Queensland Sentencing Round-up

Queensland Sentencing Advisory Council

2023: Second Quarter

Note to readers:

The Sentencing Round-up summarises select sentencing publications and developments in Queensland between 1 April and 30 June 2023 as identified by the Council. It is not intended to be exhaustive. The Council welcomes feedback on additional resources that might be referenced in future issues.

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Speeches delivered by the Queensland Judiciary

The Honourable Chief Justice Helen Bowskill, Address delivered at the Legal Aid Queensland Regional Principal Lawyer Conference 2023 (Brisbane, Wednesday 31 May 2023)

Her Honour discussed the importance of access to justice and addressing barriers to accessing justice, particularly for the diverse groups within the Queensland population living in rural, regional and remote areas. Her Honour highlighted what is currently being done, useful resources and future projects planned, to facilitate access to justice.

The Honourable Chief Justice Helen Bowskill, 'Contempt', speech delivered at the Queensland Magistrates Courts Conference (Brisbane, 24 May 2023)

Her Honour gave a practical overview of the law on contempt, referring to legislation and case law. The speech explored topics such as the basic principles, the difference between civil and criminal contempt, types of contempt, the standard of proof and the rules on procedure. Her Honour discussed the punishment for contempt, including the orders available and relevant factors to be taken into account (see [98]-[104], 28-9).

Practice Directions

District Court Practice Direction No 5 of 2023 - Sentencing Proceedings - Outline of Submissions (19 June 2023)

This Practice Direction sets out guidelines for written outlines of submissions for sentencing proceedings. The Practice Direction provides guidance on the purpose of the outline as well as the timing of when it should be provided.

Supreme Court of Queensland, Practice Direction 10 of 2023 – Pronunciation of Names and Preferred Forms of Address (3 April 2023)

This Practice Direction recognises pronouncing names correctly, using appropriate gender pronouns and title is a matter of respect to any party, witness or other participant in the hearing. It provides a process for legal practitioners and self-represented litigants to inform the Supreme Court of these matters.

Queensland Sentencing Advisory Council publications

***Understanding of Sentencing: Community Knowledge of Sentencing Terms and Outcomes* (Research Brief No. 3, April 2023)**

This paper explores what members of the Queensland public know and think about sentencing. It also reveals some common misconceptions and knowledge gaps. A summary of the key findings is available here.

Relevant Bills

Justice and Other Legislation Amendment Bill 2023 (Introduced 25 May 2023)

The Bill proposes to make amendments when there has been the destruction of an unborn child:

- To the *Criminal Code* (Qld) sch 1 to enable an indictment for an offence to state the name of the unborn child, or a description.
- To the *Penalties and Sentences Act 1992* (Qld) (PSA) and *Youth Justice Act 1992* (Qld) (YJA) to provide that when sentencing a 'relevant serious offence', a court 'must treat the destruction of the unborn child's life as an aggravating factor', unless there are exceptional circumstances.

The definition of 'victim' in the *Victims of Crime Assistance Act 2009* is also amended to include if a victim is pregnant and the crime results in the destruction of the life of the person's unborn child. This definition will be applied for the purpose of victim impact statements.

The Bill further removes the prohibition on identifying an adult charged with a prescribed sexual offence prior to committal. A Magistrates Court can make a non-publication order.

The Bill has been referred to the Legal Affairs and Safety Committee which is due to report by 28 July 2023.

Legislative amendments

Police Powers and Responsibilities and Other Legislation Amendment Act (No. 1) 2023

The following provisions of this Act, passed by Parliament on 20 April 2023, commenced on assent (2 May 2023):

- *Summary Offences Act 2005* (Qld): New offences and circumstances of aggravation to target those who are willfully involved hooning or street-racing behaviour, including a person who films or

photographs those offences, organising, promoting or encouraging participation. There is also a new offence to possess certain items to commit an offence, such as number plates, spare wheels and hydraulic jacks.

- *Transport Operations (Road Use Management) Act 1995* (Qld): New offence of willfully causing motor vehicle to lose traction with the road.

Amendments to commence on a day to be fixed by proclamation:

- *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) (CPOROPO Act): amendments to this Act, which are not retrospective, include increasing the reporting periods (from 5 years, 10 years and life to 10 years, 20 years and life); that a person who has ever been subject to an order under the *Dangerous Prisoner (Sexual Offenders) Act 2003* (Qld) is subject to reporting obligations under the CPOROPO Act once the order ends.

Police Powers and Responsibilities and Other Legislation Amendment Act (No. 2) 2023

The following provisions of this Act, passed by Parliament on 20 April 2023, commenced on assent (2 May 2023):

- Increase to the maximum penalty for trafficking in dangerous drugs under section 5 of the *Drugs Misuse Act 1986* (Qld) from 25 years imprisonment to life imprisonment.

- Introduction of circumstances of aggravation for the offence of evading police under section 754 of the *Police Powers and Responsibilities Act 2000* (Qld) (if the offence is committed at night, the driver of the motor vehicle uses or threatens violence, is armed or pretends to be armed, is in company, damages or threatens to damage any property or has previously been convicted of certain offences), with the new aggravated form of offence to carry a maximum penalty of 5 years imprisonment or 300 penalty units. This charge must be dealt with summarily if the prosecution elects to have it dealt with in this way unless the Magistrate is satisfied that the person may not be adequately punished.

- Introduction of a new offence of assaulting a person in the performance of their functions or exercising powers under the *Fire and Emergency Services Act 1990* (Qld), with a maximum penalty of 100 penalty units or 6 months imprisonment.

Amendments to commence on a day to be fixed by proclamation:

- Enhancements to the police drug diversion program, including to broaden the scope of what constitutes a minor drug offence:
  - to include the possession of prescribed quantities of any type of dangerous drug and certain pharmaceuticals, and
  - to allow for a person to be offered an opportunity to complete a drug diversion assessment program on a subsequent occasion.

Parliamentary inquiries and reports

Legal Affairs and Safety Committee, *Inquiry into Police Powers and Responsibilities and Other Legislation Amendment Bill 2023* (Report No. 46, 57th Parliament, April 2023)

This report presents a summary of the Legal Affairs and Safety Committee's examination of the Police Powers and Responsibilities and Other Legislation Amendment Bill 2023. The Committee recommends that

the Bill be passed and makes two further recommendations to support its effective implementation.

Legal Affairs and Safety Committee, *Inquiry into Support provided to Victims of Crime* (Report No. 48, 57th Parliament, May 2023)

This report presents the Legal Affairs and Safety Committee's findings on its inquiry into the support provided to victims of crime and to identify if there are areas where improvements could be made. The committee makes 18 recommendations for government, including:

- reviews of victims' rights
- improved coordination of services
- increasing access to information
- trauma-informed training
- investing in victim support services, and
- improving access to restorative justice and youth justice conferencing.

Queensland Court of Appeal decisions

R v SEB [2023] QCA 69

Keywords: domestic violence offence; deportation; malicious act with intent to cause grievous bodily harm; serious violent offence.

Leave to appeal refused against a sentence of 7 years' imprisonment for malicious act with intent to cause grievous bodily harm (domestic violence offence). The offence was declared a serious violent offence (meaning SEB would have to serve 80 per cent of this sentence before being eligible for release on parole).

SEB was a refugee from Afghanistan who experienced a difficult upbringing and life and on his release, would be held in immigration detention until his deportation. The only way to mitigate the sentence was therefore to reduce the head sentence.

The Court of Appeal considered that as the offence was a 'domestic violence offence', this was 'a powerful aggravating factor' [19]. Reasons for this included that the offending occurred in the home (which should have felt safe for the victim), and two children were exposed to the violence and suffered psychological effects. The sentence was not manifestly excessive.

R v BDZ [2023] QCA 59

Keywords: domestic violence offence; grievous bodily harm; serious violent offence.

Leave to appeal dismissed against a sentence of 7 years' imprisonment with no early parole eligibility date for the offence of grievous bodily harm (domestic violence offence) (most serious offence ('MSO')).

The Court discussed differences between s 320 and s 317 of the *Criminal Code* (Qld) and the lack of intent as an element. 'It is conceivable that, despite the serious element of intentional harm not being present, some offences of grievous bodily harm simpliciter may attract an even greater sentence than some offences of doing grievous bodily harm with intent' [18].

The Court discussed that not making a serious violent offence declaration in this case was finely balanced [23]. The Court reiterated that 'there is no requirement that a sentencing judge must impose an early parole eligibility date in response to mitigating considerations' particularly when these factors were taken into

account in arriving at the head sentence [23].

R v Betts [2023] QCA 75

Keyword: cumulative sentence; offending on parole; presentence custody; totality; trafficking in a dangerous drug.

Leave to appeal granted against a sentence of 9 years and 9 months' imprisonment for trafficking in a dangerous drug (MSO) and 12 months' imprisonment for attempting to pervert justice. The sentences were cumulative on each other and on terms of imprisonment imposed in 2012 and 2019.

The sentencing judge and counsel at sentence considered that the presentence custody served could not be declared, but could be taken into account, based on the decision in *R v Braeckmans (2022)* 10 QR 144. Mullins P held that this was a mistake, and some of the days spent in presentence custody could be declared.

Because of the cumulative sentences, Betts was subject to a total sentence of 21 years and 3 months imprisonment. The Court of Appeal held that the sentencing judge did not have sufficient regard to the principle of totality. The sentence was reduced to 8 years' imprisonment for the trafficking and 12 months' imprisonment for attempting to pervert justice, served cumulatively and cumulative on the existing sentences. The Court declared the applicant was in presentence custody for 817 days and declared that no time is taken to be imprisonment already served under the sentence.

R v FBC [2023] QCA 74

Keywords: delayed parole eligibility date, domestic violence offence; exposing children to domestic violence.

Leave to appeal refused against a sentence of 9 years' imprisonment for rape (domestic violence offence and MSO) with a parole eligibility date after the applicant had served 6 years. A domestic and family violence protection order was made to apply for 8 years.

FBC pleaded guilty and was sentenced for 11 domestic violence offences occurring over 2.5 years in breach of a protection order. The sentencing judge described the offending as 'breathtakingly serious', 'disgusting' and done to dominate and oppress the complainant [18]. The sentencing judge also described exposing the children to domestic violence as an aggravating feature.

On appeal, FBC argued that the starting point of 10 years was too high. The Court of Appeal did not agree. The Court also found good reasons why parole eligibility in this case had been deferred, although no serious violent offence declaration had been made:

> Such a period of actual custody reflects the overall criminality of the applicant, particularly having regard to the need for denunciation and deterrence in relation to the last occasion when a loaded weapon was aimed at his very young children. An effective head sentence of nine years imprisonment, with parole eligibility after serving six years, was neither plainly unreasonable nor unjust, having regard to the depravity and persistence associated with the applicant's offending in a domestic relationship over an extended period of time. [30]-[31]

R v WBV [2023] QCA 79

Keywords: applying the "one-third" principle; domestic violence offence; *Nagy* approach; parole eligibility date.

Leave to appeal refused against a sentence of 5-years' imprisonment with parole eligibility after 2 years (approximately 40 per cent) for offences committed over 2 years, including 2 counts of choking in a domestic setting and 3 counts of assault occasioning bodily harm (domestic violence offence).

WBV appealed on the basis that the sentence was manifestly excessive, including because the parole eligibility date should have been set at the one-third mark because he pleaded guilty. He also argued that given his lengthy criminal record and poor behaviour in custody (including supplying a dangerous drug into a correctional centre committed while on remand), he would struggle to obtain parole and therefore his sentence should guarantee his release.

The Court of Appeal dismissed the appeal, noting that the 'one-third reduction for a plea of guilty is not a rule' but rather a 'starting point, to be adjusted up or down, depending on the particular circumstances of each case' [6]. Further, because WBV had performed poorly in custody, he was an 'inappropriate candidate

for a sentence which gave him certainty of a date of release' [7]. The Court commented that 'It is important to motivate a prisoner to rehabilitate, to turn their back upon drugs and to learn to control their behaviour. These are powerful reasons not to fashion a certainty of release date' [52].

R v YTZ; Ex parte Attorney-General (Qld); R v YTZ [2023] QCA 87

Keywords: Attorney-General appeal; heinous; manslaughter; youth justice.

Appeal by the Attorney-General dismissed and application for leave to appeal against sentence refused.

YTZ was sentenced to 10 years' detention for two counts of manslaughter to be released after 60 per cent of the sentence had been served and disqualified absolutely from holding or obtaining a driver's licence (MSO).

The Attorney-General appealed the sentence on the basis that it was manifestly inadequate. The Court held the Attorney-General had 'failed to show that this is an exceptional case which justifies a departure on appeal from the submissions made by the prosecutor before the sentencing judge… or that the sentence imposed on the respondent was "unreasonable and plainly unjust"' [48].

In YTZ's appeal, the Court of Appeal considered whether there was an error in the sentencing judge finding that the manslaughter offences were 'particularly heinous', meaning that the maximum detention period was life instead of 10 years. The Court was not satisfied that there had been an error. Without this finding, it was unnecessary for the Court to consider the other ground of appeal that the sentence was manifestly excessive.

R v Moore [2023] QCA 100

Keywords: applying the "one-third" principle; offending on parole; parole eligibility date; presentence custody.

Leave to appeal refused against a sentence of 9 years' imprisonment for serious drug, weapons and other offences.

Moore's parole eligibility date was set at 2 years and 3 months from the date he pleaded guilty. These offences were committed while on parole. When both sentences were considered, Moore was required to serve 13 years' imprisonment. He had spent 604 days in presentence custody. This included 570 days serving out his existing sentence and 34 days on remand until his sentence date.

On appeal Moore argued the sentencing judge did not give him 'full credit' for his presentence custody in setting the parole eligibility date. Ryan J commented:

> While it might be customary to do so, a sentencing judge is not obliged in every case on a plea of guilty to structure a sentence which allows for a prisoner's release after serving one-third of the period of custody imposed. The sound exercise of the sentencing discretion might involve postponing the prospect of release beyond the one-third mark, depending, of course, on a sentencing judge's view of the circumstances, including the circumstance that very serious offences were committed whilst an offender was on parole for serious offences of the same type, as here. (p 5)

R v BEB [2023] QCA 105 / *[2023] 22 QLR*

Keywords: domestic violence offence; life imprisonment; *Nagy* approach.

Leave to appeal against sentence refused (with McMurdo JA dissenting).

BEB pleaded guilty to a range of serious offending against 4 victims. He was sentenced to life imprisonment for the 2 most serious offences, identified to be attempted murder and rape against a child (both domestic violence offences).

The sentencing judge considered that the sentence of life imprisonment for these offences reflected the overall criminality (applying *Nagy*). One ground of appeal concerned the application of this approach. The majority considered that there was no error in application and the sentence was not manifestly excessive.

On this ground, McMurdo JA dissented, noting that he would have resentenced the applicant to lesser finite terms. This was because on his reading of the sentencing reasons, the sentencing judge did not conclude the offences were themselves so serious as to warrant the maximum penalty, and life imprisonment was a harsher outcome for the applicant than any which might have resulted from an accumulation of fixed terms, [10]–[11].

R v BDO [2023] QCA 114

Keywords: offending as a child; sexual offender programs; parole eligibility date or suspended sentence; youth justice.

Remittal to the Court of Appeal for re-sentence of BDO for 6 counts of rape following a successful appeal to the High Court against conviction for 5 counts of rape.

BDO was found guilty after a trial of multiple acts of rape against his sister when aged between 14–17 years at which time the victim was aged between 8–12 years.

BDO's age meant that the sentencing principles in the YJA applied. The Court of Appeal noted that his sexual offending was serious, perpetrated where there was resistance by the victim and violence was used to overcome that resistance.

BDO had spent 838 days in presentence custody but was not able to participate in sexual offender programs until his conviction appeal was finalised. This meant that at the time of resentence he had not completed any courses.

He was resentenced to 5 years' imprisonment (MSO) with an immediate parole eligibility date. The Court of Appeal considered that his offending was of such a nature that he required supervision and it was not appropriate to suspend the sentence.

R v Palmer [2023] QCA 118

Keywords: presentence custody; totality.

Leave to appeal against sentence granted.

Palmer was sentenced for 7 offences involving stealing, burglary, unlawfully using a motor vehicle and dangerous operation of a motor vehicle. There was a mistake of fact at the initial sentence and the Court of Appeal re-sentenced him.

Palmer had a lengthy criminal history and spent various periods in custody prior to and since the offending. He had also been sentenced for other offending committed around the same time as the offences subject to this appeal. In respect of totality, the Court of Appeal noted:

> Care must be taken when considering an offender's criminal history on the issue of totality where the offender has been sentenced on numerous occasions for minor offences where the aggregate sentences are greater than the appropriate punishment for the total criminality for the aggregate offending. [30]

The Court of Appeal confirmed that the amendment to s 159A(1) of the PSA allowed increased flexibility in sentencing and a presentence custody declaration could be made that is beneficial to a prisoner, even if it coincides with the prisoner serving a sentence for other offending [31] (citing *R v Wilson* (2022) 10 QR 88 at [18] and *R v Whitely* (2021) 8 QR 283 at [13]-[18]).

R v Atasoy [2023] QCA 121 / *[2023] 24 QLR*

Keywords: factual basis for plea; possession; presentence custody; solitary confinement.

Leave to appeal against sentences granted against a sentence of 3 years' imprisonment for 10 offences including possessing weapons and dangerous drugs.

One issue was the presentence custody declaration. The Court of Appeal discussed case law on declaring presentence custody and the relevance of solitary confinement.

On re-sentence, the Court of Appeal sentenced him to 2 years for the most serious 6 counts, and ordered that the 549 days spent in custody be declared as time taken to be imprisonment already served, and confirming the parole release date previously set (which was set as the date of sentence).

R v Waters; Ex parte Director of Public Prosecutions (Cth) [2023] QCA 131 / *[2023] 26 QLR*

Keywords: Attorney-General appeal; Commonwealth offences; delay in hearing appeal; presentence report; victim of domestic violence.

Appeal by the Commonwealth Director of Public Prosecutions dismissed.

Waters was sentenced to 2 years' and 9 months' imprisonment and was released on the day of sentence on a $1,000, 2-year recognizance and 2 years' probation for fraud offending.

The Court of Appeal held that the sentencing judge made an error in reducing the sentence based on her

mental health because that conclusion was not open on the evidence in the psychological report.

The Court further found that the mitigating factors (no previous convictions, a history of suffering domestic violence and the full repayment of the money), did 'justify moderation of actual custody to a period lower than half of the head sentence ...[but] [t]he circumstances were not so exceptional as to require no time in actual custody' [68].

Although there was an error in the sentence, because of the significant delay in hearing the appeal (which was not the respondent's fault), the Court of Appeal ultimately decided not to exercise its discretion to re-sentence Waters to actual imprisonment and dismissed the appeal.

R v Wilson [2023] QCA 132

Keywords: cumulative sentence; *Nagy* approach; offending on parole; parole eligibility date; totality.

Leave to appeal granted.

Wilson was sentenced for offences committed within 5 months of his release on parole. His parole was suspended, and he was returned to custody to serve out his sentence.

During the sentencing hearing for the new offences, the prosecution had urged the sentencing judge not to set a parole eligibility date. The Court of Appeal held this was an error as s 160C(2) of the PSA required a date to be set.

In re-sentencing, the Court of Appeal discussed how to deal with a variety of offences as well as the principle of totality when a sentence is cumulative on an existing period of imprisonment. The Court applied the Nagy approach (imposing a higher head sentence, usually for the most serious offence, to reflect the overall criminality of the offending) and considered there was good reason to impose a further cumulative sentence for failing to give police the PIN to his mobile despite a Magistrates Court order (*Criminal Code* (Qld) s 205A).

The parole eligibility date was set at approximately half of the period between his return to custody and his full-time discharge date.

Supreme Court of Queensland sentencing remarks

R v GYZ [2023] QSC 127 / *[2023] 25 QLR*

Keywords: offending as a child; whether sentencing proceeding for 'a child offence'; youth justice

GYZ was charged with a number of offences including trafficking in a dangerous drug over a 2-year period. GYZ was 17 years for the first 2 months of the offending period.

When BYZ entered his plea of guilty, the Supreme Court Judge considered whether the sentence was a proceeding a 'a child offence' within the meaning of s 132 of YJA. If so, there are different sentencing considerations, including that 'the sentencing court must have regard to the sentence that might have been imposed of the offender if sentenced as a child' (s 144 YJA). The Judge noted that definitions in the legislation do not contemplate where the person is a child and an adult during the commission of the offence. The Judge declared that the proceedings against GYZ are not proceedings for 'a child offence' (therefore YJA div 11, pt 6 did not apply). However, s 148 of YJA (evidence of childhood finding of guilt not admissible against adult) would apply.

Childrens Court of Queensland sentencing remarks

R v JG [2023] QChC 7

Keywords: condition of detention; graffiti removal order not made; youth justice

JG was sentenced under the YJA for robbery in company with personal violence and one count of assault occasioning bodily harm in company, as well as 10 summary charges.

JG was sentenced to a 6-month probation order with special conditions. No convictions were recorded.

JG was aged 15 and 16 years at the time of offending. She had a profoundly disadvantaged upbringing and childhood. She was removed from her parents when 2 days old due to abuse and neglect and had been under a long-term guardianship order with the Department of Child Safety since she was 4 years old.

JG had spent 94 days in the watchhouse or detention over two periods prior to her sentence. A significant amount of her time in detention was spent locked in her cell for at least 19 hours a day, sometimes up to 24 hours.

When JG was locked in her cell, she was unable to access the education unit. Due to JG's mental impairments, those conditions in detention 'were more onerous than they would have been for a child who does not have your diagnoses' (p 6). This was a mitigating factor at sentence. The sentencing judge did not issue a graffiti removal order because of JG's mental capacity.

District Court of Queensland decisions

Robinson v Commissioner of Police [2023] QDC 93 (as well as Judgment Summary)

Keywords: offending on parole; parole eligibility date.

Appeal dismissed against sentence of 16 months' imprisonment with a parole eligibility date set, imposed in the Magistrates Court.

Robinson was sentenced for 23 offences. Of these, 3 offences had been committed while he was on Board ordered parole. The issue on appeal was whether the time on bail, after the previous sentences had expired, was a 'break' between the periods of imprisonment. If there was a 'break' the court could set a parole release date. If there was not, the total unbroken period of imprisonment would exceed 3 years. This means the court could only give a parole eligibility date (s 160C of the PSA). The Magistrate (on a re-opening) held that s 160C did apply.

On appeal, Smith DCJ noted that while no cases dealt explicitly with this issue, they do discuss the concept of 'period of imprisonment' [38]. His Honour held that the Magistrate was correct and concluded:

The primary obligation upon release on parole is not to reoffend. Where an offender breaches that part of his promise, the promise in effect becomes indefinite… In this case, the retrospective cancellation of the appellant's earlier parole had, as in the other cases mentioned, the effect of rendering this period of imprisonment unbroken and it thus exceeded three years. [48]

Dowden v Commissioner of Police [2023] QDC 111

Keywords: actual imprisonment; young offender

Appeal dismissed against a sentence of 12 months' imprisonment with parole release after serving 4 months for assault occasioning bodily harm.

It was argued that requiring Dowden to serve actual time, the Magistrate gave too much weight to

deterrence and not enough weight to rehabilitation. Therefore, the sentence was manifestly excessive.

Dowden punched the complainant once in the head, causing him to lose consciousness and fall to the ground. The offending was described as gratuitous violence, done without warning and with the complainant standing with his hands in his pockets and unable to defend himself.

Dowden was 22 years old and had pleaded guilty. He had one entry on his criminal history, contravention of a domestic violence order, for which he was sentenced to 12 months' probation with no conviction recorded. This offence occurred a short time after that was completed.

R v Colonel [2023] QDC 114

Keywords: cumulative sentence; offending on parole.

Sentence re-opening in the District Court as the order that the sentence was cumulative on an existing sentence (as required under s 156A of the PSA) was not made. At the initial sentence, it was argued that s 156A of the PSA did not apply because Colonel's parole was suspended at the time the offences were committed. In the re-opening, Long SC DCJ gave his reasons for the application of s 156A(1)(b) of the PSA.

Academic articles/research of interest

Baldawi, Susan et al, *Care criminalisation of children with disability in child protection systems* (Research Report, Monash University, University of Western Sydney, Centre for Evidence and Implementation, May 2023)

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability commissioned this research to improve understanding of the pathways that lead children with disability from their contact with child protection system to entering the criminal justice system. The research also explores the effectiveness of interventions.

Beckwith, Stephanie et al, Coercive control literature review: Final report (Research Paper, Australian Institute of Family Studies, May 2023)

This report provides an overview of the literature on coercive control in the context of domestic violence. It focuses on the understanding of, and responses to, coercive control in the Australian context.

Clifford, Sarah et al, 'Experiences of trauma and alcohol and other drug use by domestic, family, and sexual violence offenders: A review of 6 months of sentencing remarks from the Supreme Court of the Northern Territory, Australia' (2023) 56(1) *Journal of Criminology* 78

This paper qualitatively explores how the judiciary recognises alcohol and trauma when sentencing domestic, family and sexual violence offences in Australia.

de Castro Rodrigues, Andreia, et al, 'Words matter: judges' value judgments in sentence pronouncements remarks' (2023) *Crime, Law and Social Change*

This article presents the findings of an analysis of 93 sentencing remarks from 13 judges in a Portuguese criminal court over a 6-month period. The aim was to identify judges' value judgments (being personal views beyond strict legal issues such as recommendations to the sentenced person not to reoffend, what to do or how to live their life and opinions about the person, the victim, society and the causes of crime).

Lelliott, Joseph and Rebecca Wallis, 'Threats of fire in the context of domestic and family violence: Views on prevalence, forms and contexts from service providers in Queensland' (2023) 35(2) *Current Issues in Criminal Justice* 234

This article examines threats of fire used by perpetrators of domestic and family violence by considering interview data from 17 Domestic and Family Violence non-government service providers and analyses the views of participants. The article highlights that there is a requirement for further research into this behaviour as a form of coercive control and for better responses to the threat of fire.

Australian Institute of Health and Welfare, *Youth Justice in Australia 2021-2022* (March 2023)

This report presents information about young people under youth justice supervision in Australia during 2021–22, both in the community and in detention and trends. Queensland and New South Wales accounted for more than half of all young people under supervision on an average day, regardless of supervision type. The rate of Aboriginal and Torres Strait Islander young people aged 10–17 under supervision on an average day was highest in Queensland (175 per 10,000).

Other

New South Wales Sentencing Council, *Fraud* (June 2023)

The Attorney-General (NSW) asked the NSW Sentencing Council to review the sentencing of fraud and fraud-related offences in New South Wales. This report presents the NSW Sentencing Council's findings. The Sentencing Council made 3 recommendations for reform.

Sentencing Advisory Council (Victoria), *Aggregate Prison Sentences in Victoria* (2023)

This report explores the use of aggregate prison sentences in Victoria since their introduction in 1997. The report considers their use in the Magistrates' Court and higher courts over the last decade and considers their advantages and disadvantages.

Sentencing Advisory Council (Victoria), *Reforming Adjourned Undertakings in Victoria: Final Report* (2023)

Following its 2-year review of adjourned undertakings and related orders in Victoria, the Council has released its final report making 26 recommendations for reforms to enhance the effectiveness of adjourned undertakings.

Tasmania Law Reform Institute, Youth justice system responses to sex offences to be reviewed

The ability of the state's youth justice system to respond effectively to sex offences committed by young people will be reviewed by the Tasmania Law Reform Institute. The review, announced on 7 June 2023, will examine responses including diversionary practices, the use of therapeutic services, addressing the needs of victims, education and early intervention to reduce repeat offending. A progress report will be available by mid-2024, with a final report to be delivered in 2025.