

PREPARING SENTENCING REMARKS

Sentencing remarks are the reasons given by the judge or magistrate for the sentence imposed. Sometimes these are written decisions, but more often in Queensland these reasons are delivered orally.

Learning outcomes

Students will:

- use legal terminology
- justify, using legal reasoning, the suitability of a sentencing option.

Focus question

- What sentence provides the most just and equitable response?

Key concepts

- aggravating factors
- custodial sentence
- mitigating factors
- non-custodial sentence
- purposes of sentencing
- sentencing options
- sentencing remark.

Curriculum links

This learning resource has been developed for students studying Legal Studies 2019 (General Senior Syllabus) in Year 11 and 12, specifically the core area of criminal law. It ties in with Unit 1: Beyond reasonable doubt, Topic 4: Punishment and sentencing.

This resources has been designed to be used with [Judge for Yourself](#), an interactive program that allows students virtually experience the sentencing process.

Getting started

1. Read and analyse sentencing remarks. Some sentencing remarks can be found on the Supreme Court Library Queensland website.
2. As a class, summarise the mitigating and aggravating circumstances, maximum penalty and purposes of sentencing most relevant to the case.

Further resources

The following websites may further enhance the learning outcomes associated with this resource:

- [Queensland Sentencing Advisory Council](#)
- [Supreme Court Library Queensland](#)
- [Courts Administrative Authority of South Australia—sentencing remarks](#)
- [Supreme Court of the Northern Territory—sentencing remarks](#)
- [Courts Services Victoria—judgments](#)

LEARNING RESOURCE

The types of penalties a court can impose when sentencing an offender as an adult in Queensland are set out in the *Penalties and Sentences Act 1992 (Qld)*. Sentencing judges and magistrates must provide reasons for the sentence imposed.

These reasons are recorded and referred to as sentencing remarks. Sentencing remarks can be given either orally in court or in writing.

Your turn

1. In reference to a particular case study in Judge for Yourself write sentencing remarks. Sentencing remarks should include:
 - a summary of the facts of the case
 - an assessment of the seriousness (or gravity) of the offence — including the maximum penalty for the offence, the nature of the offence, the circumstances in which it was committed and harm caused to the victim
 - an assessment of the circumstances of the offender and their culpability (what their role is and how much they are to blame for the offence)
 - other relevant aggravating and mitigating circumstances, analysing how these circumstances impacted the sentence
 - consideration of the purposes of the sentence, as stated in the *Penalties and Sentencing Act 1992 (Qld)*, section 9(1) and how these apply in the circumstances of the case
 - any additional statements considered relevant
 - the sentence to be imposed taking the above matters into account.
2. Sentencing remarks do not have to follow a particular structure. Locate and read examples listed in the resources part of this document to assist you.
3. Only some sentencing remarks are published in Queensland and other states. Discuss the merits of publishing sentencing remarks.