



Engendering justice

The sentencing of women and girls in Queensland



Engendering justice: The sentencing of women and girls in Queensland

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Acknowledgement of Traditional Owners

We acknowledge and give our respects to the Traditional Owners and Caretakers of this land, where they have performed age-old ceremonies of storytelling, healing, music, dance and celebration. We would also like to acknowledge and give our respects to Elders, past, present and emerging, for they hold the memories, traditions and knowledge of Aboriginal and Torres Strait Islander culture.

The Queensland Sentencing Advisory Council values Aboriginal and Torres Strait Islander peoples' experience and culture and recognises and prioritises their needs to understand the drivers of their over-representation in Queensland's criminal justice system.



Summary

This is the fourth Sentencing Profile report. It examines the emerging trends and patterns in the sentencing of women and girls in Queensland.

The purpose of this report is to provide insight into the factors which contribute to women and girls becoming involved in the criminal justice system. The quantitative data analysis is based on data from Queensland courts (2005–06 to 2018–19).

The technical paper for research publications, available on the Council's website, provides more information on the counting rules, methodology and terminology used in this series.

Patterns in offending

The rate of sentenced women and girls has been declining since 2009–10.

The rate of women sentenced in court has been declining since 2009–10, while the number of sentenced cases for women has experienced multiple peaks and troughs. The number of cases peaked in 2015–16, followed by a decline until 2017–18.

The rate of girls sentenced in court has been declining, while the number of sentenced cases involving girls increased steadily, peaking in 2018–19.

The majority of cases for women and girls were sentenced in the Magistrates Courts.

Nearly all women and girls were sentenced in the Magistrates Courts (97.8%).

Remote areas had the highest rate of sentenced women and girls.

The rate of sentenced women and girls was higher in remote areas (35.6 per 1,000 population). Major cities had the lowest rate of sentenced women and girls (9.9 per 1,000 population).

Aboriginal and Torres Strait Islander women and girls were over-represented.

Aboriginal and Torres Strait Islander women and girls were 7.7 times over-represented.

Nearly half of all sentenced girls identified as Aboriginal and Torres Strait Islander (46.9%), compared to 29.9 per cent of sentenced women.

Trends in offending and recidivism

The type of offences committed by women is different to offences committed by girls.

For women, traffic and vehicle offences comprised 39.4 per cent of sentenced cases, followed by justice and government offences (21.8%) and theft (14.7%).

For girls, nearly half of sentenced cases involved theft (48.4%), followed by public order (27.6%) and justice and government offences (24.3%).

For women, drug offences had the largest increase in the volume of cases sentenced between 2005–06 and 2018–19.

The number of cases involving drug offences increased by 163.7 per cent for women between 2005–06 and 2018–19. Justice and government offences and theft also increased. Public order offences were the only category to decrease.

For girls, the number of cases involving theft offences nearly doubled.

All offence categories sentenced for girls increased between 2005–06 and 2018–19.

More than one-third of sentenced women and girls were repeat offenders.

Over one-third of women and girls (37.3%) were sentenced multiple times over the data period.

The recidivism rate was higher for girls, with nearly half of girls having a prior sentenced offence (48.4%) and 62.1 per cent having re-offended.

Penalties and sentencing outcomes

The number of women sentenced to imprisonment has quadrupled.

The number of women who received an imprisonment sentence increased by 339 per cent, from 485 cases (most serious offence) in 2005–06 to 2,128 cases in 2018–19.

Four in 10 women sentenced to imprisonment received a sentence under 6 months (40.9%), while a further 26.7 per cent received a sentence between 6 and 12 months. The average imprisonment sentence for women was 11.3 months.

The most common offence a woman received an imprisonment sentence for was stealing, followed by breach of bail – failure to appear and possession of dangerous drugs.

The number of girls sentenced to detention tripled.

In 2005–06, 11 girls were sentenced to a period of detention. This tripled to 36 cases in 2015–16.

The majority of detention sentences for girls were under 12 months, with 60.2 per cent being under 6 months.

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Abbreviations

ABS	Australian Bureau of Statistics
AIC	Australian Institute of Criminology
AIHW	Australian Institute of Health and Welfare
AMP	Alcohol Management Plans
ANZSOC	Australian and New Zealand Standard Offence Classification
ASGS	Australian Statistical Geography Standard
BOCSAR	Bureau of Crime Statistics and Research
DJAG	Department of Justice and Attorney-General
ERP	estimated resident population
MSO	most serious offence
OOHC	out of home care
QFCC	Queensland Family and Child Commission
QGSO	Queensland Government Statistician's Office
QPS	Queensland Police Service
QWIC	Queensland Wide Inter-linked Courts
VSAC	Victorian Sentencing Advisory Council

Introduction

What is often referred to as a closing of the 'gender gap' — the difference in numbers of males and females sentenced for criminal offences — is narrowing. While men are still far more likely than women¹ to be sentenced in Queensland and to receive a prison sentence, the number of women sentenced to imprisonment in Queensland has quadrupled in the last 14 years at a rate much higher than the growth in sentenced women. Changes to societal structures, offending behaviour, the visibility of certain forms of offending, the increased likelihood of detection, and charging and sentencing practices may only be some of the factors contributing to this complex trend. The increase of time spent on remand is another factor that is commonly identified as contributing to this trend.

The experiences of women and girls as offenders in the Queensland criminal justice system has recently received detailed attention through the work of the Women's Safety and Justice Taskforce. The Taskforce's second report discusses the need to understand the drivers of women and girls' contact with the justice system, and explores their experiences with police, the court process, and the correctional system. The report makes specific recommendations regarding the treatment of women and girls as accused in the criminal justice system.

The Council's publication takes a closer look at sentencing outcomes for women and girls in Queensland, their patterns of offending, recidivism and recent trends. It also looks at key demographic indicators, including age and Aboriginal

and Torres Strait Islander status, to further unpack sentencing outcomes of women and girls in Queensland courts. The Council hopes that this report will contribute to starting a conversation about the underlying systemic issues contributing to the statistics reported.

The rate of over-representation of Aboriginal and Torres Strait Islander peoples is even higher for women and girls compared to men and boys. The Council found close to one-third of sentenced cases for women and girls involved an Aboriginal and Torres Strait Islander person (31.1%) — almost 8 times their level of representation in the general Queensland population. Levels of over-representation are even higher for girls — in the cohort of young girls aged 12 years or younger, the vast majority (74.6%) identified as Aboriginal and Torres Strait Islander. The report also highlights differences in offending patterns and sentencing outcomes by Aboriginal and Torres Strait Islander status.

Women and girls who come before the courts challenge societal expectations of traditional female behaviour.² Criminal justice systems historically have focussed on the needs of a predominantly male population of offenders and prisoners, which has resulted in a 'general disregard to the gender-specific needs of women'.³ The report's title, 'Engendering justice' was chosen to highlight both the closing gender gap in the criminal justice system and the need for an approach to justice that is mindful of the intersecting disadvantage and marginalisation many sentenced women and girls experience.

¹ When referring to women and girls for the purposes of this study, this refers to the recorded gender in the Queensland Courts database according to a person's legal gender. The Queensland Courts database only records male or female and does not capture people who identify as non-binary. While this publication refers to women and girls based on the gender recorded in the Courts database, the Council acknowledges that gender may be recorded inaccurately and that people who identify as non-binary are recorded as either male or female in the data analysis.

² Brenda L Russell (ed), *Perceptions of Female Offenders: How Stereotypes and Social Norms Affect Criminal Justice Responses* (Springer, 1st ed, 2013) 1.

³ United Nations Office on Drugs and Crime, *Handbook on Women and Imprisonment* (Criminal Justice Handbook Series, 2nd ed, 2014) 12.



Increase in sentenced women and girls

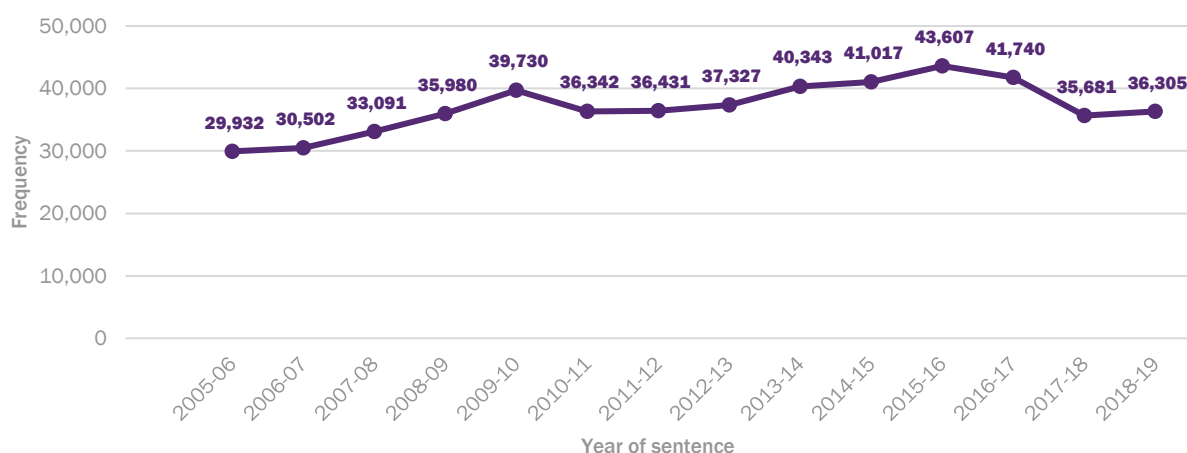
The number of women and girls proceeded against by the Queensland Police Service (QPS) increased by 30.7 per cent over 10 years, outpacing the growth of men and boys which increased by 8.0 per cent over the same period.⁴

The growth in women and girls charged is reflected in the number of cases which came before the courts. There was a 21.3 per cent increase in the number of cases sentenced for women and girls in Queensland courts (see Figure 1), compared to an overall decrease in sentenced men and boys

over the same period (-7.7%).⁵ In 2018–19, women and girls represented one-quarter of all sentenced people (25.5%), compared to one-fifth in 2005–06 (20.6%).

There is an increasing trend in women and girls sentenced between 2005–06 to 2015–16. Despite fluctuations in the data, the number of sentenced cases for women and girls continued to increase throughout the 14-year reporting period.

Figure 1: Number of women and girls sentenced in Queensland

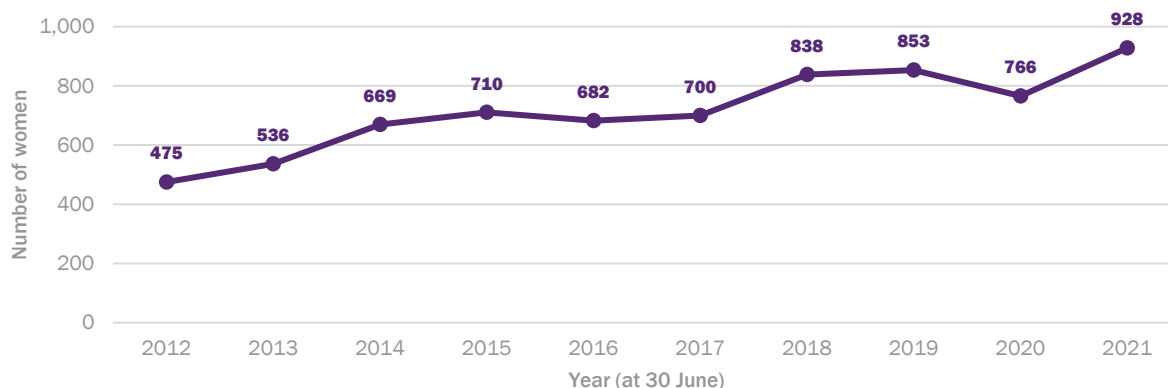


Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

The number of women (adults) in Queensland prisons has also been increasing over the last decade. There was a 95.4 per cent increase in women imprisoned in Queensland (both sentenced and on remand) – from 475 female prisoners in 2012, to 928 female prisoners in 2021.⁶ This means that in

2021, 9.3 per cent of prisoners in Queensland were women.⁷ Women in prison increased year on year until 2019 (see Figure 2). The subsequent decrease in 2020 was reflective of broader decreases in imprisonment during the COVID-19 pandemic.

Figure 2: Number of women in Queensland prisons on 30 June each year



Source: Australian Bureau of Statistics, *Prisoners in Australia*, Cat No. 4017.0.

⁴ Queensland Government Statistician's Office, *Crime Report Queensland 2020-21* (Queensland Treasury, 2021) 47.

⁵ See Queensland Sentencing Advisory Council, *Baseline Report: The Sentencing of People in Queensland* (Sentencing Profile, May 2021) 14.

⁶ Australian Bureau of Statistics, *Prisoners of Australia, 2012* (Catalogue No 4517.0, 2 April 2013) Table 1.

⁷ Ibid.

Scope of the Sentencing Profile series

The Council's *Sentencing Profile* series investigates emerging sentencing trends and patterns for specific cohorts in Queensland. This is the fourth *Sentencing Profile* report. It aims to examine the emerging trends and patterns in the sentencing of women and girls in Queensland and make this analysis available to the wider community. The purpose of this report is to provide information on emerging sentencing trends relating to women and girls in Queensland courts and to give insight into factors that contribute to women and girls becoming involved in the criminal justice system.

Methodology

Within this report, females sentenced as an adult are referred to as women, while females sentenced as a child are referred to as girls. Where the term 'women and girls' is used, this refers to all sentenced females.

For the purposes of data analysis contained in this report, gender is identified as the person's legal gender as recorded by QPS. Transgender or non-binary people are recorded by their legal gender. Where there is variation in the data regarding a person's gender, the status that appears most often within their court records is used, meaning that changes to a person's gender may not be captured accurately. The Council acknowledges that people who do not identify as either male or female are not correctly accounted for in the data as the Queensland Courts database only records binary genders.

The research presented in this report examines cases involving women and girls sentenced by Queensland courts between 1 July 2005 to 30 June 2019. Therefore, it is limited to women and girls sentenced for an offence and does not report on the outcomes of police or court diversionary options.

A person's Aboriginal and Torres Strait Islander status is primarily based on information recorded by police and transferred to the Queensland-Wide Interlinked Courts system (QWIC). The information is based on self-identification by the person. The quality of this data is dependent on accurate recording by police and transfer to QWIC. Cases involving traffic and vehicle regulatory offences (Australian and New Zealand Standard Offence Classification Scheme (ANZSOC) Division 14)⁸ and dangerous or negligent operation of a vehicle (ANZSOC Subdivision 041) were excluded from data analysis examining Aboriginal and Torres Strait Islander status as persons proceeded against for these offences often do not have Aboriginal and Torres Strait Islander status recorded (due to these offences usually being dealt with outside the court process via fines issued by road traffic authorities).

Types of data analyses undertaken in this report



Age



Gender



Aboriginal and Torres Strait Islander status



Geographical



Trends over time



Offence type



Recidivism



Penalty type

This report uses data that has been collected from administrative information systems used by the Department of Justice and Attorney-General (DJAG). The Courts Database is maintained by the Queensland Government Statistician's Office (QGSO) within Queensland Treasury. The Courts Database comprises of data extracts obtained from the administrative system (QWIC) used by Court Services Queensland to record information about court events. An extract of the Courts Database was provided to the Council in November 2019 and includes cases sentenced in Queensland courts from 1 July 2005 to 30 June 2019 – this data forms the basis of the statistical analysis contained in this report.

This report refers to offence classifications assigned by ANZSOC. This classification scheme aims to provide 'a uniform national statistical framework for classifying

⁸ The traffic and vehicle offence division includes offences relating to vehicles and most forms of traffic, including offences pertaining to the licensing, registration, roadworthiness or use of vehicles, bicycle offences and pedestrian offences. For more information, see the Australian New Zealand Standard Offence Classification (ANZSOC), 2011 published by the Australian Bureau of Statistics. For more information on this counting methodology, see the explanatory notes by the Australian Bureau of Statistics in its publication, Criminal Courts.

criminal behaviour in the production and analysis of crime and justice statistics'.⁹

Offender rates were calculated using Estimated Resident Population (ERP) data derived from the Australian Bureau of Statistics (ABS) and expressed as the number of sentenced people per 1,000 population aged 10 years and older. Where rates are presented by remoteness location, sex or age, the rates are calculated using the population of the relevant group. For example, the statement '88.7 offenders per 1,000 people' should be read as '88.7 offenders per 1,000 people in the relevant group aged 10 years and over'.

For geographical data, the offence location was coded to the Australian Statistical Geography Standard's (ASGS) remoteness structure as published by the ABS.¹⁰ This structure divides Australia into five classes of remoteness based on relative access to services.

For ease of reporting, this *Sentencing Profile* series classifies offence location by three levels of remoteness: 1) major cities, 2) regional areas (consisting of inner and outer regional areas) and 3) remote areas (consisting of remote and very remote areas).

Some of the analysis in this report is based on the most serious offence (MSO) sentenced. The MSO is the offence receiving the most serious penalty, as ranked by the classification scheme used by the ABS. One MSO is recorded per person per court event.

Structure of this research

This report is divided into four sections:

- **Chapter 1** reviews previous research on the offending of women and girls.
- **Chapter 2** presents an analysis of the profile of women and girls sentenced by Queensland Courts over the 14-year data period — including an analysis of the demographic characteristics, geographical patterns and trends over time.
- **Chapter 3** explores trends in common offences and recidivism.
- **Chapter 4** presents an analysis of the penalties and sentencing outcomes for women and girls sentenced in Queensland.

⁹ The objective of the ANZSOC is to provide a uniform national statistical framework for classifying criminal behaviour in the production and analysis of crime and justice statistics. The ANZSOC is used in Australian Bureau of Statistics statistical collections, Statistics New Zealand statistical collections, Australian police, criminal courts and corrective services agencies and New Zealand police and justice agencies. For more information, see the *Australian New Zealand Standard Offence Classification (ANZSOC), 2011* published by the Australian Bureau of Statistics.

¹⁰ Australian Bureau of Statistics, *Correspondence, 2017 locality to 2016 remoteness area* (March 2018).



Chapter 1 — Literature review

Why do women and girls offend?

This section provides a brief overview of the research literature concerning offending and sentencing patterns for women and girls, predominantly drawing on Australian research. The literature review explores changes in female offending behaviour and trends in sentencing and penalties given to women and girls, including the increasing rates of female incarceration across Australia, and common risk factors contributing to the offending of women and girls.

1.1 Trends in offending behaviour

Research suggests women represent both a relatively small proportion of those convicted and sentenced by the courts, and their offending is commonly less serious than offending by men.¹¹

The most recent ABS data indicates that, Australia-wide, the offence category of acts intended to cause injury was the most common principal offence type for adult female offenders (22%), followed by theft and illicit drug offences.¹²

1.1.1 Differences in offending patterns by age

Research shows differences in offending patterns by age. According to ABS data released in 2022, the most common principal offence type for girls (aged 10–17-years) was acts intended to cause injury. However, a higher proportion of female youth offenders had a principal offence of theft compared to male youth offenders (17% and 10% respectively).¹³ Theft and illicit drug offences followed as the most common principal offences for female youth offenders. The Victorian Sentencing Advisory Council (VSAC) found that females were less likely than their male counterparts to be sentenced for road safety offences, property offences and offences against the person.¹⁴

The participation by girls in gangs may have also changed over time. Empirical research suggests that girls are now more likely to participate in street-based subcultures that

engage in shoplifting, selling and consuming drugs, petty crime, and loitering.¹⁵

1.1.2 Differences in offending patterns by Aboriginal and Torres Strait Islander status

In comparison to non-Indigenous women, Aboriginal and Torres Strait Islander women are more likely to be 'taken into police custody for non-violent crimes, such as, public intoxication'.¹⁶ Aboriginal and Torres Strait Islander women are also more likely to be in prison for offences categorised as 'acts intended to cause injury', whereas 'non-Indigenous women are more likely to be in prison for fraud and deception related offences and for illicit drug offences'.¹⁷

This is consistent with ABS data showing that between 2007 to 2013, the highest proportion of Aboriginal and Torres Strait Islander women were in prison for offences involving acts intended to cause injury, unlawful entry with intent, offences against justice procedures, and government security and operations offences.¹⁸ In comparison, over the same period, non-Indigenous women were more commonly in prison for offences involving illicit drug offences, deception and fraud-related offences, and homicide.¹⁹ The most common offence (as reported by the ABS for 2020–21) in Queensland committed by Aboriginal and Torres Strait Islander men and women was acts intended to cause injury. Illicit drug offences were most common for non-Indigenous offenders.²⁰

There is also evidence that there are differences between Aboriginal and Torres Strait Islander girls and non-Indigenous girls. Research conducted in 2002 found that Victoria Police data indicated that Aboriginal and Torres Strait Islander female juveniles were more likely than their non-Indigenous counterparts to commit crimes against the person (16% compared to 9%), less likely to commit crimes against property (64% compared to 76%), and slightly more likely to

¹¹ Gill Mclvor, 'The Nature of Female Offending' in Rosemary Sheehan, Gill Mclvor, Chris Trotter (eds), *What Works with Women Offenders* (Willan, 1st ed, 2007) 22.

¹² Australian Bureau of Statistics, *Recorded Crime – Offenders, 2020-21* (10 February 2022).

¹³ Ibid.

¹⁴ Sentencing Advisory Council (Victoria), *Sentencing Young Offenders* (Research Paper No 6, October 2021).

¹⁵ Kerry Carrington, 'Does Feminism Spoil Girls? Explanations for Official Rises in Female Delinquency' (2006) 39(1) *The Australian and New Zealand Journal of Criminology* 34.

¹⁶ Marisela Velazquez, *Sentencers' Attitudes Toward Women in the Criminal Justice System: Explanations for Sentencing Treatment Disparities between Indigenous and Non-Indigenous Women* (James Cook University, PhD Thesis, 2017) 73. See also Greg Gardiner and Tina-Maree Takgaki, 'Indigenous Women and the Police in Victoria: Patterns of Offending and Victimisation in the 1990s' (2002) 13 *Current Issues in Criminal Justice* 301; and Lorana Bartels, *Indigenous Women's Offending Patterns: A Literature Review* (Australian Institute of Criminology Reports, Research and Public Policy Series No. 107, 2010).

¹⁷ Anti-Discrimination Commission Queensland, *Women in Prison 2019: A Human Rights Consultation Report* (Report, 2019) 51.

¹⁸ Marisela Velazquez, *Sentencers' Attitudes Toward Women in the Criminal Justice System: Explanations for Sentencing Treatment Disparities between Indigenous and Non-Indigenous Women* (James Cook University, PhD Thesis, 2017) 84 citing Australian Bureau of Statistics, *Corrective Services, Australia, 2017* (15 March 2018).

¹⁹ Ibid.

²⁰ Australian Bureau of Statistics, *Recorded Crime – Offenders 2020-21* (10 February 2022) Table 22.

commit 'other' offences (all offences that are not crimes against the person or property) (20% compared to 16%).²¹

These differences in offending patterns need to be interpreted in the context of intergenerational trauma affecting Aboriginal and Torres Strait Islander women and girls. The report by the Women's Safety and Justice Taskforce²² outlines that there is extensive existing research suggesting that Aboriginal and Torres Strait Islander women and girls who are in contact with the criminal justice system face multiple layers of disadvantage, which stem 'from the oppression, violence, trauma and discrimination associated with colonisation, transmitted through generations'.²³

1.2 Trends in sentencing

1.2.1 Rising rate of imprisonment

Women's imprisonment in Australia has been increasing since the 1980s – a trend also observed in other international jurisdictions, such as the United Kingdom and the United States of America.²⁴ Women's imprisonment has been increasing at a much faster rate than men's imprisonment – with the highest growth occurring for Aboriginal and Torres Strait Islander women and girls.

In Australia, the population of sentenced men in prison has increased from 12,429 in 1991²⁵ to 25,793 in 2021, reflecting a 107.5% increase.²⁶ At the same time, the female prison population increased from 607 in 1991²⁷ to 1,888 in 2021,²⁸ representing a 211% increase. In a 2021 report, the QGSO noted that the number of unique Aboriginal and Torres Strait Islander female offenders had increased 25.5 per cent over a 10-year period (from 2008–09 to 2017–18). In comparison, the number of non-Indigenous female offenders

increased 12.7 per cent over the same period.²⁹ A Victorian study, which compared 2012 data to 2018 data, similarly observed a large increase in the proportion of sentenced Aboriginal and Torres Strait Islander women (10% and 24% respectively).³⁰ Some studies suggest that this increase in imprisonment of women has been primarily for non-violent crimes such as public order offences.³¹

There has been increasing recognition by researchers of the important role gender and gender stereotypes play in understanding women's involvement with the criminal justice system. It has been commonly assumed that women are treated more leniently than men by the criminal justice system.³² However, studies also suggest that women are treated more punitively by sentencing judges,³³ which may be because 'those who offend do not conform to conventional female role expectations or are seen as bad or deviant'.³⁴

1.2.2 Drivers behind increasing female incarceration rates

A number of studies sought to determine why the rate of women's imprisonment is increasing.

Ross and Forster examined the increase in the rate of women's imprisonment in Australia since the early 1980s. They developed three possible hypotheses to explain this trend:

1. Women's offending had become generally more serious, therefore leading to longer prison sentences;
2. Women's offending rates have increased (the frequency of offending has increased but not the nature of offending);

-
- ²¹ Greg Gardiner and Tina-Maree Takgaki, 'Indigenous Women and the Police in Victoria: Patterns of Offending and Victimisation in the 1990s' (2002) 13 *Current Issues in Criminal Justice* 301.
- ²² Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences Across the Criminal Justice System* (Report Two, 2022) 426–7.
- ²³ Human Rights Law Centre and Change the Record, *Over-Represented and Overlooked: The Crisis of Aboriginal and Torres Strait Islander Women's Growing Over-Imprisonment* (Report, May 2017) 16.
- ²⁴ Katie Willis and Catherine Rushforth, *The Female Criminal: An Overview of Women's Drug Use and Offending Behaviour* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No. 264, October 2003) 3.
- ²⁵ Margaret Cameron, *Women Prisoners and Correctional Programs* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No. 194, 2001) 1.
- ²⁶ Australian Bureau of Statistics, *Prisoners in Australia, 2021* (Catalogue Number 4517.0, 9 December 2021).
- ²⁷ Margaret Cameron, *Women Prisoners and Correctional Programs* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No. 194, February 2001) 1.
- ²⁸ Australian Bureau of Statistics, *Prisoners in Australia, 2021* (Catalogue Number 4517.0, 9 December 2021).
- ²⁹ Queensland Government Statistician's Office, *Changing Patterns in the Age Distribution of Crime in Queensland* (Crime Research Report, April 2021).
- ³⁰ Crime Statistics Agency, *Characteristics and Offending of Women in Prison in Victoria, 2012–18* (Report, November 2019) 37.
- ³¹ Anna Kerr and Rita Shackel, 'Equality With A Vengeance: The Over-Incarceration of Women' (2018) 147 *Precedent* 20.
- ³² Matina Marougka, *Sentencing Women: Considering the Factors that Influence Decision-Making; Interviews with Sentencers and Probation Officers* (The Griffins Society, Research Paper, March 2012). See also Kate Steward, 'Gender Considerations in Remand Decision-Making' in Frances Heidensohn (ed) *Gender and Justice: New Concepts and Approaches* (Willian Publishing, 2006) 125.
- ³³ Matina Marougka, *Sentencing Women: Considering the Factors that Influence Decision-Making; Interviews with Sentencers and Probation Officers* (The Griffins Society, Research Paper, March 2012).
- ³⁴ Ibid citing J O'Dwyer, J Wilson and P Carlen 'Women's Imprisonment in England, Wales and Scotland: Recurring Issues' in Pat Carlen and Anne Worrall (eds) *Gender, Crime and Justice* (Open University Press, 1987) 176; Mary Eaton, *Justice for Women? Family, Court and Social Control* (Open University Press, 1986); Pat Carlen, *Women's Imprisonment: A Study in Social Control* (Routledge, 1983); and Frances Heidensohn, 'Women and the Penal System' in Morris and Gelsthorpe (eds) *Women and Crime* (Cambridge, Cropwood Conferences Series 13, 1981) 125.



3. Changes in sentencing policy have led to longer terms of imprisonment for women.

Ross and Forster found evidence in Victoria and South Australia that offending rates and the severity of women's offending had increased.³⁵ Increasing offending rates are also likely to result in a prior criminal history – which is treated as an aggravating factor in most jurisdictions and may contribute to longer sentences.³⁶ Ross and Forster did not address their third hypothesis.

Gelb conducted a similar study in 2003 using ABS data – this analysis led to Gelb finding three possible causes for the disproportionate increase, which mirrored that of Ross and Forster:

1. Changes in women's offending behaviour;
2. Changes in the characteristics of women prisoners;
3. Changes in the courts' responses to women's criminality relative to the courts' responses to that of men.

This analysis showed a change in the nature of offences that women were being convicted of between 1995 and 2002, with an increase in convictions for violent crimes and a concomitant decrease in convictions for non-violent offences.³⁷ Gelb also found the severity of sentences imposed on women was increasing – with the median sentence increasing from 18.2 months to 24 months over the period 1995 to 1997 (a 32% increase), compared to a 10 per cent increase for men (from 38.1 months to 42 months). Gelb attributed this finding to changing patterns of female offending rather than to a shift towards more punitive sentencing practices.³⁸

Other reports identified a range of factors as contributing to increasing rates of imprisonment for women, in particular for Aboriginal and Torres Strait Islander women, including: 'changes to justice policies and practices, such as more stringent bail conditions';³⁹ as well as factors such as 'policing practices, sentencing patterns, environmental and locational factors, disadvantage and marginalisation'.⁴⁰ For example, the Victorian Law Reform Commission was of the

view that the introduction of a new offence of breaching a bail condition 'would have a disproportionate impact on accused people with drug addiction, mental illness and disabilities such as acquired brain injury, whose lives are chaotic'.⁴¹ The Commission also considered it likely to have a disproportionate effect on young people and make it difficult for individuals to get bail in the future as the charge would result in a conviction for a breach offence.⁴²

The increasing use of remand has also been identified as a key driver for increases in imprisonment across the male and female prisoner populations⁴³ – even more so for women.⁴⁴ Corrections Victoria reported that the number of women on remand grew by 341 per cent between 2008 and 2018, compared with a growth rate of 64 per cent for sentenced women.⁴⁵ Queensland also experienced an increase in women on remand, which the former Commissioner reporting on prison overcrowding in 2016 suggested was due to a 'change in the number of women charged and sentenced for violence and drug offences'.⁴⁶ According to ABS data, the female offender rate (rate per 100,000 female population) for illicit drug offences in 2015–16 was 338.8 and in 2016–17 was 313.5 – this is similar to the previous year, 2014–15 (325.3), but is higher than earlier years such as 2013–14 (265.5) and 2012–13 (214.8). For acts intended to cause injury, rates remained relatively stable, with a rate of 122.0 in 2015–16 and 128.8 in 2016–17.⁴⁷

A 2018 Bureau of Crime Statistics and Research (BOCSAR) study looked at the range of factors to explain the increase in the NSW female prison population between 2011 to 2017. The study found that there were statistically significant increases in the number of repeat female offenders, as well as the number of females proceeded against by the NSW police and remanded in custody prior to sentence.⁴⁸ The study considered that the increase in repeat offenders may be due to changes in the motivation behind female offending or criminal behaviour and more proactive law enforcement targeting repeat offenders. It also noted the potential effect of a prior criminal history on a woman's opportunity to access the labour market on release from custody.

³⁵ Stuart Ross and Kay Forster, 'Female Prisoners: Using Imprisonment Statistics to Understand the Place of Women in the Criminal Justice System' in Australian Institute of Criminology, *Women in Corrections: Staff and Clients* (2000) 7.

³⁶ Sentencing Advisory Council (Victoria), *Gender Differences in Sentencing Outcomes* (Report, 2010) 12.

³⁷ Karen Gelb, 'Women in Prison – Why is the Rate of Incarceration Increasing' (Conference Paper, Evaluation in Crime and Justice: Trends and Methods Conference, 24–25 March 2003) 7.

³⁸ Ibid 11.

³⁹ Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business: Koori Women and the Justice System* (Report, 2013) 25.

⁴⁰ Ibid.

⁴¹ Victorian Law Reform Commission, *Review of the Bail Act: Final Report* (Report, 2007) 128.

⁴² Ibid.

⁴³ See, for example, Select Committee on the Increase in Prisoner Population, Parliament of New South Wales, *Final Report* (2001) xv.

⁴⁴ Corrections Victoria, *Monthly Time Series Prisoner and Offender Data* (Data, 2019).

⁴⁵ Ibid.

⁴⁶ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre* (Report, September 2016).

⁴⁷ Australian Bureau of Statistics, *Recorded Crime 2016–17* (Released 8 February 2018) Table 9.

⁴⁸ Evann J Ooi, *Recent Trends in the NSW Female Prison Population* (NSW Bureau of Crime Statistics and Research, Issue Paper No 130, January 2018) 9.

Difficulties in obtaining employment may increase their likelihood of returning to criminal behaviour.⁴⁹

The QGSO identified an increase in the number of repeat female offenders, finding that compared to 2008–09, female offenders in 2017–18 were more prolific in terms of offending frequency. In 2008–09, 25,633 female offenders were responsible for 56,509 offences across 36,090 events, compared to 28,714 female offenders responsible for 82,912 offences in 2017–18 (a 46.7% increase) over 50,350 events (a 39.5% increase).⁵⁰

A 2019 Victorian study considered the characteristics leading to the increase in the Victorian female prison populations between 2012 to 2018. This study identified 'no specific evidence to suggest the type of offending related to unsentenced prisoner receptions was increasing in seriousness'.⁵¹ The study identified some evidence to suggest a relationship between bail legislation amendments and changes in prisoner receptions — 79 per cent of unsentenced women were subject to a reverse onus bail test in 2018 as opposed to 37 per cent of women in 2012. Further, 'the proportion of unsentenced women recorded for a *Breach bail* offence in the two years prior to entering custody increased from 41 per cent in 2012 to 69 per cent in 2018, while the proportion of sentenced women grew from 20 per cent in 2012 to 53 per cent in 2018'.⁵² Overall, findings from the study suggest that 'increases in the number of female offenders detected by police, in the frequency of their offending and/or in the seriousness of their offences', and changes to the *Bail Act 1977* (Vic), may be drivers of the increase in the Victorian female prison population.⁵³

1.2.3 Penalties

While a number of reports have attributed increases in female imprisonment to non-sentencing related factors, two studies conducted by the Home Office in the United Kingdom concluded that the greater use of custody was 'primarily due to increases in the severity of sentencing practices for women'.⁵⁴ The Corston Report (UK Home Office) referred to data from 2002, suggesting that 37 per cent of all adult

women given sentences had no previous convictions — which was more than double the rate for male offenders.⁵⁵ The report also referred to Home Office research published in 1997 that 'found that sentencers appeared reluctant to fine women (and this remains the case) which sometimes resulted in women receiving more severe community penalties instead but, skipping a step up on the sentencing ladder in this way, carried the risk of an even more severe sentence in the event of a subsequent conviction'.⁵⁶ The report found: '[d]espite an increase in some violent and drugs offences by women, the nature and seriousness of women's offending has not, on the whole, been getting worse'. Therefore, 'the disproportionate increase in the women's prison population over the last 10 years is more likely the result of courts using custody more frequently for women for less serious offences'.⁵⁷

Queensland-based research conducted by Bond, Jeffries and Loban based on sentencing data between 2006 and 2008 investigated differences in penalties based on gender and Aboriginal and Torres Strait Islander status. The study made the following conclusions about the types of penalties imposed on women and girls after adjusting for demographic, legal and court processing factors:

- female offenders were significantly less likely to receive imprisonment than male offenders;
- female offenders were 2.3 times more likely to receive a supervised bond⁵⁸ compared to male offenders; and
- Aboriginal and Torres Strait Islander females were significantly less likely to have their licence suspended than non-Indigenous females.⁵⁹

The study emphasises the importance of research taking into account case and offender-specific factors known to influence sentencing that might, at least in part, explain differences in sentencing outcomes.⁶⁰ It also needs to be noted that the study's findings are limited by the fact that

⁴⁹ Kristin Butcher, Kyung Park and Anne Morrison Piehl, 'Comparing Apples to Oranges: Differences in Women's and Men's Incarceration and Sentencing Outcomes' (2017) 35(S1) *Journal of Labor Economics* 201.

⁵⁰ Queensland Government Statistician's Office, *Changing Patterns in the Age Distribution of Crime in Queensland* (Crime Research Report, April 2021).

⁵¹ Crime Statistics Agency, *Characteristics and Offending of Women in Prison in Victoria, 2012-18* (Report, November 2019) 32.

⁵² Ibid 34.

⁵³ Ibid 6.

⁵⁴ Sentencing Advisory Council (Victoria), *Gender Differences in Sentencing Outcomes* (Report, 2010) 13 citing Home Office, *The Corston Report: A Report by Baroness Jean Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System* (Report, 2007).

⁵⁵ Home Office, *The Corston Report: A Report by Baroness Jean Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System* (Report, 2007) 21.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ A supervised bond is also known as a good behaviour bond or recognisance order.

⁵⁹ Christine Bond, Samantha Jeffries and Heron Loban, *Exploring Indigenous and Non-Indigenous Sentencing in Queensland* (Report for the Indigenous Criminal Justice Research Agenda, May 2011).

⁶⁰ Ibid 10, 51. 59. The authors also note the unavailability of key information, meaning their analyses were restricted in what could be said about the impact of mitigating and aggravating circumstances on sentencing: 98.

little information on offence severity was known beyond the charged offence category and penalty received.⁶¹

A study by the VSAC examined gender differences in sentencing outcomes in Victorian Magistrates, County and Supreme Courts. VSAC found that in the Victorian County and Supreme Courts, women were less likely to be sentenced to imprisonment,⁶² and when they were, received shorter average terms. VSAC attributed differences in sentencing to 'gender differences in offending behaviour; and via the individual biographies of women that see a greater proportion of women coming before the court with a constellation of characteristics that create legitimate mitigating circumstances'.⁶³ After conducting a matching exercise of armed robbery offences,⁶⁴ VSAC found differences in sentencing outcomes between men and women in three main groups (young first offenders, adult first offenders and adult recidivist offenders), with average terms for men being about twice as long as those for women in these groups. The Council attributed differences in these cases to issues of psychological disorder, prior victimisation experiences, drug abuse and primary childcare responsibilities – factors which 'can constitute a valid basis for a shorter sentence than might otherwise be the case'.⁶⁵

Aboriginal and Torres Strait Islander women and girls

The incarceration of Aboriginal and Torres Strait Islander women is typically characterised by low-level offending (such as justice procedure and breach offences), prior incarceration, and short terms of imprisonment.⁶⁶ These short terms of incarceration 'can exacerbate existing disadvantage and make it extremely difficult for a female

offender to reintegrate into her community',⁶⁷ as suggested by the Australian Law Reform Commission. For example, short sentences may result in practical difficulties in providing appropriate mental health and other treatments,⁶⁸ and may result in children being taken into child protection as a result of lost housing and employment.⁶⁹ Those supporting abolition of short sentences have submitted to the Australian Law Reform Commission that short sentences may 'potentially increase the likelihood of recidivism through stigmatisation and the flow on effects of having served time in prison'.⁷⁰

Research by Bond and Jeffries, using higher court data over a 9-year period (1996 to 2005) in Western Australia, found that 'Indigenous women were generally less likely than their non-Indigenous counterparts to receive a sentence of imprisonment'.⁷¹ The authors suggest that this may be because 'in Western Australia a degree of judicial cognisance may exist around the special circumstances of Indigenous women and that this in turn may explain why Indigenous women may be less likely than non-Indigenous women to be imprisoned'.⁷² The findings were consistent with earlier research undertaken by Bond and Jeffries in South Australia.⁷³

However, the 2013 Victorian Equal Opportunity and Human Rights Commission report found that Aboriginal and Torres Strait Islander women 'are entering prison at escalating rates, often for minor crimes or justice breaches'.⁷⁴ This could be due to the fact that Aboriginal and Torres Strait Islander women, compared to their non-Indigenous counterparts, are more likely to be repeat offenders especially where previous terms of imprisonment may also

⁶¹ Ibid 11. The authors place strong caveats around the findings. In the Magistrates Courts, information about the context of the commission of the offences, and mitigating and aggravating circumstances could not be included in the statistical analyses. In the higher courts, while some information was collected on offence context and mitigating and aggravating factors, these measures were often limited and incomplete.

⁶² It should be noted that these general findings are limited by the fact that offence context and mitigating and aggravating factors are not controlled for.

⁶³ Sentencing Advisory Council (Victoria), *Gender Differences in Sentencing Outcomes* (Report, July 2010) 57.

⁶⁴ For more detail on the matching exercise undertaken see ibid 41–4.

⁶⁵ Ibid 55.

⁶⁶ Lorana Bartels, *Indigenous Women's Offending Patterns: A Literature Review* (Australian Institute of Criminology, 2010) iii. See also Lorana Bartels, *Sentencing of Indigenous Women* (Indigenous Justice Clearinghouse, Brief No 14, November 2012) 3; Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business: Koori Women and the Justice System* (2012) 30.

⁶⁷ Australian Law Reform Commission, *Pathways to Justice - An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander People* (Final Report, Report 133, December 2017) 351 citing Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business: Koori Women and the Justice System* (Report 2013) 88.

⁶⁸ Australian Law Reform Commission, *Pathways to Justice - An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander People* (Final Report, Report 133, December 2017) 353 citing Lorana Bartels, 'Painting the Picture of Indigenous Women in Custody in Australia' (2012) 12(2) *Queensland University of Technology Law and Justice Journal* 1, 11.

⁶⁹ Human Rights Law Centre, *Over-Represented and Overlooked: The Crisis of Aboriginal and Torres Strait Islander Women's Growing Over-Imprisonment* (Report, May 2017) 15.

⁷⁰ Australian Law Reform Commission, *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples* (Discussion Paper 84, 19 July 2017) 4.46.

⁷¹ Christine Bond, Samantha Jeffries and Heron Loban, *Exploring Indigenous and Non-Indigenous Sentencing in Queensland* (Report for the Indigenous Criminal Justice Research Agenda, May 2011).

⁷² Christine Bond and Samantha Jeffries, 'Sentencing Indigenous and Non-Indigenous Women in Western Australia's Higher Courts' (2010) 17 *Psychiatry, Psychology and Law* 70.

⁷³ Samantha Jeffries and Christine Bond, 'Does Indigeneity Matter? Sentencing Indigenous Offenders in South Australia's Higher Courts' (2009) 42(1) *Australian and New Zealand Journal of Criminology* 47.

⁷⁴ Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business: Koori Women and the Justice System* (Report 2013).

increase the likelihood of imprisonment when new offences are committed.⁷⁵

A 2005 Western Australia study considered sentencing outcomes for female juveniles and found that Aboriginal and Torres Strait Islander female juveniles were less likely to have their matter dismissed (19% versus 25%), or to receive a fine (18% versus 29%) compared to their non-Indigenous counterparts. Aboriginal and Torres Strait Islander female juveniles were also three times more likely to receive a custodial sentence (13% versus 4%).⁷⁶

1.3 Risk factors for female offenders: Intersecting marginalisation

Female offenders and prisoners are a vulnerable and marginalised group within society.⁷⁷ Many female offenders are dealing with a number of risk factors which increase their risk of being involved in the criminal justice system, including prior victimisation, mental health issues arising as a result of domestic violence, drug and alcohol dependency and carer responsibilities.⁷⁸ Further, women tend to have a lower socio-economic status than men and are more likely to experience poverty.⁷⁹

While many of these risk factors are worsened by being female, the intersecting nature of disadvantage and marginalisation experienced by female offenders based on gender, age, disability, socio-economic background, Aboriginal and Torres Strait Islander status or belonging to a

culturally and linguistically diverse group also needs to be acknowledged.⁸⁰

The Australian Institute of Health and Welfare (AIHW) in 2020 collected prisoner information from 117 women as they entered prison and found that these women reported lower education levels than women in Australia generally,⁸¹ experienced greater levels of unemployment,⁸² and had a history of incarceration either in youth detention or adult prison.⁸³ Several studies have indicated that women in prison are 'more likely than women in the general population to have a history characterised by experiences of physical and/or sexual abuse, childhood trauma, exposure to domestic violence, poverty and social deprivation'.⁸⁴

The Australian Law Reform Commission reported that Aboriginal and Torres Strait Islander women are disproportionately more likely than their non-Indigenous counterparts to experience these risk factors. Aboriginal and Torres Strait Islander women are more likely to have experienced victimisation (child abuse/family violence), 'present with higher rates of depression, Post-Traumatic and Anxiety Disorders',⁸⁵ be primary carers, have substance use issues, have entered into the child protection system as children, be living in unstable housing or be experiencing homelessness, be unemployed and have lower levels of educational attainment.⁸⁶ In addition to these risk factors, a national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families found that a lack of cultural identity, intergenerational trauma, and mental health issues associated with forced separation were factors underlying offending behaviour.⁸⁷

⁷⁵ Ibid 61 citing Sentencing Advisory Council (Victoria), *Comparing Sentencing Outcomes for Koori and Non-Koori Adult Offenders* (Report, April 2013) 38 59.

⁷⁶ Kelly Richards, *Indigenous Women's Offending Patterns: A Literature Review* (Australian Institute of Criminology, Research and Public Policy Series No. 107, 2009).

⁷⁷ Anti-Discrimination Commission Queensland, *Women in Prison 2019: A Human Rights Consultation Report* (Report, 2019) 61. Also see Diane Hatton and Anastacia Fisher, *Women Prisoners and Health Justice: Perspectives, Issues and Advocacy for an International Hidden Population* (Radcliffe Publishing, 2009); World Health Organization, *Women's Health in Prison: Correcting Gender Inequity in Prison Health* (Report, 2009).

⁷⁸ Ibid.

⁷⁹ Peter Davidson, Bruce Bradbury, Dr Trish Hill and Dr Melissa Wong, *Poverty in Australia 2020: Part 1, Overview* (ACOSS/UNSW Poverty and Inequality Partnership Report No. 3, 2020).

⁸⁰ See Eileen Baldry and Leanne Dowse, 'Compounding Mental and Cognitive Disability and Disadvantage' in Duncan Chappell (ed), *Policing and the Mentally Ill: International Perspectives* (Routledge, 1st ed, 2013) 219 for further discussion on the compounding effects of complex needs.

⁸¹ Australian Institute of Health and Welfare, *The Health and Welfare of Women in Australia's Prisons* (Report, 2020) 5.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Judy Parker, Debbie Kilroy and Jonathon Hirst, 'Women, Health and Prisons in Australia' in Diane Hatton, Anastasia Fisher and Andre Coyle (eds) *Women Prisoners and Health Justice: Perspectives, Issues and Advocacy for an International Hidden Population* (Radcliffe Publishing, 2009) citing Australian Senate Select Committee on Mental Health, *A National Approach to Mental Health – From Crisis to Community* (First Report, 2006). See also: Crime Statistics Agency, *Characteristics and Offending of Women in Prison in Victoria, 2012-18* (Report, November 2019) 37.

⁸⁵ Department for Correctional Services (South Australia), *Strong Foundations and Clear Pathways: Women Offender Framework and Action Plan June 2014–June 2019* (Report) 15.

⁸⁶ Australian Law Reform Commission, *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander People* (Final Report, Report 133, December 2017) 349. See also, Holly Johnson, *Drugs and Crime: A Study of Incarcerated Female Offenders* (Research and Public Policy Series No 63, Australian Institute of Criminology, 2004) 20; Juanita Sherwood and Sacha Kendall, 'Reframing Space by Building Relationships: Community Collaborative Participatory Action Research with Aboriginal Mothers in Prison' (2013) 46 *Contemporary Nurse: A Journal for the Australian Nursing Profession* 85; Koori Justice Unit, Department of Justice (Vic), *Koori Women's Diversion Project* (Presentation, Koori Women's Diversion Project Working Group, 3 July 2013).

⁸⁷ Australian Human Rights Commission, *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (Final Report, April 1997).

An exhaustive review of all known risk and protective factors is beyond the scope of this *Sentencing Profile*. Reports published by the QGSO and the Queensland Family and Child Commission (QFCC) provide a comprehensive summary of risk and protective factors as they apply to children.⁸⁸ This summary provides an overview of the most common risk factors associated with female offending, including victimisation, mental health, disability, substance use, care responsibilities and interactions with the child protection system.

1.3.1 Victimisation

There is a substantial body of research suggesting a link between a history of physical or sexual abuse and offending for women.⁸⁹ An Australian Institute of Criminology (AIC) study found that violent female offenders reported a significantly higher prevalence of childhood physical abuse than non-violent offenders.⁹⁰ A study in Victoria found 87 per cent of female prisoners were victims of sexual, physical or emotional abuse, with most having suffered multiple forms of abuse.⁹¹ This research is consistent with research undertaken in the United Kingdom.⁹²

A 2022 AIC study found that close to 90 per cent (89%) of young people in the youth justice system had experienced a combination of maltreatment and household dysfunction, with many reporting frequent emotional abuse (64%), neglect (62%), family violence (46%), physical abuse (45%), bullying (44%), neighbourhood violence (39%), and sexual abuse (7%).⁹³

Both Aboriginal and Torres Strait Islander women and girls and non-Indigenous women and girls spoke to the Women's Safety and Justice Taskforce about being criminalised when they retaliated against their abusive partners.⁹⁴ This finding is consistent with research that suggests that violent offences such as common assault 'are often related to women's resistance or retaliation to violence and abuse or response to trauma'.⁹⁵

Aboriginal and Torres Strait Islander women and girls

A number of studies revealed high rates of family violence and sexual abuse experienced by incarcerated Aboriginal and Torres Strait Islander women. A Western Australian study suggested up to 90 per cent of incarcerated Aboriginal and Torres Strait Islander female prisoners were survivors of family and other violence.⁹⁶ In a 2014 New South Wales survey, 70 per cent of the Aboriginal and Torres Strait Islander female prisoners surveyed disclosed they were survivors of child sexual abuse, 44 per cent disclosed they were subject to ongoing sexual abuse as adults and 78 per cent were experiencing other forms of violence as adults.⁹⁷

1.3.2 Mental health

Research indicates a high prevalence of mental health conditions amongst prisoners across adult correctional and youth detention centres. In Australia, mental health issues are most prevalent for women and Aboriginal and Torres Strait Islander prisoners.⁹⁸

A Victorian study (2000) of 103 female prisoners found that 84 per cent of interviewed female prisoners met the criteria for a mental disorder (including harmful substance use/dependence) in the year prior to interview — which reduced to 66 per cent when drug-related disorders were excluded.⁹⁹

The AIHW found that 2 in 5 (40%) prison entrants reported being told they had a mental health condition by a doctor, psychiatrist, psychologist or nurse. Further, 'female prison entrants (65%) were more likely than male prison entrants (36%) to report a history of a mental health condition'.¹⁰⁰ In addition, women in custody were twice as likely as men to be

⁸⁸ Queensland Government Statistician's Office, *Justice Report, Queensland, 2018–19* (Report, 2020); Queensland Family and Child Commission, *Changing the Sentence: Overseeing Queensland's Youth Justice Reforms* (Report, July 2021).

⁸⁹ Holly Johnson, *Drugs and Crime: A Study of Incarcerated Female Offenders* (Australian Institute of Criminology, Research and Public Policy Series 63, 2004) 12.

⁹⁰ Ibid 79.

⁹¹ Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business: Koori Women and the Justice System* (Report 2013).

⁹² Home Office, *The Corston Report: A Report by Baroness Jean Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System* (Report, 2007) 20.

⁹³ Catia Malvaso et al, *Adverse Childhood Experiences and Trauma Among Young People in the Youth Justice System* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No 651, June 2022) 5.

⁹⁴ Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences Across the Criminal Justice System* (Report Two, 2022) 458.

⁹⁵ Ibid citing Mary Stathopoulos, Antonia Quadara, Bianca Fileborn, Haley Clark, *Addressing Women's Victimisation Histories in Custodial Settings* (Australian Centre for the Study of Sexual Assault Issues No. 13, 2012) 7–8.

⁹⁶ Mandy Wilson et al, 'Violence in the Lives of Incarcerated Aboriginal Mothers in Western Australia' (2017) 7(1) *SAGE Open* 6.

⁹⁷ Mary Stathopoulos and Antonia Quadara, *Women as Offenders, Women as Victims: The Role of Corrections in Supporting Women with Histories of Sexual Abuse* (Women's Advisory Council of Corrective Services NSW, 2014) 18.

⁹⁸ Tony Butler et al, 'Mental Disorders in Australian Prisoners: A Comparison with a Community Sample' (2006) 40 *Australian and New Zealand Journal of Psychiatry* 272.

⁹⁹ Christine Tye and Paul Mullen, 'Mental Disorders in Female Prisoners' (2006) 40 *Australian and New Zealand Journal of Psychiatry* 266.

¹⁰⁰ Australian Institute of Health and Welfare, *The Health of Australia's Prisoners, 2018* (Report, 2019) 27.

dispensed medication for a mental health condition (28% v 15%).¹⁰¹

Aboriginal and Torres Strait Islander women and girls

Research supports the finding that Aboriginal and Torres Strait Islander women prisoners are 'one of the most psychologically vulnerable groups in the community'.¹⁰² A study of Aboriginal and Torres Strait Islander women in Queensland prisons in 2014 estimated that almost half (47%) experienced post-traumatic stress disorder.¹⁰³ A Victorian study found that over 85 per cent of Aboriginal and Torres Strait Islander prisoners have mental health issues or cognitive disabilities,¹⁰⁴ which is consistent with earlier research on Aboriginal and Torres Strait Islander offenders in New South Wales and Queensland.¹⁰⁵

1.3.3 Substance use

There is a general consensus that alcohol and drug use is one of the leading causes of health and social harms, including offending and incarceration.¹⁰⁶ Illicit drug use and drug dependence have been found to be a motivating factor in non-violent property offences¹⁰⁷ and a 2004 study found that 58% of women surveyed reported being intoxicated at the time they committed an offence.¹⁰⁸

The AIC found that 'alcohol abuse is more likely to be associated with the criminal activity of Indigenous offenders whereas illegal drugs are more likely to be connected to crimes committed by non-Indigenous offenders'.¹⁰⁹ This is consistent with findings of the AIHW. Of 805 prisoners surveyed, illicit drug use was more commonly reported by non-Indigenous (69%) than Aboriginal and Torres Strait

Islander (60%) prisoners.¹¹⁰ This study also found that two-thirds (67%) of prison entrants reported illicit drug use during the previous 12 months, which was similar amongst male and female entrants (67% and 65% respectively).¹¹¹

Substance use is also prevalent amongst youth offenders. An AIC study found that most young people who have had contact with the youth justice system were also identified as engaging in problematic alcohol and/or other drug use (90% of young women, 86% of young men).¹¹²

Aboriginal and Torres Strait Islander women and girls

While there are few studies that specifically consider the prevalence of substance use of Aboriginal and Torres Strait Islander women and girls, a Victorian study assessed the substance use of 123 Aboriginal prisoners (107 males, 15 females). The authors found that the majority of females (92.9%) were classified as having a 'current substance abuse problem', though there was insufficient information to ascertain whether there existed a lifetime history of abuse.¹¹³ The results of this study are further limited by a very small number of female participants.

An earlier 2008 Queensland study surveyed incarcerated Aboriginal and Torres Strait Islander adults and found that of the 65 female participants, 43 were identified as having a substance dependence (of any substance) (66.2%).¹¹⁴

1.3.4 Women as mothers in prison

There is a growing amount of literature on the effect of prison on mothers. A 2018 AIHW study found that almost 9 in 10 (85%) female prison entrants reported they had been pregnant at some stage in their lives, and of prisoners,

¹⁰¹ Ibid.

¹⁰² Tony Butler et al, 'Mental Health Status of Aboriginal and Non-Aboriginal Australian Prisoners' (2007) 41 *Australian and New Zealand Journal of Psychiatry* 429, 432. See also Tony Butler et al, 'Mental Disorders in Australian Prisoners: A Comparison with a Community Sample' (2006) 40 *Australian and New Zealand Journal of Psychiatry* 272.

¹⁰³ Ed Heffernan, Kimini Andersen, Elizabeth McEntyre and Stuart Kinner, 'Mental Disorder and Cognitive Disability in the Criminal Justice System' in Pat Dudgeon, Helen Milroy and Roz Walker (eds) *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (Australian Government, 2nd ed, 2014) 165.

¹⁰⁴ Sentencing Advisory Council (Victoria), *Comparing Sentencing Outcomes for Koori and non-Koori Adult Offenders in the Magistrates' Court of Victoria* (Report, 2013) 50.

¹⁰⁵ Tony Butler et al, 'Mental Health Status of Aboriginal and Non-Aboriginal Australian Prisoners' (2007) 41 *Australian and New Zealand Journal of Psychiatry* 429, 432; Edward Heffernan et al, 'Prevalence of Mental Illness Among Aboriginal and Torres Strait Islander People in Queensland Prisons' (2012) 197(1) *Medical Journal of Australia* 37.

¹⁰⁶ Australian Law Reform Commission, *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander People* (Report No 133, December 2017) section 8.5.

¹⁰⁷ Albert Kopak and Norman Hoffman, 'Pathways Between Substance Use, Dependence, Offense Type, and Offense Severity' (2014) 25(6) *Criminal Justice Policy Review* 743.

¹⁰⁸ Holly Johnson, *Drugs and Crime: A Study of Incarcerated Female Offenders* (Australian Institute of Criminology, Research and Public Policy Series 63, 2004) 36–37.

¹⁰⁹ Ibid 97.

¹¹⁰ Australian Institute of Health and Welfare, *The Health of Australia's Prisoners, 2015* (Report, 2015) 96.

¹¹¹ Ibid.

¹¹² Catia Malvaso et al, *Adverse Childhood Experiences and Trauma Among Young People in the Youth Justice System* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No 651, June 2022) 5.

¹¹³ James Ogloff et al, 'Assessing the Mental Health, Substance Abuse, Cognitive Function, and Social/Emotional Well-Being Needs of Aboriginal Prisoners in Australia' (2017) 23(4) *Journal of Correctional Health Care* 398, 402.

¹¹⁴ Edward Heffernan et al, 'Prevalence of Mental Illness Among Aboriginal and Torres Strait Islander People in Queensland Prisons' (2012) 197(1) *The Medical Journal of Australia* 37, Table 5.



'women (54%) were more likely than men (36%) to have dependent children'.¹¹⁵ Studies found that mothers experience "bullying", threats of violence, and fear of other prisoners'.¹¹⁶ Separation from their children has been found to be a major stressor.¹¹⁷ Many mothers also struggle with their identity and their role as mothers, and have difficulty in maintaining a parental role and responsibility¹¹⁸ — which may be further complicated in cases where children are unable to be accommodated in Mother and Children units, or where in these units, women are unable to enact parenting decisions.

Aboriginal and Torres Strait Islander mothers

Mothering in Aboriginal and Torres Strait Islander cultures needs to be given specific consideration in the context of criminal justice. Aboriginal women often 'care for both their biological and non-biological children within extended family and community networks'.¹¹⁹ The higher rate of imprisonment for Aboriginal and Torres Strait Islander women, compared to non-Indigenous women, has significant consequences on their communities and 'potentially expose[s] children to risk of neglect, abuse, hunger and homelessness'.¹²⁰ Literature also suggests that mothers experience stigma while in prison, which may be compounded by additional prejudices arising from being Aboriginal or Torres Strait Islander.¹²¹

1.3.5 Child protection involvement and imprisonment of carers

An AIHW study (2020) collected prisoner information from 117 women as they entered prison and found that almost one-fifth of these women (17%) had a parent or carer in

prison during childhood.¹²² The research suggests that 'children whose parents are involved in the criminal justice system...are more likely than their peers to become involved in the CJS [criminal justice system] themselves'.¹²³

The concept of care-criminalisation is well known within Australia. Numerous studies show the over-representation of children with child protection backgrounds in the youth justice system.¹²⁴ Referred to as 'crossover kids', these children are 9 times more likely to offend and come under youth justice supervision.¹²⁵ A Victorian study reporting on the findings of a detailed case file audit for 300 crossover children found 61 per cent had been diagnosed with a mental illness or condition and close to three-quarters had misused drugs and/or alcohol (73%).¹²⁶ A more recent AIC study considered adverse childhood experiences and trauma among young people in the youth justice system.¹²⁷ The study of 180 young people under youth justice supervision in South Australia found that 94 per cent of young people under youth justice supervision were also known to child protection (n=170).¹²⁸ Research by Tasmania Legal Aid found that 37 per cent of crossover children were female compared to 25 per cent of all Tasmania Legal Aid youth justice clients.¹²⁹ Another study in New South Wales found that 28 per cent of males and 39 per cent of females in youth detention had a history of out-of-home care.¹³⁰

The findings from interstate are consistent with Queensland findings. Department of Justice and Attorney-General (DJAG) data from February 2014 showed that 76 per cent of children known to the Queensland youth justice system were also known to Child Safety Services.¹³¹ A count undertaken by DJAG in 2015–16 found 32 per cent of children in youth

¹¹⁵ Australian Institute of Health and Welfare, *The Health and Welfare of Women in Australia's Prisons* (InFocus, November 2020) 10.

¹¹⁶ Jane Walker, 'Women and Gestation in Prison: Becoming a 'Good Enough Mother'' (UNSW PhD, 2018) 135.

¹¹⁷ Erica Breuer et al, 'The Needs and Experiences of Mothers while in Prison and Post-Release: A Rapid Review and Thematic Synthesis' (2021) 9(31) *Health and Justice*, 11.

¹¹⁸ Ibid 12.

¹¹⁹ Jocelyn Jones et al, 'Australian Aboriginal Women Prisoners' Experiences of Being a Mother: A Review' (2018) 14(4) *International Journal of Prisoner Health* 221, 228.

¹²⁰ Lorana Bartels, *Indigenous Women's Offending Patterns: A Literature Review* (Australian Institute of Criminology, Research and Public Policy Series No. 107, 2010) 1.

¹²¹ Erica Breuer et al, 'The Needs and Experiences of Mothers while in Prison and Post-Release: A Rapid Review and Thematic Synthesis' (2021) 9(31) *Health and Justice*, 13 citing Jane Walker, 'Women and Gestation in Prison: Becoming a 'Good Enough Mother'' (UNSW PhD, 2018) 135.

¹²² Ibid.

¹²³ Victoria Troy et al, 'The Feasibility, Appropriateness, Meaningfulness, and Effectiveness of Parenting and Family Support Programs Delivered in the Criminal Justice System: A Systematic Review' (2018) 27 *Journal of Child and Family Studies* 1732, 1732.

¹²⁴ Susan Baidawi and Rosemary Sheehan, 'Crossover Kids': *Offending by Child-Protection Involved Youth* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No 582, December 2019).

¹²⁵ Australian Institute of Health and Welfare, *Young People in Child Protection and Under Youth Justice Supervision: 1 July 2013 to 30 June 2017* (Data Linkage Series No. 24, 2018).

¹²⁶ Susan Baidawi and Rosemary Sheehan, 'Crossover Kids': *Offending by Child-Protection Involved Youth* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No 582, December 2019) 10.

¹²⁷ Catia Malvaso et al, *Adverse Childhood Experiences and Trauma Among Young People in the Youth Justice System* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No 651, June 2022) 5.

¹²⁸ Ibid.

¹²⁹ Tasmania Legal Aid, *Children First: Children in the Child Safety and Youth Justice System* (Report, 2021) 9-10.

¹³⁰ Department of Juvenile Justice, Justice Health and University of Sydney, *NSW Young People on Community Orders Health Survey 2003-06: Key Findings Report* (Report, 2006) 11.

¹³¹ Department of Justice and Attorney-General, *Annual Report 2016-17, 2017, 81.*

detention in Queensland had a child protection order history.¹³²

Aboriginal and Torres Strait Islander women and girls

Aboriginal and Torres Strait Islander children are over-represented in out-of-home care (OOHC) across Australia. The reasons for this over-representation are complex, and as previously discussed, identified as connected to past policies of colonisation, poverty, assimilation policies, intergenerational trauma and a lack of understanding of the cultural differences in family structure and child-rearing practices.¹³³ As at 30 June 2018, nationally '17,787 children in OOHC were identified as Aboriginal or Torres Strait Islander', which is '11 times the rate of non-Indigenous children'.¹³⁴ In a NSW study of 160 children who appeared on criminal charges before the NSW Children's Court at Paramatta between 2008 and 2010, almost half had spent time in out-of-home-care (49.5%), and of those, nearly half (44%) identified as Aboriginal and Torres Strait Islander, as compared to 14 per cent of the non-care group. While these findings were statistically significant, there were no significant gender differences amongst Aboriginal and Torres Strait Islander children based on care status.¹³⁵

1.3.6 Disability

The AIHW (2018) found that, 'almost 1 in 3 (29%) prison entrants reported they had a chronic condition or disability that affected their participation in day-to-day activities, education or employment'. Of those aged 18–34, 1 in 4 (26%) prison entrants reported a disability, as opposed to 1

in 12 (8%) people in the community. Female prisoners were slightly more likely to report a chronic condition or disability than male prisoners (25% compared to 21%).¹³⁶ The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability states that people with a disability 'are at a heightened risk of violence, abuse, neglect and exploitation in criminal justice settings'. This risk is multiplied for Aboriginal and Torres Strait Islander people with disability, who 'often experience multiple discrimination due to the intersection of racism and ableism'.¹³⁷

Neurocognitive disabilities within the criminal justice system also remain largely misunderstood and undiagnosed, however evidence suggests 'that people with cognitive impairment are over-represented in the criminal justice system'.¹³⁸ Neurocognitive disability is 'any type of brain damage or neurological disruption causing partial or functional disability or psychosocial maladjustment'.¹³⁹

A 2009 NSW study of 2,731 people who have been in prison and were diagnosed with mental impairment¹⁴⁰ or cognitive impairment¹⁴¹ found interlocking and compounding health and social issues affecting this cohort. The research found evidence of significantly earlier contact with police, higher rates of contact with police, escalating contact with the criminal justice system, high use of alcohol and other drugs, and poor support from human and social services as issues affecting this group.¹⁴² It concluded that 'people with complex needs who become enmeshed in the criminal justice system early in life are likely to continue that involvement, having frequent police events and cycling in and out of police and prison custody. They are also likely to be victims of crime as well as offenders'.¹⁴³

¹³² Queensland, *Question on Notice*, Legislative Assembly, 22 June 2017 (Minister for Communities, Women and Youth, Minister for Child Safety and Minister for the Prevention of Domestic and Family Violence, Hon S Fentiman, Question on Notice NO 646).

¹³³ Child Family Community Australia, *Child Protection and Aboriginal and Torres Strait Islander Children* (Resource Sheet, January 2020).

¹³⁴ Ibid.

¹³⁵ Kate MacFarlane, 'Care-Criminalisation: The Involvement of Children in Out-Of-Home Care in the New South Wales Criminal Justice System' (2018) 51(3) *Australian and New Zealand Journal of Criminology* 412, 417.

¹³⁶ Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2018* (Report, 2019) 77-79.

¹³⁷ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Issues Paper: Criminal Justice System* (Issues Paper, January 2020) 1 citing Eileen Baldry et al, 'It's just a big vicious cycle that swallows them up': Indigenous people with mental and cognitive disabilities in the criminal justice system' (2016) 8(22) *Indigenous Law Bulletin* 10, 11.

¹³⁸ Anti Discrimination Commission Queensland, *Women in Prison 2019: A Human Rights Consultation Report* (Report, 2019) 79 citing Eileen Baldry, Leanne Dowse, and Melissa Clarence, 'People with Mental and Cognitive Disabilities: Pathways into Prison' (Background Paper for Outlaws to Inclusion Conference, February 2012) p 5.

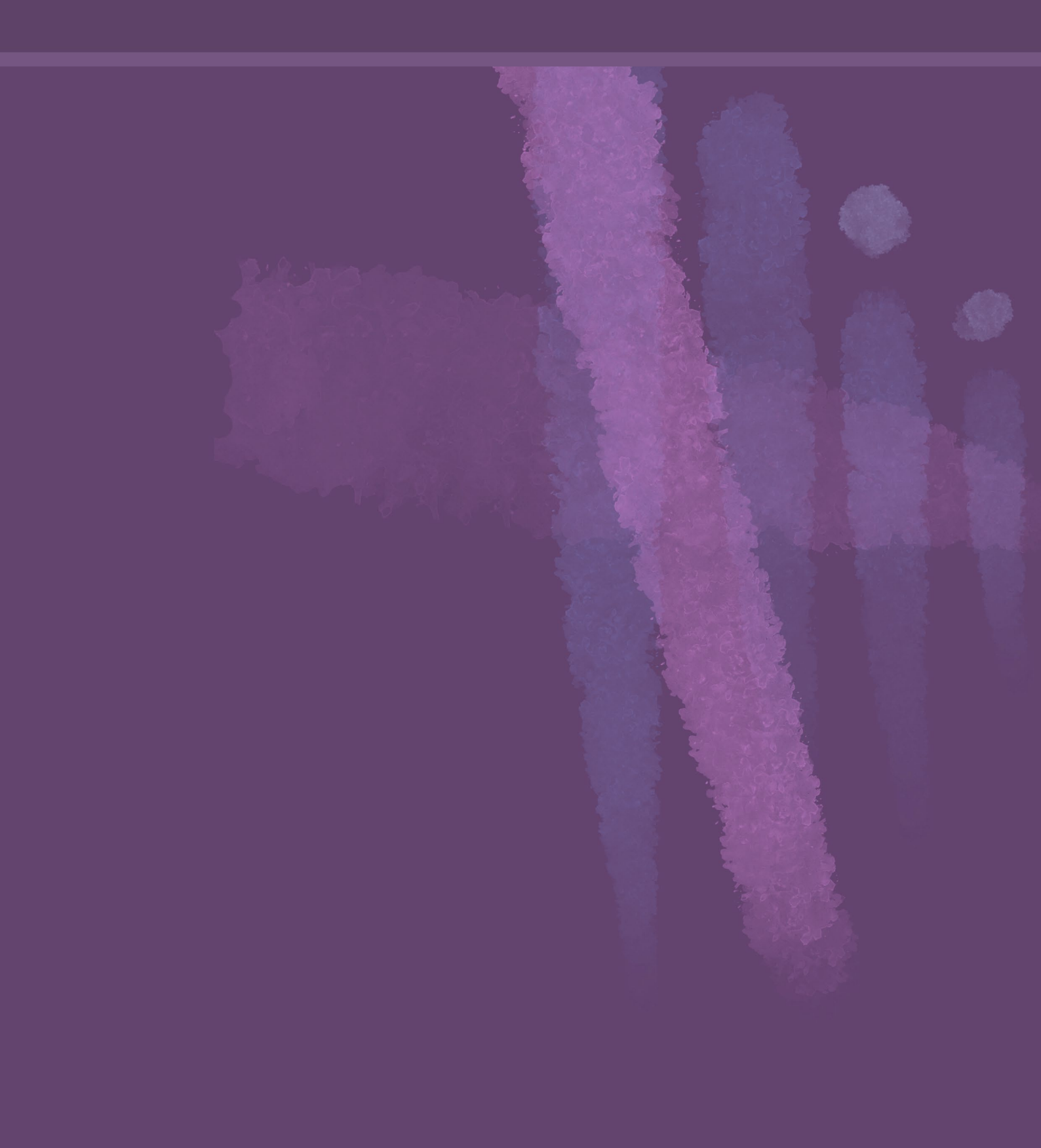
¹³⁹ Ibid.

¹⁴⁰ Eileen Baldry and Leanne Dowse, 'Compounding Mental and Cognitive Disability and Disadvantage' in Duncan Chappell (ed), *Policing and the Mentally Ill: International Perspectives* (Routledge, 1st ed, 2013) 219: mental impairment 'refers to psychosis, anxiety disorder, affective disorder, personality disorder, or neurasthenia' at 220.

¹⁴¹ Ibid. Cognitive impairment includes 'individuals with intellectual disability (ID) (IQ <70), borderline intellectual disability (BID) (IZ > 70 and < 80), and acquired brain injury (ABI) who, as well as possibly experiencing physical, sensory, psychological, and communication difficulties, also experience disability related to cognitive function (as defined in the NSW Corrective Services Statewide Disability Dataset)'.

¹⁴² Ibid 232.

¹⁴³ Ibid.



Chapter 2 — Patterns in offending

This chapter presents an overview of patterns in offending for women and girls sentenced in Queensland over a 14-year period (between 2005–06 and 2018–19). This chapter focuses on the demographic characteristics (age and Aboriginal and Torres Strait Islander status) and the location where offences were committed.

Between 2005–06 and 2018–19, a total of 211,742 unique women and girls were sentenced in Queensland. This cohort accounted for nearly one-quarter (23.5%, $n=518,028$) of all sentenced cases in Queensland. The number of cases sentenced is greater than the number of unique women and girls sentenced due to some women and girls having more than one case sentenced within the data period (individuals with more than one sentenced case are classified as repeat offenders – see the discussion on recidivism in this profile for more information).

In total, over one million offences were sentenced for this cohort over the data period ($n=1,033,895$).

The vast majority of sentenced cases involved women ($n=494,995$, 95.6%), with less than 5 per cent of sentenced cases involving girls ($n=23,033$, 4.5%).

Focus of this report



211,742 sentenced women & girls



518,028 cases



1,033,895 offences

sentenced in Queensland courts between 2005–06 and 2018–19

2.1 Sentencing court

The vast majority of cases were sentenced at the Magistrates Courts level, for both women and girls (97.8%). Less than one per cent of cases were sentenced in the Supreme Court (0.4%) and 1.7 per cent were sentenced in the District Court.



Women

95.6%
of sentenced cases



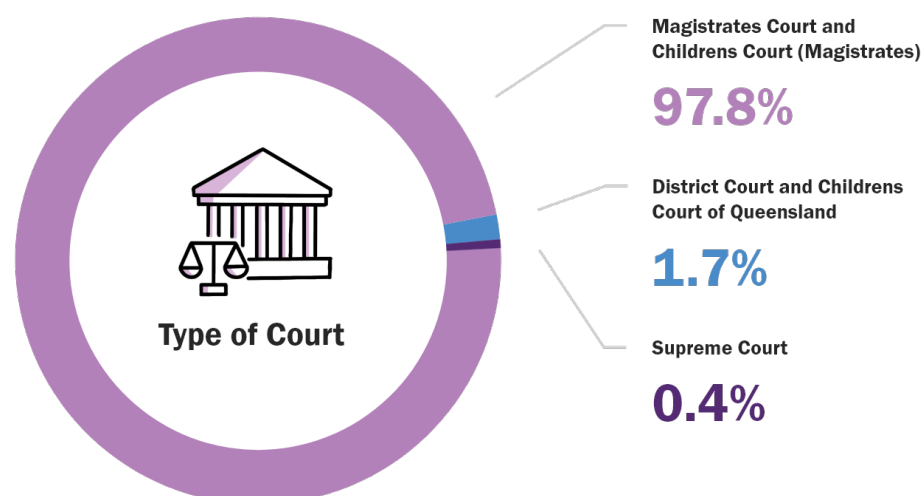
Girls

4.5%
of sentenced cases

Offences committed by children are dealt with by courts specialised in the sentencing of children. In Queensland, these are the Childrens Court (at the Magistrates Courts level) and the Childrens Court of Queensland (at the District Court level).¹⁴⁴

There was little variation between women and girls regarding the court level they were sentenced at. For girls, 96.0 per cent were sentenced at the Magistrates Court level, 3.9 per cent by the Childrens Court of Queensland (District Court level), and 0.1 per cent in the Supreme Court. Almost all women were sentenced at the Magistrates Courts (97.9 per cent), with only 1.6 per cent sentenced in the District Court and 0.4 per cent in the Supreme Court.

Figure 3: Type of sentencing court for women and girls



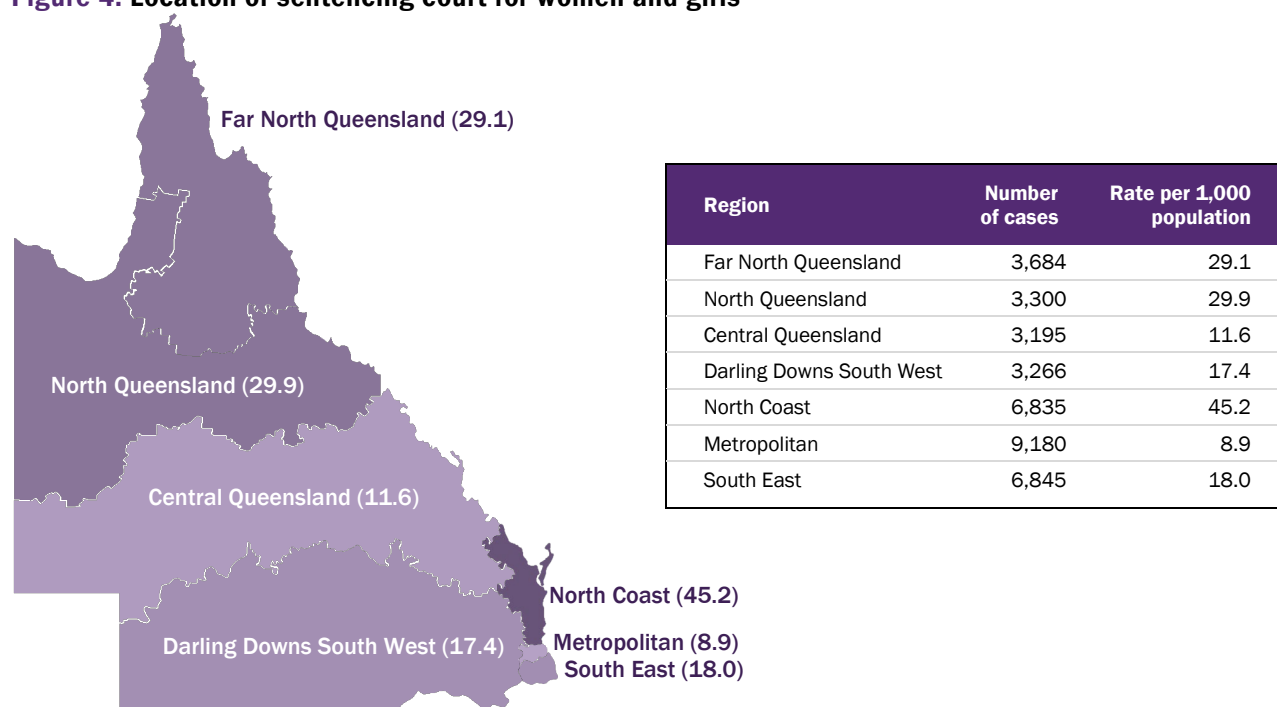
Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland. Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

¹⁴⁴ Magistrates Courts and the District Court have equivalent courts created by legislation, which can exercise the specific sentencing powers for children under the *Youth Justice Act 1992* (Qld).

2.1.1 Court location

The North Coast region had the highest rate of sentenced women and girls at 45.2 women and girls per 1,000 population (using 2019 population estimates) – see Figure 4. The North Coast region includes courts in the outer northern suburbs of Brisbane and the Sunshine Coast, up to Bundaberg and surrounds. The regions of North Queensland (including courts in Mount Isa, Townsville, and surrounds) and Far North Queensland (including courts in Cairns and Torres Strait Islands, among others) had the next highest rates per 1,000 population of women and girls, at 29.9 and 29.1 respectively. While the number of sentenced cases was highest in the Metropolitan region, this region had the lowest rate of sentenced women and girls at 8.9 per 1,000 population.

Figure 4: Location of sentencing court for women and girls



Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2018–19 in Queensland.

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

Notes: Rates calculated using estimated resident population data of females aged 10 and over, by Local Government Area from Australian Bureau of Statistics, *Regional population by age and sex*, as at 30 June 2019.

2.2 Number of cases over time

The rate of women sentenced in court has been declining since 2009–10, while the number of sentenced cases for women has increased.

The rate of unique women sentenced has been declining since 2009–10, taking into account changes in the population. In 2009–10, it reached a peak of 17.2 sentenced women per 1,000 population. The rate has since declined to a rate of 12.5 sentenced women per 1,000 population in 2018–19. It is important to note that in February 2018, legislation was introduced to move 17-year-olds from the adult criminal justice system to the youth justice system. This is explored in more detail in Figure 6. There were peaks and troughs in the number of women sentenced over the 14-year data period, with high points in 2009–10 and 2015–16.

This increase in cases in 2009–10 was primarily driven by increases in traffic and vehicle offences (driving offences involving alcohol or drugs and unlicensed driving being the most common offences) and public order offences (primarily public nuisance).

The 2009–10 spike in public order offences may be due, at least in part, to the introduction of the third phase of alcohol control strategies known as 'Alcohol Management Plans' (AMPs), which were implemented by the Queensland Government between 2008 and 2011 in many discrete Indigenous communities in Queensland.¹⁴⁵ The third phase of AMPs saw more stringent controls of liquor and supply. On 1 July 2008 the offence of attempting to bring alcohol into a restricted area was introduced, along with an increase in police powers to search and seize.¹⁴⁶ A review of the AMPs by the QGSO considered all people who were

¹⁴⁵ Alan R Clough and Katrina Bird, 'The Implementation and Development of Complex Alcohol Control Policies in Indigenous Communities in Queensland (Australia)' (2015) 26(4) *International Journal of Drug Policy* 345.

¹⁴⁶ Queensland Government Statistician's Office, *Alcohol Management Plan Review* (Queensland Treasury, December 2013).

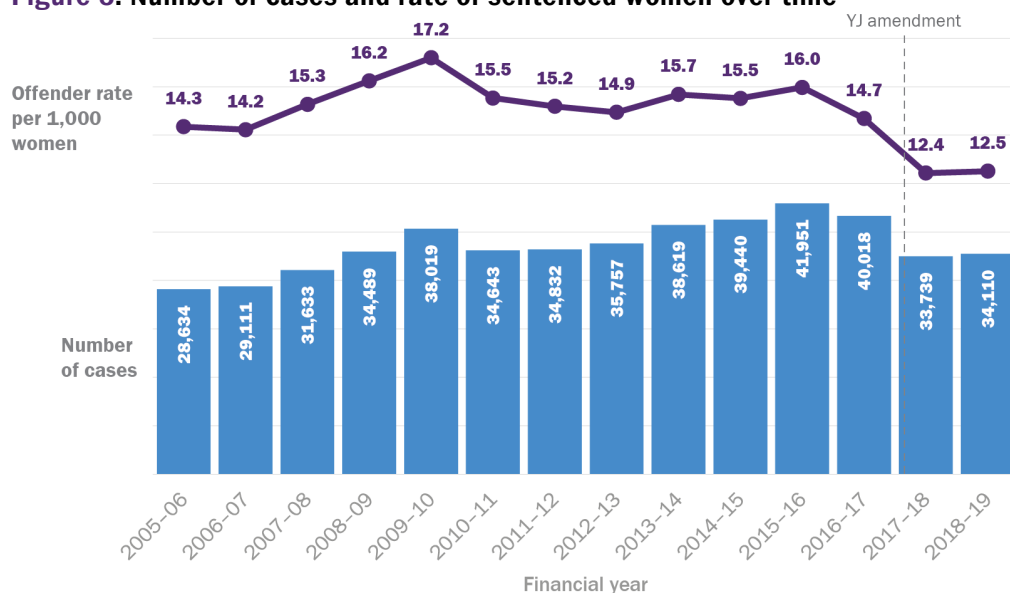
convicted of alcohol restriction related offences between 31 December 2002 and 30 June 2012.¹⁴⁷ The review found that one-third (33.9%) of these convictions were for offences committed by female offenders,¹⁴⁸ and of those, 40 per cent had more than one conviction for an alcohol-related offence.¹⁴⁹ The number of offences resulting in convictions more than doubled in 2008–09 and 2009–10, with 7,607 convicted offences occurring between 2008–09 and 2011–12, compared with just 3,728 convicted offences occurring between 2002–03 and 2007–08.¹⁵⁰

The number of women sentenced peaked in 2015–16 before it sharply declined again. This peak of 41,951 cases was an increase of 46.5 per cent from 2005–06, the lowest rate within the data period.

The peak in 2015–16 was driven by an increase in traffic and vehicle offences (unlicensed driving followed by drink driving), as well as an increase in sentenced drug offences (primarily possession of dangerous drugs).

The vast majority of offences committed by women are sentenced in the Magistrates Courts (97.8%). These offences are generally less serious offences. The high-level trends shown in Figure 5 are primarily driven by a few offence categories that are commonly sentenced for women in the Magistrates Courts, including driving without a licence, vehicle offences involving liquor or other drugs, possession of dangerous drugs, possession of drug utensils and public nuisance.

Figure 5: Number of cases and rate of sentenced women over time



Data includes MSO, women (adults), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Notes: 1) This diagram includes women aged 17+ (or aged 18+ for offences committed after 12 February 2018) based on their age at the time of committing the offence.

2) Rates were calculated using the estimated Queensland resident population (ERP) data for women aged 17+ (or aged 18+ for 2018–19) from Australian Bureau of Statistics, *National, state and territory population*, March 2020.

3) Cases where the person's age at the time of offence was unknown were excluded.

The rate of girls sentenced in court has been declining, while the number of sentenced cases involving girls increased steadily, peaking in 2018–19.

The rate of unique girls sentenced has declined since 2009–10, falling from 5.5 to 4.0 sentenced girls per 1,000 population. The inclusion of 17-year-olds in the youth justice system has resulted in an increase in the offender rate. This is because 17-year-olds are sentenced for a considerably

higher number of offences compared to 16-year-olds (further in section 2.4.1 below).

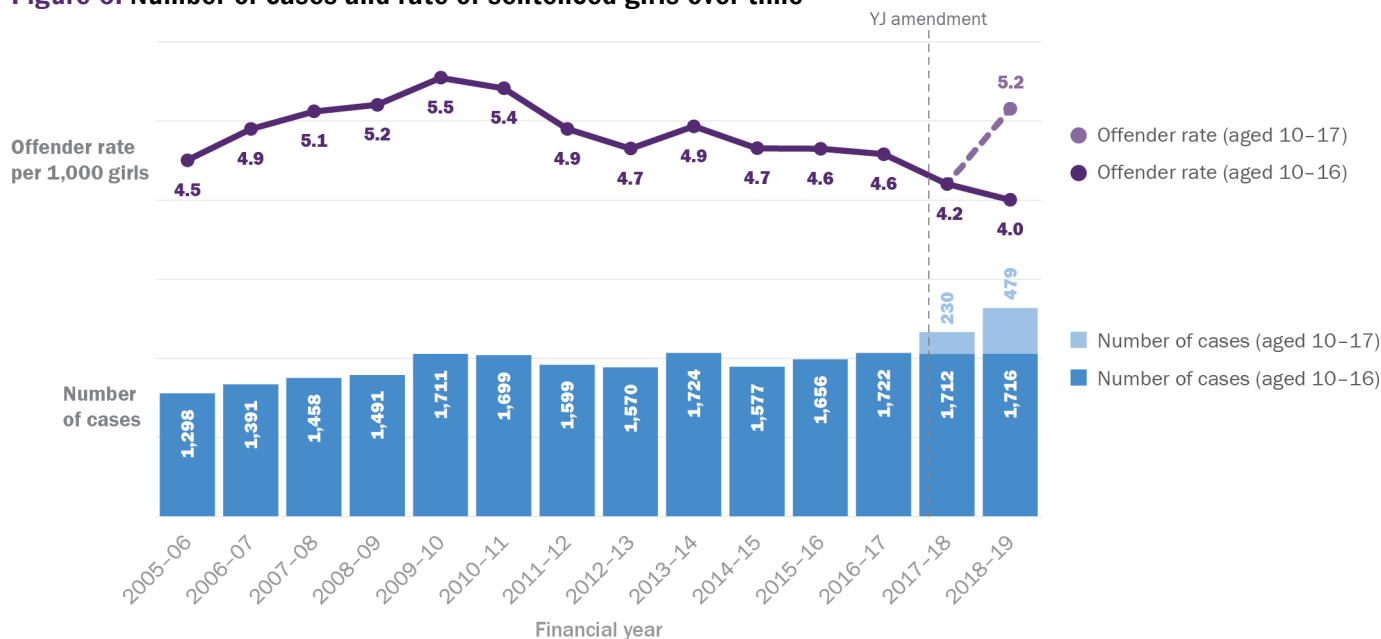
For girls aged 10–16, the number of sentenced cases has remained stable since 2009–10. However, the inclusion of 17-year-olds has resulted in an increase in the number of girls being dealt with as children in the criminal justice system.

¹⁴⁷ Ibid 6.

¹⁴⁸ Ibid 4.

¹⁴⁹ Ibid 10.

¹⁵⁰ Ibid 6.

Figure 6: Number of cases and rate of sentenced girls over time

Data includes MSO, girls (children), higher and lower courts, sentenced 2005-06 to 2018-19 in Queensland.

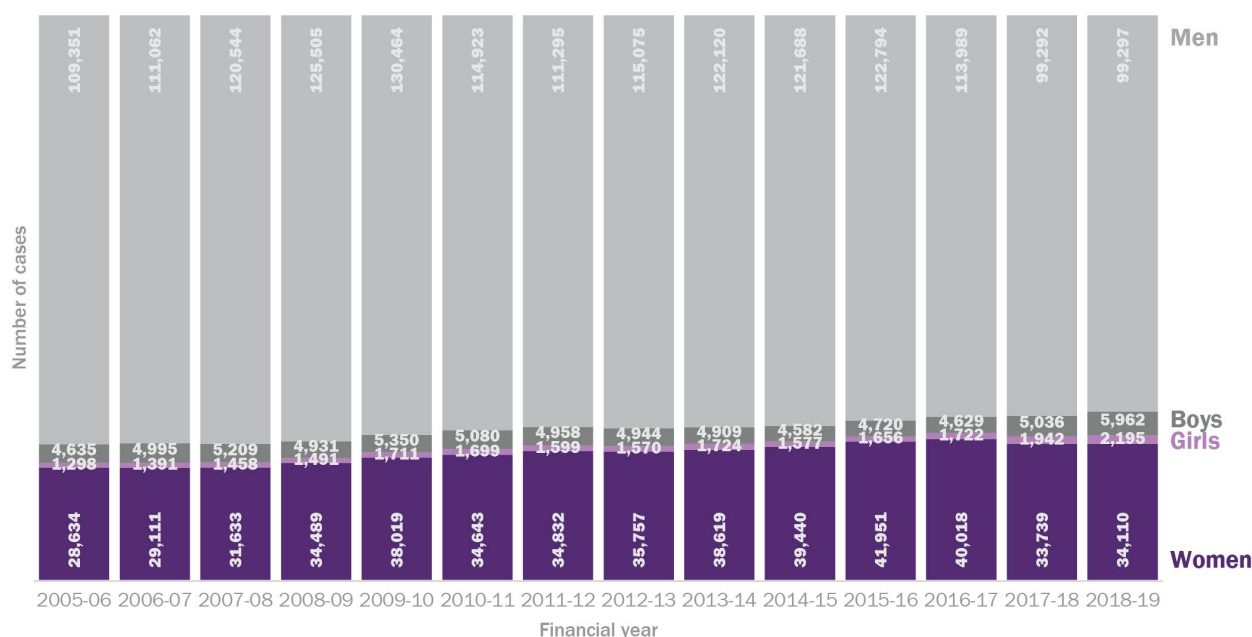
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Notes:

- 1) This diagram includes children aged 10 to 16 (or aged 10 to 17 for offences committed after 12 February 2018) based on their age at the time of committing the offence. Some of these children may be over the age of 18 at the time of sentence.
- 2) Rates were calculated using the estimated Queensland resident population (ERP) data aged 10 to 16/17 from Australian Bureau of Statistics, 'National, state and territory population', March 2020.
- 3) Cases where the person's age at the time of offence was unknown were excluded.

The proportion of cases involving women and girls steadily increased over the data period, from 20.8 per cent of sentenced cases in 2005-06 to 25.6 per cent in 2018-19,

peaking at 26.0 per cent of sentenced cases in 2016-17 – see Figure 7. For comparison, each year, approximately three-quarters of sentenced cases involved men and boys.

Figure 7: Number of sentenced cases over time, by cohort

Data includes women and men (adults) and girls and boys (children), higher and lower courts, sentenced 2005-06 to 2018-19 in Queensland.

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



2.3 Remoteness of offence location

Remote areas had the highest rate of sentenced women and girls compared to major cities and regional areas – see Figure 9. While Figure 8 shows that only 6.9 per cent of total offences (MSO) were committed in remote areas, the rate of sentenced women and girls was much higher, with 35.6 women and girls per 1,000 population (using 2019

population estimates). Major cities accounted for more than half of sentenced cases (55.5%) but had the lowest rate of sentenced women and girls at 9.9 per 1,000 population. Regional areas had the second highest rate of sentenced women and girls (14.1 per 1,000), accounting for more than one-third of sentenced women and girls (39.9%).

Figure 8: Number of sentenced women and girls by remoteness area

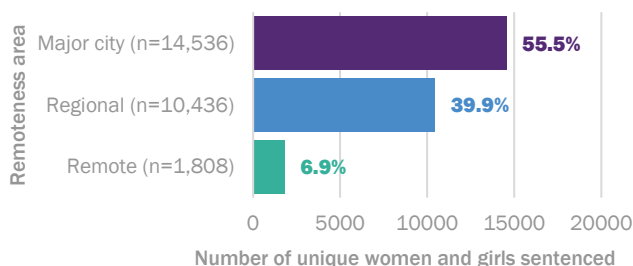
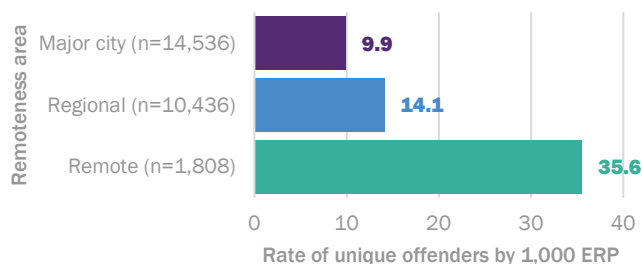


Figure 9: Rate of sentenced women and girls by remoteness area



Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2018–19 in Queensland.

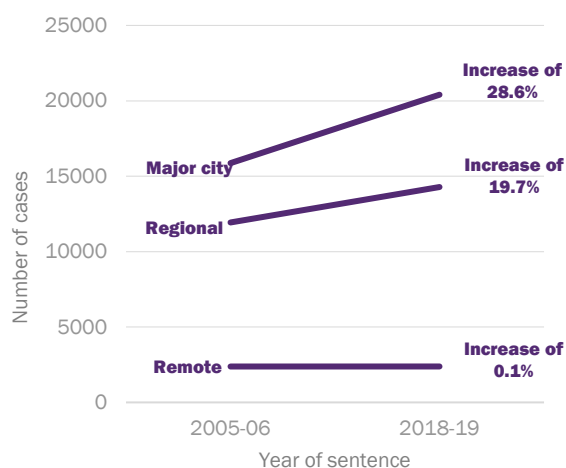
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Notes:

- 1) Cases in which the offence location was either unknown or interstate were excluded.
- 2) Percentages add to more than 100% as some women and girls committed offences across locations of different remoteness levels.
- 3) Rates were calculated using estimated resident population data by remoteness area for sentenced women and girls. Estimated resident population data was obtained from QGSO, 'Single year of age, by sex, by statistical area levels 1 and 2 (SA1 & SA2), Queensland LGAs and Tweed, 2011 to 2019'. To correspond SA1 data to remoteness areas, the QGSO 'Meshblock correspondence files (ASGS 2016)' were used.
- 4) Remoteness levels of offences were determined by mapping the postcode and suburb in which an offence was committed to a remoteness area using Australian Bureau of Statistics, 'Correspondence, 2017 Locality to 2016 Remoteness Area', Australian Statistical Geography Standard (ASGS): Volume 5 - Remoteness Structure, July 2016.

Over time, the number of sentenced cases involving offences committed in major cities and regional areas showed a slow and steady increase. Cases with offences committed in major cities increased 28.6 per cent from 2005–06 to 2018–19, while those in regional areas rose by 19.7 per cent. The number of cases that involved offences committed in remote locations saw almost no change.

Figure 10: Number of cases by remoteness area over time



Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland. Excludes cases where location information was not available.

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

2.4 Characteristics of sentenced women and girls

The ABS collects yearly national information on prisoners in custody as at 30 June. In Australia, in 2020–21:

- 7.7 per cent of prisoners were female;¹⁵¹
- most female adult prisoners were aged 30–34 (67.8%);
- Aboriginal and Torres Strait Islander prisoners accounted for over one-third (38%) of the total female prison population; and
- almost half of the women in prison were unsentenced (42.4%).¹⁵²

Research found that Aboriginal and Torres Strait Islander women and girls were more likely to enter the criminal justice system at a younger age than non-Indigenous women.¹⁵³

Queensland data indicates that the median age for female offenders in 2017–18 was 29 years, which has increased since 2008–09 (26 years).¹⁵⁴ Young female offenders were also responsible for fewer sentencing events – with female offenders younger than 25 years of age in 2008–09 responsible for almost half of all events (47.1%). In 2017–18, the same age group was only responsible for 37.2 per cent of all events.¹⁵⁵

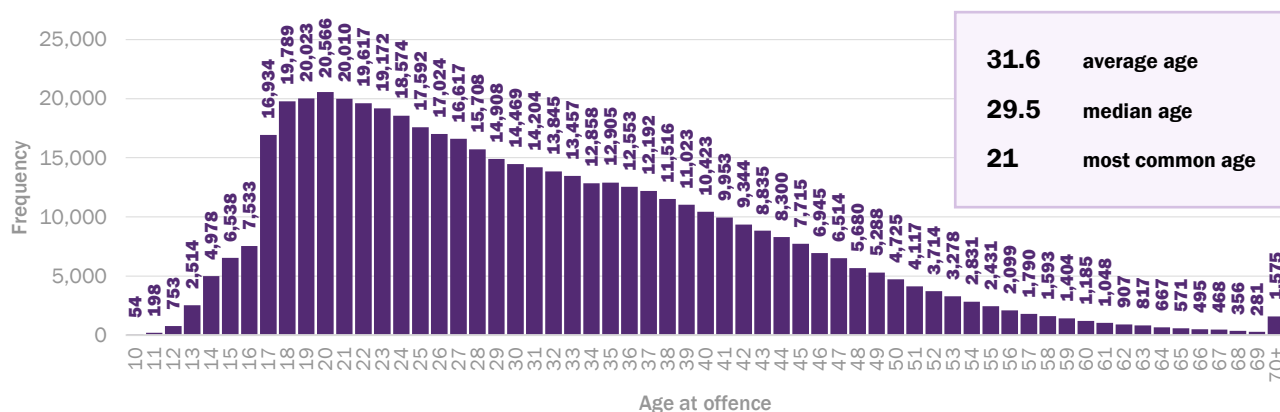
2.4.1 Age at offence

The most common age for offending was 21 years, with an average age of 31.6 including both data on women and girls (median 29.5 years). Age at offence ranged from 10 to 95 years. The average age at offence for women (sentenced as an adult) was 32.3, while the average age for girls was 15.4.

The figure below shows a considerable increase in the number of girls sentenced for offences occurring at age 17, increasing from 7,533 16-year-olds to 16,934 17-year-olds. Prior to February 2018, juveniles aged 17 were treated as adults for the purposes of sentencing in Queensland. Legislative amendments brought 17-year-olds into the youth justice system.¹⁵⁶

As 17-year-old girls were sentenced as adults for the majority of the data period, it may be that the increase in the number of girls sentenced for offences occurring at age 17 compared to age 16 is due to differences between the adult and juvenile justice system. For example, when 17-year-olds were sentenced as adults (as opposed to juveniles), they may have been less likely to be diverted, either by police or the courts.

Figure 11: Age at offence



Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland. Excludes cases where age at offence was unknown.

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

¹⁵¹ Australian Bureau of Statistics, *Prisoners in Australia, 2021* (9 December 2021) Table 1.

¹⁵² Australian Bureau of Statistics, *Prisoners in Australia, 2021* (9 December 2021).

¹⁵³ Department for Correctional Services (South Australia), *Strong Foundations and Clear Pathways: Women Offender Framework and Action Plan June 2014–June 2019* (Report, 2019) 14.

¹⁵⁴ Queensland Government Statistician's Office, *Changing Patterns in the Age Distribution of Crime in Queensland* (Crime Research Report, April 2021).

¹⁵⁵ Ibid 19.

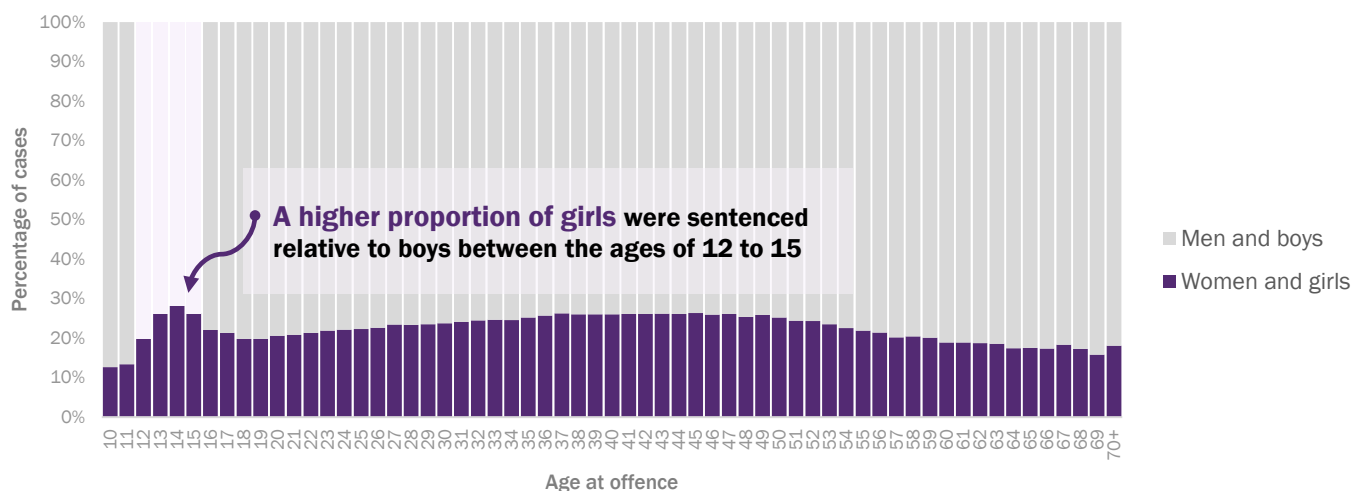
¹⁵⁶ *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016* (Qld).

There are several factors that might impact on the comparatively high proportion of 12–15-year-old girls sentenced in Queensland. As explored in the Council's report, *Kids in court: The sentencing of children in Queensland*, children and young people are more likely to come to the attention of police than adults, which may be a result of being less experienced at committing offences, committing offences in groups and in public areas, and the nature of their offending being attention-seeking and episodic,

unplanned or opportunistic.¹⁵⁷ These are factors which can contribute to the higher visibility of offending and the likelihood of several people being charged over a single incident.¹⁵⁸

Figure 12 shows an increase in the proportion of girls sentenced from ages 12 to 15, compared to boys. The proportion of girls peaked at age 14, with girls making up 28.1 per cent of sentenced 14-year-olds.

Figure 12: Age at offence of women and girls compared to men and boys



Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland. Excludes cases where age at offence was unknown.

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

¹⁵⁷ Chris Cunneen, Rob White and Kelly Richards, *Juvenile justice: Youth and Crime in Australia*. (Oxford University Press, 5th Edition, 6 November 2015) 55.

¹⁵⁸ Sentencing Advisory Council (Victoria), *Sentencing Children and Young People in Victoria*, (April 2021) 8 citing Jean-Marie McGloin and Alex R. Piquero, "I Wasn't Alone": Collective Behaviour and Violent Delinquency' (2009) 42(3) *Australian and New Zealand Journal of Criminology* 336. McGloin and Piquero's research was not confined with the Australian context, but criminological research has generally found that juvenile offending is frequently group-based: 'A routine finding in research on criminal careers concerns the group nature of juvenile delinquency. In fact, this finding is so consistent that virtually every serious criminological theory must confront (if not include) its observation'.

2.4.2 Over-representation of Aboriginal and Torres Strait Islander women and girls

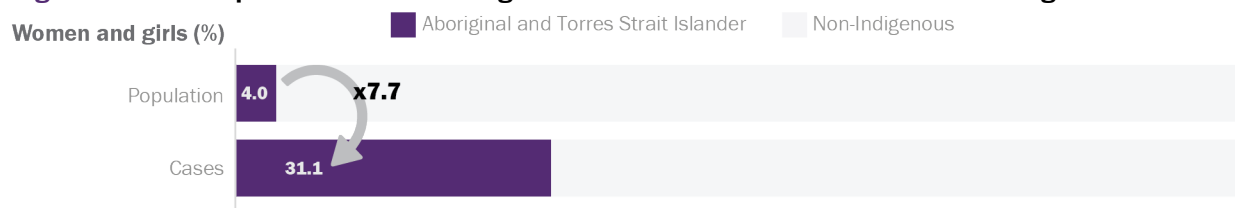
Aboriginal and Torres Strait Islander women and girls are highly over-represented in the Queensland criminal justice system. While Aboriginal and Torres Strait Islander women and girls make up 4.0 per cent of the Queensland population aged 10 and above, they represent 31.1 per cent (n=94,495) of cases involving a sentenced woman or girl between 2005–06 and 2018–19.¹⁵⁹

Women and girls are over-represented to an even higher degree compared to men and boys. By comparison, in 21.7

per cent of cases involving a male offender, the person identified as Aboriginal and/or Torres Strait Islander.¹⁶⁰

Over the 14-year data period, there has been little change in the proportion of Aboriginal and Torres Strait Islander women and girls sentenced in Queensland, with the figure below showing only a slight decreasing trend. Each year, approximately one-third of cases involving a sentenced female were for Aboriginal and Torres Strait Islander women and girls. This decreased to approximately one-quarter from 2015–16 – see Figure 14.

Figure 13: Over-representation of Aboriginal and Torres Strait Islander women and girls in sentenced cases



Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

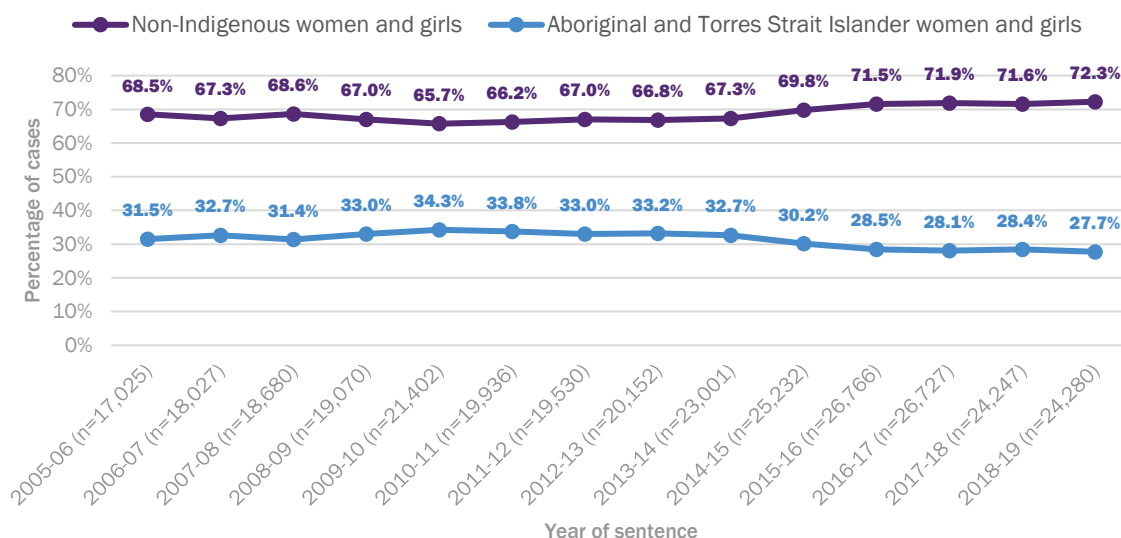
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Estimated resident population data obtained from Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians, June 2016*.

Notes:

- 1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

Figure 14: Aboriginal and Torres Strait Islander status over time



Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Notes:

- 1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

¹⁵⁹ Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences. Also excludes cases where the Aboriginal and Torres Strait Islander status of the women or girl was unknown.

¹⁶⁰ Queensland Sentencing Advisory Council, *Baseline Report: The Sentencing of People in Queensland* (Sentencing Profile, May 2021).

The level of over-representation of Aboriginal and Torres Strait Islander girls is even higher, in line with the generally higher over-representation amongst Aboriginal and Torres Strait Islander children compared to adults. Nearly half of all sentenced girls (46.9%), compared to just under one-third of

sentenced women (29.9%), identified as Aboriginal and Torres Strait Islander. By comparison, 45.6 per cent of sentenced boys and 20.0 per cent of sentenced men identified as Aboriginal and Torres Strait Islander.

Table 1: Aboriginal and Torres Strait Islander status by women and girls

Aboriginal and Torres Strait Islander status	Women (n=282,191)	Girls (n=21,884)
Non-Indigenous	70.2%	53.1%
Aboriginal and Torres Strait Islander	29.9%	46.9%

Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Notes:

- 1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences

The proportion of sentenced Aboriginal and Torres Strait Islander girls has, overall, been stable over the data period. However, there have been numerous small fluctuations –

see Figure 15. The proportion of Aboriginal and Torres Strait Islander girls was lowest in 2008–09 at 41.9 per cent and highest in 2014–15 at just over half (51.8%).

Figure 15: Aboriginal and Torres Strait Islander status of sentenced girls over time



Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

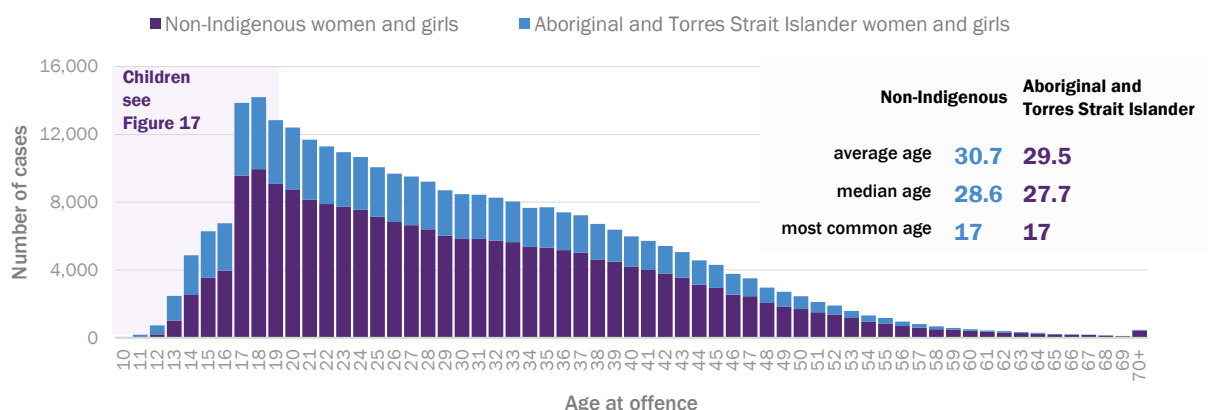
Notes:

- 1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

There was little difference in the age of sentenced women and girls by Aboriginal and Torres Strait Islander status, with similar average, median and mode (most common) ages. While there is a high volume of Aboriginal and Torres Strait Islander girls under 18 years of age at offence (see Figure 16), overall, this group makes up a small proportion of the

total number of sentenced women and girls and does not have a large effect on the average or median age.

The purple box in Figure 16 highlights the high proportion of Aboriginal and Torres Strait Islander girls aged 18 years and under. This is further explored in Figure 17 below.

Figure 16: Proportion of Aboriginal and Torres Strait Islander people by age

Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

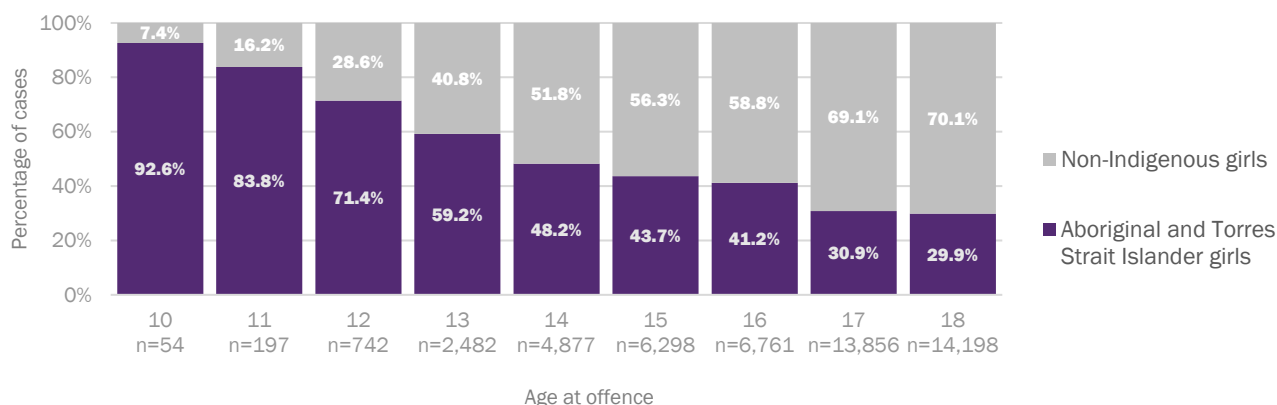
Notes:

- 1) Excludes cases where age and/or Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

While noting the small sample size (n=54), the vast majority of girls who were sentenced for an offence at age 10 were Aboriginal and Torres Strait Islander (92.6%). Figure 17 focuses on all girls aged 18 and under at offence and shows that the proportion of Aboriginal and Torres Strait Islander girls increases as the age (at offence) decreases.

These findings are consistent with previous research findings that Aboriginal and Torres Strait Islander girls are more likely to have contact with police and the criminal justice system at an earlier age than non-Indigenous girls.¹⁶¹ Research has shown that there are many factors that may be related to offending by Aboriginal and Torres Strait pre-teen girls, such

as the type and nature of offending, as well as exposure to risk factors, including experiencing residential or foster care arrangements.¹⁶² A New South Wales study of 111 Children's Court criminal files found that 26 per cent of the girls in their sample were in out-of-home care and that 60 per cent of those girls in care were of Aboriginal and Torres Strait Islander descent.¹⁶³ This study also found that half of the young women who were identified as being in care were facing the court for property damage offences committed in foster care or against a group home or other facility in which they lived.¹⁶⁴ In comparison, none of the female non-care cohort had been charged with property damage offences.¹⁶⁵

Figure 17: Aboriginal and Torres Strait Islander status of girls aged 18 and under at offence

Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Notes:

- 1) Excludes cases where age and/or Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

¹⁶¹ See for example: Department for Correctional Services (South Australia), *Strong Foundations and Clear Pathways: Women Offender Framework and Action Plan June 2014-June 2019* (Report, 2019) 14; Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business: Koori Women and the Justice System* (Report 2013).

¹⁶² See Queensland Sentencing Advisory Council, *Kids in Court: The Sentencing of Children in Queensland* (Report, 2021) for research on offending of children.

¹⁶³ Katherine MacFarlane, 'From Care to Custody: Young Women in Out-of-Home Care in the Criminal Justice System' (2018) 22(2) *Current Issues in Criminal Justice* 345, 346.

¹⁶⁴ Ibid 347.

¹⁶⁵ Ibid.

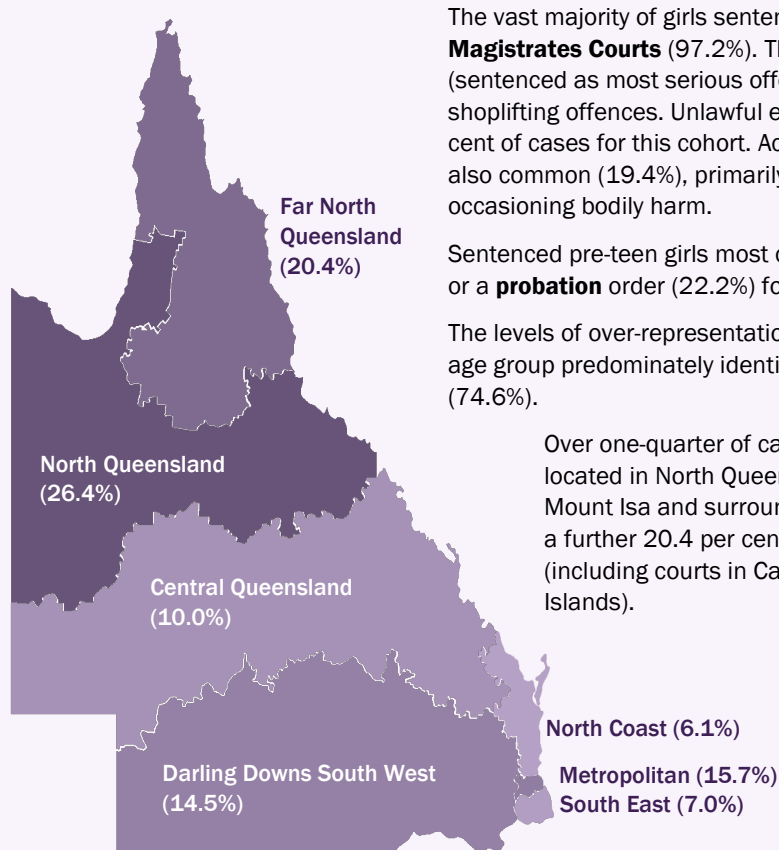
2.4.3 Sentenced pre-teen girls aged 12 years or under

There were 1,005 cases sentenced from 2005–06 to 2018–19 for offences committed by girls when they were aged 12 years or under.

Previous research has sought to explain why young people engage in offending behaviour. Young people may lack the cognitive and emotional maturity to consider the likely consequences of their actions, may have less impulse control, and increased sensitivity to peer pressure while the adolescent brain is still under development.¹⁶⁶ Young people are also more likely to have been exposed to risk factors and less likely to have been exposed to protective factors.

These can include individual-level factors (e.g. substance use and mental health), interpersonal level factors (e.g. adverse childhood experiences, family issues, and peer pressure), community-level factors (e.g. poverty, unemployment, housing, and education), and structural/societal-level factors (e.g. availability of resources, and social class).¹⁶⁷ Most sentenced youth 'grow out' of offending and do not continue offending into adulthood.¹⁶⁸

Pre-teen girls



The vast majority of girls sentenced in this cohort were sentenced in the **Magistrates Courts** (97.2%). The most common offence category (sentenced as most serious offence) was **theft** (33.3%) — primarily shoplifting offences. Unlawful entry offences were sentenced in 20.0 per cent of cases for this cohort. Acts intended to cause injury offences were also common (19.4%), primarily common assault and assaults occasioning bodily harm.

Sentenced pre-teen girls most commonly received a **reprimand** (36.4%) or a **probation** order (22.2%) for the most serious offence sentenced.

The levels of over-representation in this cohort are very high. Girls in this age group predominately identify as Aboriginal and Torres Strait Islander (74.6%).

Over one-quarter of cases (26.4%) were sentenced in courts located in North Queensland (this includes courts in Townsville, Mount Isa and surrounds, and up to the Gulf of Carpentaria) and a further 20.4 per cent were sentenced in Far North Queensland (including courts in Cairns and surrounds, up to the Torres Strait Islands).

The 1,005 sentenced cases involving offences committed by girls aged 12 years and under involved **470 unique girls**. Close to half of these unique girls (43.4%, n=204/470) were repeat offenders while aged 12 or below, meaning they were sentenced more than once for offences committed while aged 12 years or under.

Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

¹⁶⁶ Queensland Sentencing Advisory Council, *Kids in Court: The Sentencing of Children in Queensland* (Report, 2021).

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.



Chapter 3 — Trends in offending

This chapter provides an overview of the most common offences committed by women and girls in Queensland, sentenced between 2005–06 and 2018–19. This analysis considers differences in offending patterns over time, by location, and by Aboriginal and Torres Strait Islander status. Trends in recidivism are also considered. In this chapter, all offences were analysed, not just the MSO.

3.1 Most common offences

The three most common categories of offences sentenced for women and girls were traffic and vehicle offences, justice and government offences, and theft. For comparison, the three most common categories for men and boys were traffic and vehicle offences, justice and government offences, and public order offences.

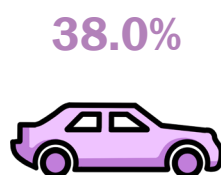
Traffic and vehicle offences pertain to the licensing, registration, roadworthiness and use of vehicles (including bicycle and pedestrian offences) that are finalised in court. It does not include traffic offences finalised outside of the court process, such as on-the-spot fines.

Almost half of all traffic and vehicle offences involved unlicensed driving (45.7%, n=89,898), while one-third of cases were for drink or drug driving (32.8%, n=64,635).

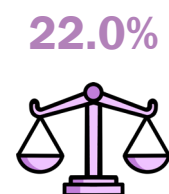
Justice and government offences include breaches of custodial and community-based orders, breaches of domestic violence orders, and other offences against government operations and security.

Nearly one-third involved contravening the direction or requirement of a police officer (31.8%, n=36,145) and nearly one-quarter were for breaching bail requirements by failing to appear (24.0%, n=27,318).

Theft offences include the taking of money or goods without the use of force, violence or coercion. The most common offences in this category were unauthorised dealing with shop goods (also known as shoplifting, 41.1%, n=34,546) and stealing (37.1%, n=31,219).¹⁶⁹



Traffic and vehicle offences



Justice and government offences

16.2%



Theft offences

TOP 10 most common offences

The majority of offences women and girls are sentenced for are on the lower end of seriousness — this is consistent with the research literature.

Unlicensed driving was the most common offence with 17.4 per cent of cases, followed by drink or drug driving comprising 12.5 per cent of cases. Minor drug offences and public nuisance were the next most common offences.

Table 2: Most common offences sentenced

1		Unlicensed driving	17.4%
2		Drink or drug driving	12.5%
3		Possessing dangerous drugs	9.1%
4		Possession of drug utensils	8.4%
5		Public nuisance	7.8%
6		Contravene direction of police officer	7.0%
7		Shoplifting	6.7%
8		Stealing	6.0%
9		Breach of bail - failure to appear	5.3%
10		Assault or obstruct police officer	4.9%

Men and boys have similar common offences with unlicensed driving (17.1% of cases) and drink or drug driving (14.3% of cases) as the top offences. Public nuisance is ranked slightly higher for men and boys (9.5% of cases) — see Tables 1, 4 and 5 of the *Baseline Report* for comparison.¹⁷⁰

¹⁶⁹ Unauthorised dealing with shop goods (also known as shoplifting) includes behaviours where the value of the item is \$150 or less. If the value of the goods is more than \$150, then a person can be charged with stealing. Stealing is more serious than shoplifting as it is a crime (rather than a regulatory offence). Stealing involves taking something that belongs to another person without their consent and keeping it with no intention of giving it back.

¹⁷⁰ See Queensland Sentencing Advisory Council, *Baseline Report: The Sentencing of People in Queensland* (Sentencing Profile, May 2021) 24–25.

3.2 Sentenced offences by court level

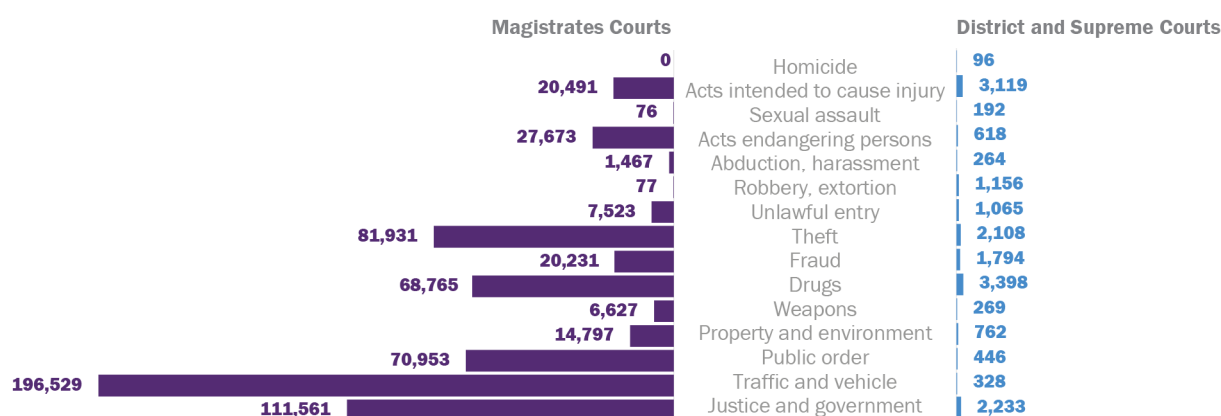
Most sentenced offences were finalised in the Magistrates Courts and generally involved less serious forms of offending. Traffic and vehicle offences were the most common type of offence sentenced at the Magistrates Courts level (38.8% of cases). Close to one-quarter of cases involved justice and government offences (22.0%). Theft, public order, and drug offences each made up approximately 15 per cent of cases.

In the District and Supreme Courts, 30.3 per cent of cases involved drug offences. A further 27.8 per cent involved acts

intended to cause injury offences and 18.8 per cent of cases involved theft offences.

While 19.9 per cent of cases sentenced in the higher courts involved a justice and government offence, less than half of these had a justice and government offence as the most serious offence (42.0%). This means that the case was heard in the higher courts due to the level of seriousness of other offences sentenced at the same time.

Figure 18: Types of offences sentenced by type of court



Data includes women (adults) and girls (children), lower and higher courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Note: Cases that involve multiple offences are counted multiple times.

The most common offences sentenced in the Magistrates Courts were unlicensed driving followed by drink or drug driving (17.7% and 12.7% of cases respectively). Possession of drugs (8.9%) and possession of drug utensils (8.3%) were the next most common and were often charged together.

In the higher courts, drug offences were most common. This included drug possession (18.1% of cases), supplying

drugs (14.0% of cases), and trafficking of dangerous drugs (7.6% of cases). These cases often involved multiple charges of different types of drug offences. The drug offences sentenced in the higher courts were more serious than those sentenced in the Magistrates Courts. Common offences sentenced in the higher courts also included fraud (11.7% of cases), assaults occasioning bodily harm (11.4% of cases), and stealing (9.6% of cases).

Table 3: Top 10 offences sentenced by court level

Magistrates Courts	1	Unlicensed driving Traffic and vehicle	17.7%	18.1%	Possessing dangerous drugs Drugs	1
	2	Drink or drug driving Traffic and vehicle	12.7%	14.4%	Possession of drug utensils Drugs	2
	3	Possessing dangerous drugs Drugs	8.9%	14.0%	Supplying dangerous drugs Drugs	3
	4	Possession of drug utensils Drugs	8.3%	11.7%	Fraud Fraud	4
	5	Public nuisance Public order	7.9%	11.4%	Assaults occasioning bodily harm Acts intended to cause injury	5
	6	Contravene direction of police officer Justice and government	7.1%	9.6%	Stealing Theft	6
	7	Shoplifting Theft	6.8%	8.3%	Robbery Robbery, extortion	7
	8	Stealing Theft	5.9%	7.6%	Trafficking in dangerous drugs Drugs	8
	9	Breach of bail - failure to appear Justice and government	5.4%	6.8%	Burglary Unlawful entry	9
	10	Assault or obstruct police officer Justice and government	4.9%	6.3%	Wounding Acts intended to cause injury	10

Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Note: Cases that involve multiple offences are counted multiple times.



3.3 Differences in sentenced offences between women and girls

The type of offences committed by women is different to those committed by girls.

Traffic and vehicle offences were the most common category for women (39.4%). For girls, nearly half of all sentenced cases involved theft (48.4%), followed by public order offences (27.6%).

Justice and government offences were common for both women and girls (21.8% and 24.3% respectively).

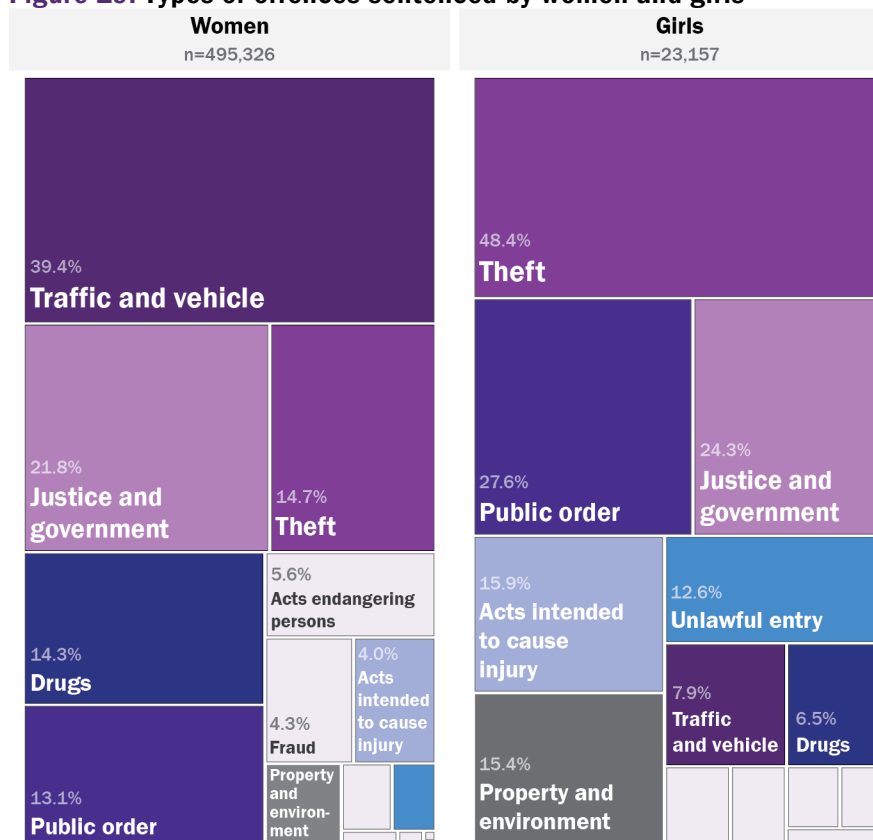
Drug offences were higher for women (14.3%) than girls (6.5%). Girls had a higher proportion of cases sentenced for acts intended to cause injury (15.9%), robbery (2.3%), and unlawful entry (12.6%) than women.

The most common offences for women were traffic offences, including unlicensed driving (17.9%), followed by drink or drug driving (13.0%). Low level drug offences were also common, including possession of drugs and possession of drug utensils (9.3% and 8.6% of cases).

Theft offences were the most commonly sentenced type of offence for girls with stealing (19.4% of cases) most common, followed by unauthorised dealing with shop goods (18.7%; also known as shoplifting). This was followed by public nuisance (16.0%) and wilful damage (14.1%).

This analysis presented above is consistent with previous research finding that reasons for offending differ between

Figure 19: Types of offences sentenced by women and girls



Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland. Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019. **Note:** Totals may add to more than 100% as people may be sentenced for multiple types of offences in one case.

women and girls. As explored earlier, the offending of young people and children is commonly associated with poor cognitive and emotional maturity and an increased likelihood to take risks and be receptive to peer pressure.¹⁷¹

Table 4: Top 5 offences sentenced by women and girls

Women	1	Unlicensed driving Traffic and vehicle	17.9%	19.4%	Stealing Theft		1	Girls
	2	Drink or drug driving Traffic and vehicle	13.0%	18.7%	Shoplifting Theft		2	
	3	Possessing dangerous drugs Drugs	9.3%	16.0%	Public nuisance Public order		3	
	4	Possession of drug utensils Drugs	8.6%	14.1%	Wilful damage Property and environment		4	
	5	Public nuisance Public order	7.4%	12.4%	Assault or obstruct police officer Acts intended to cause injury		5	

Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Note: Cases that involve multiple offences are counted multiple times.

¹⁷¹ See Queensland Sentencing Advisory Council, *Kids in Court: The Sentencing of Children in Queensland* (Sentencing Profile, 2021).

3.3.1 Offence types by Aboriginal and Torres Strait Islander status

The largest differences in offending patterns by Aboriginal and Torres Strait Islander status were found for public order, drug, and theft offences. While non-Indigenous women and girls were sentenced for a higher proportion of drug and theft offences, Aboriginal and Torres Strait Islander women and girls were sentenced for a higher proportion of public order offences. Cases involving traffic and vehicle regulatory offences and dangerous or negligent operation of a vehicle were excluded from the analysis in this sub-section due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

In fact, public order offences comprised nearly half of all cases sentenced for Aboriginal and Torres Strait Islander women and girls (42.5% compared to only 13.5% of cases involving non-Indigenous women). This finding is consistent with published research on public order offences, an offence associated with high levels of policing discretion. For example, a Victorian study in 2006–07 found that Koori people (men and women) were '10.7 times more likely to be processed for public order offences than the general population'¹⁷² and attributed this rate to over-policing in some communities.¹⁷³

The number of cases involving public order offences for Aboriginal and Torres Strait Islander women and girls has decreased by 14.5 per cent between 2005–06 and 2018–19 — see section 3.4.2.

Justice and government offences made up a large proportion of cases for both Aboriginal and Torres Strait Islander women and girls and non-Indigenous women and girls (35.0% and 36.0% respectively). Drug offences were considerably higher for non-Indigenous women and girls (27.6%) compared to Aboriginal and Torres Strait Islander women and girls (11.7%). Theft offences were also higher for non-Indigenous women and girls.

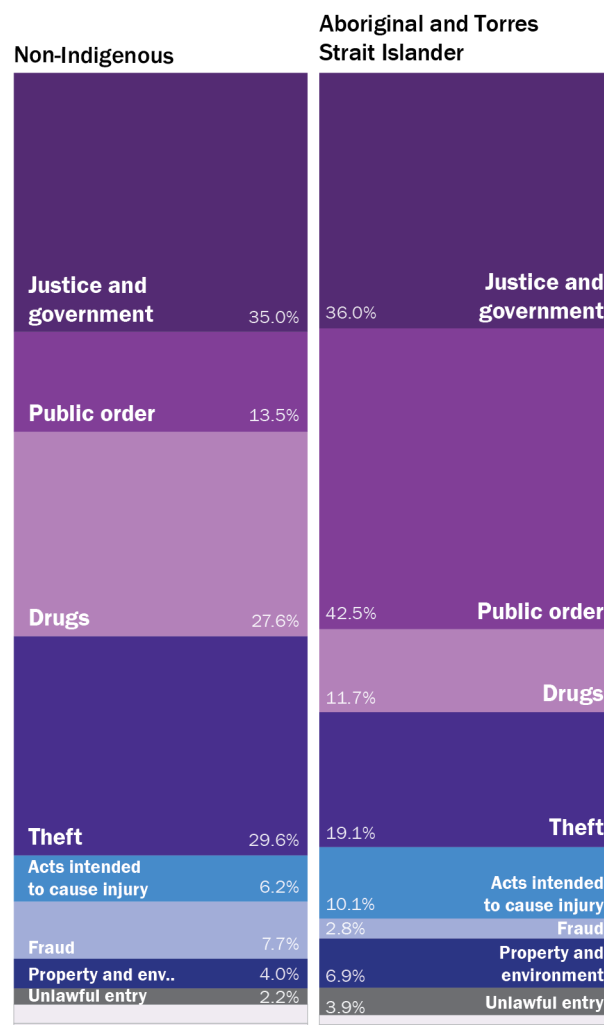
Table 5 (on the following page) shows the most common offence categories for each cohort.

There were considerable differences between the most common offences for Aboriginal and Torres Strait Islander women compared to non-Indigenous women.

Drug offences were considerably more common for non-Indigenous women and public order offences were much higher for Aboriginal and Torres Strait Islander women compared to the other cohorts.

For girls, the results were less variable depending on Aboriginal and Torres Strait Islander status. Theft offences made up just over half of all sentenced cases, followed by public order and justice and government offences. It was slightly more common for Aboriginal and Torres Strait Islander girls to be sentenced for these offences. Unlawful entry was also considerably higher for Aboriginal and Torres Strait Islander girls at 18.1 per cent compared to other cohorts.

Figure 20: Types of offences sentenced by Aboriginal and Torres Strait Islander status



Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland. Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Notes:

- 1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.
- 3) Totals may add to more than 100% as people may have been sentenced for multiple types of offences in one case.

The only shared common offence between these groups was contravening a direction of a police officer—all other most common offences were different, clearly demonstrating that offending patterns differ between Aboriginal and Torres Strait Islander and non-Indigenous women.

¹⁷² State of Victoria, Office of Police Integrity, *Talking Together – Relations between Police and Aboriginal and Torres Strait Islanders in Victoria: A Review of the Victoria Police Aboriginal Strategic Plan 2003–2008* (Strategic Plan, 2011) 20.

¹⁷³ See also Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business: Koori Women and the Justice System* (Report 2013) which explores 'over-policing' of Aboriginal and Torres Strait Islander people and policing discretion.

Public nuisance was the most common offence for Aboriginal and Torres Strait Islander women, with nearly one-quarter of cases involving this offence (23.4%). This was followed by contravening a direction or requirement of a police officer (11.0%).

For non-Indigenous women, the most common offences were drug related – possession of drugs and possession of drug utensils – in 19.2 per cent and 17.3 per cent of cases.

The most common offences were more similar for girls, with 4 of the top 5 offences being the same for Aboriginal and Torres Strait Islander and non-Indigenous girls.

Theft offences were most common for both cohorts – for non-Indigenous girls shoplifting was more common (21.8% of cases), while for Aboriginal and Torres Strait Islander girls stealing was more common (22.2% of cases).¹⁷⁴ Shoplifting includes behaviours where the value of the item is \$150 or less, whereas if the value of the goods is more than \$150, a person can instead be charged with stealing. Stealing is more serious than shoplifting as it is a crime, whereas shoplifting is a regulatory offence.

Table 5: Types of offences sentenced by age and Aboriginal and Torres Strait Islander status

Offence category	Aboriginal and Torres Strait Islander		Non-Indigenous	
	Women	Girls	Women	Girls
Homicide	0.0%	0.0%	0.0%	0.0%
Acts intended to cause injury	9.3%	16.7%	5.7%	16.5%
Sexual assault	0.1%	0.0%	0.1%	0.1%
Acts endangering persons	0.4%	0.7%	0.4%	0.8%
Abduction, harassment	0.4%	0.5%	0.6%	1.1%
Robbery, extortion	0.2%	2.4%	0.2%	2.4%
Unlawful entry	2.2%	18.1%	1.8%	8.8%
Theft	15.3%	50.6%	28.4%	50.5%
Fraud	2.9%	2.1%	8.0%	3.5%
Drugs	12.6%	4.4%	28.7%	8.8%
Weapons	1.4%	1.2%	2.6%	1.9%
Property and environment	5.6%	17.9%	3.4%	14.5%
Public order	43.7%	32.2%	12.8%	25.9%
Justice and government	37.2%	26.4%	35.6%	24.4%
Total (N)	86,415	10,360	206,882	11,732






Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland. Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Notes:






- 1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.
- 3) Totals may add to more than 100% as people may be sentenced for multiple types of offences in one case.

Table 6: Top 5 offences sentenced by age and Aboriginal and Torres Strait Islander status






Aboriginal and Torres Strait Islander women

1	 Public nuisance Public order	23.4%
2	 Contravene direction of police officer Justice and government	11.0%
3	 Breach of bail - failure to appear Justice and government	9.6%
4	 Possession of liquor in restricted area Public order	8.5%
5	 Assault or obstruct police officer Justice and government	8.0%






Non-Indigenous women

19.2%	Possessing dangerous drugs Drugs	 1
17.3%	Possession of drug utensils Drugs	 2
12.5%	Shoplifting Theft	 3
12.3%	Contravene direction of police officer Justice and government	 4
10.3%	Stealing Theft	 5

Aboriginal and Torres Strait Islander girls

1	 Stealing Theft	22.2%
2	 Public nuisance Public order	18.7%
3	 Shoplifting Theft	16.8%
4	 Wilful damage Property and environment	16.7%
5	 Unlawful entry (and commit offence) Unlawful entry	13.5%

Non-Indigenous girls

21.8%	Shoplifting Theft	 1
18.5%	Stealing Theft	 2
15.1%	Public nuisance Public order	 3
13.3%	Assault or obstruct police officer Justice and government	 4
13.0%	Wilful damage Property and environment	 5

Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland. Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Notes:

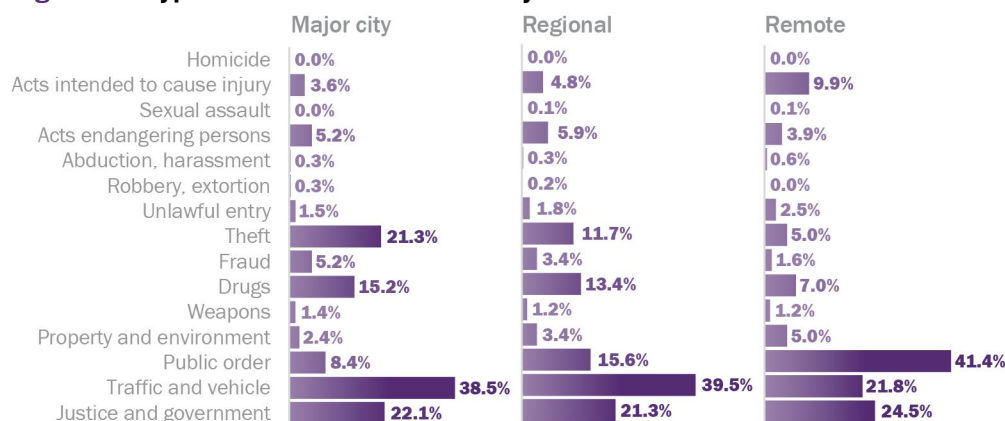
- 1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.
- 3) Cases that involve multiple offences are counted multiple times.

¹⁷⁴ The offence of 'shoplifting' refers to unauthorised dealing with shop goods under s 5 of the *Regulatory Offences Act 1985* (Qld).



3.3.2 Offences by location

Figure 21: Types of offences sentenced by location



Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Note: Totals may add to more than 100% as people may be sentenced for multiple types of offences in one case.

Public order offences were predominantly sentenced in remote locations, with public order being the highest offence category of sentenced cases for women and girls for this location at 41.4 per cent. In comparison, public order offences were low in major cities (8.4%).

Traffic and vehicle offences were the most common type of offence in both major cities and regional areas (38.5% and 39.5% respectively). Justice and government offences were similar in proportion across each location.

Theft offences were higher in major cities (21.3%), while acts intended to cause injury offences were higher in remote locations (9.9% compared to 3.6% and 4.8%). Drug

offences were also higher in major cities and regional areas compared to remote locations.

Driving without a licence was the most common offence sentenced for women and girls in both major cities and regional areas (18.6% and 19.3% of cases, respectively), followed by vehicle offences involving liquor or drugs (12.9% and 14.9% of cases).

In major cities, possession of drugs was the third most common, while in regional areas it was public nuisance.

In remote locations, public nuisance was the most common offence (19.3%), followed by possession of liquor in a restricted area (14.9%).

Table 7: Top 5 offences sentenced by location

Major cities n=275,606	Regional areas n=210,947	Remote areas n=37,466
1 Unlicensed driving Traffic and vehicle 18.6%	1 Unlicensed driving Traffic and vehicle 19.3%	1 Public nuisance Public order 19.3%
2 Drink or drug driving Traffic and vehicle 12.9%	2 Drink or drug driving Traffic and vehicle 14.9%	2 Possession of liquor in restricted area Public order 14.9%
3 Possessing dangerous drugs Drugs 9.9%	3 Public nuisance Public order 12.9%	3 Unlicensed driving Traffic and vehicle 12.9%
4 Shoplifting Theft 9.3%	4 Possessing dangerous drugs Drugs 7.5%	4 Drink or drug driving Traffic and vehicle 7.5%
5 Possessing drug utensils Drugs 8.6%	5 Possessing drug utensils Drugs 6.2%	5 Assault or obstruct police officer Justice and government 6.2%

Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Note: Cases that involve multiple offences are counted multiple times.

3.4 Change in offences over time

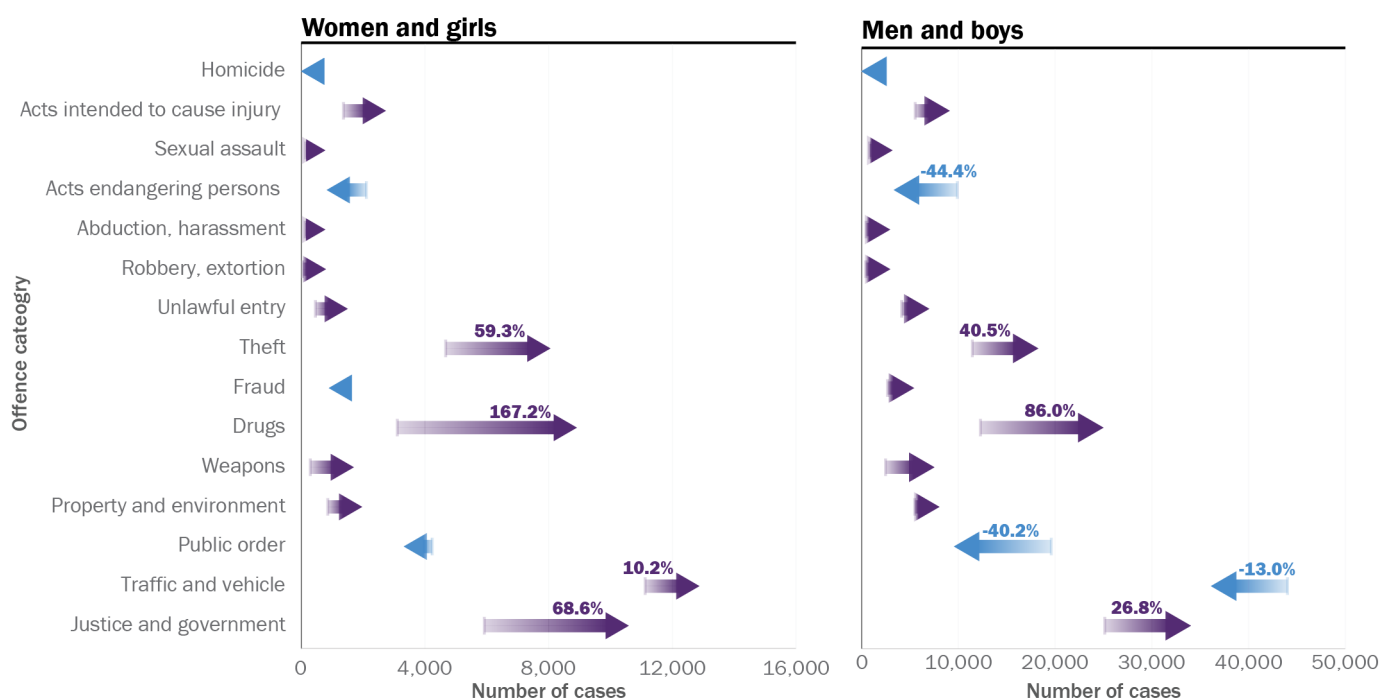
Drug offences showed the largest increase in the volume of cases between 2005–06 and 2018–19, increasing by 167.2 per cent, from 3,104 cases in 2005–06 to 8,293 cases in 2018–19. This makes drug offences the third most common offence category in 2018–19 (after traffic and vehicle offences and justice and government offences). Justice and government offences increased 68.6 per cent between 2005–06 and 2018–19. Theft offences also increased by 59.3 per cent. Traffic offences increased by 10.2 per cent and this was the most common offence category in both 2005–06 and 2018–19.

There are both similarities and differences in the change in offences over time for women and girls compared to men

and boys. Figure 22 shows the volume and percentage change from 2005–06 to 2018–19 in the number of cases sentenced for each offence category for women and girls compared to men and boys.

Theft, drug offences and justice and government offences increased for both women and girls and men and boys. However, the rate of increase was higher for women and girls. The percentage increase for women and girls was nearly double that of men and boys (167.2% compared to 86.0%). While women and girls saw an increase in traffic and vehicle offences, it decreased for men and boys. Both cohorts saw a decrease in public order offences.

Figure 22: Change in sentenced offences, 2005–06 compared to 2018–19



Data includes women (adults) and girls (children), higher and lower courts, sentenced in 2005–06 and 2018–19 in Queensland.

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

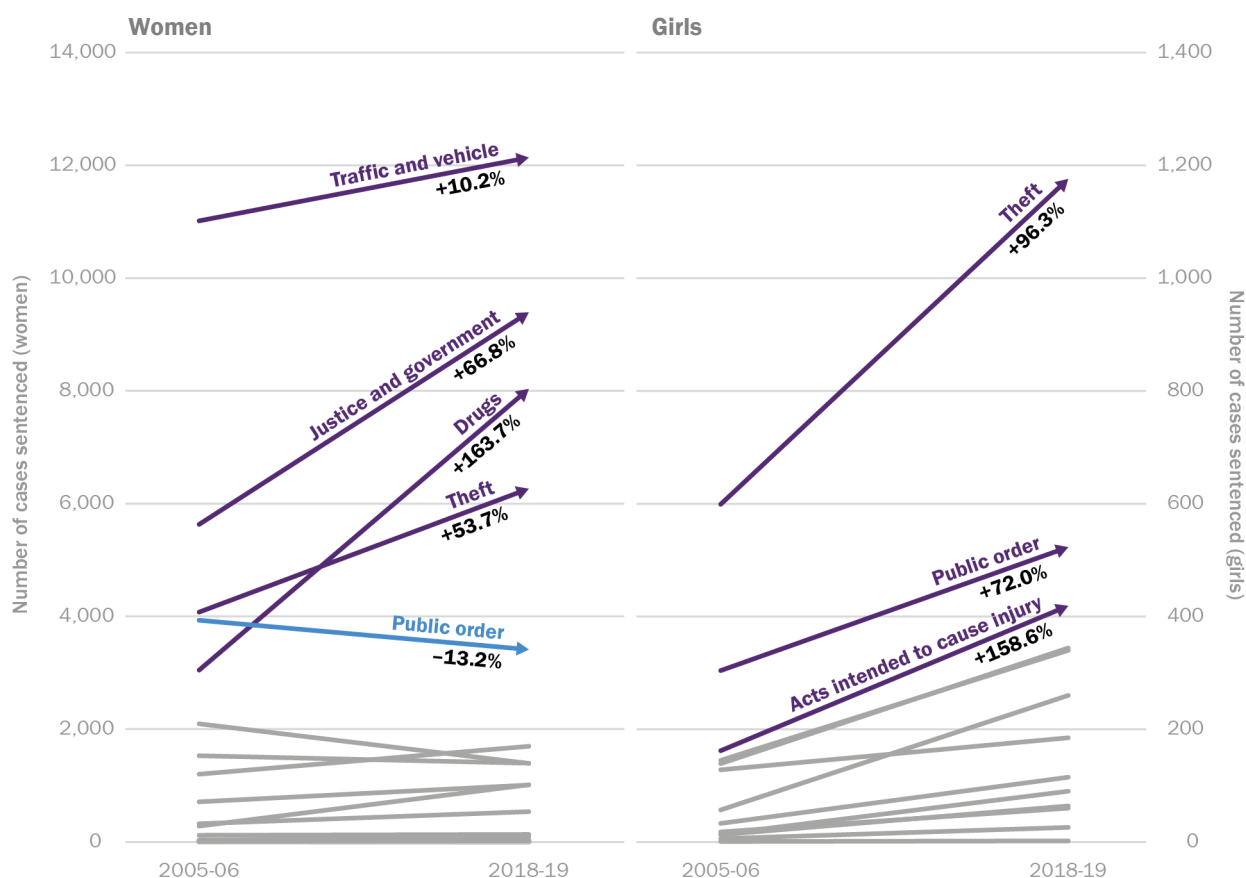
Note: For data see Table 10 (women and girls) and Table 11 (men and boys) in the Appendix (page 57).

3.4.1 Women compared to girls

Drug offences had the largest volume increase for women between 2005–06 and 2018–19. Drug offences increased by 163.7 per cent for women, from 3,047 cases involving drugs in 2005–06 to 8,035 cases in 2018–19. For women, justice and government offences and theft increased, while public order offences decreased by 13.2 per cent.

For girls, all offence categories increased between 2005–06 and 2018–19. The number of theft cases nearly doubled between 2005–06 and 2018–19, from 599 cases to 1,176. Acts intended to cause injury, drugs, unlawful entry and public order all showed considerable percentage increases for girls.

Figure 23: Change in offences sentenced for women and girls between 2005–06 and 2018–19



Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland.

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

Note: for data sources see Table 12 (women) and Table 13 (girls) in the Appendix (page 58).

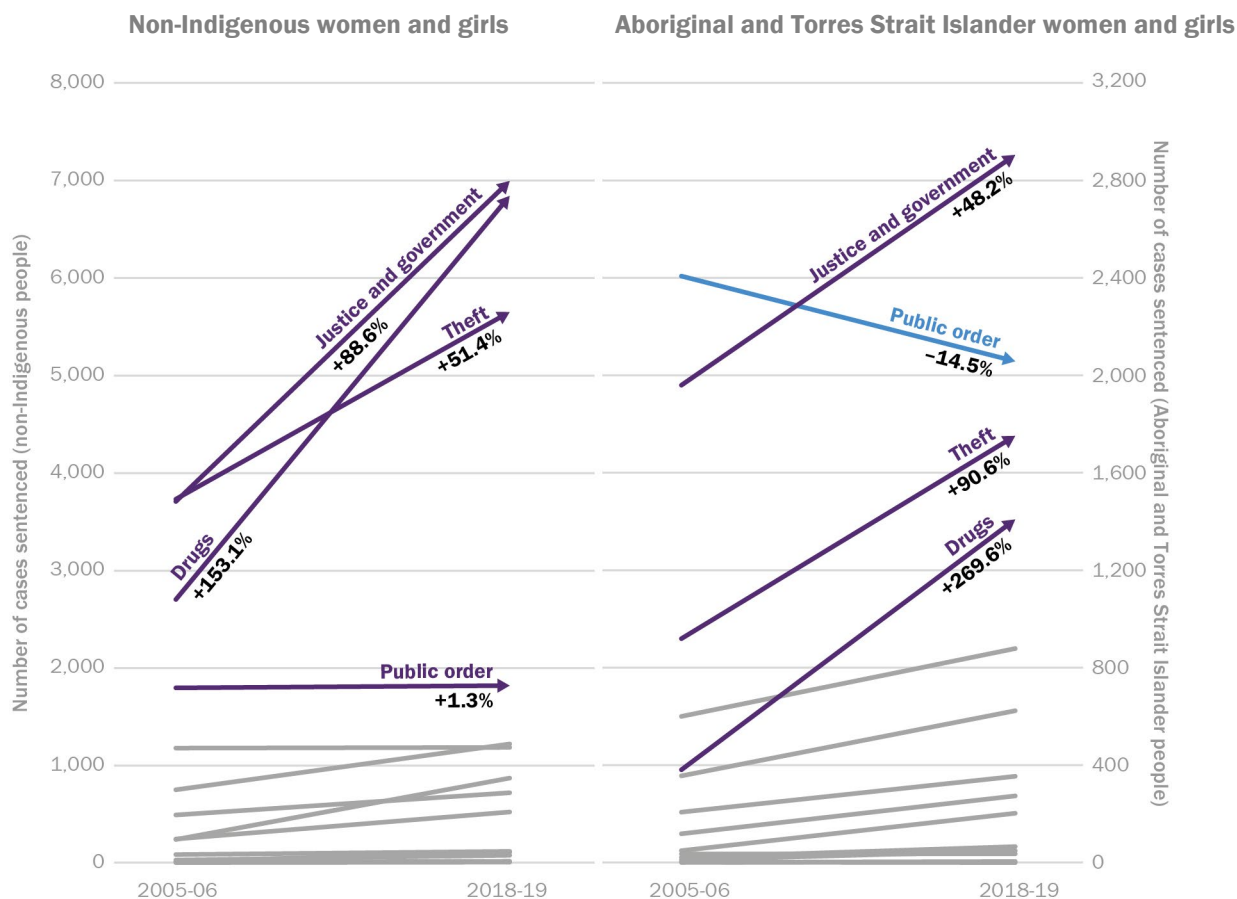
3.4.2 Aboriginal and Torres Strait Islander status

The number of cases involving drug offences increased by 153.1 per cent for non-Indigenous women and girls and by 269.6 per cent for Aboriginal and Torres Strait Islander women and girls between 2005–06 and 2018–19. Justice and government offences and theft increased for both

Aboriginal and Torres Strait Islander and non-Indigenous women and girls.

Public order offences decreased for Aboriginal and Torres Strait Islander women and girls, while showing a small increase for non-Indigenous women and girls.

Figure 24: Change in offences sentenced for women and girls between 2005–06 and 2018–19 by Aboriginal and Torres Strait Islander status



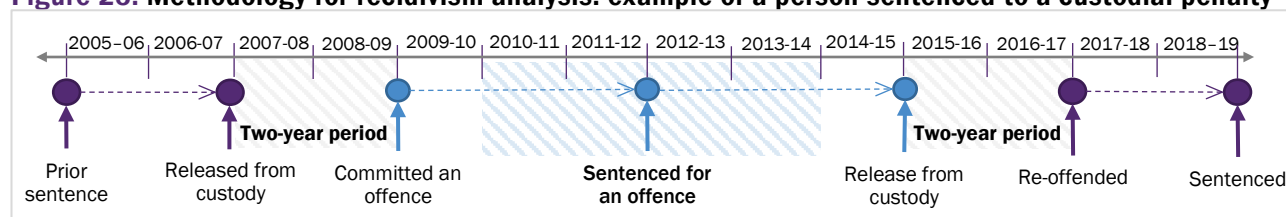
Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland. Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Notes:

- 1) For data source see Table 14 (non-Indigenous women and girls) and Table 15 (Aboriginal and Torres Strait Islander women and girls) in the Appendix (page 59).
- 2) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 3) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

3.5 Recidivism

Figure 25: Methodology for recidivism analysis: example of a person sentenced to a custodial penalty



Over one-third of women and girls were repeat offenders — that is, they were sentenced multiple times over the 14-year period. Of the 211,742 women and girls sentenced in Queensland courts between 2005–06 and 2018–19, 78,900 were repeat offenders (37.3%). For comparison, 47.1 per cent of men and boys were repeat offenders.

37.3% repeat offenders

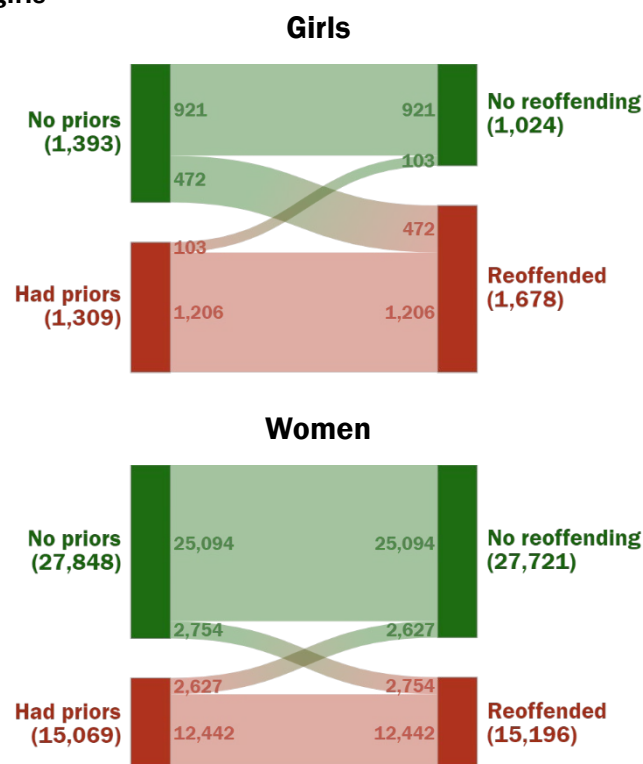
There are considerable methodological challenges in measuring recidivism. For the purposes of this report, the Council operationalised recidivism as any offence that was committed within two years of the date of sentencing for a non-custodial penalty or within two years of an offender's expected release from custody. Women and girls who were sentenced over the period from 2010–11 to 2013–14 were examined in more detail to determine whether they had committed any other offences before or after this period (see Figure 25).¹⁷⁵ Traffic and vehicle offences were excluded from this analysis.

Between 2010–11 and 2013–14, there were a total of 44,825 unique female offenders sentenced. This was comprised of 2,702 girls and 42,917 women.¹⁷⁶

Girls had considerably higher levels of recidivism with 48.4 per cent of girls having prior offences, and 62.1 per cent having reoffended — see Figure 26.

In contrast, women had lower levels of recidivism with 35.1 per cent having prior offences, and 35.4 per cent having reoffended.

Figure 26: Recidivism for sentenced women and girls



Data includes higher and lower courts, women (adults) and girls (children) sentenced between 2010–11 and 2013–14 where reoffending occurred within two years of the offender's expected release from custody.

Source: QGSO, Queensland Treasury - Courts Database, extracted November 2019.

Note: Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) were excluded from recidivism analyses.

¹⁷⁵ To calculate recidivism, offenders were linked across multiple court events to identify occurrences of prior offending and reoffending. This offender linkage was undertaken by the QGSO and involved both deterministic and probabilistic matching techniques to account for anomalies in data systems in relation to common administrative data errors relating to issues such as the use of nicknames and transposed details.

¹⁷⁶ A small number of offenders were sentenced as both a child and as an adult during the period from 2010–11 to 2013–14. These offenders are included in both the analysis of girls (children), and the analysis of women (adults).

Table 8: Prior and subsequent court events by age and Aboriginal and Torres Strait Islander status

Offender type	N	No court events (%)	1 to 3 court events (%)	4+ court events (%)	Number of court events			
					Average	Median	Min	Max
Prior offending	45,619	64.1	25.2	10.7	1.2	0.0	0	105
Aboriginal and Torres Strait Islander women	9,061	45.1	32.7	22.1	2.5	1.0	0	105
Non-Indigenous women	31,494	68.1	24.2	7.7	0.9	0.0	0	43
Aboriginal and Torres Strait Islander girls	1,078	40.4	35.6	23.9	2.3	1.0	0	27
Non-Indigenous girls	1,578	57.9	30.8	11.3	1.3	0.0	0	18
Subsequent offending	45,619	63.0	24.7	12.3	1.3	0.0	0	77
Aboriginal and Torres Strait Islander women	9,061	45.3	33.1	21.6	2.4	1.0	0	77
Non-Indigenous women	31,494	67.6	23.1	9.3	1.0	0.0	0	50
Aboriginal and Torres Strait Islander girls	1,078	25.0	35.7	39.3	3.8	2.0	0	24
Non-Indigenous girls	1,578	45.1	34.3	20.6	2.1	1.0	0	22

Data includes women (adults) and girls (children), higher and lower courts, cases sentenced between 2010–11 and 2013–14 where reoffending occurred within two years of the offender's expected release from custody.

Source: QGSO, Queensland Treasury - Courts Database, extracted November 2019.

Notes:

1) Cases involving traffic and vehicle offences (ANZSOC Division 14) were excluded from recidivism analyses.

2) Cases where the gender or Aboriginal and Torres Strait Islander status was unknown were excluded from demographic breakdowns but were included in the totals.

Table 8 shows prior and subsequent court events for sentenced female offenders by demographics.

Aboriginal and Torres Strait Islander girls had the highest rate of reoffending, with 75.0 per cent committing a subsequent offence.

On average, girls had a higher number of prior¹⁷⁷ and subsequent¹⁷⁸ court events compared to women. On average, Aboriginal and Torres Strait Islander females had a higher number of prior¹⁷⁹ and subsequent¹⁸⁰ court events compared to non-Indigenous females. These differences were statistically significant.

Women and girls in remote areas had a higher number of recidivist offences compared to those in major cities.

Table 9 shows the number of prior and subsequent court events for sentenced female offenders by remoteness area. Remoteness had a statistically significant impact on the number of prior offences¹⁸¹ and subsequent offences.¹⁸²

Female offenders who committed an offence in a major city had the lowest average of 1.1 prior court events, while those sentenced in remote areas had the highest number of prior court events (1.7 on average).

The findings were similar for subsequent offending, with 1.2 subsequent court events on average in major cities, and an average of 1.8 court events in remote areas.

Table 9: Prior and subsequent court events by remoteness area

Offender type	N	No court events (%)	1 to 4 court events (%)	5+ court events (%)	Number of court events			
					Average	Median	Min	Max
Prior offending	47,799	63.0	29.1	8.0	1.2	0.0	0	105
Major city	24,917	66.1	26.6	7.3	1.1	0.0	0	45
Regional	18,750	61.5	30.4	8.1	1.3	0.0	0	105
Remote	4,132	50.6	37.7	11.7	1.7	0.0	0	39
Subsequent offending	47,799	61.9	28.8	9.4	1.3	0.0	0	77
Major city	24,917	64.7	26.3	9.0	1.2	0.0	0	50
Regional	18,750	60.8	30.1	9.2	1.4	0.0	0	77
Remote	4,132	49.7	37.6	12.7	1.8	1.0	0	43

Data includes women (adults) and girls (children), higher and lower courts, cases sentenced between 2010–11 and 2013–14 where reoffending occurred within two years of the offender's expected release from custody. Source: QGSO, Queensland Treasury - Courts Database, extracted November 2019.

Notes:

1) Cases involving traffic and vehicle offences (ANZSOC Division 14) were excluded from recidivism analyses.

2) Some cases involve multiple offences committed at locations with different remote areas and will be counted multiple times.

3) Cases in which the remoteness of the offence location was unknown were excluded.

¹⁷⁷ Independent groups $t(3110.5) = -8.49, p < 0.001, r = 0.15$ (equal variances not assumed).

¹⁷⁸ Independent groups $t(2878.6) = -20.67, p < 0.001, r = 0.36$ (equal variances not assumed).

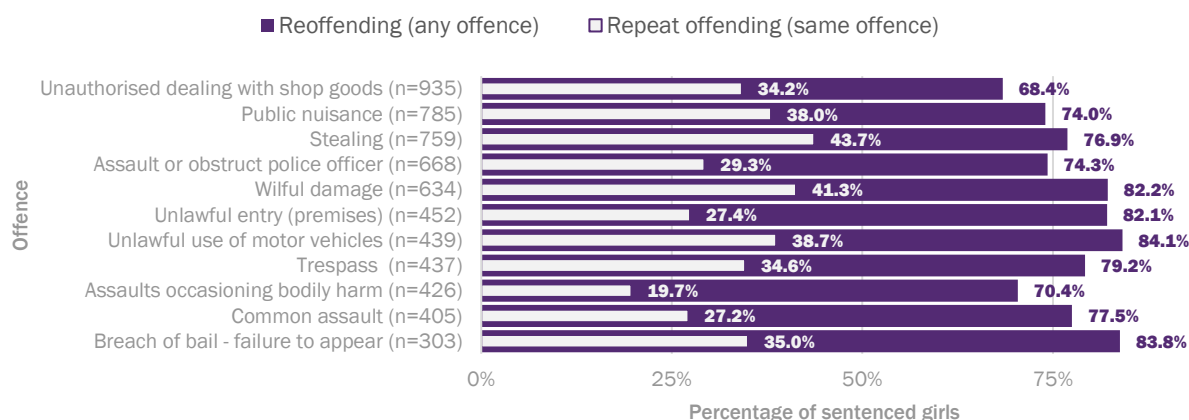
¹⁷⁹ Independent groups $t(11281.6) = -31.6, p < 0.001, r = 0.29$ (equal variances not assumed).

¹⁸⁰ Independent groups $t(11816.4) = -32.87, p < 0.001, r = 0.29$ (equal variances not assumed).

¹⁸¹ One way ANOVA: $F(2, 11223.3) = 91.51, p < 0.001$ (Welch's correction used as equal variances not assumed).

¹⁸² One way ANOVA: $F(2, 11250.6) = 63.06, p < 0.001$ (Welch's correction used as equal variances not assumed).



Figure 27: Reoffending for the most commonly sentenced offences for girls

Data includes girls (children), higher and lower courts, offences sentenced between 2010–11 and 2013–14, where reoffending occurred within two years of the offender's expected release from custody.

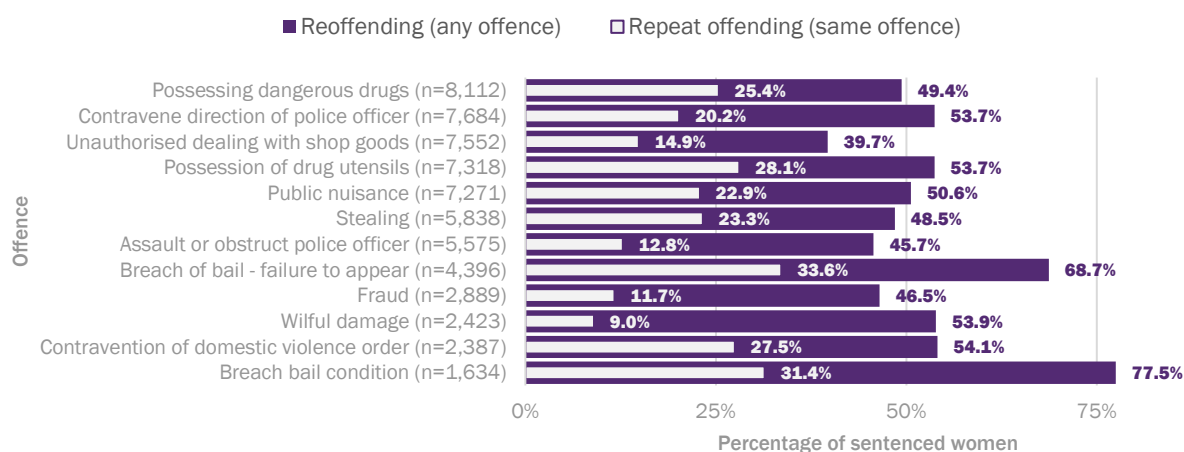
Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.

Reoffending rates varied by type of offence. Figure 27 and Figure 28 show the proportion of sentenced girls and women (respectively) who reoffended within two years of release by the most common offences sentenced during the index period of 2010–11 to 2013–14. The darker bars represent the proportion who reoffended by committing any offence, while the lighter bars show the proportion who reoffended by committing the same offence.

For girls, the highest rate of reoffending was observed for unlawful use of motor vehicles (84.1%), breach of bail – failure to appear (83.8%), wilful damage (82.2%) and unlawful entry of a non-dwelling premises (82.1%). For each of these offences, four out of five girls (i.e. more than 80% of girls) had committed a new offence within two years. Other offences had high rates of reoffending of the same offence. Stealing (43.7%), wilful damage (41.3%) and unlawful use of motor vehicles (38.7%) were the most common offences in which girls reoffended by committing the same type of offences.

Reoffending rates were different for women. The most common offences to result in reoffending were breach of a bail condition (77.5%) and breach of bail – failure to appear (68.7%). These two offences also had high rates of repeat offending of the same offence with 31.4 per cent of breaches of bail conditions resulting in a subsequent breach offence, and 33.6 per cent of breach of bail – failure to appear offences resulting in a subsequent failure to appear.

Other offences that were high in recidivism for women included contravention of a domestic violence order (54.1%), wilful damage (53.9%), contravention of a direction of a police officer (53.7%), and possession of drug utensils (53.7%).

Figure 28: Reoffending for the most commonly sentenced offences for women

Data includes women (adults), higher and lower courts, offences sentenced between 2010–11 and 2013–14, where reoffending occurred within two years of the offender's expected release from custody.

Source: QGSO, Queensland Treasury – Courts Database, extracted November 2019.



Chapter 4 — Penalties and sentencing outcomes

This chapter provides an analysis of the penalties and sentencing outcomes for women and girls sentenced in Queensland courts between 2005–06 and 2018–19. The analysis focuses only on the MSO in each case.

This chapter analyses the type of penalty sentenced only. Offence type, offence seriousness, offending history, or other variables have not been controlled for.

Women and girls are sentenced under different sentencing regimes. Children are sentenced under the *Youth Justice Act 1992* (Qld), whereas adults are sentenced under the *Penalties and Sentences Act 1992* (Qld). Due to this difference, the penalties imposed on women are presented and discussed separately from those imposed on girls.

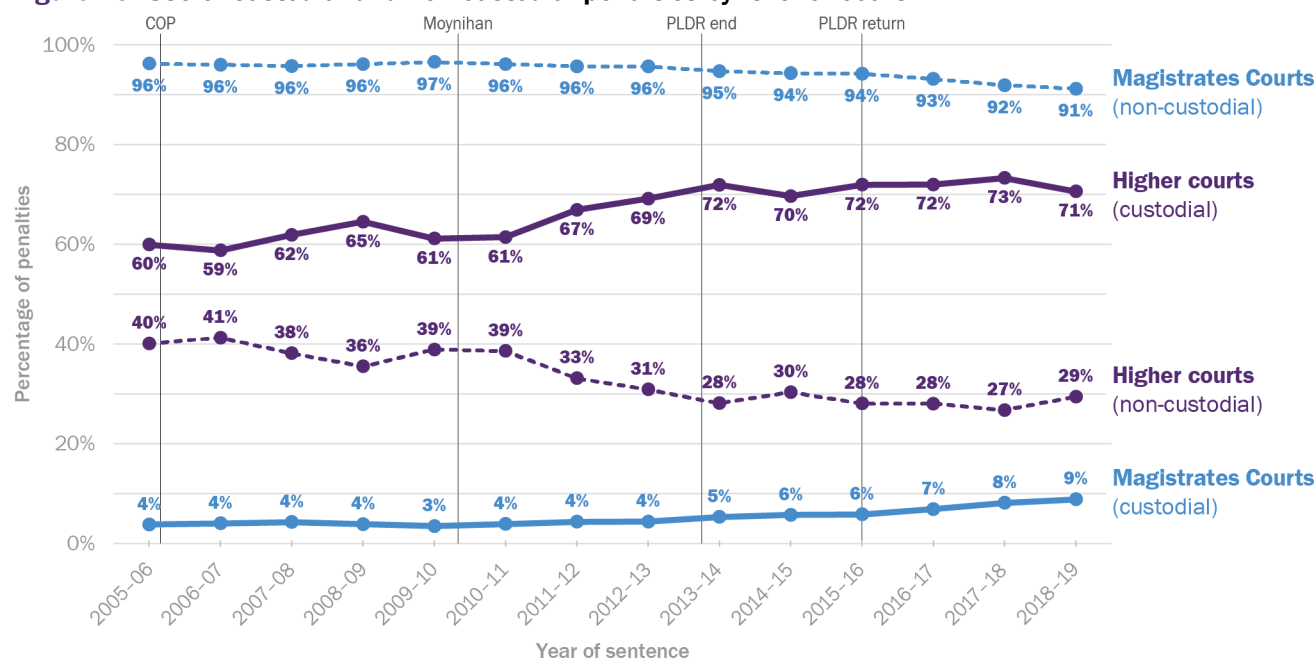
4.1 Increasing trend in rate of custodial penalties

The proportion of cases receiving a custodial penalty increased for women and girls over the data period. In the Magistrates Courts, the use of custodial penalties for offences committed by women and girls rose from 4 per cent of cases in 2005–06 to 9 per cent in 2018–19. The vast majority (97.8%) of cases for women and girls were sentenced in the Magistrates Courts, meaning that a large volume of cases receiving a custodial penalty result from this

increase. In 2005–06, a custodial order was imposed in 1,101 cases in the Magistrates Courts. In 2018–19, this number increased to 3,113 cases.

In the higher courts, custodial penalties increased from 60 per cent to 71 per cent, an increase from 520 to 765 cases from 2005–06 to 2018–19.

Figure 29: Use of custodial and non-custodial penalties by level of court



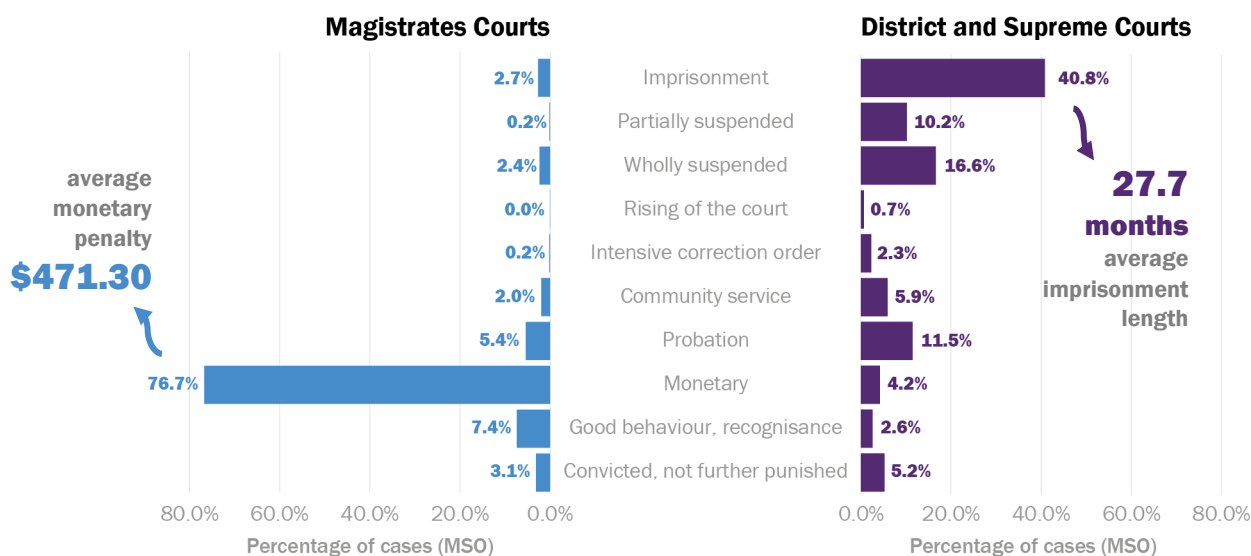
Data includes MSO, women (adults) and girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Notes: The vertical lines depicts reforms that could affect the data – COP refers to the introduction of court ordered parole in Queensland, Moynihan refers to legislative changes which expanded the jurisdiction of the Magistrates Courts and increased the District Court's general criminal jurisdiction, PLDR refers to the legislative requirement that courts should only impose imprisonment as a last resort and that a sentence allowing the person to stay in the community is preferable (with some legislative exceptions).

4.2 Penalties imposed on women

Figure 30: Penalties for sentenced women by court level



Data includes MSO, women (adults), lower and higher courts, sentenced 2005–06 to 2018–19 in Queensland.

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

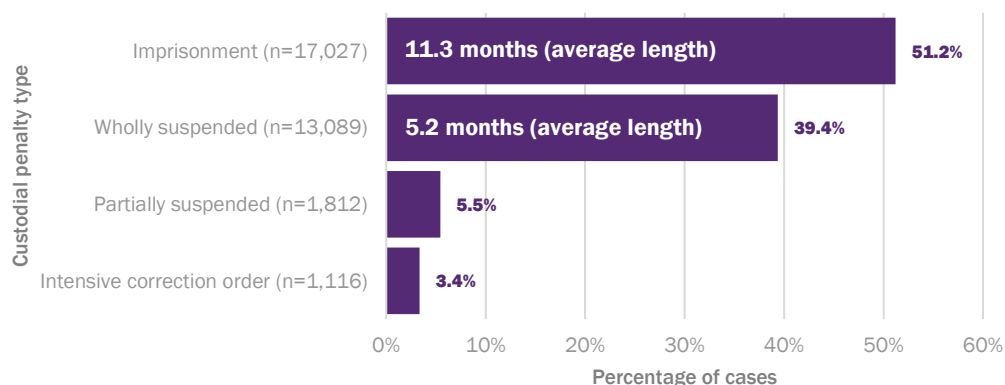
Note: 1,678 cases (MSO) that received a driver's licence disqualification were excluded.

In the Magistrates Courts, women were most likely to receive a monetary penalty, imposed in more than three-quarters of cases (76.7%). The average monetary penalty was \$471.30 (median \$300). See Table 17 in the Appendix (page 61) for further summary statistics on the length of sentences imposed on women.

Of the women who received a custodial penalty, half received a non-suspended imprisonment sentence (51.2%). The average prison sentence was 11.3 months, with a median sentence length of 6 months. A further 39.4 per cent received a wholly suspended sentence, with an average sentence length of 5.2 months (median of 3 months).

In the higher courts, the most common penalty for women was a sentence of imprisonment (40.8%), with an average sentence of 27.7 months (median 24 months).

Figure 31: Custodial penalty type imposed on women



Data includes MSO, women (adults), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

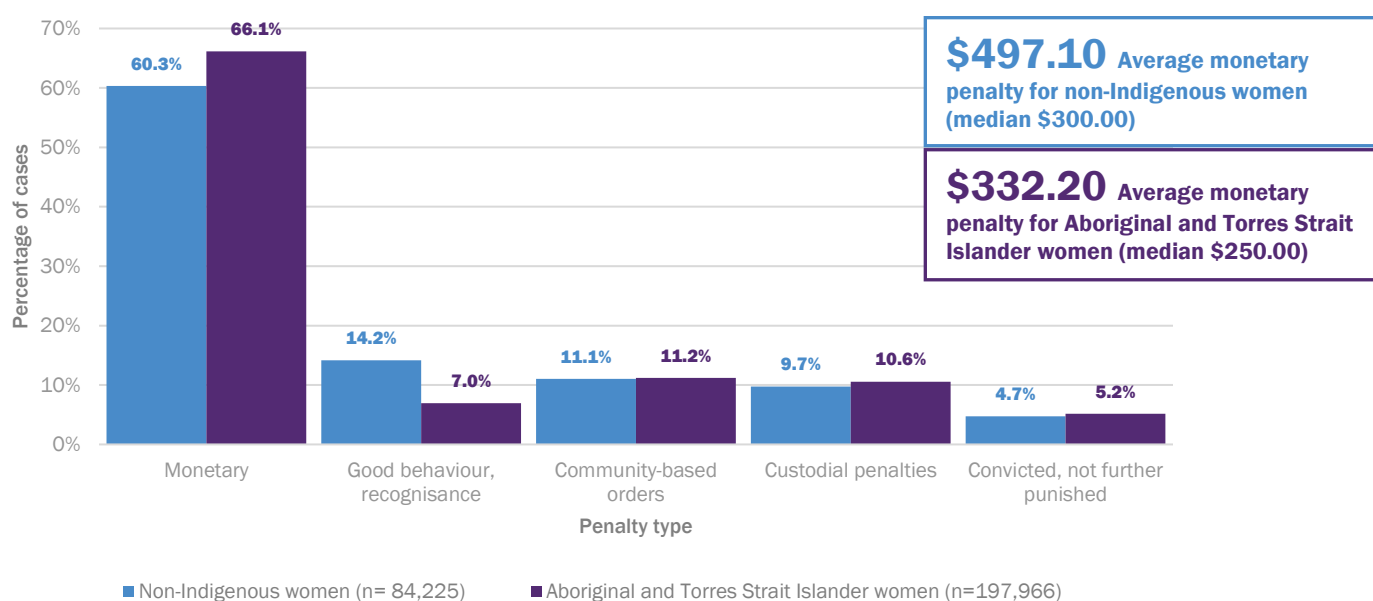
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Note: Rising of the court has not been presented.

Figure 32 shows there was little difference in the penalties received by Aboriginal and Torres Strait Islander women compared to non-Indigenous women. Slightly more Aboriginal and Torres Strait Islander women received a monetary order (66.1% compared to 60.3%) and a custodial penalty (10.6% compared to 9.7%).

The average monetary penalty was higher for non-Indigenous women (\$497.10) than Aboriginal and Torres Strait Islander women (\$332.20). See Table 17 in the Appendix (page 61) for further summary statistics on the length of sentences imposed on non-Indigenous and Aboriginal and Torres Strait Islander women.

Figure 32: Type of penalties imposed on women, by Aboriginal and Torres Strait Islander status



Data includes MSO, women (adults), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Notes:

- 1) Community-based orders includes community service and probation.
- 2) Custodial penalties include imprisonment, intensive correction orders, partially suspended sentences, and wholly suspended sentences.
- 3) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 4) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

4.2.1 Custodial penalties imposed on women

Women on remand

Due to data limitations, the number of women who spent time on remand could not be considered in this analysis. However, other data sources have shown that the number of women on remand has increased over recent years. On 30 June 2018, there were 841 women in custody in Queensland prisons and 279 of those were unsentenced (33%).¹⁸³ On 30 June 2021, there were 924 women in custody in Queensland prisons and 356 of those were unsentenced (39%).¹⁸⁴ The number of women on remand in a Queensland prison increased by 28 per cent from 2018 to 2021.

Imprisonment sentences

A sentence of imprisonment was imposed on 3.4 per cent of women who were sentenced between 2005–06 and 2018–19 (MSO, n=17,027). Stealing was the most common offence a women received an imprisonment sentence (MSO) for (10.0%). This was followed by breach of bail – failure to appear (8.7%), possessing dangerous drugs (7.1%) and fraud (6.8%). See Table 16 in the Appendix (page 60) for the data table.

¹⁸³ Australian Bureau of Statistics, *Prisoners in Australia 2018* (Catalogue Number 4517.0, 6 December 2018) Table 30.

¹⁸⁴ Australian Bureau of Statistics, *Prisoners in Australia 2021* (Catalogue Number 4517.0, 9 December 2021) Table 30.

In comparison, 6.6 per cent of men sentenced between 2005–06 and 2018–19 received an imprisonment sentence (MSO, n=107,065). The most common offences (MSO) men received an imprisonment sentence for were very different compared to women. For men, the most common offence sentenced to imprisonment was contravention of a domestic violence order (10.5%), followed by assaults occasioning bodily harm (9.7%), unlicensed driving (7.3%), burglary (6.7%) and unlawful entry (6.2%).

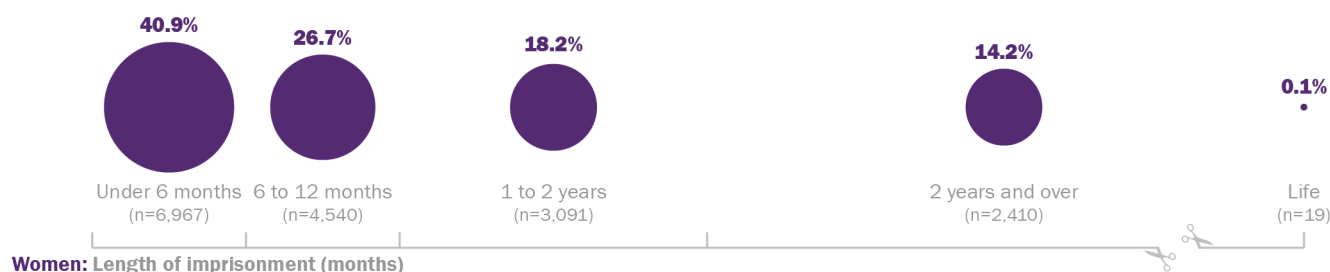
Most imprisonment sentences for women were short prison sentences. Of the 17,027 women who received an imprisonment sentence within the data period, 40.9 per cent received a sentence of less than 6 months and over one-quarter (26.7%) received a sentence 6 months up to 1 year. This means that two-thirds of women who received an imprisonment sentence were sentenced to less than 1 year

in prison. The majority (75.3%) of these imprisonment sentences were imposed in the Magistrates Courts – this is consistent with less serious offences being sentenced in the Magistrates Courts and the court's jurisdictional limit.¹⁸⁵

This trend is also occurring, to a lesser degree, for men – 32.7 per cent of men who received an imprisonment sentence were sentenced to a period less than 6 months and a further 27.0 per cent received a sentence of 6 months up to 1 year.

Short prison sentences have previously been identified as an issue by the Council. A 2019 publication reported that the half of all prison sentences imposed in Queensland were 6 months or less and that the number of short sentences imposed had increased by 64.5 per cent between 2005–06 and 2017–18.¹⁸⁶

Figure 33: Length of imprisonment for women



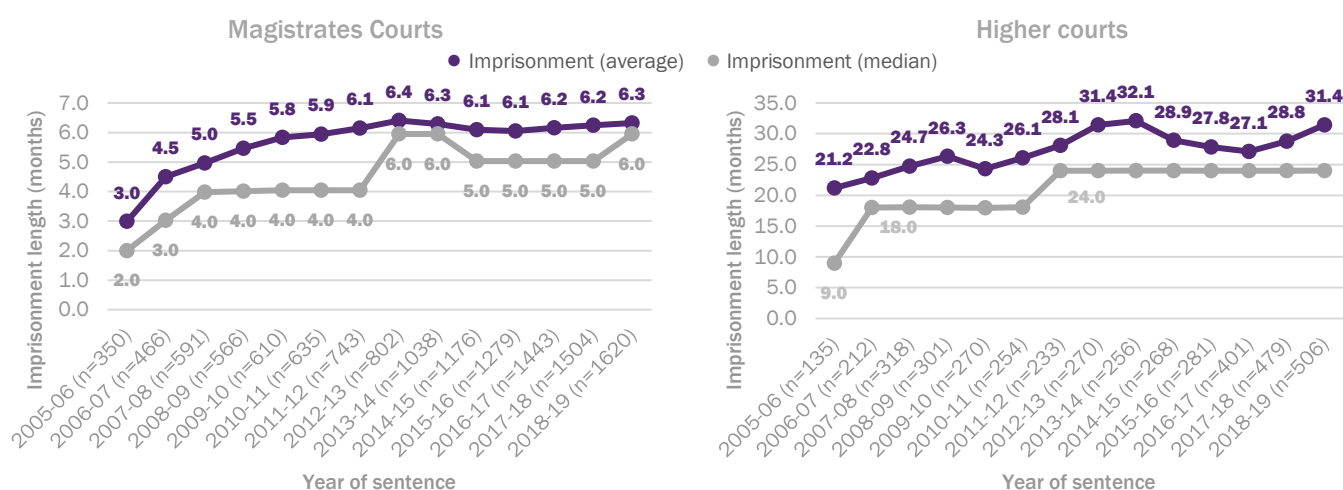
Data includes MSO, women (adults), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

The average length of imprisonment sentences in the Magistrates Courts increased over the data period, from 3.0 months in 2005–06 to 6.3 months in 2018–19. The average sentence length in the higher courts also increased over the data period, from 21.2 months to 31.4 months. The median sentence length in the higher courts also saw a gradual and

steady increase, demonstrating that the increase was not due to a small number of unusually high sentences pulling the average up. There are some peaks and troughs within the trending increase, which may be due to the variety of cases sentenced in the higher courts.

Figure 34: Average and median imprisonment sentence length for women



Data includes MSO, women (adults), lower and higher courts, sentenced 2005–06 to 2018–19 in Queensland.

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

¹⁸⁵ The maximum penalty which can be imposed in the Magistrates Courts is 3 years imprisonment: *Criminal Code 1899 (Qld)* s 552H.

¹⁸⁶ Queensland Sentencing Advisory Council, *Community-Based Sentencing Orders, Imprisonment and Parole Options* (Final Report, 2019).

Custodial penalties for women over time

The number of women who received an imprisonment sentence (for the MSO) increased by 338.8%, from 485 cases in 2005–06 to 2,128 cases in 2018–19 – see Figure 35.

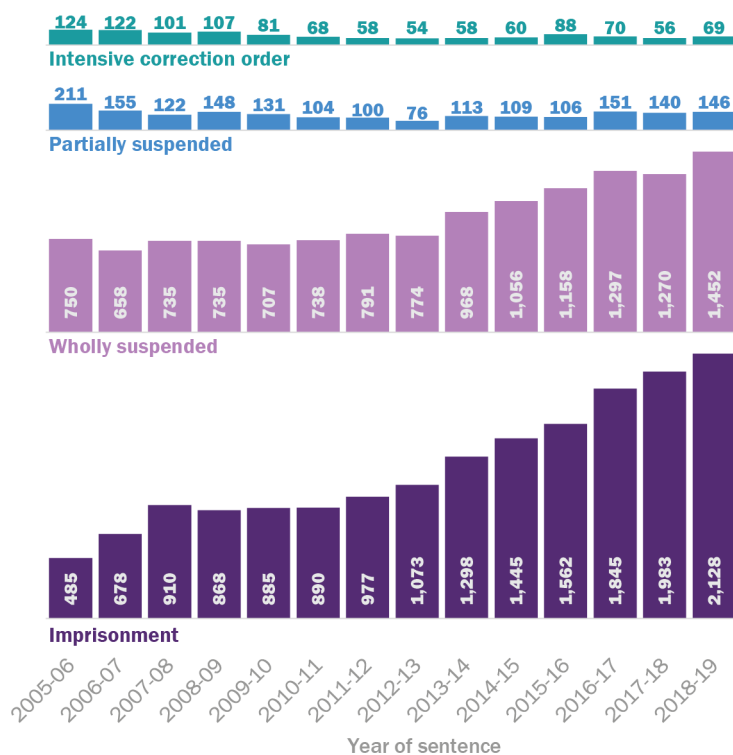
Wholly suspended sentences also increased, from 750 cases to 1,452, an increase of 93.6 per cent. In 2005–06, wholly suspended sentences were the most common form of custodial penalty. In contrast, in 2015–16, imprisonment had become the most common form of custodial penalty.

Imprisonment sentences also increased for men between 2005–06 and 2018–19. However, this increase was considerably smaller compared to women at 140.0 per cent. There was also an increase in the use of wholly suspended

sentences for men of 52.8 per cent, again a smaller percentage increase compared to women.

Court ordered parole was introduced in Queensland in August 2006. This means the court must set a parole release date if the person is sentenced to 3 years imprisonment or less (except for sexual offences, serious violent offences, or if an existing parole order was legally cancelled by the new sentence).¹⁸⁷ The court can set any date as the parole release date, including the date of sentence. As a result of the introduction of court ordered parole, there was an increase in imprisonment sentences, which may be reflected in the increase in imprisonment for women depicted in Figure 35.

Figure 35: Number of custodial penalties imposed on women over time



Data includes MSO, women (adults), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Note: Rising of the court has not been presented.

In 2005–06, 1.7 per cent of sentenced women received an imprisonment sentence (n=485). This increased to 6.2 per cent in 2018–19 (n=2,128).

The most common offences which women were sentenced to imprisonment for changed over time. Of the 485 cases that received an imprisonment sentence as the MSO in 2005–06, 14 per cent were sentenced for breach of bail – failure to appear. A further 7.6 per cent were sentenced for unlicensed driving, followed by 7.2 per cent for stealing. The most common offence receiving imprisonment as a penalty was different in 2018–19. The number of stealing offences

receiving an imprisonment sentence increased to become the most common offence (10.2%). Breach of bail – failure to appear remained high, as the second most common offence to receive an imprisonment sentence, at 10.0 per cent. Possession of dangerous drugs increased to become the third most common offence (9.9% of cases).

¹⁸⁷ Queensland Sentencing Advisory Council, *Queensland Sentencing Guide* (2021).

For comparison, the most common offences for which men received an imprisonment sentence (MSO) in 2005–06 were similar to that of women with the same top 2 offences in reverse order. The most common offence was unlicensed driving (10.0%), with breach of bail – failure to appear (8.4%) the second most common offence. These offences were followed by assaults occasioning bodily harm (8.1%) as the third most common offence.

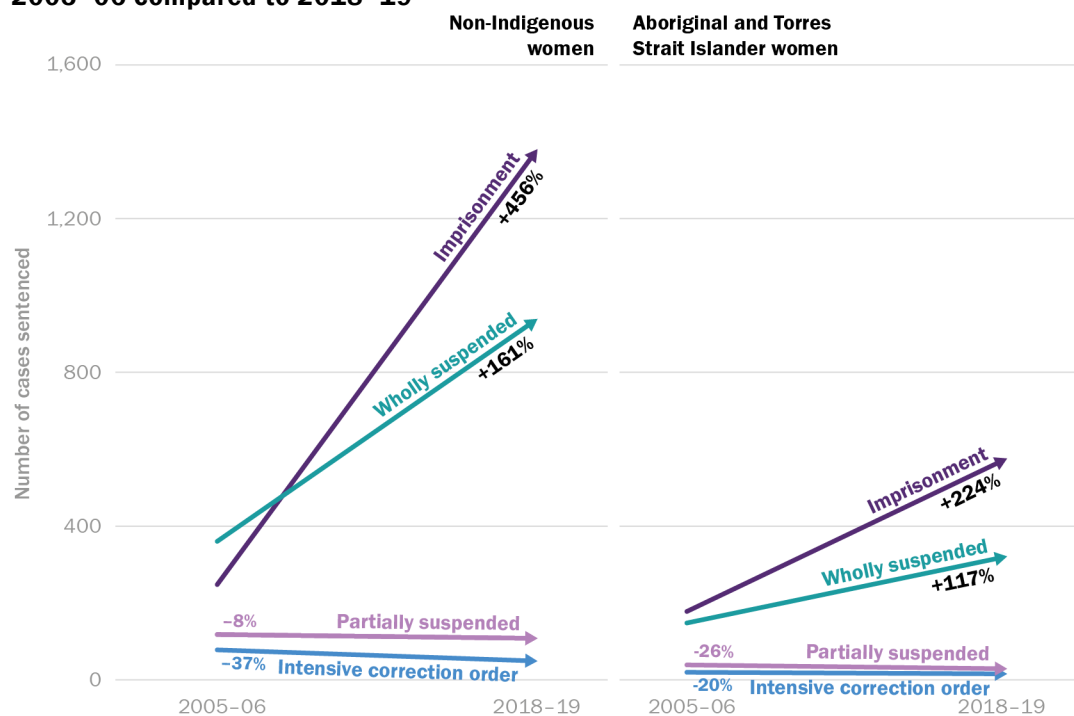
For male offenders, this pattern also changed over time. In 2018–19, contravention of a domestic violence order was the most common offence men received an imprisonment sentence for (MSO) at 13.6 per cent. Assaults occasioning bodily harm increased to the second most common at 9.4 per cent, followed by possession of dangerous drugs (6.5%).

Custodial penalties for women over time by Aboriginal and Torres Strait Islander status

The most common custodial penalty for non-Indigenous women in 2005–06 was a wholly suspended sentence (as the MSO, n=360). This was followed by an imprisonment sentence (as the MSO, n=248). In 2018–19, imprisonment penalties increased by 456 per cent (n=1,380) for non-Indigenous women, while wholly suspended sentences increased by 161 per cent (n=939).

For Aboriginal and Torres Strait Islander women, imprisonment sentences were the most common custodial penalty in both 2005–06 and 2018–19. Imprisonment sentences increased by 224 per cent, from 178 to 576 in the data period. Wholly suspended sentences also increased for Aboriginal and Torres Strait Islander women, from 148 to 321 (an increase of 117%).

Figure 36: Number of custodial penalties imposed on women by Aboriginal and Torres Strait Islander status, 2005–06 compared to 2018–19



Data includes MSO, women (adults), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland.

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

Notes:

- 1) Community-based orders includes community service and probation.
- 2) Custodial penalties include imprisonment, intensive correction orders, partially suspended sentences, and wholly suspended sentences.
- 3) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 4) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

However, as a rate of the population, Aboriginal and Torres Strait Islander women experienced the largest increase in imprisonment. The QGSO found that the imprisonment rate increased by 70.7 per cent for Aboriginal and Torres Strait Islander women, from 294.1 women per 100,000 in 2012 to

497.4 women per 100,000 in 2021.¹⁸⁸ Comparatively, the imprisonment rate for non-Indigenous women increased by 53.6 per cent, from 17.8 to 27.4 women per 100,000 from 2012 to 2021.¹⁸⁹

¹⁸⁸ Queensland Government Statistician's Office, *Justice Report Queensland 2020–21*, (Report, 2022) 115.

¹⁸⁹ Ibid 115.

4.3 Penalties imposed on girls

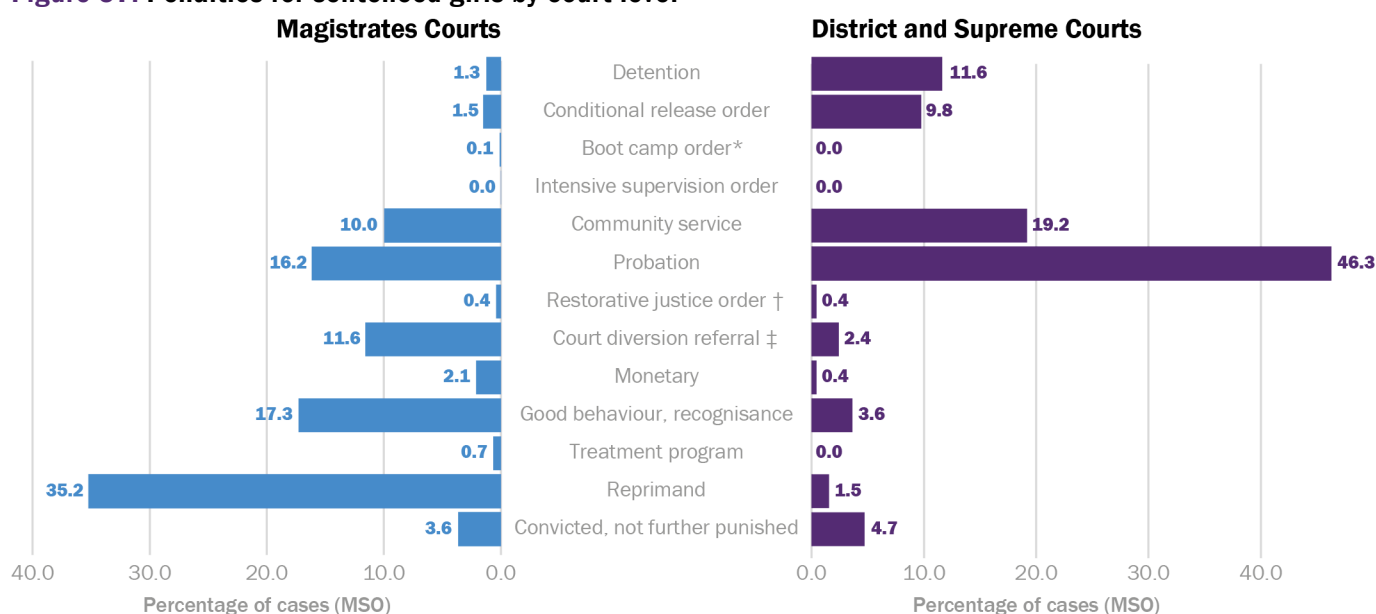
The most common penalty imposed in the Magistrates Courts for girls was a reprimand (35.2%), followed by good behaviour and recognisance (17.3%), and probation (16.2%). The most common offences sentenced in the Magistrates Courts for girls were shoplifting, followed by stealing and public nuisance.

In the higher courts, the most common penalty was a period of probation (46.3%), on average for 16.6 months (median 17.9 months) – see Table 18 in the Appendix (page 61) for further summary statistics on length of sentences imposed

on girls. The most common offences sentenced in the higher courts for girls were robbery, stealing and assaults occasioning bodily harm, which are more serious offences than those sentenced in the lower courts and commonly warrant more serious penalties.

Aboriginal and Torres Strait Islander girls were slightly more likely to receive a community-based order (43.2% compared to 38.3%), while non-Indigenous girls were slightly more likely to receive a reprimand (36.8% compared to 29.8%).

Figure 37: Penalties for sentenced girls by court level



Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

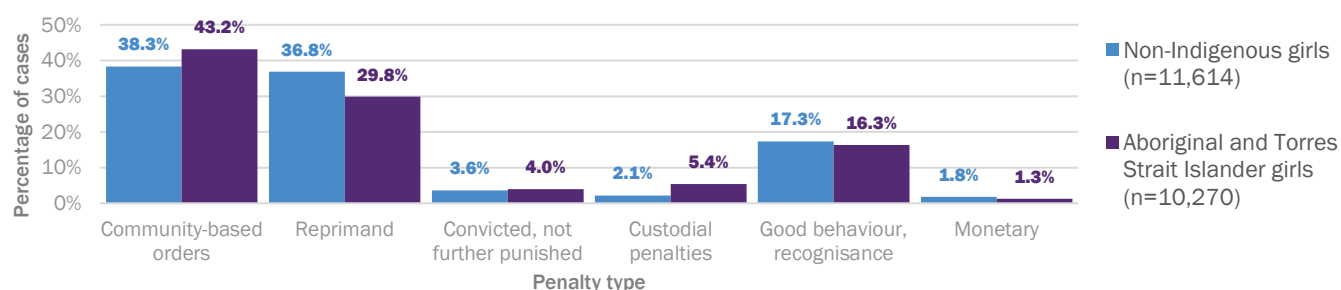
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted November 2019.

Notes: * Boot camp orders were introduced on 31 January 2013 and were repealed from 1 July 2016. The orders were available in a limited number of geographic locations.

† Restorative justice orders were introduced on 27 June 2016.

‡ A court may refer a matter to conferencing without making a sentencing order. Prior to 11 December 2012, these orders were known as indefinite referrals and resulted in the child being found guilty of the offence without a conviction being recorded. From 27 June 2016, the current Court Diversion Referrals do not include such a deemed legislative conviction; however, the making of the referral does bring the court proceedings for the offence to an end.

Figure 38: Type of penalties imposed on girls, by Aboriginal and Torres Strait Islander status



Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Notes:

1) Community-based orders includes community service, intensive supervision orders, court-ordered conference, probation, and treatment programs.

2) Custodial penalties include detention, conditional release orders, and boot camp orders (Boot camp orders were introduced on 31 January 2013 and were repealed from 1 July 2016. The orders were available in a limited number of geographic locations).

3) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.

4) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

4.3.1 Custodial penalties imposed on girls

Girls on remand

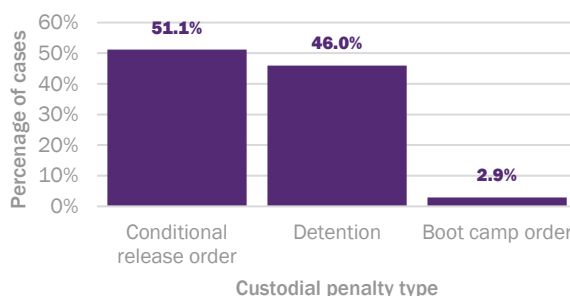
The number of girls who spent time on remand could not be considered in this analysis due to data limitations. While not split by gender, the Childrens Court of Queensland Annual Report states that of all finalised court appearances in 2020–21, 45 per cent of children sentenced to a detention order in 2020–21 were released from court on the day of sentence with no remaining time to serve in custody due to time spent in pre-sentence custody.¹⁹⁰ An AIHW report found that, on an average night in the June quarter of 2021, there were 26.6 girls in pre-sentence custody in Queensland.¹⁹¹ This is an increase from the previous three quarters – 23.8 in the September quarter 2020, 17.5 in the December quarter 2020, and 23.2 in June quarter of 2021.¹⁹²

Custodial penalties for girls

Of the 835 cases in which a custodial penalty was imposed upon a girl (MSO) from 2005–06 to 2018–19, nearly half (46.0%) were a detention order. Conditional release orders were imposed (as the MSO) in 51.1 per cent of cases, with boot camp orders¹⁹³ making up the remaining 2.9 per cent. The average length of a detention sentence for girls was 6.4 months (median 4.0 months).

Assaults occasioning bodily harm was the most common offence (MSO) for which a girl was sentenced to a detention order (16.6%). This is followed by robbery (14.7%) and unlawful use of motor vehicles (12.4%). Boys most commonly received a detention order (MSO) for burglary (26.0%), unlawful entry (17.5%) and assaults occasioning bodily harm (7.7%).

Figure 39: Custodial penalty types for girls



Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Custodial penalties by Aboriginal and Torres Strait Islander status

Half of all Aboriginal and Torres Strait Islander girls who were sentenced to a custodial penalty received a detention order (49.3%). This proportion is higher than for non-Indigenous girls, with 39.8 per cent of non-Indigenous girls having received a detention order. Non-Indigenous girls were most likely to receive a conditional release order (59.8%), compared to 46.6 per cent of Aboriginal and Torres Strait Islander girls. It needs to be noted that this analysis is descriptive only, and that offence type, offence seriousness, criminal history, or any other variables were not controlled for.

Figure 40: Custodial penalty type for girls, by Aboriginal and Torres Strait Islander status



Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Notes:

- 1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.
- 2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

¹⁹⁰ Childrens Court of Queensland, *Annual Report 2020–21* (Report, 2021) Table 36.

¹⁹¹ Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2021* (Report, 14 December 2021) supplementary table S17.

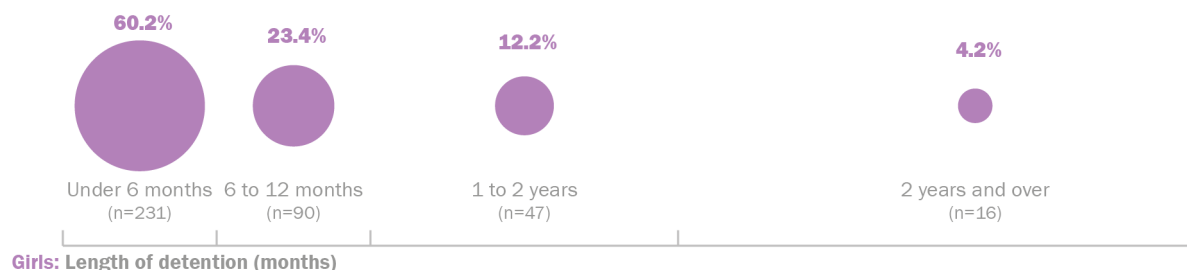
¹⁹² Ibid supplementary table S17.

¹⁹³ Boot camp orders were introduced on 31 January 2013 and were repealed from 1 July 2016. The orders were available in a limited number of geographic locations.

Detention orders

More than 60 per cent of detention orders for girls were imposed for less than 6 months (60.2%). A further 23.4 per cent received a sentence of 6 to 12 months. Over 80 per cent (83.6%) of girls were sentenced to detention for a period of less than 1 year.

Figure 41: Length of detention for girls



Girls: Length of detention (months)

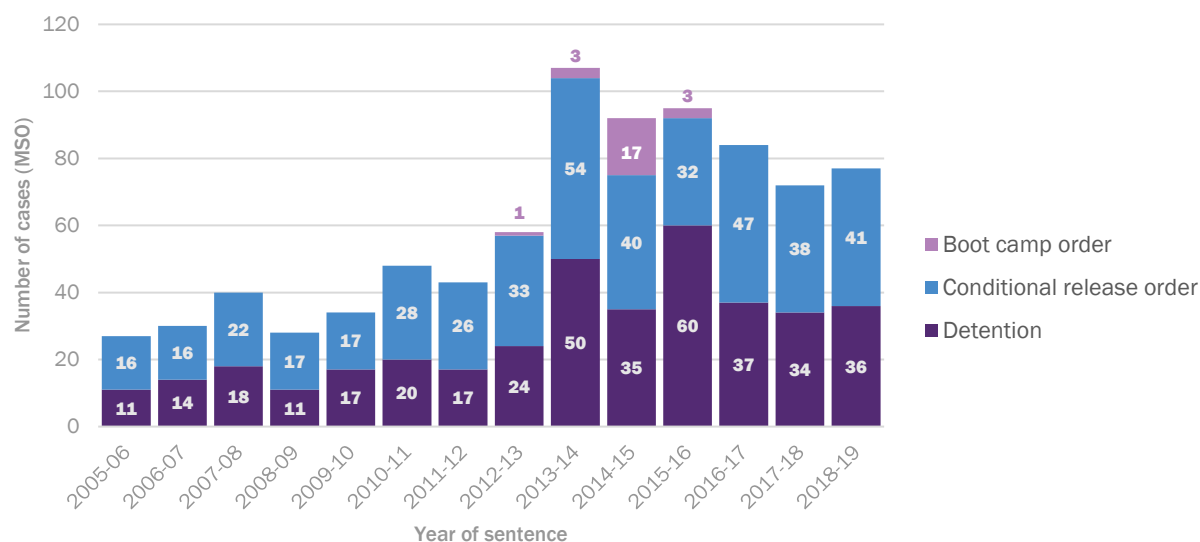
Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Custodial penalties for girls over time

The number of cases in which a girl was sentenced to detention more than tripled between 2005–06 and 2018–19, increasing from 11 to 36 – see Figure 42. There was a time-series peak in 2015–16, when 60 cases had a detention order imposed.

Figure 42: Custodial penalties imposed on girls



Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Note: Boot camp orders were introduced on 31 January 2013 and were repealed from 1 July 2016. The orders were available in a limited number of geographic locations.



Chapter 5 — Concluding remarks

Concluding remarks

In line with wider trends across Australia and internationally, the incarceration rate of women and girls is increasing in Queensland. The Council's data analysis found that while the proportion of sentenced cases involving women and girls in Queensland increased over the data period, the rate of unique women and girls sentenced declined, taking into account changes in population. The Council's analysis identified that the proportion of these cases resulting in custodial penalties increased for both women and girls.

The reasons behind this dramatic growth in imprisonment and detention as a penalty for women and girls are complex and difficult to untangle. Women's and girls' offending patterns, increased visibility of certain types of offences, rising use of remand, changes in charging and sentencing practices and shifting attitudes towards sentenced women and girls are likely contributing factors.¹⁹⁴

The majority of women and girls sentenced to imprisonment or detention received a sentence of 12 months or less. As identified in a previous publication by the Council, the number of women serving short sentences is also on the rise.¹⁹⁵ A recent report by the Queensland Women's Safety and Justice Taskforce found that short sentences lead to 'long term harm for women, their children, and communities, and place additional unnecessary demand on and cost to the criminal justice system'.¹⁹⁶

This report examined differences between groups of people sentenced in Queensland and found that offending patterns are highly gendered. Men were most commonly sentenced to imprisonment for committing the offences of contravention of a domestic violence order, assaults occasioning bodily harm and unlicensed driving. For women, the most common offences attracting a sentence of imprisonment were stealing, breach of bail - failure to appear and possession of dangerous drugs.

The Council's publication also examined the sentencing of girls under Queensland's youth justice system. Almost half of all sentenced girls in Queensland identified as Aboriginal and Torres Strait Islander, with even higher proportions for girls aged 12 years and under. There were differences in the types of offences that resulted in detention for girls compared to boys. While girls were most likely to receive detention for assaults occasioning bodily harm and robbery, boys were most commonly sentenced to detention for unlawful entry and burglary. The Council's findings clearly highlight the need for a gender-specific approach to youth justice, bearing in mind the vulnerabilities, offending patterns and socio-demographics of girls sentenced in Queensland courts.¹⁹⁷

Aboriginal and Torres Strait Islander and non-Indigenous women came into contact with the courts for different offences. Non-Indigenous women were most commonly sentenced for possessing dangerous drugs, possessing drug utensils, and shoplifting. Aboriginal and Torres Strait Islander women were most commonly sentenced for public nuisance, contravene a direction of a police officer, and breach of bail - failure to appear. The report's findings clearly highlight the urgency of the Queensland government's commitment to Closing the Gap targets of reducing over-representation of adults and children in the criminal justice system.¹⁹⁸

The Council was unable to report on specific data trends for women and girls from culturally and linguistically diverse backgrounds, with disabilities, impacted by neurocognitive disorders, or LGBTIQ+ women and non-binary and transgender people. While data limitations made it infeasible to further explore the diversity of women and girls sentenced in Queensland, the Council acknowledges that many experience intersecting vulnerability, disadvantage, and marginalisation.

A growing body of literature found that there is a wide variety of complex social and personal factors that affect the lives of women and girls who offend. These include unstable housing, trauma, mental health conditions, substance use, caring responsibilities, and involvement with the child protection system.

The heterogeneity of offending by women and girls means that a single approach to reducing rates of offending for women and girls is unlikely to be successful. Nuanced, tailored crime prevention, diversion strategies, and gender-specific criminal justice and rehabilitative responses are likely to yield the best outcomes to reduce female offending and recidivism rates. Queensland's Women's Safety and Justice Taskforce recently conducted extensive consultation in an effort to further understand and improve the experiences of women who come before the courts.

The Council's report provides policy-makers and the public with statistical insights into the sentencing of women and girls in Queensland. The findings detail the nature and extent of sentencing for women and girls in Queensland courts with the aim of providing a foundation for further research and an evidence-base for developing strategies and policies to reduce the rates of offending by women and girls, support their reintegration back into the community and improve community safety.

¹⁹⁴ Between 2018 to 2021, the number of women on remand in a Queensland prison has increased by 28 per cent: Australian Bureau of Statistics, *Prisoners in Australia 2018* (Catalogue Number 4517.0, 6 December 2018) Table 30; Australian Bureau of Statistics, *Prisoners in Australia 2021* (Catalogue Number 4517.0, 9 December 2021) Table 30. The average daily number of young people in custody on remand increased from 176 in 2019–20 to 204 in 2020–21, although it was 212 in 2018–19 and has experienced other fluctuations over time. Of all finalised court appearances in 2020–21 at which a detention order was made, 45 per cent resulted in the young offender being released from court following sentencing with no time remaining to serve in custody: Children's Court of Queensland, *Annual Report 2020–21* (Report, 2021) 42, Figure 18 based on data provided by the Department of Children, Youth Justice and Multicultural Affairs.

¹⁹⁵ Queensland Sentencing Advisory Council, *Community-Based Sentencing Orders, Imprisonment and Parole options* (Final Report, 2019).

¹⁹⁶ Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences Across the Criminal Justice System* (Report Two, 2022).

¹⁹⁷ A gender-specific approach to youth justice was suggested by the Atkinson Report on Youth Justice (2018).

¹⁹⁸ Agreement to Implement the Justice Policy Partnership, Australian Government Attorney-General's Department (2021), available at: <https://www.ag.gov.au/sites/default/files/2021-10/justice-policy-partnership-agreement-to-implement.pdf>.

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Appendix: Data tables

Table 10: Volume and percentage change for cases sentenced in 2005–06 and 2018–19 for women and girls

Offence category	Women and girls 2005–06	Women and girls 2018–19	Percentage change for women and girls, 2005–06 to 2018–19
Homicide	11	10	-9.1%
Sexual assault	14	27	92.9%
Abduction, harassment	125	159	27.2%
Robbery, extortion	45	177	293.3%
Unlawful entry	459	880	91.7%
Weapons	294	1,077	266.3%
Property and environment	856	1,348	57.5%
Acts endangering persons	2,105	1,440	-31.6%
Fraud	1,561	1,511	-3.2%
Acts intended to cause injury	1,363	2,114	55.1%
Public order	4,235	3,934	-7.1%
Theft	4,670	7,437	59.3%
Drugs	3,104	8,293	167.2%
Justice and government	5,917	9,974	68.6%
Traffic and vehicle	11,120	12,257	10.2%

Data includes women (adults), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland.

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

Table 11: Volume and percentage change for cases sentenced in 2005–06 and 2018–19 for men and boys

Offence category	Men and boys 2005–06	Men and boys 2018–19	Percentage change for men and boys, 2005–06 to 2018–19
Homicide	52	46	-11.5%
Sexual assault	785	995	26.8%
Abduction, harassment	435	751	72.6%
Robbery, extortion	402	763	89.8%
Unlawful entry	4,112	4,800	16.7%
Weapons	2,476	5,326	115.1%
Property and environment	5,491	5,841	6.4%
Acts endangering persons	9,873	5,487	-44.4%
Fraud	2,647	3,237	22.3%
Acts intended to cause injury	5,508	6,907	25.4%
Public order	19,585	11,704	-40.2%
Theft	11,433	16,068	40.5%
Drugs	12,264	22,808	86.0%
Justice and government	25,123	31,856	26.8%
Traffic and vehicle	44,019	38,299	-13.0%

Data includes women (adults), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland.

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

Table 12: Volume and percentage change for cases sentenced in 2005–06 and 2018–19 for women

Offence category	Number of cases in 2005–06	Number of cases in 2018–19	Percentage change from 2005–06 to 2018–19
Homicide	11	10	-9.1%
Acts intended to cause injury	1,202	1,695	41.0%
Sexual assault	13	25	92.3%
Acts endangering persons	2,094	1,392	-33.5%
Abduction, harassment	119	133	11.8%
Robbery, extortion	31	88	183.9%
Unlawful entry	322	537	66.8%
Theft	4,075	6,264	53.7%
Fraud	1,529	1,396	-8.7%
Drugs	3,047	8,035	163.7%
Weapons	281	1,013	260.5%
Property and environment	712	1,008	41.6%
Public order	3,931	3,411	-13.2%
Traffic and vehicle	11,016	12,137	10.2%
Justice and government	5,631	9,393	66.8%

Data includes women (adults), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland.

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

Table 13: Volume and percentage change for cases sentenced in 2005–06 and 2018–19 for girls

Offence category	Number of cases in 2005–06	Number of cases in 2018–19	Percentage change from 2005–06 to 2018–19
Homicide	0	0	-
Acts intended to cause injury	162	419	158.6%
Sexual assault	1	2	100.0%
Acts endangering persons	18	60	233.3%
Abduction, harassment	6	26	333.3%
Robbery, extortion	14	90	542.9%
Unlawful entry	139	344	147.5%
Theft	599	1,176	96.3%
Fraud	33	115	248.5%
Drugs	57	260	356.1%
Weapons	13	64	392.3%
Property and environment	145	340	134.5%
Public order	304	523	72.0%
Traffic and vehicle	128	185	44.5%
Justice and government	287	583	103.1%

Data includes girls (children), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland.

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

Table 14: Volume and percentage change for cases sentenced in 2005–06 and 2018–19 for non-Indigenous women and girls

Offence category	Number of cases in 2005–06	Number of cases in 2018–19	Percentage change from 2005–06 to 2018–19
Homicide	7	10	42.9%
Acts intended to cause injury	753	1,222	62.3%
Sexual assault	11	20	81.8%
Acts endangering persons	32	82	156.3%
Abduction, harassment	89	121	36.0%
Robbery, extortion	21	112	433.3%
Unlawful entry	248	525	111.7%
Theft	3,733	5,651	51.4%
Fraud	1,181	1,188	0.6%
Drugs	2,703	6,841	153.1%
Weapons	244	872	257.4%
Property and environment	494	722	46.2%
Public order	1,798	1,822	1.3%
Justice and government	3,709	6,994	88.6%

Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland.

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

Notes:

1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.

2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

Table 15: Volume and percentage change for cases sentenced in 2005–06 and 2018–19 for Aboriginal and Torres Strait Islander women and girls

Offence category	Number of cases in 2005–06	Number of cases in 2018–19	Percentage change from 2005–06 to 2018–19
Homicide	2	0	-100.0%
Acts intended to cause injury	600	878	46.3%
Sexual assault	1	4	300.0%
Acts endangering persons	10	49	390.0%
Abduction, harassment	35	36	2.9%
Robbery, extortion	21	65	209.5%
Unlawful entry	207	354	71.0%
Theft	919	1,752	90.6%
Fraud	118	274	132.2%
Drugs	381	1,408	269.6%
Weapons	49	202	312.2%
Property and environment	356	623	75.0%
Public order	2,407	2,058	-14.5%
Justice and government	1,960	2,905	48.2%

Data includes women (adults) and girls (children), higher and lower courts, sentenced 2005–06 and 2018–19 in Queensland.

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

Notes:

1) Excludes cases where the Aboriginal and Torres Strait Islander status was unknown.

2) Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

Table 16: Trends for the most common offences to receive an imprisonment sentence, women sentenced 2005–06 to 2018–19

Offence	Number of cases	Proportion of all cases (n=17,027)
Stealing	1,702	10.0%
Breach of bail - failure to appear	1,481	8.7%
Possessing dangerous drugs	1,201	7.1%
Fraud	1,163	6.8%
Assaults occasioning bodily harm	1,028	6.0%
Driving of motor vehicle without a driver licence prohibited	1,003	5.9%
Burglary	872	5.1%
Serious assaults	784	4.6%
Contravention of domestic violence order	650	3.8%
Supplying dangerous drugs	570	3.4%

Data includes MSO, women (adults), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Table 17: Summary statistics on the length of sentences imposed on women

Penalty type	Magistrates Courts					Higher courts				
	Women									
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Community service (hours)	9,650	83.4	70.0	2.0	240.0	608	120.9	100.0	20.0	240.0
Convicted, not further punished	15,142	-	-	-	-	539	-	-	-	-
Good behaviour, recognisance (months)	35,693	6.6	6.0	0.0	60.0	266	14.3	12.0	3.0	60.0
Imprisonment (years)	12,823	0.5	0.3	0.0	3.0	4,184*	2.3	2.0	0.0	21
Intensive correction order (months)	878	8.1	9.0	1.0	12.0	238	9.7	12.0	3.0	12.0
Monetary (dollars)	37,0321	471.32	300.00	1.69	139,333.24	435	7533.90	600.00	10.00	189,316.90
Partially suspended (years)	763	0.7	0.5	0.0	3.0	1,049	2.8	3.0	0.1	5.0
Probation (years)	26,238	1.1	1.0	0.1	3.0	1,180	1.6	1.5	0.5	3.0
Rising of the court	132	-	-	-	-	69	-	-	-	-
Wholly suspended (years)	11,378	0.3	0.3	0.0	4.0	1,711	1.3	1.0	0.1	5.0

* Excludes 19 cases that received a life sentence

Penalty type	Magistrates Courts					Higher courts				
	Aboriginal and Torres Strait Islander women									
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Community service (hours)	2783	69.9	60.0	3.0	240.0	142	109.3	100.0	25.0	240.0
Convicted, not further punished	4,205	-	-	-	-	142	-	-	-	-
Good behaviour, recognisance (months)	5,820	6.7	6.0	0.9	36.0	40	13.0	12.0	3.0	36.0
Imprisonment (years)	4,252	0.4	0.3	0.0	3.0	1,021*	1.9	1.5	0.0	9.0
Intensive correction order (months)	123	7.4	6.1	2.0	12.0	54	8.9	9.0	3.0	12.0
Monetary (dollars)	55,640	328.20	250.00	2.00	59,794.66	65	3,739.37	300.00	40.00	79,650.00
Partially suspended (years)	167	0.6	0.5	0.0	3.0	133	2.1	2.0	0.3	5.0
Probation (years)	6,242	1.0	1.0	0.3	3.0	252	1.5	1.5	0.5	3.0
Rising of the court	45	-	-	-	-	28	-	-	-	-
Wholly suspended (years)	2,749	0.3	0.2	0.0	4.0	318	1.0	1.0	0.1	5.0

Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

* Excludes 3 cases that received a life sentence

Penalty type	Magistrates Courts					Higher courts				
	Non-Indigenous women									
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Community service (hours)	5122	86.6	80.0	2.0	240.0	446	124.3	120.0	20.0	240.0
Convicted, not further punished	8994	-	-	-	-	392	-	-	-	-
Good behaviour, recognisance (months)	27843	6.5	6.0	0.0	60.0	204	13.9	12.0	3.0	60.0
Imprisonment (years)	6991	0.5	0.3	0.0	3.0	3,013*	2.4	2.0	0.0	21.0
Intensive correction order (months)	503	8.3	9.0	1.0	12.0	175	9.9	12.0	3.0	12.0
Monetary (dollars)	119,060*	483.65	300.00	1.69	139,333.24	330	5,364.94	750.00	10.00	189,316.90
Partially suspended (years)	411	0.8	0.7	0.0	3.0	747	3.0	3.0	0.1	5.0
Probation (years)	15424	1.1	1.0	0.1	3.0	899	1.6	1.5	0.5	3.0
Rising of the court	84	-	-	-	-	39	-	-	-	-
Wholly suspended (years)	6018	0.3	0.3	0.0	3.0	1,250	1.3	1.0	0.1	5.0

Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

* Excludes 2 cases where no amount was necessary

* Excludes 15 cases that received a life sentence

Data includes MSO, women (adults), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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

Table 18: Summary statistics on the length of sentence for girls

Penalty type	Magistrates Courts					Higher courts				
	Girls									
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Boot camp order (months)	24	4.0	3.5	3.0	6.0	0				
Community service (hours)	2,206	43.2	40.0	1.0	200.0	175	83.9	75.0	5.0	200.0
Conditional release order (months)	338	3.0	3.0	0.9	9.0	89	3.6	3.0	3.0	12.0
Convicted, not further punished	806	-	-	-	-	43	-	-	-	-
Court diversion referral	2,563	-	-	-	-	22	-	-	-	-
Detention (months)	278	3.6	3.0	0.1	12.0	106	13.8	12.0	1.5	36.0
Good behaviour, recognisance (months)	3,823	5.5	6.0	0.2	12.0	33	8.0	6.1	3.0	12.0
Intensive supervision order (months)	6	-	-	-	-	0				
Monetary (dollars)	472	174.29	100.00	1.50	3462.34	4	-	-	-	-
Probation (months)	3,577	7.3	6.1	1.0	18.0	422	16.6	17.9	3.0	36.0
Reprimand	7,793	-	-	-	-	14	-	-	-	-
Restorative justice order	88	-	-	-	-	4	-	-	-	-
Treatment program	147	-	-	-	-	0				

Penalty type	Magistrates Courts					Higher courts				
	Aboriginal and Torres Strait Islander girls									
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Boot camp order (months)	23	4.0	3.9	2.9	6.1	0	-	-	-	-
Community service (hours)	1,345	41.8	40.0	1.0	200.0	66	77.0	75.0	5.0	200.0
Conditional release order (months)	220	2.9	3.0	0.9	9.0	50	3.7	3.0	3.0	12.0
Convicted, not further punished	392	-	-	-	-	20	-	-	-	-
Court diversion referral	964	-	-	-	-	9	-	-	-	-
Detention (months)	213	3.7	3.0	0.1	12.0	68	12.7	12.0	1.5	36.0
Good behaviour, recognisance (months)	1,697	5.2	6.0	0.2	12.0	14	7.9	6.1	3.0	12.0
Intensive supervision order (months)	6	-	-	-	-	0	-	-	-	-
Monetary (dollars)	158	170.65	100.00	2.38	1550.00	1	-	-	-	-
Probation (months)	1,902	7.3	6.1	1.0	18.0	165	16.5	18.0	3.0	36.0
Reprimand	3,184	-	-	-	-	8	-	-	-	-
Restorative justice order	50	-	-	-	-	2	-	-	-	-
Treatment program	26	-	-	-	-	0	-	-	-	-

Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

Penalty type	Magistrates Courts					Higher courts				
	Non-Indigenous girls									
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Boot camp order (months)	1	-	-	-	-	0	-	-	-	-
Community service (hours)	857	45.3	40.0	1.0	200.0	107	88.7	75.0	5.0	200.0
Conditional release order (months)	118	3.1	3.0	0.9	9.0	39	3.3	3.0	2.9	9.0
Convicted, not further punished	400	-	-	-	-	23	-	-	-	-
Court diversion referral	1,573	-	-	-	-	13	-	-	-	-
Detention (months)	64	3.2	3.0	0.8	8.1	38	15.7	15.0	3.0	36.0
Good behaviour, recognisance (months)	2,104	5.8	6.0	0.9	12.0	19	8.1	6.1	3.0	12.0
Monetary (dollars)	304	176.18	100.00	1.50	3462.34	2	-	-	-	-
Probation (months)	1,666	7.2	6.1	1.9	18.0	255	16.6	17.9	6.0	36.0
Reprimand	4,547	-	-	-	-	6	-	-	-	-
Restorative justice order	36	-	-	-	-	2	-	-	-	-
Treatment program	119	-	-	-	-	0	-	-	-	-

Cases involving traffic and vehicle regulatory offences (ANZSOC Division 14) and dangerous or negligent driving of a vehicle (ANZSOC division 041) were excluded due to data quality issues in recording Aboriginal and Torres Strait Islander status for these offences.

Data includes MSO, girls (children), higher and lower courts, sentenced 2005–06 to 2018–19 in Queensland.

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



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