Queensland Sentencing Round-up

Queensland Sentencing Advisory Council

2025: Second Quarter

Note to readers:

The Sentencing Round-Up summarises select sentencing publications and developments in Queensland between 1 April and 30 June 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.

District Court s 222 Appeals

Academic articles and reports of interest

FOCUS ON – choking, suffocation or strangulation in a domestic setting

Articles and Reports of interest

Queensland Sentencing Advisory Council publications

Guide to the Sentencing of Children in Queensland (3rd edition, June 2025)

The Council has released an updated version of the *Guide to the Sentencing of Children in Queensland*, reflecting recent changes to legislation. It is designed to help the community better understand sentencing procedures, including the role of courts, the laws that guide judges and magistrates in determining an appropriate sentence and the sentencing options available.

Sentencing Spotlight on contravention of a domestic violence order

This *Sentencing Spotlight* looks at sentencing outcomes for contravention of a domestic violence order ('CDVO') finalised in Queensland courts between 2005–06 to 2023–24.

The data shows that for people being sentenced for their first domestic violence ('DV') offence, a monetary penalty, such as fine, was the most common penalty, imposed in 52.9 per cent of cases. However, fines and other monetary penalties were less likely to be used for those with a prior conviction for a DV offence, dropping to 27.4 per cent of cases. Only a small proportion of first-time DV offenders were sentenced to imprisonment (6.1%). In contrast, nearly, one third (30.9%) of repeat offenders were sentenced to imprisonment.

Practice Directions and Forms

District Court Practice Direction No 7 of 2025: Citation of Authority (14 May 2025, commenced 26 May 2025)

This Practice Direction provides guidance on how case authorities should be cited in a List of Authorities and written submissions for matters in the District Court.

Magistrates Courts Amended Practice Direction No 1 of 2025: Summary proceedings for domestic violence offence – Brisbane Magistrates Court (Amended 26 May 2025)

The amended Practice Direction includes instructions about the process for making domestic and family violence diversion orders (‘DFV Diversion Orders’) in the Brisbane Magistrates Court.

DFV Diversion Order Forms

The forms related to the DFV Diversion Orders are available on the courts website and can be accessed here. Choose “Domestic and Family Violence Act 2012” from the drop-down list. The DFV Diversion Order forms are: DV48 – Suitability assessment report; DV49 – Notice of failure to report for suitability assessment; DV51 – Application to vary or revoke a Diversion Order; DV53 – Notice of contravention of a Diversion Order; DV54 – Notice of Completion of an Approved Diversion Program or Counselling

Magistrates Courts Practice Direction No. 10 of 2025: *Evidence Act 1977* Part GC - Limits on publishing information in relation to sexual offences - Division 3 - Publishing identifying matter in relation to defendants - Division 4- Complainant privacy orders (26 May 2025)

This Practice Direction facilitates procedural consistency when determining applications for non-publications orders and complainant privacy orders, for prescribed sexual offences.

Notice to the Profession: Artificial intelligence use in the Federal Court of Australia

The Federal Court of Australia has been considering the development of Guidelines or Practice Note for the use of Generative Artificial Intelligence by practitioners and court users. While these guidelines are being developed, the Court has issued a notice stating that it expects practitioners to use AI 'in a responsible way consistent with their existing obligations to the Court and to other parties' and to disclose its use if required to do so by a Judge or Registrar of the Court.

Relevant Bills

Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 (Qld)

This Bill establishes a framework for police protection directions ('PPDs') to improve efficiencies for police responding to DFV and reduce the operational impacts of the current DFV legislative framework' (Explanatory Notes, p. 1). Under these reforms, police will have the power to issue an immediate 12-month protection direction without filing an application in court. This new power will operation in addition to the current power of police to issue Police Protection Notices (PPNs) and release conditions. The Bill includes things a police officer must consider before issuing a PPD. If the Bill passes, PPDs will be rolled out statewide from 1 January 2026.

It will be an offence to contravene a PPD, with a maximum penalty of 120 penalty units or 3 years' imprisonment. This new offence will be eligible for the new court-based perpetrator diversion scheme (see Legislative amendments section below about the new diversion scheme: *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024* (Qld)).

The Bill also introduces an option of an electronic monitoring device condition when a court is deciding the conditions for a domestic violence order. If passed it will be start as a pilot focused on respondents considered 'high risk' because of previous criminal history or current charges. The Bill also amends the *Evidence Act 1977* (Qld) to expand the video-recorded evidence-in-chief framework statewide.

Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 (Qld)

Among other amendments, this Bill proposes amendments to the *Penalties and Sentences Act 1992* (Qld), based on recommendations made in the Council's *Sentencing of Sexual Assault and Rape: The Ripple Effect* (Final Report: December 2024). Namely:

- Creating a new sentencing purpose: 'to recognise the harm done by the offender to a victim of the offence' (PSA s 9(1)(ca)).

- Inserting new sentencing guidelines:
    - For offences of a sexual nature, 'good character' can only be treated as mitigating if it is relevant to the court in assessing the offender's prospects of rehabilitation or risk of reoffending (PSA s 9(3B)). The court may consider the nature and seriousness of the offence, including any physical, mental or emotional harm to the victim and the vulnerability of the victim and not treat it as mitigating (PSA s 9(3C)).
    - Sections 9(6A) and 9(7AA) are amended to state 'the court must not treat the good character as a mitigating factor if it assisted the offender in committing the offence'.
    - For an offence of sexual assault or rape, 'committed against a child of 16 or 17 years, the court must treat the child's age as an aggravating factor, unless the court considers it is not reasonable because of the exceptional circumstances of the case' (PSA s 9(9BA)). The court may consider the closeness in age between the offender and the child in considering if the circumstances are exceptional (PSA s 9(9BB)). [Note: The Council recommended that the new aggravating factor should apply to offences of sexual assault or rape committed against a child under 18 years and did not propose an exceptional circumstances exemption.]
- Amending section 179(5) of the PSA to state that if 'a victim impact statement is absent at the sentencing, or that details of the harm caused to a victim by the offence are otherwise absent at the sentencing, does not, of itself, give rise to any inference that the offence caused little or no harm to the victim'.

If the Bill is passed, the amendments will apply to offences sentenced after commencement, even if the offence occurred prior to the commencement of the amendments.

Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 (Qld)

Some provisions of the Act commenced on assent (18 March 2024), but others commenced 26 May 2025, such as:

- Amendments to the *Criminal Code* (Qld), including:
  - replacement of s 348 Meaning of consent
  - amendment of s 348A Mistake of fact in relation to consent
  - new ss 348B and 348C Cognitive and Mental health impairment
  - new criminal offence of 'coercive control': Chapter 29A Coercive control
  - new aggravating factors and domestic violence averments (s 564(3A), s 572)
- Amendments to the *Domestic and Family Violence Protection Act 2012* (Qld), including:
  - mew criminal offence of 'Engaging in domestic violence or associated domestic violence to aid a respondent' (s 179A)
  - requirement to include a new standard condition in domestic violence orders ('DVOs') and Police Protection Notices ('PPNs') to ensure a perpetrator does not counsel or procure another person to do something that, if done by the respondent, would be domestic violence. Similar standard conditions apply if the order includes other named persons. Where a named person is a child, counselling or procuring a person to do something that exposes the child to domestic violence will also be a mandatory condition.
- Amendments to the *Penalties and Sentences Act 1992* (Qld) to:
  - require a sentencing court to treat domestic and family violence (DFV) offending which is committed in contravention of a court order, committed against a child or which exposes a child to DFV, as aggravated
  - introduce a court-based perpetrator diversion scheme for adults which will allow a limited cohort of defendants charged with an offence of contravening a DVO or PPN to be referred to participate in an approved diversion program or counselling.

Making Queensland Safer (Adult Crime, Adult Time) Amendment Act 2025 (Qld)

The Act adds an additional 20 offences from the *Criminal Code* (Qld) and *Drugs Misuse Act 1986* (Qld) to the list of ''significant offences to which adult penalties apply' under the section 175A of the *Youth Justices Act 1992* (Qld) ('YJA'). The offences are:

- Accessory after the fact to murder (section 307)
- Aggravated sexual assault – if the assault includes contact of the genitalia or anus of the person with the mouth, or the person is or pretends to be armed, or is in company, or the assault involves penetration with a thing that is not a penis (sections 352(2) or (3))
- Arson (section 461)
- Attempt to commit rape (section 350)
- Attempt to murder (section 306)
- Assault with intent to commit rape (section 351)
- Attempted robbery – while armed/pretending to be armed, in company, or while armed and wounds/uses other personal violence by the weapon, instrument, or noxious substance (section 412(2) or (3))
- Damaging emergency vehicle when operating motor vehicle (section 328C)
- Deprivation of liberty (section 355)
- Drug trafficking (Drugs Misuse Act 1986 (Qld) section 5)
- Endangering police officer when driving motor vehicle (section 328D)
- Endangering particular property by fire (section 462)

- Going armed so as to cause fear (section 69)
- Kidnapping (section 354)
- Kidnapping for ransom (section 354A)
- Killing unborn child – by unlawfully assaulting a person who is pregnant and destroying life of, or doing grievous bodily harm to, or transmitting a serious disease to, a child before its birth (section 313(2))
- Rape (section 349)
- Stealing – vehicle (section 398 item 12) or firearm for use in another indictable offence (section 398 item 14)
- Threatening violence (section 75)
- Torture (section 320A)

By adding these offences to section 175A of the YJA, children convicted these offences, if committed on or after 23 May 2025, are subject to the same minimum, mandatory, and maximum sentences that apply to adult offenders. The availability of certain sentencing options and the length of some non-detention orders also change.

Parliamentary inquiries and reports

Justice, Integrity and Community Safety Committee, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025 (Report No. 9, 58th Parliament, May 2025)

Following its inquiry in the Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill, the Committee made one recommendation, that the Bill be passed (pp. vii, 6).

Several submissions to the Committee raised concerns that the Bill does not provide adequate justification for the limits placed on human rights. However, the Committee concluded that the Bill 'gives sufficient regard to the rights and liberties of individuals' and while 'the Bill is not compatible with human rights … this incompatibility is justified' (pp. vi, 6). It noted that the original override declaration applies to the 20 new adult offences added to the 'adult crime, adult time' regime and no separate override declaration was needed for this Bill (p. 30).

R v CDO [2025] QCA 56

Keywords: contravention of domestic violence order; double punishment (*Criminal Code* (Qld) s 16); unlawful stalking with a circumstance of aggravation

Application for an appeal against sentence was dismissed for unlawful stalking with a circumstance of aggravation. The circumstance of aggravation was because the acts contravened an order by a court. This increased the maximum penalty from 5 years to 7 years' imprisonment.

Prior to being charged, CDO had contravened a police protection notice and temporary domestic violence protection order and had been sentenced. He was then charged with unlawful stalking (with a circumstance of aggravation because of the contraventions), based on those same acts.

Section 16 of the *Criminal Code* (Qld) states 'A person can not be twice punished … for the same act or omission'. At sentence, it was argued that because the unlawful stalking involved the same acts for which CDO had already been sentenced, any further punishment would be a double punishment and the penalty should be 'convicted and not further punished' or he should be discharged. The sentencing judge did not agree because 'stalking was the totality of [CDO's] conduct', however, section 16 of the *Criminal Code* (Qld) applied to the 'circumstance of aggravation'. This meant CDO could still be charged with that circumstance of aggravation, but the maximum penalty would be 5 years and not 7 years. On appeal to the Court of Appeal, considered the sentencing judge was correct.

R v FBK; Ex parte Director of Public Prosecutions (Cth) [2025] QCA 115

Keywords: Commonwealth Director of Public Prosecutions ('DPP (Cth)') appeal; reducing a sentence for cooperation; partial failure to cooperate.

Application for appeal against sentence was allowed and sentence increased from 11.5 years' imprisonment with a non-parole period of 6.5 years, to 15 years' imprisonment, with a non-parole period of 8.5 years, for conspiracy to import a commercial quantity of border-controlled drugs and dealing with more than $10,000 of proceeds of crime.

FBK offended with 2 other people PKO and XDK. At sentence, he gave an undertaking (promise) to cooperate with law enforcement and would give evidence against PKO and XDK. If he had not undertaken to cooperate, he would have been sentenced to 23 years' imprisonment with a non-parole period of 13 years.

After sentence, FBK gave evidence at the trial of PKO and XDK, and while they were found guilty by jury, the evidence FBK gave was not entirely consistent with what he had previously said in his written statements. The DPP (Cth) appealed the sentence because FBK partially failed to cooperate and FBK agreed with this. If FBK had failed to cooperate entirely, the Court *must* remove the entire reduction from the sentence. If FBK partially fails to cooperate (which happened here), the court *may* adjust the sentence as it sees fit, and this was the issue for the Court of Appeal. The Court of Appeal considered that his partial failure made the trial of PKO and XDK more complex and lengthier, and the jury would have questioned how credible (reliable) he was as a witness, which weakened the case against PKO and XDK. Therefore, the sentence was increased.

R v MEO [2025] QCA 103

Keywords: 'Serious Repeat Offender'; 'special circumstances' for release before 70%; recording a conviction; *Youth Justice Act 1992* (Qld); young offender.

Application for leave to appeal against sentence was refused for a 16-year-old, sentenced for 73 offences to a head sentence of 2 years' detention with release after 70% (511 days). Convictions were recorded for 44 offences. The appeal concerned the time to be served before release and the recording of convictions.

When sentencing a child to detention, a court cannot order release before 70% is served, but may order release between 50–70% if there are 'special circumstances'. The Court of Appeal did not consider, on the whole of the evidence, that it was 'unjust and unreasonable' to require the child to serve 70%.

In refusing the appeal, the Court of Appeal noted that the primary sentencing considerations changed because there was a Serious Repeat Offender declaration:

> the sentencing judge was required to have primary regard to the need to protect members of the community, the nature and extent of any violence used in the commission of the offences, the extent of disregard by the applicant for the interests of public safety in the commission of the offences, the impact of the offences on public safety and the applicant's previous offending history and bail history. That is not to say that other factors such as the rehabilitation of the offender did not also fall for consideration, but they were not the primary focus of the sentencing task ([7]).

The Court of Appeal did not consider there was an error in recording convictions for 44 offences. It noted the sentencing judge was aware that it was a very serious step because of the harm it could do rehabilitation and employment, but it was necessary so the 'public can be [made] aware of the extent of his offending' [29].

R v HCY [2025] QCA 107

Keywords: maximum penalty; trafficking in dangerous drugs

Application for leave to appeal against sentence was refused by a majority (2:1) for a sentence of 4 years imprisonment (head sentence) to be served cumulatively on an existing sentence. One issue in the appeal was that the judge was told the incorrect maximum penalty – that it was life imprisonment not 25 years' imprisonment (the increase occurred on 2 May 2023 and offending was in 2022).

The majority (2:1) of the Court of Appeal judges did not consider the maximum penalty was material at sentence because comparable decisions had the old maximum penalty (25 years) and it was not discussed. One Court of Appeal judge did not agree:

> Offenders are entitled to understand that their case has been treated in the same way that Parliament intended for all cases to be treated … [and] that careful attention to maximum penalties is required and that failure to provide it is a material error ([34]).

R v BES [2025] QCA 109

Keywords: actual imprisonment unless there are exceptional circumstances; maintaining an unlawful sexual relationship with a child under 16 years; moral culpability

Application for leave to appeal against sentence was refused for a sentence of 3 years' imprisonment suspended after 4 months for an operational period of 3 years for maintaining an unlawful sexual relationship with a child under 16 years (head sentence) together with 4 months' imprisonment followed by 3 years' probation for unlawful carnal knowledge and unlawful penile intercourse against the victim child.

BES engaged in unlawful sexual conduct with a 13-year-old victim, resulting in her getting pregnant at age 15. He was aged between 22 and 24 at the time of the offending. There was evidence that he suffered significant mental health impairments, extremely low IQ and reduced intellectual capacity and a learning disability meaning he was more like a teenager socially. He was also diagnosed with post-traumatic stress disorder. He had difficulty socially at school and engaged in cannabis use.

On appeal, it was argued that the sentencing judged made an error in respect of his moral culpability (blameworthiness). The Court of Appeal noted that it is a consideration of both the objective seriousness and personal circumstances. While BES's mental health impairment did reduce his moral culpability, it did not 'eliminate the need for personal and general deterrence altogether' (citing *R v Verdins* (2007) 16 VR 269, 275 [26] [46]).

It was also argued that the combination of the factors in this case meant there were exceptional circumstances, and no actual imprisonment was required. The Court of Appeal noted that the existence of exceptional circumstances does not have 'one unique right answer' [56] and involves a 'value judgment as part of the instinctive synthesis' [58]. It was also considered that 'the greater the objective seriousness of an offence the more difficult it will be to establish' [58]. In this case, the Court of Appeal considered that the objective seriousness of the offence was significant, and it was open for the sentencing judge to find that there were no exceptional circumstances.

R v BZZ & AZY; Ex parte Attorney-General (Qld) [2025] QCA 89

Keywords: Attorney-General appeal; manifest inadequacy, 'particularly heinous' in all the circumstances; maximum penalty of life detention; *Youth Justice Act 1992* (Qld); young offender

Appeal against the sentences imposed on BZZ and AZY was dismissed as the Attorney-General did not establish an error, such that the sentences were manifestly inadequate, or that it is a rare case for the Court of Appeal to intervene.

BZZ and AZY (both 15 years old) had committed 7 offences together involving 4 malicious acts with intent, 2 burglaries and unlawfully using a motor vehicle. BZZ was sentenced to 8 years detention with release after 4 years (50%) and AZY was sentenced to 7 years detention with release after 3.5 years (50%). No convictions were recorded.

The sentencing judge had found 2 malicious acts with intent offences for BZZ and 1 malicious acts with intent offence for AZY, to be offences that were 'particularly heinous'. This meant the maximum penalty was life detention instead of 10 years detention for those offences. One issue on appeal was whether all 4 malicious acts with intent offences should have been found to be a 'particularly heinous' offence. The Attorney-General argued it was an error to not consider all the malicious act offences together, or the global conduct, when deciding if an offence was 'particularly heinous'. The Court of Appeal did not agree, as this was not in line with the legislation and the common law that 'acts or omissions from other offending should not be taken into account in determining the maximum penalty for another offence' [47].

Another issue was whether the sentence was manifestly inadequate. The Court of Appeal noted that there were no comparable cases which provided a sentencing range. However, 2 comparable cases of adult offending where 9 years imprisonment was imposed for similar conduct, while providing limited guidance, indicated a global sentence of 7- and 8-years' detention for AZY and BZZ respectively was not so 'out of the range of sentences that could have been imposed' to suggest there had been a misapplication of principle [82].

R v McDonald; Ex parte Attorney-General (Qld) [2025] QCA 85

Keywords: Attorney-General appeal; assaults occasioning bodily harm; prosecution choices; manifestly inadequate

Appeal against a sentence of 2.5 years' imprisonment with parole released after 13 months (being the time spent in presentence custody) for assault occasioning bodily harm while armed and deprivation of liberty was dismissed as the Attorney-General did not establish the sentence to be manifestly inadequate.

Around 2:50am, McDonald (43 years old) grabbed an unknown18-year-old woman from behind, wrapped rope around her neck tightly and dragged her from the path and into his car. He pinned her down and removed the rope from her neck, trapping her inside his car. She managed to escape the car and called a friend for help.

The prosecution had decided not to proceed on more serious charges because those charges required an element of 'intent' which could not be proved in this case. At sentence, the prosecution submitted for a sentence of between 2.5–3 years' imprisonment with immediate release on parole. On appeal, the Attorney-General sought a sentence of 3 years' imprisonment and relied on kidnapping cases, which the Court of Appeal did not consider were comparable.

R v South [2025] QCA 52

Keywords: grievous bodily harm; actual imprisonment and offer of compensation;

Application for leave to appeal was dismissed for a sentence of 2.5 years' imprisonment with parole release after 8 months.

South (18 years old), in the company of others, punched the victim (29 years) who was unknown to him, in the early hours of the morning after the victim had left the casino. The victim suffered a serious brain injury and had ongoing suffering.

South had suffered a brain injury of his own 2 years earlier which may have made him likely to 'perceive others as potential threats' and react disproportionately. South said he had acted on a perceived provocation by the victim, but the judge considered '[i]t was cowardly and gratuitous violence in circumstances where the [victim] had done nothing to justify your assault upon him' [20]. The judge also rejected that South's brain injury was causally linked to his offending [21] nor that it might reduce his moral culpability [22].

South was a young, first-time offender who had pleaded guilty. He sought a sentence of immediate release on parole which would allow him to be able to pay $10,000 compensation to the victim. The sentencing judge rejected a sentence that did not involve actual imprisonment, as it would be 'an entirely inadequate response to the seriousness of [the] offending and would be entirely inadequate to address the sentencing purpose of general deterrence' [25]. The Court of Appeal considered the sentencing judge had balanced all the relevant features and that the sentence was not manifestly excessive.

District Court s 222 Appeals

Stirling v Commissioner of Police [2025] QDC 84

Keywords: possessing by night instruments of house-breaking; manifest excess

Application for leave to appeal was allowed for a sentence of 9 months' imprisonment, with parole release after 3 months for possessing by night instruments of house-breaking, with a sentence of 6 months' imprisonment with parole release after about 1 month substituted.

The appeal succeeded on the basis that the sentence was manifestly excessive. The judge noted that no comparable cases were provided, as this charge is often sentenced with a charge of burglary. Although Stirling had prior convictions for burglary and breaking into premises, which were aggravating, they should not 'overwhelm the exercise of discretion' and the offence required the principle of imprisonment as a last resort to be considered. The judge concluded that a 6-month sentence of imprisonment ' properly reflects the need to punish the appellant in a way that is just, deter him from re-offending in a similar way and protects the community from the risk of his re-offending by requiring his supervision on parole' [26].

Jones v Commissioner of Police [2025] QDC 70

Keywords: offender levy – whether invalid or extra-judicial punishment

Appeal against conviction and sentence was dismissed in respect of a conviction after trial of disobeying the speed limit (driving 71km in 60km zone) and was fined.

In appealing against sentence, Jones challenged the requirement that he pay an offender levy under section 179C of the Penalties and Sentences Act 1992 (Qld), in additional to his fine, arguing it was an extra-judicial punishment. The judge considered State Parliament has the power to legislate an offender levy and it is not an invalid law and noted that 'it is declared by Parliament not to be a sentence or a punishment' and 'can be characterised as neither in a sensible way'. Rather, it was 'concerned with the costs of maintaining the justice system' [35].

Costigan v Commissioner of Police [2025] QDC 68

Keywords: apportion of blame based on CCTV; procedural fairness; parity principle; compensation as a 'penalty'; manifest excess.

Application for leave to appeal was allowed for a sentence of 9 months' imprisonment, with parole release on the day of sentence (head sentence) together with $3,000 compensation. At the time of appeal, the compensation had been paid. Costigan was re-sentenced to 6 months' imprisonment (head sentence).

Costigan pleaded guilty and was sentenced with 2 co-offenders (Inawasa and Ale) for assault with intent to steal and assault occasioning bodily harm in company. Ale and Costigan were sentenced to 9 months' imprisonment (head sentence) and Inawasa to 9 months' imprisonment wholly suspended for an operational period of 2 years. While all 3 offenders offered to pay compensation to the victim in the amount of $2,000–$3,000, only Costigan was ordered to pay it, and this was the issue on appeal. The judge clarified that an order of compensation can be appealed under section 222(2)(c) of the *Justices Act 1886* (Qld).

The magistrate viewed the CCTV footage and apportioned blame based on this without seeking submissions, despite agreed facts by the prosecution considering all co-offenders were equally involved and culpable (blameworthy). Therefore, the requirement of Costigan to solely pay compensation in addition to the imprisonment, created a 'justified sense of grievance pursuant to the parity principle' [9]. Parity in sentencing means that people who are jointly involved in the same criminal conduct or activity should receive a similar penalty if the offence and circumstances are similar. Because Costigan had already paid the compensation, his imprisonment length was reduced on appeal.

Sparks v Commissioner of Police [2025] QDC 83

Keywords: disqualification from holding or obtaining a driver's license; taking into account license suspension from when offence committed

Application for leave to appeal a 7-month driver's license disqualification for driving over the middle alcohol range was allowed, reducing it to 5 months and 14 days. The $750 fine and recording of conviction was not changed on appeal.

It was considered an error for the magistrate to have not taken into account the 6 weeks that Sparks' driver's license was suspended between the offence and sentence date. The judge considered this should have reduced the overall disqualification period but was overlooked by all parties as there was no mention of it was made by defense or the prosecution or ultimately the magistrate.

Jumbunna Institute for Indigenous Education and Research, *Closing the Gap Independent Aboriginal and Torres Strait Islanders Led Review* (Final Report, June 2025)

This review reports on the experiences of Aboriginal and Torres Strait Islander people and communities involved in the implementation of the National Agreement on Closing the Gap. The review identified 12 key findings and 9 recommendations.

Jane Anderson, Narelle Carroll and Boobaditj (aka Phillip Ugle), 'Considering the need for congruence in Closing the Gap, target 10: Reducing high rates of adult Aboriginal incarceration' (2025) 6(1) *Journal of the Australian Indigenous HealthInfoNet*

This article considers the congruence between federal, state and local initiatives to achieve Target 10 of the National Agreement on Closing the Gap through a place-based Aboriginal justice support service in a regional town in Western Australia. It concludes that 'multi-level efforts are not intersecting .... and will likely result in failure or frustration.' To increase the likelihood of reducing Aboriginal incarceration rates, it recommends 'creating congruence in communication and dialogue' are needed.

Legal and Constitutional Affairs References Committee (Cth), *Australia's youth justice and incarceration system* (Final Report, June 2025)

In September 2024, the Senate referred an inquiry into Australia youth justice and incarceration system to the committee. The committee tabled an interim report in February 2025. The interim report recommended:

> that the Senate continues to pursue an inquiry into the incarceration of children in Australia given the significant and disturbing evidence received by the committee as detailed in this interim report and the issues raised in the report of the National Children's Commissioner entitled *'Help way earlier!': How Australia can transform child justice to improve safety and wellbeing* (p 1, [1.2]).

Due to the election in May 2025, the committee was unable to progress its inquiry. The Final Report recommends the Senate re-refer the inquiry.

Sentencing Advisory Council (Vic), *Sentencing Younger Children's Offending in Victoria* (Report, June 2025)

Reforms in Victoria raised the age of criminal responsibility from 10 to 12, with an alternative service model being developed for children aged 10 and 11. It also reshaped the approach to children aged 12 and 13. To assist with the implementation and monitoring of the reforms, this report examines cases sentenced or diverted for offences committed by children aged 10 to 13. It reports on demographics, offending profiles, and sentencing outcomes for children in Victoria.

Jonathan Gu, 'Did a High Court decision on doli incapax shift court outcomes for 10–13-year-olds?' (Crime and Justice Bulletin No. 268, NSW Bureau of Crime Statistics and Research, May 2025)

This paper analyses NSW and national data on outcomes for cases involving 10–17-year-old children between 2010–2023, whether and why outcomes changed over time, and whether *RP v R* [2016] HCA 53 had an impact. It found that '[t]here is little evidence to suggest that the *RP* decision had any impact on the volume of court appearances' however, it 'likely reduced the number of young people aged 10–13 found guilty of a criminal offence'.

NSW Bureau of Crime Statistics and Research, 'Coercive Control Monitoring Report – Quarterly Report: March 2025' (June 2025)

This monitoring report shows the operation of the new offence of 'coercive control', which commenced in NSW on 1 July 2024. It shows the number of recorded coercive control incidents recorded by NSW Police, nature of behaviours, incidents by region and legal action taken.

It reports that 5 coercive control charges have been laid resulting in 1 proven and sentenced to an Intensive Correction Order. Two charges remain before the court and 2 were withdrawn by the prosecution.

Independent Sentencing Review (UK), *Independent Sentencing Review: Final Report and Proposals for Reform* (Commissioned by the Ministry of Justice, May 2025)

The Independent Sentencing Review was in response to overcrowding in UK prisons which lead to emergency release of prisoners. The review was tasked with ensuring the future prison population is below its projected levels so that it is sustainable and to ensure sufficient prison places for the most serious offenders. The review makes 5 key recommendations which estimate to reduce the prison population by 9,800.

The review noted the public deserve to be reassured that changes to sentencing policy should not come at a cost to community safety. It also noted that even though the use of custodial sentences has increased, many victims were let down by a system due to a lack of communication and an unnecessarily complex sentencing regime. The review concluded: '[i]f we want more offenders to be dealt with effectively in the community and we want prisoners to be properly monitored and supervised upon release, an effective probation system is essential.' (p 5).

Fee Robinson, *Sentencing Reductions For Assisting the Police and Prosecution: A Review of Current Law and Guidance*, Sentencing Academy (June 2025)

This review examines the legal frameworks and practical implications of sentence reductions for offenders who assist the police and prosecution in England and Wales. The report summaries accumulated case law and current guidance from the Court of Appeal and the Sentencing Council of England and Wales. There has been very limited academic commentary on this aspect of sentencing in England and Wales.

Asiimwe Aisha, 'Communicating sentencing decisions: Impacts on society' (2025) 7(2) *Eurasian Experiment Journal of Humanities and Social Sciences*

This paper explores the sentencing communication through a societal trust, judicial transparency, offender rehabilitation and victim recognition perspective. It argues that 'ethically grounded, inclusive communication practices' can strengthen confidence in the justice system.

Lorana Bartels et al, *Responding to the needs of women and girls involved with court services* (Literature review prepared by the Australian National University for the Queensland Department of Justice, 2025)

The literature review informs ongoing improvement to the current court-based programs and specialist court models in Queensland. It outlines current evidence-based research on the specific needs and issues for women and girls engaged with courts, approaches to increase accessibility and responsiveness in courts and what is good practice. It applies a gender and cultural lens and considers the efficacy of court-based interventions.

Criminal Law Forum, vol 36, issue 2: Special Issue Celebrating the Career of Michael Tonry (Issue Editors: Alessandro Corda and Julian V Roberts)

This special issue of the *Criminal Law Forum* celebrates the career of Michael Tonry described by the authors of the introduction to this collection as 'one of the most prolific and influential scholars in the field' of criminal justice and penal philosophy. Articles in this special issue explore Michael Tonry's contributions in areas including sentencing proportionality, the importance of relating penal theory and penal practice, identifying and explaining racial disparities in sentencing, the case for the adoption of sentencing guidelines and comparative sentencing research and reform.

District Court Sentencing Remarks

R v CRG [2025] QDCSR 308

CRG pleaded guilty and was sentenced for 12 offences including choking and assaulting his wife causing bodily harm and contravening domestic violence orders.

CRG was 71 at the time of the offence and 76 at sentence. An argument with his wife of 35 years resulted in him punching her in the shoulder causing bruising, spitting on her shoulder, grabbing her by the neck on the flood and squeezing until she couldn't breathe and thought he would kill her. He let go but grabbed her around the neck again causing her to fall and hit her head and grabbed her by the arm causing bruising. He was also charged with offences committed against police who attended the scene after the neighbours had called them and for an assault of an employee at a Telstra store, he had been banned from entering where he also damaged a tablet.

At sentence a report by a neuropsychologist detailed that he suffered a stroke 10 years ago and the view was expressed that he was experiencing age related cognitive decline and signs of frontal lobe brain dysfunction, which may mean he had reduced capacity to control his actions when angered. Referring to the victim's impact statement, the sentencing judge noted the 'offending has had a significant impact' on his wife. 'She was terrified' and had experienced panic attacks and had trouble sleeping. She had moved in with their daughter to a location unknown to CRG.

At the time of sentence, CRG had spent about 2 years (763 days) in custody because investigations needed to be made about his mental capacity. The judge was satisfied that the time in custody sufficiently punished him and denounces the conduct. This time was taken into account, but not declared and he was sentenced to 3 years' probation for all the offending so that he could be supervised by corrective services while engaging with a mental health team in the community.

R v Rey (a pseudonym) [2025] QDCSR 206

Rey (not his real name) pleaded guilty to 4 offences, the most serious being strangulation. He entered his partner's room one morning and put his arm around her neck, demanding who she had been talking to on her phone and what she had said about him. He placed his hands around her neck and squeezed tightly and she struggled to breathe. He threatened her with a knife 'designed to terrorise and intimate her' and called her derogatory names. The judge noted the victim impact statement and the effect of the offences on the victim have been profound\ The judge noted the seriousness of the offence that 'can result in lasting injury' and that the 'lasting consequences' may not be realised until many years later.

The judge also highlighted the importance of general and specific deterrence and denunciation in sentencing for domestic violence offences and imposed a sentence of 3 years' imprisonment (head sentence) with immediate release on parole. Time spent in prison prior to Rey's release on bail (392 days) was declared as time served.

R v HGK [2025] QDCSR 292

HGK was found guilty following trial of 4 offences: rape, choking in a domestic setting, and 2 counts of assault occasioning bodily harm. He was sentenced to 4 years' imprisonment for the choking offence and 8 years for the rape offence (to be served concurrently). He had spent over 2.5 years (949 days) in custody prior to the sentence was ordered to be eligible for parole after serving 6 years. As he was on parole at the time, all imprisonment terms were cumulative on the sentences he still had to serve.

The sentencing judge noted domestic violence represented an 'insidious, prevalent and serious problem' in our society which could impact both on those directly involved, as well as undermining 'the general sense of

safety and wellbeing felt throughout the whole community'. They noted the ': powerful community interest in stopping domestic violence' and that: '[p]erpetrators of serious acts of domestic violence must know that society will not tolerate their behaviour and those who conduct themselves in this way can expect the courts to impose significant penalties'.

R v PCKA [2025] QDCSR 307

PCKA pleaded guilty to assault occasioning bodily harm in company while armed and strangulation. She was 26 at the time and the victim was her younger sister (22 years old). The victim was arguing with her mother, and PCKA went to the kitchen, grabbed a knife, and held it to her sister's throat applying pressure, causing a scratch. She then grabbed her around the neck with her hand and strangled her so she could not speak but was pulled away by her partner.

PCKA had no criminal history, and had experienced a very disadvantaged childhood, including being taken from her mother by her grandparents and having no relationship at all with her father. At age 14 she experienced 'terrible trauma' and had her first child at age 19. She had 2 children (1 she was primary carer for who had significant needs) and was expecting another child. She had been the victim of a violent relationship in the past but was currently in a supportive relationship.

The sentencing judge considered the most appropriate sentence would be 18 months' imprisonment, wholly suspended for an operational period of 2 years for the assault occasioning bodily harm in company while armed and 2 years' probation for the strangulation offence.

R v Warwick (a pseudonym) [2025] QDCSR 215

Warwick (not her real name) pleaded guilty to 47 domestic violence offences and one count of fraud. Warwick was aged 31 to 37 during the period of violent offending against her partner, Jessica (also not her real name). The offending involved multiple counts of strangulation and/or suffocation offences, as well as many common assault charges which involved placing her hands on Jessica's neck and squeezing in way that did not involve restricting her airway. Some of those offences comprised a course of conduct surrounding the strangulation. For example, one involved Jessica breaking free and Warwick striking her so hard she was knocked unconscious.

Warwick had a history of violence against Jessica, including contravening a domestic violence order. She was placed on a probation order for that offending during this offending period. Some offences were perpetrated while Jessica was pregnant, and Warwick had exposed one or both children to violence. On one occasion Warwick held their baby over a second-floor railing and threatened to drop her, which the judge regarded 'as the worst kind of example of threatening violence'.

The sentencing judge noted the offending was accompanied by conduct designed to demean, control, humiliate and to diminish Jessica's self-worth and while Warwick could not be punished for that conduct (unless it formed part of an offence), it could still be taken into account to understand her 'culpability for the individual offences', 'remorselessness' and 'motivation' for perpetrating domestic violence. Examples included isolating Jessica from her friends and family, repeated calling and sending abusive messages, monitoring her social media and bank accounts, confiscating her phone and passport, locking her out of her iPhone, verbally abusing Jessica and her daughters, threatening to kill Jessica and threatening suicide.

Due to repeated concussive episodes, Jessica experienced lasting physical impacts including reduced cognitive functioning, fatigue and headaches. There was also a profound emotional impact on Jessica, including a major depressive disorder and post-traumatic stress disorder.

The sentencing judge noted the maximum penalty for the most serious offence was 7 years but considered that Warwick's 'overarching criminal activity cannot be properly reflected….by the maximum penalty of any individual offence'. Due to the serious nature of the offending the judge determined cumulating the sentences was the appropriate approach. His Honour was mindful of proportionality and to not make a crushing sentence. Warwick was sentenced to a head sentence of 9 years – 8 years cumulated for domestic violence offences (three series of accumulations) and 1 year for the fraud offence. She had spent about 2.5 years (926 days) in pre-sentence custody which was declared as time already served.

To find out more about sentencing trends: see our *Sentencing Spotlight* on choking, suffocation or strangulation in a domestic setting.

Queensland Law Reform Commission, *A holistic review of the non-fatal strangulation offence* (Consultation Paper, April 2025)

The Queensland Law Reform Commission is currently reviewing the non-fatal strangulation offence in Queensland, including the current maximum penalty and whether the offence should be able to be finalized in the Magistrates Courts. The Consultation Paper proposes 3 options for reform and invites submissions on 8 questions.

Queensland Law Reform Commission, *'I just want to be heard': The voices of strangulation victim-survivors* (Research Report 1, April 2025)

The Queensland Law Reform Commission worked with the Red Rose Foundation to interview victim survivors about their experience of the criminal justice process following the strangulation event and their thoughts on what would have been a better response. They conducted semi-structured interviews with 9 women in Queensland.

Robin Fitzgerald and Heather Douglas, 'Domestic violence and the role of imprisonment as a response: men's post-conviction talk about strangling women' (2025) *Current Issues in Criminal Justice* 1.

In this study, interviews with 14 men convicted of non-fatal strangulation in Queensland were analysed. Themes emerged in relation to men's minimisation of harm, their arguments about strangulation as an optimal tool of control, and their conspiratorial views that they are victims of feminism and the justice response. The authors argue that 'men's accounts of strangulation, the law and their imprisonment demonstrate how prisons can be a site for the reproduction of gendered hierarchies, misogynist tropes, and justified violence against women.' (p 1).

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

This paper examines a sample of prosecution files in Queensland for the offence of choking, suffocation or strangulation in a domestic setting to understand why complainants withdrew their complaint. The researchers examined 5 casefiles using a social entrapment lens to show how using this lens may deepen prosecution authorities' understanding of the wider context in which a complainant withdraws. The authors argue this may assist prosecution services in 3 ways – a more nuanced and individualized response to complainants, improved awareness of unintended consequences from pressuring a complainant and improving prosecution outcomes through shifting reliance on complainant engagement in cases where it is safe and appropriate.

Reena Sarkar, Maaike Moller and Lyndal Bugeja, 'A cross sectional study of case and injury characteristics in domestic and family violence patients reporting nonfatal strangulation to forensic practitioners in Victoria, Australia (2025) 374 *Forensic Science International*

The article examines the frequency and clinical signs of neck injury where domestic violence patients report strangulation in Victoria. The study reports on injuries, social-demographic characteristics and the nature of service measures. It found that 'observable neck injuries are associated with self-reported strangulation.' Common injuries included sore throats and neck bruises, but noted there were no injuries on some patients.