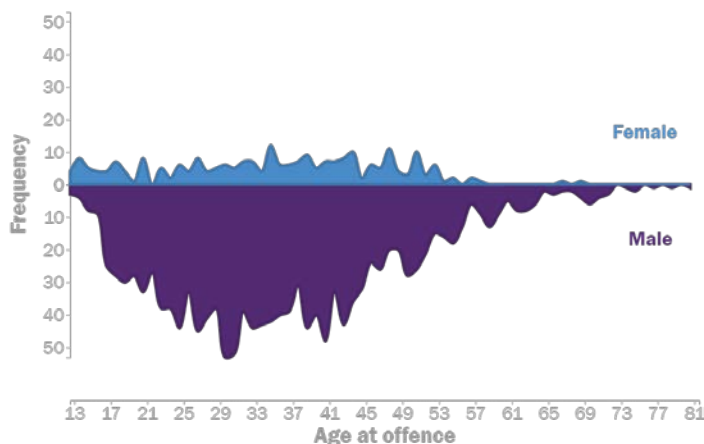
Figure 9: Proportion of offenders sentenced for stalking (MSO) by gender and presence of aggravating circumstance, 2005-06 to 2018-19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

On average, female offenders sentenced for stalking (MSO) were slightly younger than male offenders. The average age at the time of the offence was 35.7 for females (median=36.2), compared to an average age of 36.9 for males (median=35.6) – see Figure 10. However, this difference was not statistically significant.²¹

Figure 10: Offenders sentenced for stalking (MSO) by gender and age at offence, 2005-06 to 2018-19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Note: 1 case was excluded as the age of the offender was unknown.

Aboriginal and Torres Strait Islander people

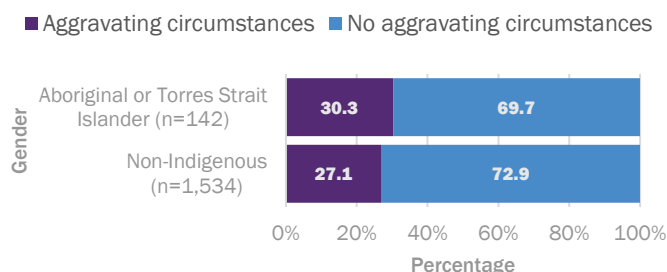
Although people who identify as Aboriginal and Torres Strait Islander represent approximately 3.8 per cent of Queensland's population aged 10 years and over,²² they accounted for 8.4 per cent (n=142) of all offenders sentenced for the offence of stalking (MSO).²³



Aboriginal and Torres Strait Islanders are overrepresented at lower levels for the offence of stalking (8.4%) compared to other offences in Queensland (17.2%).

The proportion of Aboriginal and Torres Strait Islanders sentenced for stalking (MSO) with aggravating circumstances was slightly higher (30.3%, n=43) than that of non-Indigenous offenders (27.1%, n=415) – see Figure 11. However, this difference was not statistically significant.²⁴

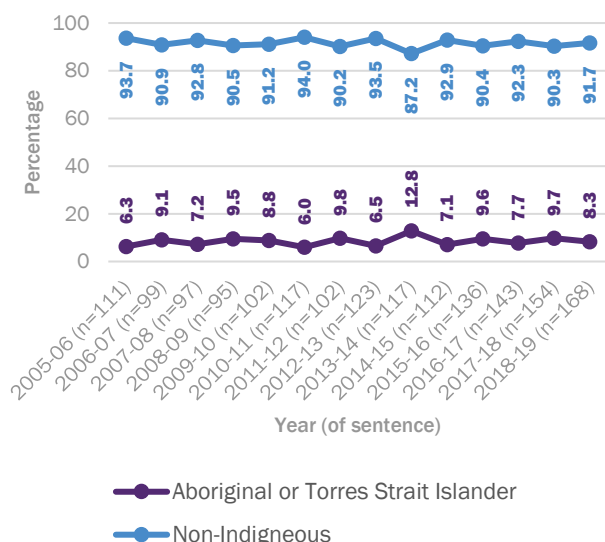
Figure 11: Proportion of offenders sentenced for stalking (MSO) by Aboriginal and Torres Strait Islander status and presence of aggravating circumstance, 2005-06 to 2018-19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.
Note: 22 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.

As noted previously, the overall number of cases involving stalking (MSO) has increased from 2005-06 to 2018-19. Proportionally, the percentage of Aboriginal and Torres Strait Islanders sentenced has been stable across this period, as shown in Figure 12. The proportion of Aboriginal and Torres Strait Islanders sentenced for stalking (MSO) reached a high of 12.8 per cent at 2013-14. Aside from 2013-14, the proportion of Aboriginal and Torres Strait Islanders has remained under 10 per cent.

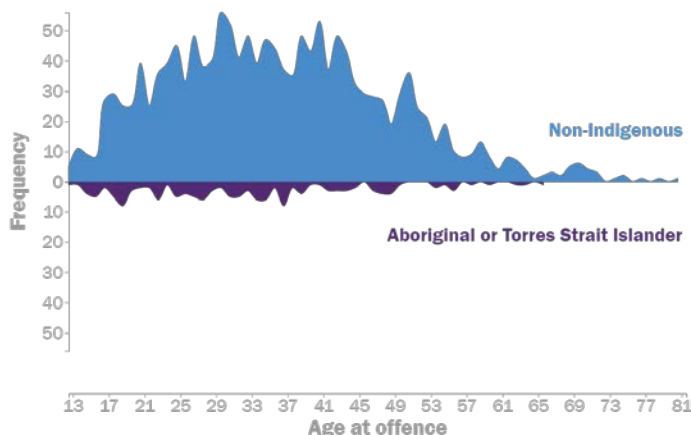
Figure 12: Proportion of offenders sentenced for stalking (MSO) by Aboriginal and Torres Strait Islander status and year of sentence, 2005-06 to 2018-19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.
Note: 22 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.

There was a statistically significant difference between age at time of offence for Aboriginal and Torres Strait Islanders (33.2 years, median=32.2) and non-Indigenous offenders (37.0 years, median=36.0).²⁵ Aboriginal and Torres Strait Islander offenders who were sentenced for stalking (MSO) were younger compared to non-Indigenous offenders – see Figure 13.

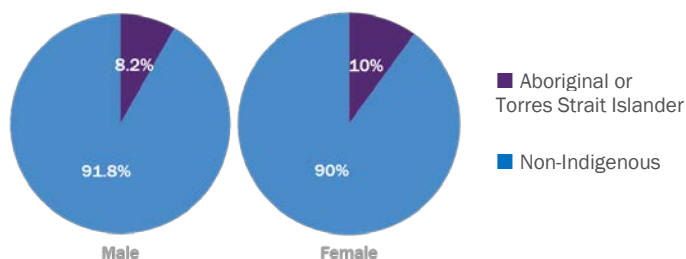
Figure 13: Offenders sentenced for stalking (MSO) by Aboriginal and Torres Strait Islander status and age at offence, 2005-06 to 2018-19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.
Note: 23 offenders were excluded as their Aboriginal and Torres Strait Islander status or age was unknown.

As shown in Figure 14, Aboriginal and Torres Strait Islanders accounted for 8.2 per cent (n=118) of the 1,437 males sentenced for stalking (MSO). In comparison, Aboriginal and Torres Strait Islander females accounted for 10.0 per cent (n=24) of the 239 female offenders. This difference was not statistically significant.²⁶

Figure 14: Offenders sentenced for stalking (MSO) by Aboriginal and Torres Strait Islander status and gender, 2005-06 to 2018-19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.
Note: 22 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.

Victim characteristics

As Court Services Queensland only holds limited administrative data in relation to victims, information about the victims of these offences is not able to be presented. The Council is unable to reliably report the gender, Aboriginal and Torres Strait Islander status, or specific nature of the relationship between the victim and the offender.

Sentencing court

The nature of the stalking offence determines which court will hear and sentence it.

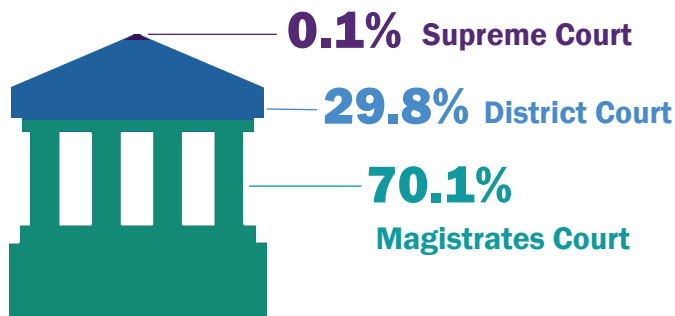
Stalking with a circumstance of aggravation must be dealt with in the higher courts (i.e. the District Court or the Supreme Court. For stalking, this will almost always be the District Court, which can generally deal with offences with a maximum penalty of 20 years' imprisonment or less).²⁷

Non-aggravated stalking, carrying the maximum penalty of five years' imprisonment, must be dealt with in the Magistrates Courts unless the defendant elects for a jury trial.²⁸

The Magistrates Courts have power to impose a prison sentence of up to, and including, three years' imprisonment, even if the maximum penalty for the offence is greater.²⁹ However, a Magistrates Court must not deal with a charge on a defendant's election if satisfied that the defendant, if convicted, may not be adequately punished in that court, because it has a sentence limit of three years imprisonment.³⁰

Children will be dealt with in courts specifically dealing with sentencing of young people.³¹

Most individuals sentenced for stalking (MSO) were sentenced in the Magistrates Court (70.1%, n=1,191). Only one case was sentenced in the Supreme Court (0.1%) and the rest were sentenced in the District Court (29.8%, n=506).



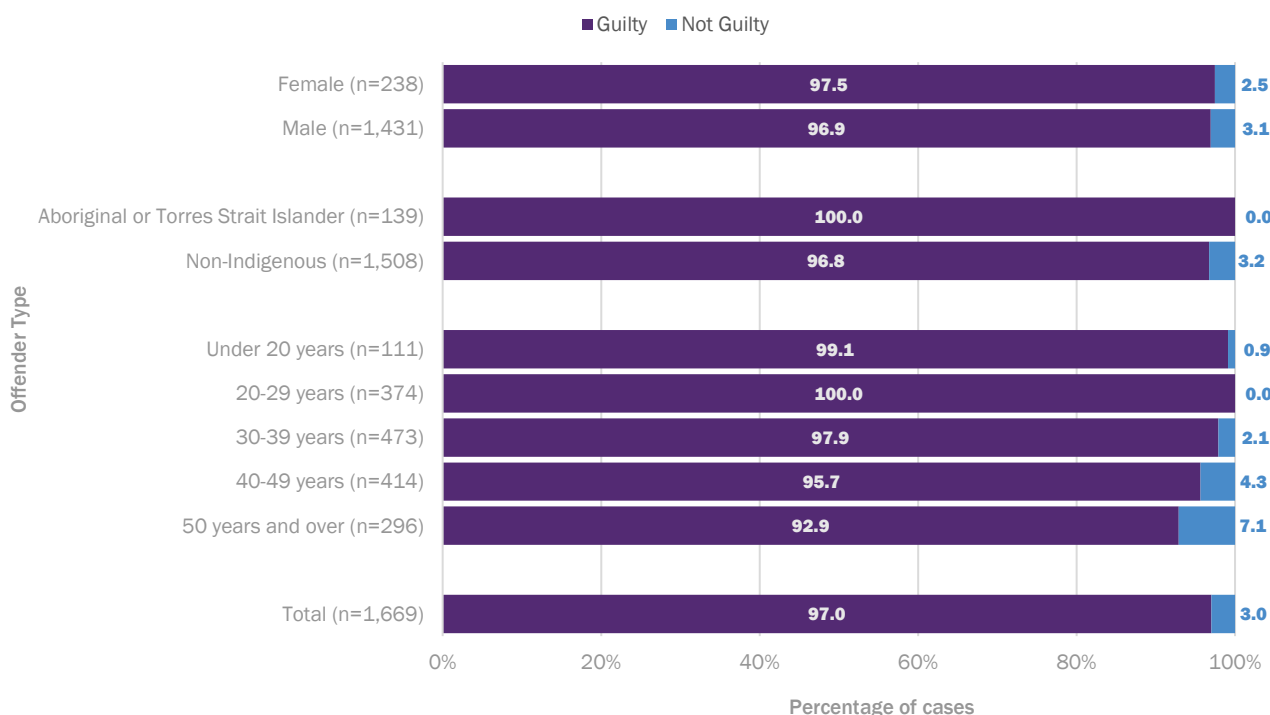
Type of plea

The vast majority of the offenders sentenced for stalking (MSO) pleaded guilty, either initially or at a subsequent date (n=1,619, 97.0%). Only 50 offenders (3.0%) pleaded not guilty.

Figure 15 shows the differences in plea types depending on the offender's characteristics. Female and male offenders were equally likely to plead guilty (females 97.5%; males 96.9%).³² All Aboriginal and Torres Strait Islanders pleaded guilty (100.0%, n=139); a higher proportion compared to the 96.8 per cent of non-Indigenous offenders who pleaded guilty.³³

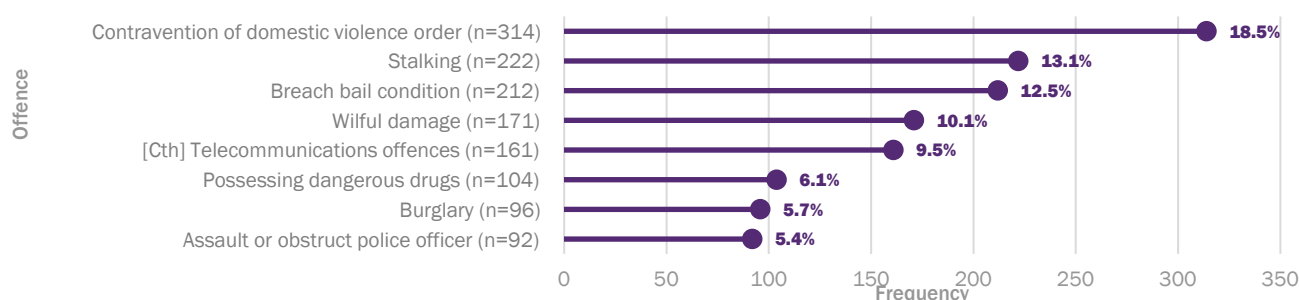
Those aged 50 years and over were the least likely to enter a guilty plea (92.9%), with offenders aged 20 to 29 at sentence the most likely to plead guilty, all of whom pleaded guilty (100.0%).

Figure 15: Plea type of offenders sentenced for stalking (MSO) by gender, Aboriginal and Torres Strait Islander status and age at sentence, 2005–06 to 2018–19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.
 Note: 29 cases were excluded as the type of plea was unknown.

Figure 16: Top eight associated offences sentenced with a stalking (MSO), 2005–06 to 2018–19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Note: numbers refer to the number of cases that involved this type of offence.

Associated offences

Some individuals sentenced for stalking (MSO) were also sentenced for other offences at the same court event. Of the 1,698 cases, 39.4 per cent were only sentenced for the stalking offence; 16.9 per cent were sentenced for one additional offence, and 43.7 per cent were sentenced for more than one offence.

Figure 16 shows the top eight most common offences associated with stalking. The contravention of a domestic violence order (18.5%) and breach of a bail condition (12.5%) collectively accounted for almost one third of associated offences.

In 222 cases (13.1%), at least one other charge of stalking was present. Wilful damage (10.1%), the

possession of dangerous drugs (6.1%), and burglary (5.7%) were the other offences frequently sentenced at the same time as stalking.

The number of sentenced offences per person per court event ranged from 1 to 238, with an average of 4.2 sentenced offences per event (median=2.0).

On average, females had a significantly lower number of offences (average=3.2) sentenced at a court event for stalking (MSO) compared to males (average=4.3).³⁴

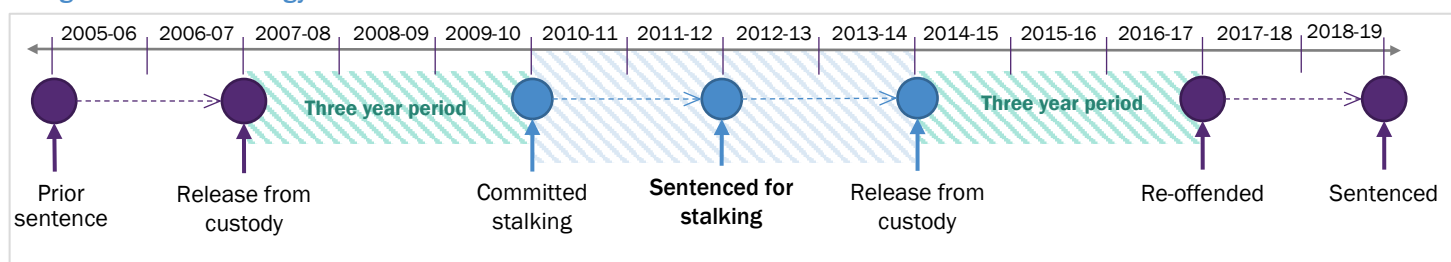
There was no significant difference in the number of offences sentenced at a sentencing event for stalking (MSO) by Aboriginal and Torres Strait Islander status (an average of 4.3 offences per event for Aboriginal and Torres Strait Islander offenders, compared to 4.2 offences for non-Indigenous offenders).³⁵

Table 1: Number of sentenced offences per court event, by gender and Aboriginal and Torres Strait Islander status, 2005–06 to 2018–19

Offender type	N	Single offence (%)	2 to 4 offences (%)	5 to 10 offences (%)	11+ offences (%)	Number of offences			
						Avg	Median	Min	Max
Female	243	48.1	29.6	18.1	4.1	3.2	2.0	1	35
Male	1,455	37.9	34.6	18.1	9.3	4.3	2.0	1	238
Aboriginal or Torres Strait Islander	142	33.8	32.4	26.8	7.0	4.3	3.0	1	28
Non-Indigenous	1,534	39.9	33.8	17.5	8.9	4.2	2.0	1	238
Total	1,698	39.4	33.9	18.1	8.6	4.2	2.0	1	238

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Figure 17: Methodology for recidivism



The 'three-year period' refers to the time during which an offence must be committed for it to be included in the recidivism analysis. The offender must have committed a new offence within two years of being released from custody for a prior offence.

Recidivism

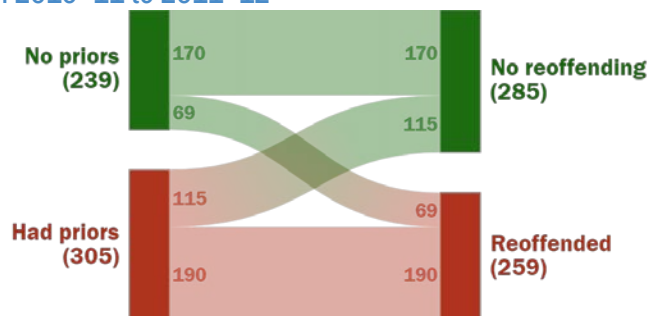
Of the 2,019 offenders who were sentenced for stalking in 2005–06 to 2018–19 (regardless of whether stalking was their MSO), 118 (5.8%) were repeat offenders – that is, they had been sentenced multiple times for stalking offences over the 14-year period.

Those sentenced for stalking over the period 2010–11 to 2013–14 were examined in more detail to determine whether they had committed any other offences before or after being sentenced for stalking.³⁶ Prior and subsequent offending was operationalised as any sentencing event with an offence date that occurred within three years of an offender's expected release from custody – see Figure 17.

In 2010–11 to 2013–14, there were 544 unique individuals sentenced for stalking. Of these, over half had previously offended (n=305, 56.1%) and almost half committed a new offence after being sentenced for stalking (n=259, 47.6%) – see Figure 18.

Almost one-third of offenders sentenced for stalking had no prior and no subsequent offence recorded (n=170, 31.3%). Only 12.7 per cent (n=69) of those who did not have a prior offence reoffended. Of those who did have a prior offence, 34.9 per cent (n=190) reoffended. However, over one-fifth of those who had a prior offence (n=115, 21.1%) did not have any subsequent offence recorded after being sentenced for stalking.

Figure 18: Reoffending by people sentenced for stalking in 2010–11 to 2011–12



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Table 2 shows that males, on average, had 1.9 prior court events. This was significantly greater than females, with an average of 1.1 prior court events.³⁷ However, there was no statistically significant difference for re-offending: male offenders had a slighter higher average number of court events at 1.3 compared to females with 1.2.³⁸

Aboriginal and Torres Strait Islander offenders were significantly more likely to have a greater number of both prior³⁹ and subsequent court events⁴⁰ compared to non-Indigenous offenders. On average, Aboriginal and Torres Strait Islander people had 4.0 prior court events (non-Indigenous=1.6) and 2.5 subsequent court events (non-Indigenous=1.2) – see Table 2.









Table 2: Prior and subsequent court events for offenders sentenced for stalking, 2010-11 to 2013-14

Offender type	N	No court events (%)	1 to 4 court events (%)	5+ court events (%)	Number of court events			
					Average	Median	Min	Max
Prior offending	544	43.9	42.6	13.4	1.8	1.0	0	18
Female	66	53.0	42.4	4.5	1.1	0.0	0	9
Male	478	42.7	42.7	14.6	1.9	1.0	0	18
Aboriginal or Torres Strait Islander	53	11.3	58.5	30.2	4.0	3.0	0	14
Non-Indigenous	480	46.3	41.9	11.9	1.6	1.0	0	18
Subsequent offending	544	52.4	39.7	7.9	1.3	0.0	0	23
Female	66	57.6	36.4	6.1	1.2	0.0	0	10
Male	478	51.7	40.2	8.2	1.3	0.0	0	23
Aboriginal or Torres Strait Islander	53	22.6	58.5	18.9	2.5	2.0	0	9
Non-Indigenous	480	54.8	38.3	6.9	1.2	0.0	0	23

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Note: Totals may not add to 100% due to rounding; Offenders with unknown characteristics are excluded from each subgroup.

Figure 19: Top eight most common prior offences of offenders sentenced for stalking, 2010-11 to 2013-14

Offence (Prior)	Sentenced cases	Offender count
 Driving of motor vehicle without a driver licence prohibited <i>Transport Operations (RUM) Act 1995 s 78</i>	125	84 (15.4%)
 Public nuisance <i>Summary Offences Act 2005 s 6</i>	129	73 (13.4%)
 Assault or obstruct police officer <i>Police Powers & Responsibilities Act 2000 s 790</i>	93	71 (13.1%)
 Contravention of domestic violence order <i>Domestic and Family Violence Protection Act 2012 s 177</i>	113	69 (12.7%)
 Vehicle offences involving liquor or other drugs <i>Transport Operations (RUM) Act 1995 s 79</i>	74	62 (11.4%)
 Wilful damage <i>Criminal Code Act 1899 (Qld) s 469</i>	84	57 (10.5%)
 Offence to contravene direction or requirement of police officer <i>Police Powers & Responsibilities Act 2000 s 791</i>	72	57 (10.5%)
 Breach of bail - failure to appear <i>Bail Act 1980 s 33</i>	73	49 (9.0%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Most common prior offences

Figure 19 shows the top eight most common offences that were committed by offenders prior to committing a stalking offence in 2010-11 to 2013-14.

The most common prior offence was the driving of a motor vehicle without a driver licence, with 84 individuals (15.4%) sentenced at 125 court events for this offence.

Three of the top eight prior offences involved offences against justice and government procedures. There were 12.7 per cent of offenders who had previously contravened a domestic violence order (n=69), 10.5 per cent had contravened a direction of a police officer (n=57), and 9.0 per cent had previously breached a bail order (n=49).

Although it didn't make the top eight prior offences, 5.7 per cent of offenders had previously been convicted of a stalking offence (n=31).









Most common subsequent offences

Figure 20 shows the top eight most common offences that were committed by individuals subsequent to committing a stalking offence in 2010-11 to 2013-14.

The most common subsequent offence was possessing dangerous drugs, with 65 offenders (11.9%) sentenced at 81 court events for this offence. The second most common subsequent offence was driving a motor vehicle without a licence with 64 offenders (11.8%) sentenced at 81 court events.

There were 24 individuals (4.4%) who reoffended by committing another stalking offence.

Figure 20: Top eight most common subsequent offences of offenders sentenced for stalking, 2010-11 to 2013-14

Offence (Post)	Sentenced cases	Offender count
 Possessing dangerous drugs <i>Drugs Misuse Act 1986 s 9</i>	81	65 (11.9%)
 Driving of motor vehicle without a driver licence prohibited <i>Transport Operations (RUM) Act 1995 s 78</i>	81	64 (11.8%)
 Contravention of domestic violence order <i>Domestic and Family Violence Protection Act 2012 s 177</i>	100	59 (10.8%)
 Assault or obstruct police officer <i>Police Powers & Responsibilities Act 2000 s 790</i>	60	54 (9.9%)
 Possession of drug utensils <i>Drugs Misuse Act 1986 s 10</i>	66	51 (9.4%)
 Public nuisance <i>Summary Offences Act 2005 s 6</i>	68	45 (8.3%)
 Vehicle offences involving liquor or other drugs <i>Transport Operations (RUM) Act 1995 s 79</i>	49	44 (8.1%)
 Offence to contravene direction or requirement of police officer <i>Police Powers & Responsibilities Act 2000 s 791</i>	43	39 (7.2%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Note

Due to the small number of stalking cases (MSO) where the offence was committed by a young person (n=45, 2.7%), the remainder of this *Sentencing Spotlight* will only consider offenders sentenced as an adult (n=1,653, 97.3%).

Only 8.9 per cent of young offenders received a custodial penalty (n=4). The remaining received a non-custodial sentence: one was sentenced to unpaid community service (2.2%), 21 were placed on probation (46.7%), four were sentenced to a court ordered conference (8.9%), 12 were placed on a good behaviour bond (26.7%), one was reprimanded (2.2%), and two were convicted but not further punished (4.4%).

Penalties and sentencing

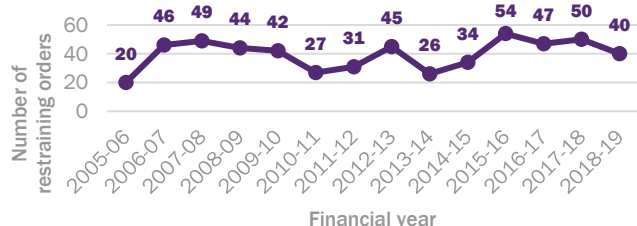
Generally, in sentencing under section 9(2)(a) of the *Penalties and Sentences Act 1992* (Qld) (PSA), a court must have regard to the principles that imprisonment should only be imposed as a last resort, and a sentence that allows the offender to stay in the community is preferable. However, these principles do not apply for any offence that results in physical harm to another person or involves violence against another person. In such cases, a court must have primary regard to factors such as the risk of further harm to the community, and the personal circumstances of any victim of the offence.⁴¹

Restraining and non-contact orders

When someone is charged with stalking, the court hearing the charge may impose a restraining order on that person.⁴² It can be made whether or not another order is made against the person in the proceeding for the stalking charge.

A restraining order can be made even where the person is not found guilty or the prosecution ends in another way. In fact, over the 14-year data period, there were 555 restraining orders made in cases which did not proceed to sentencing – see Figure 21.

Figure 21: Restraining orders for stalking charges which did not proceed to sentencing, 2005–06 to 2018–19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019. Data on restraining orders and non-contact orders extracted April 2020.

The decision about whether a restraining order should be made is a separate issue to the stalking charge. A restraining order can be made against the person charged with stalking in relation to any person or any property, if the court considers it desirable to do so, having regard to the evidence. The order can include any conditions which are considered appropriate for the purposes of prohibiting particular conduct. This may include prohibiting the offender from making contact with a person for a period of time.

A sentencing court may also decide to make a non-contact order under section 43B of the *Penalties and*

Sentences Act 1992 (Qld).⁴³ A non-contact order can be made for any 'personal offence' (which can include stalking provided the offence was committed 'against the person of someone'),⁴⁴ while restraining orders can only be made for the offence of stalking.

A non-contact order can only be made if the person charged with stalking pleads guilty or is found guilty. However, it cannot be made if a protection order 'may be made' under the *Domestic and Family Violence Protection Act 2012* (Qld).⁴⁵ A non-contact order contains one or both requirements that the offender, for up to two years from the date of the order or release from any imprisonment:

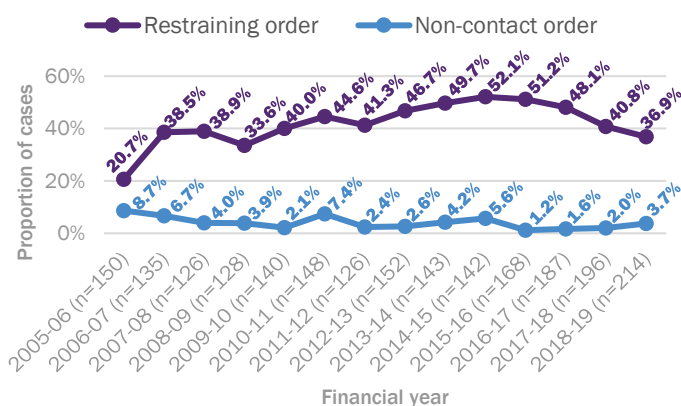
- does not contact the victim against whom the offence was committed, or someone who was with the victim when the offence was committed, for a stated time;
- does not go to a stated place, or within a stated distance of a stated place, for a stated time.

It is an offence to fail to comply with the conditions of a restraining or non-contact order.⁴⁶

Of the 2,155 cases that were sentenced for stalking between 2005–06 and 2018–19, a restraining order was made in 900 cases (41.8%) and a non-contact order was made in 84 cases (3.9%).

Figure 22 shows that the proportion of sentenced stalking cases that resulted in a restraining order has increased, from 20.7 per cent of cases in 2005–06 to 36.9 per cent in 2018–19. Conversely, the proportion of stalking (MSO) cases that resulted in a non-contact order has slightly declined, from 8.7 per cent of cases in 2005–06 to 3.7 per cent in 2018–19.

Figure 22: Proportion of stalking cases resulting in a restraining or non-contact order, 2005–06 to 2018–19⁴⁷



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019. Data on restraining orders and non-contact orders extracted April 2020.

Penalty type

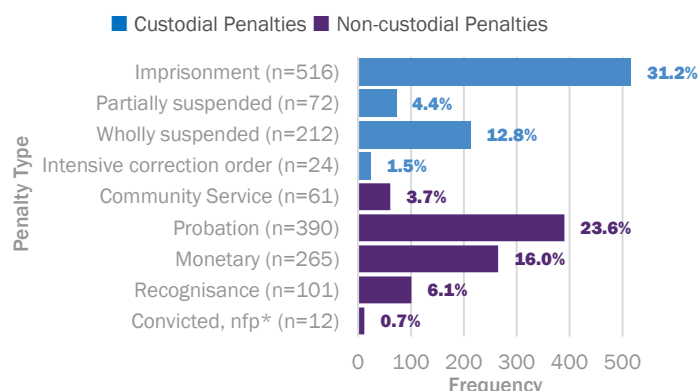
From 2005–06 to 2018–19, adults who were sentenced for stalking (MSO) received an almost even split of custodial (n=824, 49.9%) and non-custodial penalties (n=829, 50.2%). The total number of custodial penalties is much higher than the 10.1 per cent of adults sentenced to a custodial penalty across all offences in Queensland. For more details on types of sentencing orders, see the [Queensland Sentencing Guide](#).⁴⁸



Figure 23 shows the breakdown of custodial and non-custodial penalties issued for stalking (MSO) for adults from 2005–06 to 2018–19.⁴⁹ Imprisonment was the most common penalty with almost a third of cases resulting in an unsuspended term of imprisonment (n=516, 31.2%). An additional 17.2 per cent of adults received a suspended sentence of imprisonment (n=284). Only a small number of offenders were sentenced to an intensive correction order (n=24, 1.5%).

Probation was the most common non-custodial penalty for stalking (MSO) (n=390, 23.6%). This is followed by monetary penalties at 16.0 per cent (n=265) and recognisance at 6.1 per cent (n=101). Only 3.7 per cent of cases were sentenced to community service (n=61).

Figure 23: Penalties issued for stalking (MSO), adult offenders, 2005–06 to 2018–19



Note: excludes offenders sentenced as a juvenile.
Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.
*Convicted, not further punished

Table 3 shows the different penalty types for stalking (MSO) by gender, Aboriginal and Torres Strait Islander status and whether an aggravating circumstance was present.

Unsurprisingly, cases with aggravating circumstances were much more likely to result in an unsuspended term of imprisonment, with over half of cases involving aggravated stalking resulting in imprisonment (58.4%); whereas non-aggravated stalking resulted in imprisonment in 21.1 per cent of cases.

Males were more likely to receive imprisonment compared to females, and females were more likely to be sentenced with probation or to receive a fine.

Aboriginal and Torres Strait Islanders were more likely to receive imprisonment compared to non-Indigenous offenders and were less likely to receive a fine.

Table 3: Penalty types for stalking (MSO) by gender, Aboriginal and Torres Strait Islander status, and presence of aggravating circumstances, 2005–06 to 2018–19

Penalty Type	Total %	Female %	Male %	Aboriginal or Torres Strait Islander %	Non-Indigenous %	Aggravating Circumstances %	No Aggravating Circumstances %
Custodial Penalties							
Imprisonment (n=516)	31.2	16.2	33.5	47.0	30.2	58.4	21.1
Partially suspended (n=72)	4.4	10.4	13.2	12.9	12.8	14.7	12.1
Wholly suspended (n=212)	12.8	2.7	4.6	2.3	4.6	7.8	3.1
Intensive correction order (n=24)	1.5	0.9	1.5	1.5	1.5	1.8	1.3
Non-custodial Penalties							
Community Service (n=61)	3.7	3.2	3.8	0.8	4.0	2.2	4.2
Probation (n=390)	23.6	33.3	22.1	21.2	23.6	8.5	29.2
Monetary (n=265)	16.0	22.5	15.0	6.8	16.6	4.2	20.4
Recognisance (n=101)	6.1	9.0	5.7	7.6	6.0	2.0	7.6
Convicted, nfp* (n=12)	0.7	1.8	0.6	0.0	0.7	0.4	0.8
Total	100% n=1,653	100% n=222	100% n=1,431	100% n=132	100% n=1,500	100% n=449	100% n=1,204

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Note: excludes offenders sentenced as a juvenile.

*Convicted, not further punished

Table 4 shows the different types of penalties that were imposed for stalking cases (MSO) recorded as domestic violence offences.

In the higher courts, stalking offences recorded as being domestic violence offences were more likely to result in a term of imprisonment (70.8%) compared to other stalking offences (59.2%). However, this finding was not statistically significant.⁵⁰

In the Magistrates Courts, sentences of imprisonment were also imposed more frequently for stalking cases recorded as being domestic violence offences (43.4%) compared to other stalking offences (17.5%). This difference was statistically significant.⁵¹

Table 4: Types of penalties for stalking (MSO) by classification as a 'domestic violence offence', 2015–16 to 2018–19

Penalty type	Domestic violence offence	Other offences
Higher courts		
Imprisonment (n=104)	70.8%	59.2%
Other custodial order (n=38)	23.6%	26.5%
Non-custodial order (n=13)	5.7%	14.3%
Magistrates Courts		
Imprisonment (n=77)	43.4%	17.5%
Other custodial order (n=57)	10.5%	19.5%
Non-custodial order (n=145)	35.5%	47.0%
Monetary (n=48)	10.5%	15.9%

Note: includes offences sentenced from 5 May 2016.

'Other custodial orders' include suspended sentences and intensive correction orders. 'Non-custodial orders' includes community service, probation, recognisance, and convicted but not further punished.

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Length of sentence

Table 5 (on the following page) provides details on the length and amount of sentencing outcomes for stalking (MSO) by gender, Aboriginal and Torres Strait Islander status, and the presence of aggravating circumstances.

Figure 24 (at the bottom of this page) illustrates the length of sentencing outcome based on the presence of aggravating circumstances.

Custodial penalties

The average sentence length for adults sentenced to imprisonment was 1.4 years (median=1.2 years). The longest imprisonment sentence was 7.0 years while the shortest imprisonment sentence was 13 days. As shown in Figure 24, imprisonment sentences for aggravated stalking (MSO) cases were significantly longer (1.8 years) compared to non-aggravated cases (1.0 year).⁵²

On average, males had slightly longer imprisonment sentences (1.4 years) compared to females (1.2 years).⁵³ Non-Indigenous offenders had slightly longer imprisonment sentences (1.4 years) compared to Aboriginal and Torres Strait Islander offenders (1.3 years).⁵⁴ However, these differences were not significant.

The average head sentence for a partially suspended sentence was 1.5 years (median=1.5 years) and the longest head sentence was 4.8 years. The longest amount of time a person was required to serve in prison before their sentence was suspended was 1.6 years, with an average of 5.9 months (median=4.3 months).

The average length of wholly suspended sentences was 8.1 months (median=6.0 months) and the longest wholly

suspended sentence was 4.5 years. As shown in Figure 22, non-aggravated cases received significantly shorter sentences compared to aggravated sentences.⁵⁵

The average length for an intensive correction order was 8.7 months (median=9.0 months). The longest intensive correction order was one year (the longest available at law).

Non-custodial penalties

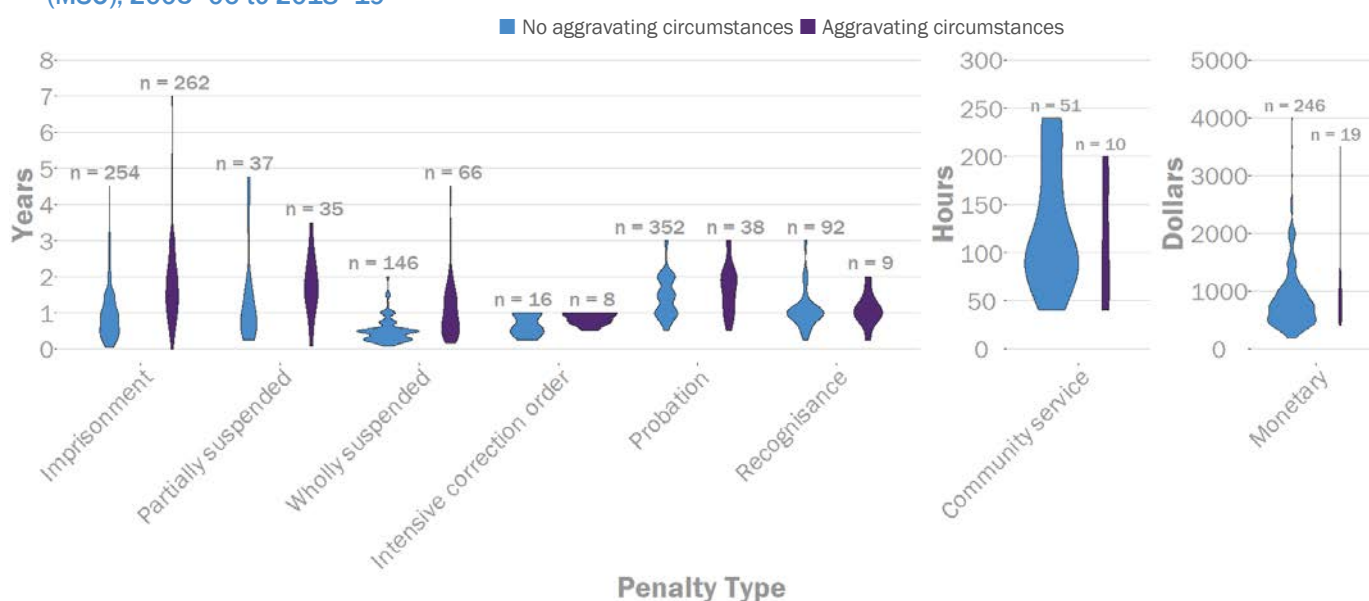
For cases that involved stalking (MSO) that were sentenced to community service offenders were required to complete an average of 123.1 hours of unpaid community work (median=100 hours).

Probation orders ranged from 6 months to 3 years (the legal maximum), with an average sentence length of 1.5 years (median=1.5 years). The length of probation for non-aggravated stalking was significantly shorter than for aggravated stalking.⁵⁶ As shown in Figure 24, probation sentences for non-aggravated stalking clustered at 1, 1.5 and 2 years.

The largest fine issued for a stalking (MSO) offence was \$4,000. On average, offenders who received a fine were required to pay \$882 (median=\$750).

The average length of recognisance orders imposed was 1.1 years (median=1.0 years). The longest recognisance order was 3.0 years while the shortest was 3 months.

Figure 24: Distribution of sentence length for stalking (MSO) with and without presence of aggravating circumstances (MSO), 2005–06 to 2018–19



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2019.

Table 5: Sentencing outcomes for stalking (MSO), adult offenders, by demographics and aggravating circumstances, 2005–06 to 2018–19

Offender type	N	Avg	Median	Min	Max
Imprisonment (years)					
Female	36	1.2	1.0	0.3	3.0
Male	480	1.4	1.2	0.0	7.0
Aboriginal or Torres Strait Islander	62	1.3	1.0	0.1	4.5
Non-Indigenous	453	1.4	1.2	0.0	7.0
Aggravating circumstances	262	1.8	1.5	0.0	7.0
No aggravating circumstances	254	1.0	0.8	0.0	4.5
All offenders	516	1.4	1.2	0.0	7.0
Partially suspended (years)					
Female	6	1.2	1.2	0.1	2.0
Male	66	1.6	1.5	0.2	4.8
Aboriginal or Torres Strait Islander	3	1.6	1.7	1.0	2.0
Non-Indigenous	69	1.5	1.5	0.1	4.8
Aggravating circumstances	35	1.8	1.7	0.1	3.5
No aggravating circumstances	37	1.3	1.0	0.3	4.8
All offenders	72	1.5	1.5	0.1	4.8
Wholly suspended (years)					
Female	23	0.7	0.5	0.2	2.0
Male	189	0.7	0.5	0.1	4.5
Aboriginal or Torres Strait Islander	17	0.6	0.5	0.1	2.0
Non-Indigenous	192	0.7	0.5	0.1	4.5
Aggravating circumstances	66	1.0	1.0	0.2	4.5
No aggravating circumstances	146	0.5	0.5	0.1	2.0
All offenders	212	0.7	0.5	0.1	4.5
Intensive correction order (years)					
Female	2	0.8	0.8	0.5	1.0
Male	22	0.7	0.7	0.3	1.0
Aboriginal or Torres Strait Islander	2	0.5	0.5	0.3	0.7
Non-Indigenous	22	0.7	0.8	0.3	1.0
Aggravating circumstances	8	0.8	0.9	0.5	1.0
No aggravating circumstances	16	0.7	0.6	0.3	1.0
All offenders	24	0.7	0.7	0.3	1.0
Community service (hours)					
Female	7	87.1	80	40	150
Male	54	128.8	100	40	240
Aboriginal or Torres Strait Islander	1	80.0	80	80	80
Non-Indigenous	60	124.8	100	40	240
Aggravating circumstances	10	114.0	100	40	200
No aggravating circumstances	51	125.9	100	40	240
All offenders	61	123.1	100	40	240
Probation (years)					
Female	74	1.5	1.5	0.5	3.0
Male	316	1.5	1.5	0.5	3.0
Aboriginal or Torres Strait Islander	28	1.5	1.5	0.5	3.0
Non-Indigenous	354	1.5	1.5	0.5	3.0
Aggravating circumstances	38	1.7	1.8	0.5	3.0
No aggravating circumstances	352	1.4	1.5	0.5	3.0
All offenders	390	1.5	1.5	0.5	3.0
Fine (dollars)					
Female	50	\$669	\$625	\$250	\$1,500
Male	215	\$931	\$750	\$200	\$4,000
Aboriginal or Torres Strait Islander	9	\$543	\$500	\$320	\$800
Non-Indigenous	249	\$889	\$750	\$200	\$4,000
Aggravating circumstances	19	\$1,116	\$900	\$400	\$3,500
No aggravating circumstances	246	\$864	\$750	\$200	\$4,000
All offenders	265	\$882	\$750	\$200	\$4,000
Recognisance (years)					
Female	20	1.1	1.0	0.2	3.0
Male	81	1.1	1.0	0.3	3.0
Aboriginal or Torres Strait Islander	10	0.7	0.9	0.2	1.0
Non-Indigenous	90	1.2	1.0	0.5	3.0
Aggravating circumstances	9	1.1	1.0	0.2	2.0
No aggravating circumstances	92	1.1	1.0	0.3	3.0
All offenders	101	1.1	1.0	0.2	3.0

Endnotes

¹ *Criminal Law Amendment Act 1993* (Qld) s 3, assented to 23 November 1993. Substantial amendments commenced on 30 April 1999 (prior to the commencement of the data period for this paper).

² See *Criminal Code* (Qld) sections 359A, 359B and 359C. For a helpful summary, see Queensland Courts, Supreme and District Court Benchbook, 'Stalking' No 178.1: <https://www.courts.qld.gov.au/__data/assets/pdf_file/0003/86187/sd-bb-178-stalking-offences-occurring-after-30-april-1999.pdf>

³ *Criminal Code* (Qld) s 359A.

⁴ *Criminal Code* (Qld) s 359E(2).

⁵ *Criminal Code* (Qld) s 359E(3)(a)

⁶ *Criminal Code* (Qld) s 359E(3)(b).

⁷ *Criminal Code* (Qld) s 359E(3)(c)

⁸ *Criminal Code* (Qld) s 359E(4). This was inserted by the *Criminal Organisation Act 2009* (Qld) s 151, SL No. 61 (*Proclamation - Criminal Organisation Act 2009* commencing remaining provisions). A separate serious organised crime circumstance of aggravation, which commenced on 9 December 2016, can also apply to stalking. This involves a mandatory, cumulative term of imprisonment in addition to the penalty imposed for the stalking offence (*Penalties and Sentences Act 1992* (Qld) Part 9D; inserted by the *Serious and Organised Crime Legislation Amendment Act 2016*, s 124). The application of these provisions is beyond the scope of this paper and there were no cases sentenced under this provision during the data period analysed.

⁹ For a definition of 'most serious offence' and other terms, refer to the technical paper available at: <<https://www.sentencingcouncil.qld.gov.au/research/sentencing-spotlight>>.

¹⁰ Sentencing rates are calculated using the Estimated Resident Population (ERP) data derived from ABS Catalogue 3101.0 and expressed as the number of offenders per 100,000 population aged 10 years and over.

¹¹ Explanatory Notes, *Criminal Law (Domestic Violence) Amendment Bill 2015* (Qld) 2. The amending Act was the *Criminal Law (Domestic Violence) Amendment Act 2015* (Qld).

¹² See *Domestic and Family Violence Protection Act 2012* (Qld) ss 8 and 13.

¹³ *Domestic and Family Violence Protection Act 2012* (Qld) s 8(2)(i).

¹⁴ For the definition of a 'domestic violence offence' see *Criminal Code* (Qld) s 1. It was effective from 22 October 2015 and was inserted by the *Criminal Law (Domestic Violence) Amendment Act 2015* (Qld) s 3.

¹⁵ There is a possibility that this represents an under-count due to lack of consistency in recording offences as domestic violence offences. This data should therefore be treated with caution.

¹⁶ *Penalties and Sentences Act 1992* (Qld) s 9(10A), inserted by *Criminal Law (Domestic Violence) Amendment Act 2016* (Qld) s 5.

¹⁷ See *R v Hutchinson* [2018] QCA 29.

¹⁸ *Penalties and Sentences Act 1992* (Qld) s 9(10A).

¹⁹ Sentencing laws are different for children, who are sentenced under the *Youth Justice Act 1992* (Qld) (YJA). In contrast, the *Penalties and Sentences Act 1992* (Qld) applies to the sentencing of adults. For more information, see <<https://www.sentencingcouncil.qld.gov.au/about-sentencing/sentencing-child-offenders>>. The equivalent of imprisonment for a child is detention. The YJA sets different maximum detention periods for children depending on the level of the sentencing court and seriousness of the offence. The maximum sentence available to higher courts is generally lower than that applicable to adults. Relevant ages for children and criminal responsibility have changed. Until 12 February 2018, children aged between 10 and 16 were sentenced as children. From 12 February 2018, 17-year-olds are also treated as children.

²⁰ Pearson's chi-square statistic: $\chi^2(1) = 4.17, p = 0.0411$.

²¹ Independent groups t-test: $t(1695) = -1.43, p = .1536, r = 0.03$ (equal variances assumed).

²² As at 30 June 2015. See Queensland Government Statisticians Office (GovStats), *Population Estimates by Indigenous Status, LGAs, 2001 to 2015*, available at <<http://www.qgso.qld.gov.au/subjects/demography/atsi-people/tables/pop-est-indigenous-status/index.php>> accessed 4 August 2017.

²³ In Queensland, Aboriginal and Torres Strait Islander people are overrepresented in a range of offence categories, accounting for 17.2 per cent of offenders across all types of offences from 2005–06 to 2017–19. This is a result of a range of complex current and historical factors that continue to impact on the lives of Aboriginal and Torres Strait Islander people.

²⁴ Pearson's chi-square statistic: $\chi^2(1) = 0.68, p = 0.4089$.

²⁵ Independent groups t-test: $t(1673) = 3.55, p = .0004, r = 0.09$ (equal variances assumed).

²⁶ Pearson's chi-square statistic: $\chi^2(1) = 0.89, p = 0.3468$.

²⁷ *District Court of Queensland Act 1967* (Qld) ss 60, 61.

²⁸ *Criminal Code* (Qld) ss 552B(1)(f) and 552B(2).

²⁹ *Criminal Code* (Qld) s 552H; although a sentence of up to 4 years' imprisonment can be imposed by a Magistrates Court sitting as the Drug and Alcohol Court, and Magistrates Courts can suspend the 'operational periods' of sentences of imprisonment up to general legal maximum of five years.

³⁰ *Criminal Code* s 552D(1). Section 552D also contains other reasons, such as exceptional circumstances, which can include that the charge in question is sufficiently connected to others which are being dealt with in a higher court, and they should all be tried together.

³¹ Magistrates Courts and the District Court have equivalent courts created by legislation which can exercise the specific sentencing powers for children under the *Youth Justice Act 1992* (Qld).

³² Pearson's chi-square statistic: $\chi^2(1) = 0.22, p = 0.6426$.

³³ Pearson's chi-square statistic was not calculated as the expected cell count was less than 5, therefore, the assumption for this test was not met and significance testing was not conducted.

³⁴ Independent groups t-test: $t(618.74) = -3.12, p = .0019, r = 0.12$ (equal variances not assumed).

³⁵ Independent groups t-test: $t(237.65) = -0.23, p = .8190, r = 0.02$ (equal variances not assumed).

³⁶ To calculate recidivism, offenders were linked across multiple court events to identify occurrences of prior offending and reoffending. This offender linkage was undertaken by the Queensland Government Statistician's Office, and involved both deterministic and probabilistic matching techniques to account for anomalies in data systems in relation to common administrative data errors relating to issues such as the use of nicknames and transposed details.

³⁷ Independent groups t-test: $t(115.43) = -3.44, p = .0008, r = 0.30$ (equal variances not assumed).

³⁸ Independent groups t-test: $t(542) = -0.39, p = .6951, r = 0.02$ (equal variances assumed).

³⁹ Independent groups t-test: $t(58.043) = -5.14, p < .0001, r = 0.56$ (equal variances assumed).

⁴⁰ Independent groups t-test: $t(61.032) = -3.88, p = .0003, r = 0.18$ (equal variances not assumed).

⁴¹ *Penalties and Sentences Act 1992* (Qld), s 9(2A), and (3).

⁴² *Criminal Code* (Qld) s 359F

⁴³ *Penalties and Sentencing Act 1992* (Qld) Part 3A.s 43A

⁴⁴ *Penalties and Sentencing Act 1992* (Qld) s 43B(41).

⁴⁵ *Domestic and Family Violence Protection Act 2012* (Qld) s 42 – 'When court on its own initiative can make or vary order against offender'. See *Penalties and Sentences Act 1992* (Qld) s 43B(3).

⁴⁶ For restraining orders, see *Criminal Code* (Qld) s 359F(8) and for non-contact orders see *Penalties and Sentences Act 1992* (Qld) s 43F. The maximum penalty for both is 40 penalty units or 1 year's imprisonment.

⁴⁷ Includes offenders sentenced as a child. Four cases had both a restraining order and a non-contact order – these are counted twice. Only includes stalking cases that resulted in a sentence.

⁴⁸ The Queensland Sentencing Advisory Council's *Queensland Sentencing Guide* is available at: https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0004/572161/queensland-sentencing-guide.pdf

⁴⁹ 'Imprisonment' refers to a non-suspended prison sentence, with either a parole release or eligibility date. Suspended sentences are periods of imprisonment of five years or less which are suspended in whole (called a 'wholly suspended sentence') or in part (called a 'partially suspended sentence') for a period of time (called an 'operational period'). If further offences punishable by imprisonment are committed during the operational period, the offender must serve the period suspended in prison (unless unjust to do so), plus any other penalties issued for the new offence).

⁵⁰ Pearson's chi-square statistic: $\chi^2(2) = 3.76, p = 0.1526$.

⁵¹ Pearson's chi-square statistic: $\chi^2(3) = 22.21, p < 0.0001$.

⁵² Independent groups t-test: $t(475.830) = 10.63, p < .0001, r = 0.44$ (equal variances assumed).

⁵³ Independent groups t-test: $t(513) = -0.84, p = .4024, r = 0.03$ (equal variances assumed).

⁵⁴ Independent groups t-test: $t(512) = -0.96, p = .3392, r = 0.00$ (equal variances not assumed).

⁵⁵ Independent groups t-test: $t(78.306) = -5.50, p < .0001, r = 0.53$ (equal variances not assumed).

⁵⁶ Independent groups t-test: $t(388) = -2.29, p = .0224, r = 0.10$ (equal variances assumed).



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Published by the Queensland Sentencing Advisory Council, May 2020

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