



## 2025: First Quarter

### Note to readers:

The Sentencing Round-up summarises select sentencing publications and developments in Queensland between 1 January and 31 March 2025 as identified by the Council. It is not intended to be exhaustive. Decisions and cases in this document are as at date of publication and may be subject to appeal. The Council welcomes feedback on additional resources that might be referenced in future issues.

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### *Sentencing of Sexual Assault and Rape – The Ripple Effect: Final Report (December 2024)*

The Final Report presents the Council's findings and recommendations on its review of sentencing practices for sexual assault and rape offences. The Council made 28 recommendations to the Attorney-General to improve sentencing for sexual assault and rape in Queensland.

The Council considered sentencing issues and community views, the types and lengths of sentences given, the guidelines that help courts decide what sentence to give, and the court processes. It also looked at the needs of victim survivors and their involvement in the sentencing process, including the victim impact statement regime.

### *Sentencing of Sexual Assault and Rape – The Ripple Effect: Community Summary (December 2024)*

The Community Summary is a simplified version of the Council's Final Report.

It presents a summary of the Council's review on how sexual assault and rape offences are sentenced and provides a brief explanation of the changes the Council believe should be made to improve sentencing of sexual assault and rape offences.

### *Sentencing Spotlight on murder*

This updated *Sentencing Spotlight* examines sentencing outcomes for murder offences finalised in Queensland courts between July 2005 and June 2024.

Key findings include:

- Life imprisonment was imposed on all adults sentenced (the mandatory penalty in Queensland) and 10.6 years was the average detention length for a child;
- 71.4% of offenders pleaded not guilty;
- 25% of offences were domestic violence offences;
- 93.6% of offenders were male.

### *Sentencing Spotlight on manslaughter*

This updated *Sentencing Spotlight* examines sentencing outcomes for manslaughter offences finalised in Queensland courts between July 2005 and June 2024.

Key findings include:

- 8.8 years as the average imprisonment length for adults and 5.5 years was the average detention length for a child;
- 11.2% of offenders pleaded not guilty;
- 23.7% of offences were domestic violence offences;
- 79% of offenders were male.

## Practice Directions

### Magistrates Court Practice Direction No 1 of 2025: Summary proceedings for domestic violence offence – Brisbane Magistrates Court (23 January 2025)

This practice direction applies to matters in the Brisbane Magistrates Court which are 'domestic violence offences' (an offence against *Domestic and Family Violence Protection Act 2012 (Qld)* pt 7 or an offence against another Act where the act is domestic violence or associated domestic violence or a contravention of domestic violence order: *Evidence Act 1977 (Qld)* s 103B).

These matters will be managed in a summary callover list on the 2nd and 4th Friday of each month, to promote faster resolution and aim to resolve contested matters within 6 months. The Practice Direction includes directions about what is expected at each appearance.

### Magistrates Court Practice Direction No 5 of 2025: Court Link – Brisbane Magistrates Court (7 February 2025)

This practice direction applied to Court Link matters in the Brisbane Magistrates Court. It provides for a staggered list, with 11am to be for women.

The aim is to identify and address the needs of women through gender-responsive case management in response to the Women's Safety and Justice Taskforce, *Hear Her Voice - Report 2: Women and girls' experience across the criminal justice system* (2022), rec 124.

## Legislative amendments

### Proclamation No 1 – Making Queensland Safer Act 2024 (Qld) (commencing certain provisions)

Provisions in parts 3 and 4 of the *Making Queensland Safer Act 2024 (Qld)* to commence on 28 February 2025. These include:

- Amendment to the offence of Dangerous operation of a vehicle, definition of 'previously convicted' to include a finding of guilty against the offender as a child (*Criminal Code (Qld)* s 328A(3), (6); and
- Provisions about who is eligible to receive information about a child serving detention for a violent or sexual offence to include a victim of the offence or immediate family member of a deceased victim.

### *R v Gray* [2024] QCA 250

**Keywords: possessing a dangerous drug; short imprisonment sentence**

Application for leave to appeal was refused for a sentence of 2 years imprisonment, with parole release after 4 months served for possessing dangerous drugs (head sentence).

At sentence, it was noted that there was no appeal authority to support a mature person found in possession of a substantial quantity of drugs to not serve actual imprisonment. On appeal, it was argued that the short 4-month term of imprisonment 'grossly undermined' Gray's rehabilitation. While the Court of Appeal noted there are cases where substantial and successful rehabilitation efforts will mean a short term of imprisonment is not justified (see *R v Illin* [2014] QCA 285), it did not consider there was an error in ordering a short term of imprisonment in this case.

### *R v Major* [2025] QCA 5

**Keywords: cumulative v concurrent sentence; parity principle; presentence custody not declared**

Application for leave to appeal against a sentence of 4 years imprisonment for an offence of riot (with a circumstance of aggravation) to be served cumulatively on a 6-month activated suspended imprisonment sentence (meaning the total sentence is 4.5 years imprisonment). The sentence for the riot offence was reduced to 3.5 years imprisonment and the 6-month activated suspended imprisonment sentence was ordered to be served concurrently (at the same time).

The Court of Appeal found the sentencing judge did not give reasons for the cumulative sentence or its potential effect. In resentencing the applicant, the Court of Appeal noted the sentences given for 20 other offenders sentenced for the riot and the parity principle. It also noted the Crown submission at sentence that the activated suspended sentence should be served concurrently and took into account the 7 months in custody which could not be declared as well as the delay in bringing this charge and presenting an indictment.

### *R v Henshall* [2025] QCA 20

**Keywords: adequate reasons for recording a conviction; exceptional circumstances; sexual assault, no conviction recorded**

Leave to appeal against sentence granted and sentence of 18 months' probation with a conviction recorded for a sexual assault varied to 18 months' probation with no conviction recorded.

The applicant was 35 years old and had been in a wheelchair since the age of 2. He was studying at university. The offending occurred at the campus and involved him approaching a 14-year-old victim when she was alone in the cafeteria area and touching her leg and thigh and touching his own groin area. The victim was uncomfortable and did not feel she could move away because of the position of the wheelchair. While the victim was in a school uniform, as she had told the applicant she was 16 years old it was accepted he had an honest and reasonable belief that she was not under 16 years. This supported a finding of exceptional circumstances so that actual imprisonment was not required (see PSA s 9(4)(c)).

The issue on appeal was whether the Judge failed to give adequate reasons for recording a conviction. The Court of Appeal considered the sentencing remarks and that '[t]he reader is totally left in the dark': [71]. When re-exercising the sentencing discretion, one consideration was 'whether the community would be better served if a conviction was or was not recorded': [80](h) - see also *R v ZB* [2021] QCA 9 discussed at [59]–[65]. It was also noted that the prosecution and defence at the original sentence hearing considered that if a probation order was made, then no conviction should be recorded: [80](i).

### *R v Murdoch* [2025] QCA 30

**Keywords: armed robbery, in company; youthful first-time offender; no conviction recorded**

Leave to appeal granted for a sentence of 15 months' imprisonment for armed robbery (head sentence), which was set aside, and a sentence of 6 months' probation ordered with no conviction recorded.

Murdoch, together with a 15-year-old and another unknown person, entered a bottle shop, took bottles of alcohol, and tried to leave the store. The shop attendant stopped Murdoch and she attempted to strike the victim with a bottle and then threw the bottle directly at the victim and ran away. They drove off in a stolen car.

She was 18 years old and had no criminal history. She had 'endured a dysfunctional and disadvantaged childhood and ... experienced trauma, domestic violence and homelessness': [4]. She had spent 11 months in prison before the sentence.

It was argued that this sentence was manifestly excessive by the sentencing structure, which precluded the possibility of not recording convictions. It was stressed that this was an unusual appeal, and it should not be viewed as authority that a short period of probation should be imposed for this type of offending. Probation was only imposed because Murdoch had already served 11 months on remand and 4 months on parole at the time of the appeal.

### **R v Rodriguez [2025] QCA 34**

**Keywords: undiagnosed mental impairment and moral culpability; rape; 'full credit' for guilty plea**

Appeal allowed for a sentence of 5 years' imprisonment suspended after 20 months had been served for an operational period of 5 years. The sentence was varied so that it was suspended after 12 months served instead of 20 months.

Rodriguez was 18 years old and had no criminal history. The victim was 19 years old. After they had consensual sex, he tried to touch her breasts, but the victim said 'no'. She fell asleep and woke to him penetrating her vagina with his penis until he ejaculated. He was not wearing a condom. During a phone call which police were recording, he admitted to non-consensual sex and said if she reported it to police, he would harm himself. The sentencing judge considered this was emotionally manipulative conduct.

The Court of Appeal considered the 5-year head sentence was appropriate but the requirement to serve one-third in prison prior to release was manifestly excessive. This was based on the mitigating factors present—a plea of guilty, no relevant criminal history, substantial rehabilitation undertaken, low risk of sexual reoffending, and extreme youth. Further, an undiagnosed mental health condition, now stable, would make the impact of time in prison greater.

## **Supreme Court of Queensland sentencing remarks**

### **R v PZW [2025] QSC 39**

**Keywords: arson; juvenile offender; meaning of 'particularly heinous'; murder; party provisions – section 8 of the *Criminal Code* (Qld); 'special circumstances'; *Youth Justice Act 1992* (Qld) s 176**

PZW was sentenced to 12 years' imprisonment for the offence of murder (head sentence), with release from detention after serving 60% with a conviction recorded. Prior to the sentence, PZW participated in a restorative justice program with the victim's mother and sister in which PZW expressed his remorse and an agreement was reached. Special circumstances also included no prior history and a background in which he was exposed to domestic and family violence which normalised aggressive and violent behaviour.

The offending involved PZW (who was 16 at the time), and others (aged 19 to 25), approaching the victim's address, luring him outside and stabbing and cutting the victim 44 times. As it was not clear who stabbed the victim, PZW was sentenced on the basis that he was a party to the offending as he had formed a common unlawful purpose with others to kill or do grievous bodily harm. PZW and others then went upstairs, where he poured accelerant in the house and set it alight, destroying the house and killing two pets.



The sentencing judge discussed there are 2 possible constructions of section 176 of the YJA:

- Construction 1: To first determine if the offence is 'particularly heinous' which will determine the 'spectrum' of sentence length (e.g., 0–10 years or 0–life detention); or
- Construction 2: The court should fix a sentence based on the maximum penalty. If it is 10 years imprisonment or less, the issue of 'particularly heinous' does not arise. If it is more than 10 years imprisonment, then there needs to be a finding that the offence is 'particularly heinous' otherwise, a sentence of 10 years is imposed.

The sentencing judge noted there is no authority where this point has been considered. After considering the objects of the YJA and other decisions, the sentencing judge preferred 'Construction 1'.

## District Court of Queensland s 222 appeals and sentencing remarks

### *DJA v Commissioner of Police [2025] QDC 18*

**Keywords:** contravention of a domestic violence offence; procedural fairness; relevant criminal history

Appeal allowed reducing a sentence of 6 months' imprisonment with immediate parole release to 3 months' imprisonment for a contravention of a domestic violence order.

The temporary domestic violence order stated DJA was not allowed within 100m of the aggrieved's residence. He breached the order by attending her house. He admitted to police he had done so to return their children home, because she did not attend the prior agreed meeting place and according to his account, would not answer her phone.

On appeal, while imprisonment was considered appropriate because of his criminal history, 6 months' imprisonment for this offence was 'demonstrably disproportionate' to the conduct. While DJA had previous convictions, which were relevant, 'a person is not to be punished twice for prior convictions'. It was noted that in her sentencing remarks, the Magistrate referred to some comparable decisions which were not referred to by either the prosecution or the defence, and they were not given any opportunity to make submissions or to distinguish them.

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

**Keywords:** cumulative sentence; presentence custody; property offences

Appeal allowed for a sentence of 12 months' imprisonment for burglary (most serious offence) with 174 days presentence custody declared as time served. The order was substituted with 15 months' imprisonment and no presentence custody declared as time served. This sentence was cumulative on a prior 20-month sentence.

The Commissioner of Queensland Police Service appealed the original sentence on the basis it was manifestly inadequate. The Judge agreed that the Magistrate erred by 'double accounting' for the presentence custody. The Magistrate reduced the head sentence because it was cumulative, but also declared presentence custody as time served. In addition, this was inconsistent with the order for the sentence to be cumulative on a prior sentence as it meant to sentences overlapped.



### AUSTRALIA

[Dominique Moritz, Ashley Pearson and Dale Mitchell, \*Community Views on Rape and Sexual Assault Sentencing: Final Report and Supplementary Materials\* \(prepared for the Queensland Sentencing Advisory Council by the Sexual Violence Research and Prevention Unit, University of the Sunshine Coast, February 2025\)](#)

The Paper presents the findings of focus group research on community views on the purposes of sentencing and the seriousness of rape and sexual assaults compared to other offences. It presents findings on which sentencing purposes the community consider are important for sexual assault and rape and whether these change once contextual factors are provided.

Participants were also asked to rank offences based on seriousness, which led to findings on how the community view the seriousness of different offence types. For example, sexual offences against children were ranked as more serious than similar sexual offences against adults. Also, non-sexual offences involving potential lethality (such as grievous bodily harm and strangulation) were ranked as approximately equivalent in seriousness as high-level sexual offences.

The Supplementary Materials provides context to the Final Report's overall findings by including extended participant discussion and quotations on each of the research activities.

[Australian Law Reform Commission, \*Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence\* \(Final Report, No 143, January 2025\)](#)

The ALRC makes 64 recommendations to increase access to justice. The recommendations aim to improve the current barriers to accessing justice, the process and accountability of the justice system and justice pathways and the remedies available.

Notable recommendations which relate to sentencing include:

- Recommendation 2: A national inquiry on mandatory sentencing, sentencing discount regimes and consequences of conviction (e.g., sex offender registration).
- Recommendation 34: Legislation and court rules should be amended to introduce flexible measures for sexual offence victims to make and deliver their victim impact statements.
- Recommendation 60: Restorative justice legislation should be available at various stages including during criminal proceedings, before sentencing and after sentencing as part of parole proceedings.

[Rick Brown \(ed\), \*Crime & Justice Research 2025\* \(Australian Institute of Criminology, 2025\)](#)

This compendium includes 14 studies published by the Australian Institute of Criminology. It explores topics such as Indigenous over-representation, domestic and sexual violence, and online sexual exploitation of children.

[Simone J Deegan, and Milla Jane, 'Community sentiment and joint enterprise murder: Challenging the mandatory minimum sentence' \(2025\) \*Criminology and Criminal Justice\*](#)

This article explores Australian public sentiment towards mandatory minimum sentences (20-year minimum non-parole period) for murder convictions. Although the stated justification is public confidence, research concerning community attitudes towards mandatory minimum sentencing of offenders convicted of murder under extended criminal liability is limited. This project uses vignette survey data of the South Australian public to explore this research gap. The results find public knowledge of murder prevalence and sentencing practices is very limited. They also find for secondary offenders, proportional punishments are often preferred over mandatory minimum sentences.

[Arie Freiberg, 'Reflections on 50 years of sentencing reform: The good, the bad and the future' \(2025\) \*Alternative Law Journal\* 1](#)

This article explores sentencing reform in Australia over the past 50 years. It discusses 'the good' such as reform to increase the role of victims in the criminal justice system and the development of problem-solving courts. It explores 'the bad' such as the increase in the prison population. It also considers 'the future', such as the use of artificial intelligence in sentencing. In considering 'where should sentencing go in the future?', it suggests all jurisdictions legislate to protect basic human rights and that the use of problem-oriented courts, restorative justice and community-based orders be expanded and better funded. The important role of post-release support and throughcare services is also acknowledged. It suggests the success of sentencing should be measured against all its objectives, not just crime reduction.

#### Mathew Goode, 'Update note: "*Hurt v Queen*"' 47(4) *Criminal Law Journal* 525

This note discusses the High Court's decision in the appeal decision of *Hurt v The Queen* [2024] HCA 8 (considered by the High Court with another appeal on the same issues) relating to how courts should approach mandatory minimum sentencing under section 16AAB of the *Commonwealth Crimes Act 1914* (second or subsequent child sexual abuse offence). The appeals were dismissed unanimously. Edelman, Steward and Gleeson JJ gave a joint judgment as did Gageler CJ and Jagot J.

#### Susan Harris-Rimmer, *Placing People at the Heart of Policy: First independent review of the Human Rights Act 2019 (Qld) (September 2024) tabled in parliament 27 March 2025*

This review found that while the *Human Rights Act 2019* (Qld) is a helpful tool to promote and protect human rights, there is a real or perceived de-prioritisation of human rights, particularly in the use of overrides in youth justice. The review made 70 recommendations, including to amend existing protected rights, adding new rights in respect of the right to adequate housing, the right to clean, healthy and sustainable environment and the right to live free from gender-based violence, repeal override provisions and develop a Queensland Human Rights Act bench book.

#### NSW Bureau of Crime Statistics and Research, *Coercive Control Monitoring Report, Quarterly Report: December 2024 (March 2025)*

This report shows the operation of the new offence of coercive control in NSW, which commenced 1 July 2024. Key findings include:

- There have been 157 coercive control incidents;
- Most criminal events involving coercive control had co-occurring offences (61% or 96 events v 39% or 61 events);
- Considering the nature of charges laid on the criminal event, it was most common for 'no charges of any type' (58%) followed by 'no coercive control charge but other charge/s' (40%); and
- 3 charges have been laid. Of these, 1 was withdrawn, 1 proven and received an Intensive Correction Order and 1 remains pending with the court.

#### Stephen Odgers, 'Sentencing for More than One Offence' (2025) 47(4) *Criminal Law Journal* 435

It is common for a sentencing court to be required to sentence an offender for more than one offence. In such circumstances the overall sentence may be significantly longer than sentences that are regarded as appropriate for the individual offences. Sometimes, it will be very significantly longer. Yet, while the principles regarding sentencing for individual offences are well-established and provide clear guidance to sentencing courts regarding the exercise of the sentencing discretion, the position with respect to the determination of an overall sentence for multiple offences is significantly different.

#### Reena Sarkar, et al, 'An analysis of offence patterns and legal response to one-punch fatalities in Australia' (2025) *Medicine, Science and the Law*

This article builds a descriptive profile of Australian fatal one-punch offenders unpacking perpetrator characteristics, offence patterns, and sentencing outcomes. Over a 30-year period, 287 one-punch convictions were reported in Australia. Nearly all one-punch perpetrators were male, and the median age was 26 years. Alcohol and drug use was identified in 64.8% of perpetrators. Concerningly, 61% of perpetrators were sentenced in New South Wales and Victoria alone. The median sentence length was 3.8-11.5 years for a manslaughter conviction. In states where specific one-punch laws were introduced, approximately 40% of one-punch offenders were convicted under the specific law.

### Victorian Sentencing Advisory Council, *Sentencing Occupational Health and Safety Offences in Victoria: Report and Recommendations* (Report, February 2025)

In this report the Victorian Sentencing Advisory Council review Occupational Health Safety (OHS) offences and make 12 recommendations for sentencing reform. Key findings include:

People injured in workplace incidents are not always able to participate in the sentencing process fully and meaningfully.

OHS sentencing practices are not fully aligned with community expectations, not aligned with recent changes to model work, health, and safety laws, not consistent with sentencing practices of other regulatory contexts, and are not capable of adequately achieving the purposes of sentencing.

Each year there is almost \$2.5 million in unpaid court fines for OHS offences.

### Mirko Bagaric, 'Sentencing Developments in the United States in 2024: Back to Tough on Crime?' 47(4) *Criminal Law Journal* 538

This article discusses signs that parts of the United States are reverting to a more punitive setting in the context of a large increase in crime in recent years and key and key sentencing reforms in 2024.

## **UNITED KINGDOM AND IRELAND**

### Deidre Atkins, Niamh Maguire and Geraldine Cleere, 'Experiences of Sentencing and the Pains of Punishment: Prisoners' Perspectives' (2025) 69(1) *International Journal of Offender Therapy and Comparative Criminology* 79

This article draws on 37 in-depth interviews with Irish prisoners exploring their subjective experiences of sentencing and how this related to their experiences of their prison sentences. Those who felt they had received unreasonably harsh or unfair sentences, or that they were excluded from the sentencing process, were more likely to experience specific pains and increased salience of punishment. The article concludes by arguing that these findings have a role to play in educating sentencers about how their treatment of convicted persons during sentencing can have meaningful, long-term consequences on the subjective experiences of those serving prison sentences.

### Independent Sentencing Review, *History and Trends in Sentencing* (Part 1 Report, February 2025)

This paper forms Part 1 of the Independent Sentencing Review's conclusions. The Independent Sentencing Review, led by David Gauke, former Lord Chancellor and Justice Secretary, was established to end prison crisis as prisoners in the UK were released early, under an emergency release scheme, due to overcrowding.

The paper outlines the trends and capacity pressures in UK prison population, provides an explanation for why and how it became overcrowded and explores the need for change which is more in line with the statutory purposes of sentencing: punishment, crime reduction, reform and rehabilitation, public protection and reparation.

### Sentencing Council for England and Wales, *Statistical summary, hare coursing offences* (Statistical bulletin, January 2025)

This statistical summary provides information on prevalence and sentencing outcomes of offences covered by the Sentencing Council of England and Wales Hare coursing guideline. Relevant offences include taking or destroying game by night, trespassing in the daytime in search of game, trespassing with intent to search for or to pursue hares with dogs, and being equipped for searching for or pushing hares with dogs.

### Sentencing Council for England and Wales – *Guideline for blackmail and Guideline for kidnap and false imprisonment* (February 2025)

The Sentencing Council has developed two new guidelines for blackmail, kidnapping and false imprisonment offences to help judges in sentencing, both of which come into effect on 1 April 2025. The guidelines were developed through public consultation. Data tables showing current sentencing practices have also been published.

The new guidelines apply to adults sentenced in England and Wales and will come into effect on 1 April 2025.

### Sentencing Council for England and Wales, *Guidelines for Aggravated vehicle taking and other motoring offences* (February 2025)

The Sentencing Council has published sentencing guidelines for offenders convicted of motoring offences committed while driving vehicles without the owner's consent. The guidelines cover four aggravated vehicle taking offences, which apply to people who have driven dangerously or caused death, injury or damage to property while, for example, driving a stolen vehicle or driving a vehicle without the owner's authority.

The new guidelines, developed following public consultation, will replace the existing guidelines for the Magistrates Courts developed in 2008 and include sentence levels for the Crown Court. They will apply to adult offenders in England and Wales and come into effect on 1 April.

Jay Gormley, Julian Roberts and Cyrus Tata, *Public Attitudes to Sentences following a Guilty Plea: Findings from a mixed methods research project* (Research Report, prepared for the Scottish Sentencing Council, March 2025)

This research used qualitative focus groups and a quantitative online survey to explore public perceptions on how guilty pleas should be taken into account. Key findings include:

- The public perceived cost savings as the key reason for why there are guilty plea discounts;
- While sparing victims from the ordeal of a trial was a compelling reason, what victims want and need is complex;
- The public supported no discounts because of the seriousness of the offence or the length of the sentence;
- The public prefer the term 'sentence reduction' instead of 'sentence discount' as that term seemed improper with the seriousness of criminal proceedings;
- There was public consensus on a 'sliding scale' of plea discounts, meaning the earlier the plea the larger the discount, and that there should be a discount where there was an early offer to plea (e.g. - a person offers to plead guilty to a lesser charge which was rejected, but the lesser charge was what they were found guilty of at trial).

## UNITED STATES AND OTHER INTERNATIONAL JURISDICTIONS

Carolina R Caliman, and Colleen M Berryessa, 'Analyzing the impacts of race, addiction, drug type, and criminal record on public support for criminalized and medicalized sentencing approaches toward illegal drug use' (2025) *Journal of Experimental Criminology*

This article explored the relationship between public support for criminalised and medicalised sentencing approaches for drug use offences by the defendant's addiction status, prior criminal record, race, and drug type. The authors conducted a cross-sectional survey of 1,208 Americans, presenting participants with one of three vignettes, and asked what about the most appropriate sentence. The results revealed that public support for medicalized sentencing approaches was significantly higher for oxycodone and heroin. Meanwhile, support for criminalized sentencing approaches was significantly higher for crack and cocaine, and when the defendant was Hispanic, Black, or had a violent criminal record.

Eiichiro Watamura, Yichen Liu, and Tomohiro Ioku, 'Judges versus artificial intelligence in juror decision-making in criminal trials: Evidence from two pre-registered experiments' (2025) *PlosOne*

This article explores citizen jurors' reliance on artificial intelligence (AI) during sentencing decisions. The authors conducted online experiments with Japanese participants, where participants reviewed two murder trial vignettes (one vignette with mitigating circumstances and the other without) and determined the most appropriate sentencing decision. The results revealed participants showed no preference for deferring to human judges or AI judgements while making sentencing decisions. The authors conclude by calling for further research into the use of AI during sentencing.

Kevin Kwok-yin Cheng and Zachary Bok-hin Chan, 'Leniency for otherwise law-abiding citizens? Testing the lapse theory and sentencing in England and Wales' (2025) *International Journal of Law, Crime and Justice* 80

This article tests lapse theory, which argues that otherwise law-abiding citizens who have "lapsed" and committed a crime deserve sentence leniency. Drawing on sentencing data from England and Wales, this study expands on lapse theory by testing the effects of lapse-based factors (other than criminal record) on sentencing outcomes. The results revealed that other lapse-based factors such as the crime being an isolated incident, the defendant acting out of character, and first-time offenders, were found to have a mitigating effect on sentencing outcomes for assault and drug distribution offences.

Lila Kazemian, and Sebastián Galleguillos, 'A global comparison of long prison sentences' (2025) *Journal of Criminal Justice*, 96

Drawing on publicly available international sentencing data, this article compares the prevalence and nature of long custodial sentences in the United States with international jurisdictions. The results revealed:

- On average, U.S. prisoners convicted of homicide are sentenced to longer prison terms than their international counterparts.
- Despite having notably lower homicide rates, the U.S. incarcerates more people, and for longer periods than many Latin American countries.
- The average sentence length imposed in the U.S. is more aligned with the criminal justice policies of the Global South than those of peer industrialized nations.

**Manudeep Bhuller, Laura Khoury, Katrine V Løken, 'Mental health consequences of correctional sentencing' (2025) 17(1) *American Economic Journal: Economic Policy***

This article combines Norwegian health data and sentencing data to determine the effects of correctional sentencing on prisoner mental health. The results revealed that rehabilitation-oriented sentencing improved defendants' mental health conditions. The authors find this trend is persistent and are unlikely motivated by shifts in healthcare demand.

**Nethanel Dagan and Shmuel Baron, 'Lifting the Veil of Ignorance: Prison Cruelty, Sentencing Theory, and the Failure of Liberal Retributivism' (2025) *Critical Criminology***

This article investigates the gap between retributive theory during sentencing and prison realities. The authors utilized Israeli Supreme Court data to explore how judges construct the relationship between retributive theory and their vision of prison life. The judges perceived prison as a disproportionate and cruel punishment and constructed a "veil of ignorance" when responding to excessive incarceration. The judges constructed the "veil" by re-theorizing retribution, closing the gap between sentencing and prison, and neutralizing responsibility.

**Nina Sophie Trist, Calli Tzani-Pepelasi, Maria Ioannou, Thomas James Vaughan Williams, Dara Mojtahedi, and Anita Fumagalli, 'The impact of offence type and gender-role attitudes on sentencing decisions for male and female offenders' (2025) 22(1) *Journal of Investigative Psychology and Offender Profiling***

This article tests the theory that female offenders are generally sentenced more leniently than their male counterparts by exploring the impact of other factors such as offence type and gender attitudes of the presiding judge on sentencing. The authors distributed a survey of randomized vignettes across the United Kingdom public, to determine the impact of gender on the perceived most appropriate sentence. The results revealed that neither offender gender or participant gender-role attitudes were significant predictors of sentencing decisions, and no significant interaction effect was observed. The authors suggest these findings are likely a result of improved gender equality and more egalitarian attitudes in the UK.

**Sam J Merchant, 'A world without federal sentencing guidelines' (2025) *Washington University Law Review* 102**

This article compares American federal sentencing decisions made with and without sentencing guidelines to determine the impact of sentencing guidelines. The results revealed that without sentencing guidelines, judges were more likely to impose harsher sentences and greater variability between sentencing outcomes was observed. Extreme sentence variability was observed in child endangerment cases, where even after adjusting for crime severity, some parents received two years imprisonment while others received 15 years. Similarly, for two Black men convicted of a fourth and fifth non-accident DUI offence respectively, one received ten years imprisonment and the other received probation. The authors argue that sentencing within a guideline or data-based framework when sentencing guidelines are not available will provide more certainty and minimize unwarranted variation during sentencing.

**Sharon Duignan, 'The sentencing of women and the impact of policies' in *Transforming Justice for Women* (Springer, Cham, 2025)**

This chapter focuses on the direct and indirect impacts of the Irish sentencing system on women. The author argues the lack of structured sentencing guidelines and a strong reliance of judicial discretion has caused unintended negative consequences for female defendants. The absence of sentencing guidelines has resulted in significant variance and inconsistency in sentencing outcomes, especially for minor offences such as public order, minor assault, and theft.

## **BOOKS**

**Marie Manikis and Gabrielle Watson (eds), *Sentencing, Public Opinion, and Criminal Justice: Sentencing in Honour of Julian V Roberts* (Oxford University Press, 2025)**

This volume celebrates the achievements of Julian V Roberts KC (Hon), Emeritus Professor of Criminology at the University of Oxford. It presents a collection of themed essays in his honour: fundamentals of sentencing and penal theory, sentencing policy and penal practice, and public opinion and criminal justice. The authors offer insights into Roberts' past accomplishments as well as the future of the field that he continues to shape.



Erin Cowey, Lorana Bartels, and Hayley Boxall, 'The criminalisation of coercive control: Implications for defendants with neurodevelopmental and cognitive disorders' (2025) *Alternative Law Journal*

This article reflects on the consequences of coercive control criminalisation for defendants with neurodevelopmental and cognitive disorders. The article explains that for defendants with neurodevelopmental and cognitive disorders, non-custodial sentences may not be suitable due to cognitive impairments and memory dysfunction (e.g., poor planning and organisation). These defendants may not understand the requirements of their non-custodial sentence. Additionally, given the low availability of behaviour change programs that specialise in neurodevelopmental and cognitive disorders and domestic violence, it is likely these defendants will have unequitable access to therapeutic diversion pathways.

Heather Douglas and Robin Fitzgerald, 'Prosecuting strangulation offences: understanding complainant withdrawal using a social entrapment lens' (2025) 37(1) *Current Issues in Criminal Justice*

This article uses a social entrapment lens to explore complainant withdrawal of strangulation offences. The authors analyse five Queensland casefiles where the complainant withdrew the complaint. Through the social entrapment lens, the authors find complaint withdrawal is often motivated by coercive control which is often unnoticed by first responders and criminal justice staff. Complainants are weighed up safety options associated with withdrawing from or continuing to support prosecution. This decision is often impacted by external factors such as employment, child's wellbeing, and their own wellbeing. The authors argue that utilising a social entrapment lens during prosecution will allow staff to understand the important context they may have missed previously.

Siobhan Lawler, Hayley Boxall and Christopher Dowling, *Restorative justice conferencing for domestic and family violence and sexual violence: Evaluation of Phase Three of the ACT Restorative Justice Scheme* (Australian Institute of Criminology Research Report 33, 14 January 2025)

The Australian Institute of Criminology (AIC) evaluated restorative justice (RJ) programs for family and domestic violence in Canberra ('Phase Three' of ACT Restorative Justice Scheme). Drawing on a mixed methods analysis of experiences with RJ programs, key findings include:

- Overall, there was broad support for RJ as an alternative justice pathway for domestic, family, and sexual violence matters;
- Participating persons harmed and persons responsible reported high levels of satisfaction.
- There were significant delays when allocating matters to convenors, which was frustrating and sometimes distressing for participants;
- The referral of sexual violence matters to RJ was much lower than expected;
- RJ was able to meet many of the justice interests identified by the persons harmed;
- There was little evidence found of persons harmed being pressured or manipulated into participating or feeling unsafe during the process;
- Suitability assessment involves balancing person responsible readiness with informed decision-making and the justice needs of survivor victims;
- Despite considerable support from stakeholders, very few matters were referred to RJ post sentence;
- The engagement of persons responsible in support services and accessibility was limited, despite this being a key component of RJ;
- One of the main barriers to referral was the perception of RJ as being a 'soft' option.

Based on these findings, the AIC made ten recommendations to improve quality of RJ program delivery.

Sentencing Council for England and Wales, *Guideline on Strangulation or suffocation / Racially or religiously aggravated strangulation or suffocation* (effective from 1 January 2025)

The Council has published a new guideline for judges and magistrates sentencing strangulation and

suffocation offences in England and Wales. The Council's response to their public consultation on the draft guideline has also been published.

These offences were established by the *Domestic Abuse Act 2021* and came into effect on 7 June 2022.

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