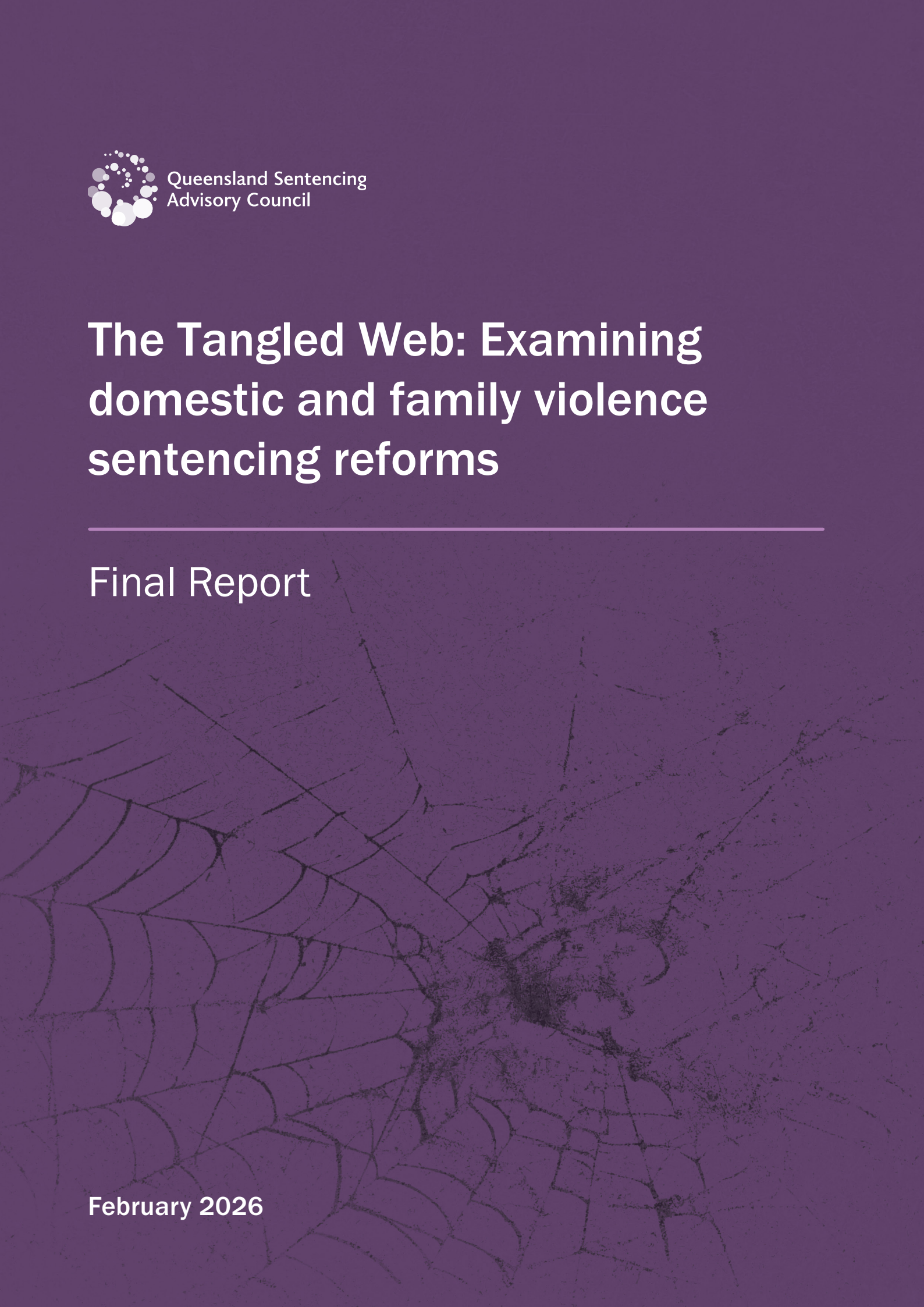
Queensland Sentencing Advisory Council

The Tangled Web: Examining domestic and family violence sentencing reforms

Final Report



February 2026

Further information

Queensland Sentencing Advisory Council

GPO Box 2360, Brisbane Qld 4001

Tel: (07) 3738 9499

Email: info@sentencingcouncil.qld.gov.au

Warning to readers

This report contains subject matter that may be distressing to readers. Material describing serious violent offences, including case examples drawn from sentencing remarks and subject-matter expert interviews, and descriptions of the impact these offences can have on victims are included in this report. If you need to talk to someone, support is available:

DV Connect (24 hours): 1800 811 811

Lifeline Australia (24 hours): 13 11 14

Mensline (9.00 am - midnight, 7 days): 1800 600 636

Queensland Sexual Assault Helpline (7.30am - 11.30 pm, 7 days): 1800 010 120

VictimConnect (24 hours): 1300 318 940

ISBN: 978-0-6485965-6-1

The Final Report is available for download from the Council's website: www.sentencingcouncil.qld.gov.au.

Disclaimer

The content of this report presents the views of the Queensland Sentencing Advisory Council and does not represent Queensland Government policy. While all reasonable care has been taken in the preparation of this paper, no responsibility or liability is assumed for any errors or omissions or any loss, damage, or injury, financial or otherwise, suffered by any person acting or relying on information contained in or omitted from this publication. This paper follows the Melbourne University Law Review Association Inc, *Australian Guide to Legal Citation* (4th ed., 2018) and reflects the law as at 1 February 2026.

The Queensland Sentencing Advisory Council

The Queensland Sentencing Advisory Council is established by section 198 of the *Penalties and Sentences Act 1992* (Qld). The Council provides independent research and advice, seeks public views and promotes community understanding of sentencing matters. The Council's functions are detailed in section 199 of the Act.

Queensland Sentencing Advisory Council
Inform. Engage. Advise.

In reply please quote: 611278/2; 7633311

27 February 2026

The Honourable Deb Frecklington MP
Attorney-General and Minister for Justice and
Minister for Integrity
1 William Street
BRISBANE QLD 4000

Dear Attorney-General

On 17 May 2023, the Queensland Sentencing Advisory Council received Terms of Reference to undertake a review of sentencing practices for sexual assault and rape offences in conjunction with a review of recent reforms in relation to the sentencing of domestic and family violence offences.

I am pleased to provide you with the Council's final report on the second part of this reference on the review of the impact of the increase to maximum penalties for contravention of a domestic violence order (CDVO) and the introduction of an aggravating factor for domestic violence-related offending, *The Tangled Web: Examining domestic and family violence sentencing reforms*.

Yours sincerely

Kerry O'Brien AM
Chair

Enc.

07 3738 9499
info@sentencingcouncil.qld.gov.au
GPO Box 2360, Brisbane QLD 4001
www.sentencingcouncil.qld.gov.au

Queensland Sentencing Advisory Council

Chair	Kerry O'Brien AM
Deputy Chair	Kristy Bell
Council members	Danielle Carroll Nathan Crane Scott Lynch Natalie Merlehan Brett Schafferius Thelma Schwartz Douglas Wilson
Former Council members during this review	The Honourable Ann Lyons AM (former Chair) Professor Elena Marchetti (former Deputy Chair) Jo Bryant Julie Dick SC Matt Jackson Debbie Kilroy OAM Jakub Lodziak Philip McCarthy KC Sherrie Meyer Beck O'Connor Dan Rogers Jon Rouse APM Warren Strange
Director	April Chrzanowski

Contributors

Authors	Lauren Banning Victoria Moore Alison Robinson Carley Ruiz Emma Ward
Data and research analysts	Laura Hidderley Samuel Jeffs Vere Lambert-Morris Claire McLean

Statement on conflicts of interest: Any conflicts arising during Council reviews are managed in accordance with the Council's *Code of Conduct*. More information is available on the Council's website.

Contents

PART A: Context of the review

PART B: Contravention of a domestic violence order

PART C: Section 9(10A) of the *Penalties and Sentences Act 1992* (Qld)

PART D: Marginalisation, human rights and future directions in enhancing sentencing for domestic violence

Appendices

List of Tables

List of Figures

Preface

This report considers the impact of two reforms designed to strengthen sentencing responses to domestic violence-related offending.

Why this review was initiated

The review was initiated following a request by the then Attorney-General and Minister for Justice to examine the impact of the increase in maximum penalties for contravention of a domestic violence order (CDVO), and the introduction of an aggravating factor for domestic violence-related offending (DV aggravating factor). These legislative changes are a small, yet important, part of a broader system response to address domestic and family violence and minimise its impacts.

If we are to address the pervasive, insidious and complex social problem that is domestic and family violence, we need to ensure our service delivery, legislative and policy settings are right. This need is even more acute given the current government's commitment to enhancing victim safety.

The importance of evaluation and measures of 'effectiveness'

Evaluating the impact of reforms is important. We found evidence of some change, while identifying areas where further reforms may be needed. Our task has been particularly challenging, as the reforms we reviewed were implemented during a period of significant system change and transformation in response to the *Not Now, Not Ever* report and other developments.

More broadly, our findings raise important questions about the objectives against which effectiveness of sentencing reforms should be measured.

The preamble to the *Penalties and Sentences Act 1992* (Qld) identifies, as a guiding principle, that society is entitled to protect itself and its members from harm. The criminal law and the power of courts to impose sentences is one of the important ways in which this is done.

An important measure of effectiveness therefore must be whether those harmed consider they are adequately protected and their needs are met. What domestic violence victims want from sentencing varies widely, but for many it is simply for the violence to stop.

Our commissioned research on victim satisfaction with the DV aggravating factor found victim survivors had a low awareness of its existence and role in sentencing. This research highlights the importance of addressing systemic issues such as court delays, secondary victimisation, the lack of culturally safe practices, and the need for alternative sentencing approaches. We extend our thanks to the victim survivors who took the time to share their personal experience of the sentencing process to inform this work.

Our approach

To inform our broader review, we consulted extensively, through a submission process, stakeholder meetings and roundtables across the state. We extend our sincere gratitude to all individuals and organisations that so generously gave their time to meet and engage with us. Your insights were critical in helping us understand the true impact of the reforms and the broader context in which they were implemented.

A key aspect of the review was identifying changes in sentencing practice. Subject-matter expert interviews were a critical source of evidence in understanding these changes. We extend our sincere thanks and appreciation to all those who participated for sharing your valuable insights, and to those individuals and organisations who provided the necessary permissions for this work to proceed.

The disproportionately high numbers of Aboriginal and Torres Strait Islander people sentenced for domestic and family violence-related offending is cause for significant concern and highlights the need for change. Our Aboriginal and Torres Strait Islander Advisory Panel enriched our understanding of the impact of reforms on First Nations peoples and helped inform a culturally appropriate approach to consultation. Understanding the complexities of what is driving or contributing to the high rate of justice involvement and finding effective, tailored, and culturally responsive solutions must continue to be a government priority.

We also acknowledge the valuable contribution of members of the Council's Practitioner Consultative Forum for openly sharing their views and providing us with a platform for confidential discussion and the exchange of ideas. Your continued support of the Council's work is greatly appreciated.

The Council also thanks other members of the Project Board who played a critical role in guiding this review and consultations – former Council member Professor Elena Marchetti, the initiating Project Sponsor, former Council members Jo Bryant and Debbie Kilroy OAM whose terms ended while the review was underway, and Julie Dick SC and Matt Jackson, whose terms expired in January 2026 just prior to the review's conclusion. We also thank former Council Chair, the Honourable Ann Lyons AM, for her expert stewardship of this review, including in leading several regional consultations.

Our findings and recommendations

From our extensive consultation and comprehensive research and data analysis, we found that overall there was an increase in the seriousness of penalty outcomes for domestic violence offences and CDVO, correlating with the introduction of the two reforms. As set out above, these reforms occurred during a period of significant change. As a result, we cannot definitively determine whether these two specific reforms were the cause for this change as the impact of the other reforms could not be excluded.

For CDVO, as most offences were sentenced in the Magistrates Courts, we could not determine the types of conditions breached or the breach conduct involved from administrative data to know whether the characteristics and profile of CDVO offences had changed.

For the aggravating factor, we could not tell from administrative data whether the difference in outcomes for domestic violence offences in comparison to those not sentenced as domestic violence offences reflected court sentencing practices prior to the introduction of the reform. This is because for all but a brief period prior to the introduction of this aggravating factor, there was no separate identification and recording of offences as domestic violence offences.

The accounts of subject matter experts and information obtained during consultation helped us to bridge these information gaps.

Fundamentally, our work confirms the need for improving the evidence base. We cannot assess nor can government change what cannot be seen. Improving data systems in Queensland is urgent. More comprehensive data must be captured and linked at a charge level to enable the impacts of criminal justice reforms to be properly understood.

We hope the recommendations in this report are a catalyst for change.

Kerry O'Brien AM
Chair
Queensland Sentencing Advisory Council

Kristy Bell
Deputy Chair and Project Sponsor
Queensland Sentencing Advisory Council

Glossary

ABS	Australian Bureau of Statistics
Aggrieved	The person subjected to domestic violence who is protected by a domestic violence order.
Aggravating factors	Facts or details about the offence, the victim and/or the sentenced person that may increase the sentence a court gives.
Allege/alleged	To accuse someone of having done something illegal. The prosecution does this and must prove its case beyond a reasonable doubt if the person does not plead guilty.
Average (or mean)	The average is a measure used to describe the central position of a dataset. The average is calculated by adding up all the values in a dataset and dividing the sum by the total number of values. The average is affected by outliers — extreme values at either end of the distribution can cause the average to shift significantly. When the sample size is large and does not include extreme (or outlier) values, the mean usually provides the preferred measure of central tendency.
Bail	A promise to come back to court for trial or sentencing. Bail may have extra conditions, like reporting to the police, living at a certain place or a surety (money put up by someone else to guarantee the person will come back to court).
Board ordered parole	Where a court chooses to set the date the person becomes eligible for release on parole, the Parole Board decides whether the person should be released when that person makes an application. The actual date of their release is at the discretion of the Parole Board and can vary greatly depending on the circumstances of the case and of the offender.
Breach	To break a court order (also called a **contravention**).
Case law	Law developed through decisions made by courts in previous cases. This includes decisions about sentencing and how to interpret legislation. This is also known as **common law**.
Contravention	When a court order is not followed (also called a **breach**).
Contravention of domestic violence order (CDVO)	The criminal offence for breaching the conditions set out in a domestic violence order (DVO). The first time a person is charged with a CDVO it is non-aggravated and subject to a 3-year maximum penalty, and any subsequent CDVO is aggravated and subject to a 5 year maximum penalty.
Charge	A formal allegation made on arrest, or in court, that a person has committed an offence.
Circumstance of aggravation	A fact that is part of an offence that makes the person liable to a greater punishment than the penalty that applies to the basic (simpliciter) version of that offence. An example is a person having previously been convicted of a CDVO. A circumstance of aggravation must be specifically made part of the charge if it is to apply.
Common law	Law developed through decisions made by courts in previous cases. This includes decisions about sentencing and how to interpret legislation. This is also known as **case law**.
Conviction/been convicted	A finding that a person is guilty of an offence, including because the person pleads guilty.
Court ordered parole	A parole order where the parole release date is fixed by the court. A person will be released on their parole release date to serve the rest of their prison sentence in the community under supervision unless there is an additional reason the person is in custody or the Parole Board Queensland decides the person should not be released. The court must fix a date if the person is sentenced to 3 years imprisonment or less — but not if the sentence is for a sexual or serious violent offence, or an existing parole order was legally cancelled by the new sentence.
Community protection	One of the 6 purposes of sentencing in Queensland. To protect the Queensland community from the person sentenced.
Custodial penalty	A sentencing order that involves a term of imprisonment being imposed.

Defendant	A person who has been charged with an offence but who has not yet been found guilty or not guilty. Can be used interchangeably with accused.
Denunciation	One of the 6 statutory sentencing purposes in Queensland. To express in a formal way that the person's behaviour is unacceptable to the community.
Deterrence	One of the 6 purposes of sentencing in Queensland. Discouraging the person and other members of the community from committing a crime by the threat of a punishment or by someone experiencing a punishment. Where the aim is to discourage the person from committing further offences, this is known as personal or specific deterrence. When aimed at the general community, it is called general deterrence.
DFVPA	*Domestic and Family Violence Protection Act 2012* (Qld)
Domestic and family violence	Behaviour or a pattern of behaviour is abusive, threatening, coercive or causes fear in a current or past relevant relationship, including by intimate partners, family members and/or informal carers.
Domestic violence offence/DV offence	A court can record any offence as a 'domestic violence offence' if the behaviour for which the person is convicted is also domestic violence and/or if the behaviour has breached a domestic violence order. In this report, this term is also used when discussing cases sentenced where the most serious offence was a DV offence.
Domestic violence order (DVO)	A DVO is a civil court order issued by the court to protect people from further domestic violence. There are 2 types of orders, a temporary protection order and a protection order.
DV aggravating factor	Section 9(10A) of the *Penalties and Sentences Act 1992* (Qld)
Head sentence – imprisonment	The total period of imprisonment imposed taking into account, if more than one prison sentence is imposed, whether they are ordered to be served concurrently or cumulatively.
Maximum penalty	The highest penalty that can be given to a person convicted of a particular offence.
Median	The median is a measure used to determine where the centre of a distribution lies. The median is the middle value (or the half-way point) of an ordered dataset. Half of the values lie above the median, and half below. The advantage of using the median is that, compared to the mean, it is relatively unaffected by extreme scores at either end of the distribution. For more information, see **Appendix 8**.
Mitigating factor	A fact or detail about the offender and their offence that tends to reduce the severity of their sentence.
MSO	For this report, the MSO refers to an offender's most serious offence at a court event. It is the offence receiving the most serious penalty, as ranked by the classification scheme used by the Australian Bureau of Statistics (ABS). An offender records one MSO per court event.
Non-DV offence	In this report, this term is used when comparing our analysis of sentencing outcomes for offences that were DV offences compared to those which were not.
Non-MSO	For this report, our analysis of cases where CDVO was not the most serious offence sentenced (non-MSO) from 1 July 2013 to 30 June 2024.
Non-parole period	The time an offender serves in prison before being released on parole or becoming eligible to apply for release on parole.
Offender	A person who has been found guilty of an offence or who has pleaded guilty to an offence. Can be used interchangeably with **person sentenced**.
Parole	The conditional release of a person from prison. When a person is released on parole, they serve the unexpired portion of their prison sentence in the community under supervision.
Parole eligibility date	The earliest date on which a prisoner may apply for release on parole.

Parole release date	The date set by the court on which a person must be released on parole (unless in custody for another reason, or the Parole Board Queensland decides they should not be released). A parole release date can only be set if certain criteria are met, such as a prison sentence of 3 years or less and not for a **serious violent offence** or a sexual offence.
Person sentenced	A person who has been found guilty of an offence or who has pleaded guilty to an offence. Can be used interchangeably with **offender**.
Pre-post analysis	In this report, our analysis of whether there had been a change following the increase to the maximum penalties for the offence of contravention of a domestic violence order in 2015. Due to the impact of the COVID-19 pandemic, our post-2015 period was restricted to the period ending 30 June 2019
Pre-sentence custody	The time spent by an accused person in custody before their charges are dealt with. This happens if the person is not given **bail**. Also referred to as **remand**. If a term of imprisonment is later imposed, time spent in pre-sentence custody is generally counted as part of the sentence, unless the court makes a different order.
PSA	*Penalties and Sentences Act 1992* (Qld)
Punishment	One of the 6 purposes of sentencing in Queensland. To punish the person in a way that is just (fair) in all the circumstances.
Recognition of victim harm	One of the 6 purposes of sentencing Queensland. To recognise the harm done by the offender to a victim of the offence. Courts are also required to take into account any physical, mental or emotional harm done to a victim when determining how serious an offence was.
Remand	The time spent by an accused person in custody before their charges are dealt with. This happens if the person is not given bail. See **pre-sentence custody**.
Respondent	The person who has committed domestic violence and must obey the rules set out in a domestic violence order.
Rehabilitation	One of the 6 purposes of sentencing in Queensland. The process by which a person addresses their offending behaviour to live a productive and law-abiding life in the future. This involves working on the causes of their offending, such as getting help with an addiction to alcohol or other drugs, dealing with behavioural or health issues, improving family relationships and healing from past trauma.
Sentence	The penalty the court imposes on an offender.
Sentencing purposes	The legislated purposes for which a sentence may be imposed. In Queensland there are 6 sentencing purposes for the sentencing of adults: **punishment**, **deterrence**, **rehabilitation**, **recognition of victim harm**, **denunciation**, and **community protection**.
Sentencing remarks	The reasons given by the judge or magistrate for the sentence imposed.
Sentencing trends	In this report, our analysis of sentencing trends over time for the offence of CDVO (MSO) between 17 September 2012 and 30 June 2025.
Significance/significant/ statistically significant/statistical significance	These terms are used in relation to research findings in this report. Statistical significance is the likelihood a relationship or difference between variables or groups is not caused by chance. For more information, see **Appendix 8**.
Victim survivor	A person who has suffered harm directly because of domestic and family violence, or a family member or dependent of a person who has died or suffered harm because of domestic and family violence.

Executive Summary

Introduction

This report presents the Queensland Sentencing Advisory Council's (the Council) findings, observations, and recommendations on its review of:

- the operation and efficacy of section 9(10A) of the *Penalties and Sentences Act 1992* (PSA); and
- the impact of the increase in maximum penalties for contravention of a domestic violence order (CDVO).

The review of these reforms was referred to the Council in May 2023 by the then Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence.

In asking the Council to undertake this review, the Attorney-General referred to the need to:

- protect victims from domestic and family violence and sexual violence;
- hold domestic and family violence and sexual violence offenders to account;
- maintain judicial discretion to impose a just and appropriate sentence in individual cases; and
- promote public confidence in the criminal justice system.

A brief history of DV reforms in Queensland

Domestic and family violence is not a new problem. Queensland courts had been responding to domestic violence long before there was a dedicated Act to address it.

The first legislation to respond to domestic and family violence in Queensland was the *Domestic Violence (Family Protection) Act 1989*.[1] This Act aimed to 'provide protection to a person against violence committed or threatened by his or her spouse and for prevention of behaviour disruptive to family life'.[2]

In 2005, the then President of the Queensland Court of Appeal recognised domestic violence as being 'an insidious, prevalent and serious problem' constituting 'a crime against the State warranting salutary punishment'.[3]

Significant reforms were made subsequently across the justice system to address domestic and family violence, including the introduction of the new *Domestic and Family Violence Protection Act 2012* (Qld).

In August 2014, the Queensland Government established the Special Taskforce on Domestic and Family Violence in Queensland (Special Taskforce), which made 140 recommendations.[4] The government accepted all of these recommendations[5] and two were the basis of this review:

1. a review of penalties for repeat contraventions of domestic violence orders; and
2. the introduction of a domestic violence circumstance of aggravation to apply to all criminal offences.[6]

The intention of the Special Taskforce was to increase perpetrator accountability and ensure sentences reflected the seriousness of this behaviour.

---

1 The name of this act changed to *Domestic and Violence Family Protection Act 1989* (Qld) ('DFVPA 1989'); see *Domestic Violence Legislation Amendment Act 2002* (Qld) s 1; Explanatory Notes, Domestic Violence Legislation Amendment Bill 2001 (Qld) 2.
2 DFVPA 1989 (n 1) Preamble.
3 *R v Fairbrother; Ex parte A-G (Qld)* [2005] QCA 105, [25] (McMurdo P) ('*Fairbrother*').
4 Special Taskforce on Domestic and Family Violence in Queensland, *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland* (February 2015) ('*Special Taskforce Report*').
5 Queensland Government, *Queensland Government Response to the Report of the Special Taskforce on Domestic and Family Violence* August 2015.
6 *Special Taskforce Report* (n 4) recs 118, 121.

The period following the Special Taskforce's report was one of substantial reform. Much of the focus was on reconfiguring system responses to put victim survivors at the centre of integrated responses and efforts to enhance perpetrator accountability.

In March 2021, the Women's Safety and Justice Taskforce was established. The Taskforce's *Hear Her Voice* reports led to the implementation of further significant reforms, including the move to an affirmative consent model for rape and sexual assault, and the establishment of a new coercive control offence. It also resulted in the establishment of the Independent Commission of Inquiry into Queensland Police Service (QPS) Responses to Domestic and Family Violence, which was the impetus for organisational reform within the QPS, the development and delivery of specialist training and other enhancements to policing responses to domestic violence.

The DV sentencing reforms

Following the Special Taskforce's *Not Now, Not Ever* report, in October 2015 parliament increased the maximum penalties for the offence of CDVO:

- for non-aggravated CDVO, from 2 years imprisonment or 60 penalty units to 3 years imprisonment or 120 penalty units; and
- for aggravated CDVO, from 3 years imprisonment or 120 penalty units to 5 years imprisonment or 240 penalty units.

It also passed legislation in May 2016 to introduce a statutory aggravating factor for domestic violence offences in the PSA.

The intention in introducing these changes was to strengthen sentencing responses, reinforce that the Queensland community does not accept domestic violence, increase protection for victim survivors and make perpetrators more accountable.[7]

At the time, the then government committed to ask the Council to evaluate the impact of these reforms, 'as part of a reference to consider the impact that maximum penalties have on the commission of domestic violence offences'.[8]

The Council's approach to this review

The Council conducted extensive research and consulted widely with legal and non-legal stakeholders including victim survivors and support and advocacy organisations.

We undertook the review over four key stages. **Stage 1** included publication of background information about the review and a call for preliminary submissions. We received 28 submissions from individuals and organisations in response.

From the preliminary research undertaken in **Stage 2**, we identified key areas relating to the sentencing of domestic and family violence (DFV) offences where existing research was lacking. The Council then commenced research in relation to the sentencing of CDVO and the operation of the DV aggravating factor and commissioned external bodies to address identified gaps to inform our review.

During **Stage 3** in March 2025, we released a consultation paper. This paper asked 6 key questions focusing on specific aspects of each reform. We received **19 submissions** in response from organisations and individuals. After releasing this paper, we conducted the following outreach:

- **52 consultation sessions and meetings** across Queensland, in locations including Cairns, Mount Isa, the Torres Strait Islands, Townsville, Roma, the Wide Bay region, South East Queensland, and online.

---

7 Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill 2015 (Qld) 1; Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill (No. 2) 2015 (Qld) 1–2.

8 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill (No. 2)' (n 7) 2.

- **17 interviews with subject matter experts**, including judicial officers, police prosecutors, and defence practitioners.

The **final stage** involved the development of our final report for the Attorney-General and Minister for Justice. It culminated with the delivery of this report – *The Tangled Web: Examining domestic and family violence sentencing reforms* – which presents our findings, observations, and recommendations.

Findings on the impact of increasing maximum penalties for CDVO

Pre-post analysis

The Council compared sentencing outcomes for CDVO prior to the increase in maximum penalties to the period immediately following this change, where CDVO was the most serious offence (MSO) sentenced.

We found CDVO penalty outcomes changed immediately following the increase to maximum penalties. There was greater use of custodial and supervised orders, suggesting CDVO offences were being treated as more serious forms of offending than prior to this reform. The increased use of supervised orders could further signal a greater awareness by prosecutors and courts of the importance of supervision, particularly for those with a prior history of DV offending.

In the post-period, we also saw an increase in the proportion of cases with time spent in custody declared. There were fewer cases of immediate release on parole in the period following the change with no time declared. Accordingly, more people spent actual time in custody for CDVO than prior to the change.

Although monetary penalties remained the most common penalty type for non-aggravated CDVO in the post-period, representing just under half (49.0%) of all penalties imposed, their use decreased significantly.

While the observed changes correlate with the increase in maximum penalties for CDVO, we cannot say with certainty that the increase caused these changes. The observed shifts may have been influenced by other legislative or non-legislative changes or by the changing nature of CDVO offences sentenced.

We also found that although the use of custodial sentences increased, there was no statistically significant change in the custodial or imprisonment sentence lengths. Again, the impact of other system changes may have contributed to this and understanding this fully would require improvements in data capture and further research.

Trends over time

As part of this review, the Council also examined broader sentencing trends for CDVO offences. We found that CDVO trends have been influenced by a combination of external factors in the 10-year data period since the increase to CDVO maximum penalties including:

- the impacts of the COVID-19 pandemic;
- legislative reforms, including changes in the presumption of bail for some types of CDVO offences; and
- other reforms impacting policy and practice.

For **aggravated CDVO**, the variation in the use of imprisonment indicates the influence of external factors and the potential changing profile of cases coming before the courts. Imprisonment was the most common penalty type for aggravated CDVO from 2013–14 and its use increased over the data period, including after the maximum penalty was increased. Its use peaked at 37.7 per cent of all penalty types in 2019–20. The COVID-19 pandemic then led to a sharp decline in the use of imprisonment for many offences, including aggravated CDVO (28.8%). In 2023–24, imprisonment once again became the most common penalty type for aggravated CDVO offences. In 2024–25, the most recent financial year, imprisonment represented just under one-third (32.2%) of all penalty outcomes for aggravated CDVO. The use of wholly suspended imprisonment sentences also has increased, while the use of monetary orders has decreased.

When considering sentencing outcomes for **non-aggravated CDVO**, monetary orders are by far the most common penalty type. Although the use of fines decreased immediately following the increase to the maximum penalty, their use increased steadily from 2017–18. This coincided with the changes to bail laws. The use of monetary penalties continued to generally increase throughout the COVID-19 pandemic period as imprisonment and probation decreased. In 2024–25 monetary penalties accounted for more than half of all penalty outcomes for non-aggravated CDVO (56.5%).

The continued high use of monetary penalties for non-aggravated CDVO could suggest that non-aggravated CDVO are not being treated as seriously as they should be given the increase in the maximum penalty. However, the less serious treatment of this form of offending does not reflect the experience of most legal support services and stakeholders; nor does it account for key considerations.

Importantly, we are unable to account for the changing nature of conduct prosecuted as a CDVO over time. Stakeholders told us police are increasingly charging CDVO in circumstances where a person's conduct may have been previously considered to be a 'technical' or 'minor' breach and not charged.[9]

We also found, over time, more CDVO offences were being charged with a more serious offence. This may mean that in more recent times a larger proportion of cases where CDVO was the most serious offence sentenced, involve different forms of conduct compared with earlier years. The expanded circumstances for aggravated CDVO since the increase to maximum penalties also means those sentenced for non-aggravated CDVO are less likely to have any recent DV-related offending history than may previously have been the case.

Shifts in sentencing patterns for CDVO have occurred in the context of increasing numbers of CDVO cases coming before the courts, including where CDVO has been sentenced with another more serious offence. There was a more than 250 per cent increase in CDVO cases over the-13-year data period – largely reflecting the growth in active orders.

As we found with the pre-post analysis, the breadth of reform, systemic changes, and significant external events mean it is not possible to identify what is driving sentencing trends and the extent to which specific reforms have contributed.

Our sentencing trends analysis illustrates CDVO outcomes continue to evolve and change, including in response to the changing profile of offending and appellate court guidance.

Recent appellate court guidance

Repeated non-compliance with DVOs raises particular challenges for the criminal justice system to respond in a way that is most likely to protect the victim and to prevent this type of behaviour.

The 2024 Court of Appeal decision of *CDL v Commissioner of Police*,[10] provides clear direction that a 'continuing attitude of disobedience and disregard for domestic violence orders' through repeated contraventions increases the seriousness of the offending and demonstrates a need for appropriate (condign) punishment in support of personal and general deterrence.[11] A lengthy sentence of imprisonment may be warranted even where a breach does not involve actual physical violence. We expect *CDL* will have an impact over time in increasing the use of custodial sentences and longer custodial penalties in cases that involve a repeated pattern of non-physical violence.

Findings on the impact of the DV aggravating factor

Consistent with the findings of our earlier Research Brief, we found evidence across most categories of offending that offences committed in a DV context, in general, are treated as a more serious form of offending than those occurring in a non-DV context. This is evidenced by the greater use of custodial sentences, longer median custodial sentences, and/or differences in penalty type distributions across most categories of offending.

---

9 Practitioner Consultative Forum meeting, 14 October 2025; Email from Consultative Forum member to Director, Queensland Sentencing Advisory Council, 23 October 2025.

10 *CDL v Commissioner of Police* [2024] QCA 214 ('*CDL*').

11 Ibid [16] (Bowskill CJ, Boddice JA agreeing), see also [65] (Brown JA) for similar comments.

Differences were found not just for offences involving the use of physical violence, such as common assault and assaults occasioning bodily harm, but also for offences that often involve elements of coercion and control, such as wilful damage, unlawful stalking, threatening violence, and attempting to pervert justice.

The observed trends reflect changes in sentencing practice following the introduction of the aggravating factor. There is now more consistent treatment of the DV context as being aggravating. There is also an increased focus on the context of the offending in sentencing submissions, supporting courts' attention being drawn to this as an important aspect of the offending.

There were 2 offences that did not follow the general trend in circumstances where this finding was statistically significant:

- acts intended to cause grievous bodily harm and other malicious acts;[12] and
- burglary and commit an indictable offence.[13]

Our research suggests this was due to important case differences between those offences sentenced as DV offences and those that were not.

Although overall our findings provide evidence of change in response to the introduction of the DV aggravating factor, we cannot definitively conclude this. This is because the separate identification and recording of offences as domestic violence offences for reporting purposes was not possible for all but 5 months of the period prior to this change.[14]

The degree to which these reforms have impacted sentencing outcomes at an individual case level is also difficult to quantify. This is because while the reform signals the increased seriousness with which offences occurring in a DV context should be viewed in support of higher sentences, the effect in any given case will depend on the balancing of all the relevant factors related to that offending and offender.[15] The recommendations made in this report regarding better data capture and linkage may assist in allowing shifts in outcomes to be better tracked and measured, noting the importance of being able to control for key factors that may be operating at an individual case level.

Findings on victim survivor satisfaction

Our commissioned victim survivor research on satisfaction with the DV aggravating factor in sentencing found victim survivors have low awareness of section 9(10A) and its role in sentencing. This is not surprising given the technical nature of the provision. Monash Gender and Family Violence Prevention Centre's research found victim survivor satisfaction was linked to judicial recognition of the DV and the harm it caused, perceived fairness in the court process, feeling respected by legal practitioners and judicial officers, and their involvement in the sentencing proceeding.

Addressing systemic issues such as court delays, secondary victimisation and the lack of culturally appropriate practices and safe places, particularly in regional and remote areas, should increase victim survivor satisfaction. Alternative sentencing approaches that prioritise perpetrator accountability and protect victims but also give autonomy by taking into account their preferences should be considered. We are grateful to victim survivors who took the time to share their personal experience of the sentencing process.

Human rights compatibility

We were asked to review the compatibility of the DV aggravating factor with the *Human Rights Act 2019* (Qld) (HRA). The HRA came into full effect on 1 January 2020, after the introduction of the DV aggravating factor.

The HRA includes the right to liberty, the right to equality, protection of a person from arbitrary arrest or detention, and to be deprived of liberty only on grounds, and in accordance with procedures, established by

---

12 *Criminal Code Act 1899* (Qld) sch 1, s 317 ('*Criminal Code* (Qld)').
13 Ibid s 419(5).
14 This period is from 1 December 2015 to 4 May 2016 immediately prior to the DV aggravating factor's commencement. See Appendix 6 for more information on these and other key legislative and non-legislative reforms.
15 *R v Hutchinson* (2018) 3 Qd R 505, [40] (Mullins J, Fraser and Morrison JJA agreeing) ('*Hutchinson*').

law. We found that while the DV aggravating factor may limit a person's right to liberty and the right to equality, the limitation is reasonable and justifiable. This is consistent with the conclusions on compatibility of other similar aggravating factors. It recognises that DV offending is a prevalent and serious form of offending that can cause significant harm to victim survivors, constituting a serious breach of their human rights. It is therefore appropriate for governments to take reasonable measures to address it. The purposes of the reform of protecting vulnerable members of the community, denouncing this form of offending and providing adequate deterrence outweigh any limits placed on rights.

Understanding impacts on marginalised and disadvantaged groups

Domestic and family violence disproportionately impacts marginalised and disadvantaged groups including women, Aboriginal and Torres Strait Islander peoples, people from other cultural backgrounds, people with disability and LGBTQIA+ people.[16] We sought to examine the impact of DFV sentencing on these groups but were limited by available administrative data.

Each person's experience of DFV is different. Certain communities face additional challenges and are at greater risk of violence because of systemic inequalities that marginalise their cultural or social identity or their personal circumstances.[17]

We found clear differences in the proportion of all offending that was DFV-related based on Indigenous status and gender. Aboriginal and Torres Strait Islander men had the highest proportion of DFV-related offences, and non-Indigenous women the lowest. For CDVO, both Aboriginal and Torres Strait Islander men and women were far more likely than non-Indigenous men and women to have a CDVO sentenced in conjunction with another more serious offence. For those cases in which CDVO was the most serious offence sentenced, Aboriginal and Torres Strait Islander men and women were more likely to be sentenced for an aggravated charge.

The examined reforms have had a disproportionate impact on Aboriginal and Torres Strait Islander people because they are disproportionately represented among people sentenced for CDVO and offences to which the DV aggravating factor applies.

Future directions for responding to domestic and family violence

Enhancing sentencing options

Our commissioned review of research evidence on sentencing responses to domestic and family violence offences identified several opportunities to enhance sentencing to better respond to domestic violence offending.[18] They include:

- positioning courts and sentencing responses as 'part of a coordinated and integrated response';
- reducing the use of fines, considering the increased use of community-based sanctions and providing more flexible sentencing options, including those that may allow for judicial monitoring; and

---

[16] *Domestic and Family Violence Protection Act 2012* (Qld) s 4(2)(d) ('DFVPA') identifies groups of people who may be vulnerable to domestic violence due to certain characteristics. They include: women, children, Aboriginal peoples and Torres Strait Islanders people, people from a culturally or linguistically diverse background, people with disability, people who are lesbian, gay, bisexual, transgender or intersex and elderly people.

[17] See details about an intersectional approach in 'Fact Sheet 1 - Overview of the Common Risk and Safety Framework' 7.

[18] Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) ('*Griffith University Literature Review*').

- factoring in the need for broader support services and treatment programs, including culturally appropriate options.[19]

A challenge in sentencing domestic violence offending is the variability in the nature and seriousness of these offences and circumstances in which they are committed. Domestic violence offending can involve offences:

- committed by first time offenders, repeat offenders and retaliatory violence by primary victims of domestic violence;
- committed against a person with whom they are in a current or former intimate relationship, is a family member or relative, including children, or with whom they are in an informal care relationship, or a person who is an associate of the person who has experienced violence;[20]
- involving physical, sexual, emotional, psychological, or economic abuse, and/or threatening, coercive conduct that causes the other person in a relationship to fear for their, or someone else's, safety, or wellbeing,[21] and acts that are brief or isolated, or committed over an extended period;[22]
- resulting in a wide range of harm, including the death of the victim or permanent serious physical and/or psychological injury, through to those involving circumstances where contact initiated by the victim genuinely and not under coercion, breaches a 'no contact' condition of a DVO.

This high level of variability supports the need for flexibility in penalty options and sentencing responses. While imprisonment will retain an important role, particularly for serious and persistent offending, other options are needed to ensure those who commit these offences can access the types of services and interventions that will bring about meaningful long-term change in the interests of victim and community safety.

In our 2019 report on community-based sentencing orders, imprisonment and parole options, we made several recommendations that, if implemented, have potential to expand the penalty options for domestic violence offending.[23] This included the introduction of a new type of community-based order – the community correction order (CCO) – to which courts can attach a range of conditions to meet the purposes of sentence and to respond to individual factors associated with the person's offending, including reporting and supervision conditions, rehabilitation and treatment conditions, drug and alcohol abstinence conditions, curfew conditions, community work, judicial monitoring, and electronic monitoring. CCOs have been introduced in various forms in NSW, the Northern Territory, Tasmania and Victoria. We also recommended that courts be given the power to combine a suspended prison sentence with a community-based order when sentencing a person for a single offence to allow supervision and other conditions to be ordered where needed.

In addition to these types of reforms, there are opportunities for the government to explore alternative justice approaches to better respond to domestic violence offending.

Reframing measures of 'success'

The two reforms we were asked to review signal to courts the increased seriousness of which DFV offences are to be viewed. Broadly, courts appear to have responded by making greater use of custodial sentences and, in some instances, ordering longer custodial sentences.

While this might be viewed as an important measure of 'success', the justice system must do more than just denounce and punish. It must protect and 'make things better' for those who have been subjected to this form of violence. Some victims may want the relationship to end and to have no further contact, but others may just want the person to change their behaviour and the violence to stop. Ensuring the long-term safety of victim survivors must be a priority.

---

19 Ibid.
20 DFVPA (n 16) s 13 (meaning of relevant relationship).
21 Ibid s 8(1).
22 Ibid s 8(2).
23 See Queensland Sentencing Advisory Council, *Community-Based Sentencing Orders, Imprisonment and Parole Options* (Final Report, July 2019).

Success for DFV criminal justice interventions typically has been measured in terms of a reduction in reported reoffending. There are significant limitations with this approach given it relies on the abuse to be reported and assumes the person has stopped engaging in abusive and controlling behaviour. Measures of success need to include more nuanced measures of desistance that take victim needs and experiences into account. Victims' perspectives and experiences are an important means by which government can assess if current responses are 'working', who they are working for and in what ways they are working. This includes taking into account the experiences of Aboriginal and Torres Straits Islander peoples and people from other marginalised and disadvantaged backgrounds who may be disproportionately affected by these reforms.

The need to improve the evidence base

A robust evidence base is essential for the Queensland Government to assess the impact and effectiveness of reforms, determine whether they are achieving their intended objectives, and identify any unintended consequences to guide future decision making.

The two recommendations we have made in this report reflect the critical need to improve the quality of data available to the Council and other research and advisory bodies. More comprehensive data is required to be captured in administrative data systems and linked at a charge level to enable the impacts of reforms to be better understood.

The more routine capturing of information, such as pre-sentence custody, is important to promote greater transparency and to enhance community understanding.

Recommendations, findings and observations

PART B: Contravention of a domestic violence order

Chapter 4 – Impact of increase to maximum penalties for CDVO

Finding 1: Sentencing outcomes have changes since the increase to contravention of domestic violence order maximum penalties

The Council's pre-post analysis of sentencing outcomes for contravention of a domestic violence order shows changes following the increase in maximum penalties across both non-aggravated and aggravated offences, including:

- an increase in the use of custodial orders;
- an increase in the use of supervised orders;
- an increase in the use of imprisonment; and
- a decrease in the use of monetary penalties.

However, the pre-post analysis found there was no statistically significant change in the custodial or imprisonment sentence length. Understanding the reasons behind this would be highly beneficial, and further research, along with improvements in data collection, could provide greater insights.

Observation 1: Limitations in administrative data capture and linkage across and within the criminal justice system constrains the ability to fully understand the impact of sentencing reforms

Due to limitations in administrative data, it has not been possible for the Council to conclusively attribute the changes identified in sentencing outcomes to the increase in maximum penalties. This is because the administrative data does not enable the Council to account for other important case and offender-specific factors that may have impacted the type of sentence imposed, and in the case of custodial sentences, their length.

Chapter 5 – Sentencing trends for CDVO

Finding 2: Sentencing trends for contravention of a domestic violence order have changed and the reasons for this are complex

The Council's examination of contravention of a domestic violence order (CDVO) sentencing trends over time shows changing sentencing patterns due to a complex range of factors.

CDVO trends have been influenced by a combination of external factors in the 10-year data period since the increase to CDVO maximum penalties including:

- the impacts of the COVID-19 pandemic;
- legislative reforms, including changes in the presumption of bail for some types of CDVO offences; and
- significant reviews and other reforms impacting policy and practice.

Finding 3: Recent appeal court guidance is likely to change future sentencing trends

In December 2024, the Court of Appeal issued its first guidance on sentencing for contravention of a domestic violence order in *CDL v Commissioner of Police* [2024] QCA 245. This guidance has potential to uplift sentences in circumstances where there is a repeated pattern of non-physical violence. Over time, we

expect sentences for these types of repeated acts of non-physical domestic violence to increase, including through the increased use of custodial orders and longer custodial penalties.

Chapter 6 – Anomalies and other issues

Finding 4: Commonwealth offences and offences committed in some other jurisdictions are not consistently recorded as 'domestic violence offences' which could impact sentencing practices

The inability to record or note whether a Commonwealth offence occurred in a domestic violence context may impact sentencing practices by:

- any future contravention of a domestic violence order is not being aggravated (assuming the person has no other domestic violence offences on their criminal history); and
- the court, when sentencing, potentially not recognising that prior offences occurred in a domestic violence context and form part of a pattern of behaviour, which may affect how seriously the current offence is viewed.

These same issues apply to domestic and family violence related offences committed in other jurisdictions, where such offences are not clearly identified on a person's criminal history.

Observation 2: There is some complexity in sentencing contravention of a domestic violence order and substantive offences involving the same conduct

The current wording of the new aggravating factor in section 9(10D)(b)(i) of the *Penalties and Sentences Act 1992* (Qld) (i.e. considerations where the offence committed was also a contravention of a domestic violence order) may create additional complexity in sentencing and the wording may require reconsideration.

In circumstances where a contravention is not charged, it is unclear if this aggravating factor will apply. If it is charged based on the same act or omission, the courts must consider section 16 of the *Criminal Code* (Qld) (i.e. that a person is not to be twice punished for the same offence).

PART C: Section 9(10A) of the *Penalties and Sentences Act 1992* (Qld)

Chapter 8 – The impact of section 9(10A) on sentencing practices

Finding 5: The aggravating factor appears to have impacted sentencing practices

Sentencing practices for domestic violence offences have changed following the introduction of section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) supporting the treatment of these offences as more serious forms of offending.

Finding 6: The finding of exceptional circumstances to section 9(10A) is uncommon

The Council's review of sentencing remarks found that it is uncommon for courts to find exceptional circumstances that justify not treating the fact that an offence was a domestic violence offence as an aggravating factor under section 9(10A) of the *Penalties and Sentences Act 1992* (Qld). This was consistent with legal practitioner observations.

Finding 7: Where exceptional circumstances to section 9(10A) are found, they are generally aligned with the legislative examples provided

For intimate personal relationship cases, the circumstances in which exceptional circumstances were successfully argued typically aligned with one of the two legislative examples provided in the *Penalties and Sentences Act 1992* (Qld). For family relationship cases, the circumstances supporting a finding of exceptional circumstances were more varied.

Observation 3: Further legislative clarification of 'exceptional circumstances' under section 9(10A) is not required

The two legislative examples in 9(10A) of the *Penalties and Sentences Act 1992* (Qld) provide useful guidance when determining whether exceptional circumstances exist, particularly for intimate personal relationship cases.

Further legislative clarification is not required regarding what circumstances might support a finding of exceptional circumstances in section 9(10A).

Chapter 9 – Sentencing outcomes for DV offences

Finding 8: The aggravating factor appears to have impacted sentencing outcomes supporting the treatment of domestic violence offences as more serious forms of offending

The Council's analysis of sentencing outcomes shows that domestic violence (DV) offences are being treated as more serious forms of offending than non-DV offences in the Magistrates Courts and higher courts across most offence types compared with non-DV offences, including offences involving non-physical violence.

Exceptions to this pattern were found for burglary and commit an indictable offence (*Criminal Code* (Qld) section 419(5)) and acts intended to cause grievous bodily harm and other malicious acts (*Criminal Code* (Qld) section 317).

Observation 4: Some non-domestic violence offences attracted stronger penalty outcomes and this is likely due to case-specific factors

Case-specific factors likely account for the small number of offences for which stronger penalties were imposed on non-domestic violence (DV) offences than those committed in a DV context.

Chapter 10 – The DV aggravating factor and victim satisfaction

Finding 9: There is limited awareness of section 9(10A) among victim survivors

Victim survivors have low awareness of section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) and its role in sentencing; however, this is unsurprising given the technical nature of the provision.

Finding 10: Victim satisfaction with sentencing is impacted by factors other than s 9(10A) of the *Penalties and Sentences Act 1992* (Qld)

Victim survivors are more satisfied with a sentencing outcome when:

- there is judicial recognition of the domestic violence and the harm caused by the offending;
- they consider the court process is fair;
- they feel respected; and
- they are able to participate in the sentence proceeding.

PART D: Marginalisation, human rights and future directions in enhancing sentencing for domestic violence

Chapter 11 – Impacts on marginalised and disadvantaged groups

Observation 5: Aboriginal and Torres Strait Islander peoples are disproportionately impacted by the increase to maximum penalties for contravention of a domestic violence order

Aboriginal and Torres Strait Islander people are disproportionately represented among people sentenced for contravention of a domestic violence order. This disproportionate representation pre-dated the increase to the maximum penalties and is particularly evident for aggravated charges.

Observation 6: Aboriginal and Torres Strait Islander people are disproportionately impacted by the operation of section 9(10A) of the *Penalties and Sentences Act 1992* (Qld)

Aboriginal and Torres Strait Islander people are disproportionately impacted by domestic and family violence and disproportionately impacted by the operation of the section 9(10A) aggravating factor.

Chapter 12 – Compatibility with the *Human Rights Act 2019* (Qld)

Finding 11: Section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) is compatible with the *Human Rights Act 1992* (Qld)

While section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) may limit a person's right to liberty and right to equality, the limitation is reasonable and demonstrably justifiable, consistent with the conclusions on compatibility of other similar aggravating factors.

Chapter 13 – Policy implications and future directions

Observation 7: The sentencing options available to courts are limited and could be enhanced to provide more flexibility

There is a lack of flexibility in the mix and range of sentencing and parole options that impacts the ability of sentences for domestic and family violence, to meet the objectives of sentencing.

Finding 12: Non-declared pre-sentence custody is not captured in administrative data

It is not possible to accurately report on time spent in custody prior to sentence using administrative data because any pre-sentence custody that has been taken into account but not declared is not routinely recorded.

Recommendation 1: Pre-sentence custody not declared but taken into account should be routinely recorded to support monitoring and evaluation efforts

In support of improving the evidence base for sentencing reform, the effective administration of justice and promoting community understanding of sentencing, the Queensland Government should appropriately fund and prioritise work led by the Department of Justice to ensure Queensland Courts capture undeclared pre-sentence custody in a form that can be linked to sentencing outcomes.

Recommendation 2: Standardised linked data sets should be developed for the purpose of supporting research and evaluation

The Queensland Government should support the development of standardised linked criminal justice data sets for the purpose of research and evaluation and establish processes for making the linked data available for such purposes. This work should include the establishment of a reoffending database.

PART A:
Context of the review

Chapter 1

Context of the review

Chapter 2

Domestic and family violence in Queensland

Chapter 1 – Context of the review

This report focuses on the sentencing of specific domestic and family violence (DFV)-related offences following a guilty plea or conviction. We were asked to review two specific reforms in relation to domestic and family violence sentencing:

- the impact of the increase in maximum penalties for **contravention of a domestic violence order** (CDVO); and
- the operation of the **aggravating factor** in section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) (PSA).

This report addresses Part 2 of the Terms of Reference issued on 17 May 2023 by the then Attorney-General and Minister for Justice to the Queensland Sentencing Advisory Council (Council).[24] We were asked to report on our findings by 27 February 2026.[25]

1.1 What we were asked to do

The Terms of Reference set out what we were asked to do.

For **CDVO**, we were asked to:

- consider how sentencing trends and outcomes may have changed following the 2015 increase in the maximum penalties.[26]

For the operation of the **DV aggravating factor**, we were asked to:[27]

- review sentencing practices for domestic violence-related offences following its introduction in 2016;
- advise on its impact on sentencing outcomes across all domestic violence-related offences, including those involving non-physical violence and coercive control; and
- examine whether it is impacting victims' satisfaction with the sentencing process and, if so, in what way.

For **both reforms**, we were also asked to identify any trends or anomalies in the application of the aggravating factor, or in sentencing for domestic violence-related conduct generally, that create inconsistency or constrain the sentencing process.[28]

In undertaking the review, we were specifically asked to consider previous research and reports relevant to sentencing for domestic and family violence offences,[29] as well as:

- 'the general expectation of the Queensland community that penalties imposed on offenders convicted of domestic and family violence offences' are 'appropriately reflective of the nature and seriousness of domestic and family violence';
- the need to protect victims, to hold perpetrators to account and to promote public confidence in the criminal justice system; and

---

24 Attorney-General and Minister for Justice, 'Terms of Reference, Queensland Sentencing Advisory Council: Sentencing for Sexual Violence Offences and Aggravating Factor for Domestic and Family Violence Offences' ('DFV Terms of Reference').

25 Letter from the Honourable Deb Frecklington MP, Attorney-General and Minister for Justice to the Honourable Ann Lyons AM, Chair, Queensland Sentencing Advisory Council, 7 May 2025.

26 Attorney-General and Minister for Justice (n 24) 2.

27 Ibid.

28 Ibid.

29 *Special Taskforce Report* (n 4); Laura Hidderley, Samuel Jeffs and Lauren Banning, *The Impact of Domestic Violence as an Aggravating Factor on Sentencing Outcomes* (Research Brief No 1, Queensland Sentencing Advisory Council, May 2021); Women's Safety and Justice Taskforce, *Hear Her Voice Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland* (Final Report, 2021) ('*Hear Her Voice Report 1*'); Women's Safety and Justice Taskforce, *Hear Her Voice Report Two: Women and Girls' Experiences Across the Criminal Justice System* (Final Report, 2022) ('*Hear Her Voice Report 2*').

- the importance of maintaining judicial discretion to impose a just and appropriate sentence in individual cases.[30]

We were also asked to:

- review relevant national and international research;
- consult with key stakeholders;
- advise on the potential impact of any recommendations on the disproportionate representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system;
- advise on whether the legislative reforms to the PSA and any recommendations are compatible with rights protected under the *Human Rights Act 2019* (Qld); and
- advise on any other matters relevant to the review.[31]

We did not look at some issues because we were not asked to. These include:

- penalties imposed on children sentenced under the *Youth Justice Act 1992* (Qld);
- sentencing for Commonwealth offences, although potential anomalies in the relationship between these offences and Queensland's sentencing laws were considered; and
- how people charged with domestic violence offences are dealt with under the *Mental Health Act 2000* (Qld).

1.2 Language in this report

The language used to describe people who have experienced DFV is important and has changed over time.

In this report, we refer to terms used in the *Domestic and Family Violence Protection Act 2012* (Qld) (DFVPA) and the PSA when describing their provisions and operation.

When discussing domestic and family violence generally, we use '**DFV**', and when discussing domestic violence offences sentenced under section 9(10A) of the PSA we use '**DV offence**'.

We use the term **'victim survivor'** to refer to an adult or child who has experienced DFV. We recognise that some people who have experienced or are experiencing DFV do not identify as a 'victim survivor', and DFV does not define who a person is.

In the context of criminal proceedings, the term '**victim'** refers to the person alleged by the prosecution to be the victim (often referred to as the 'complainant').[32]

We use the term '**perpetrator**' to refer to a person who has used DFV because it is widely used and understood in the community. We also use '**person using violence**'.

We use different terminology in different contexts. For example, '**offender**' is used in the context of relevant legislative provisions, and '**defendant**' or '**appellant**' are used in the context of criminal proceedings.

In discussing reforms relating to the offence of CDVO, we also use the terms '**aggrieved**' and '**respondent**'. An 'aggrieved' is the person a DVO protects from DV while a '**respondent**' is the person against whom the order is made to stop them committing DV against the aggrieved.[33]

A glossary of key terms used in this report can be found in the **preliminaries** section of this report.

---

30 Attorney-General and Minister for Justice (n 24) 1.
31 Ibid 2–3.
32 The term 'complainant' is the person against whom a criminal offence is alleged to have been committed. This term is commonly used in Queensland, including in legislation.
33 DFVPA (n 16) ss 21(1), (3).

1.3 Why a review was referred to the Council

When the 2015 legislative amendments to increase the maximum penalties for CDVO were being introduced, the Communities, Disability Services and Domestic and Family Violence Prevention Committee noted that while submissions broadly supported the increase, 4 submissions 'questioned the effectiveness of increasing the existing maximum penalties, as a deterrent, without evidence that current maximum penalties are being used and exhausted'.[34] In response, the Department of Justice and Attorney-General acknowledged that

> interpreting the data for sentencing outcomes for breaches of domestic violence orders can be complex due to system limitations and the various ways that data is collected to identify the total number of domestic violence orders that are breached over a given year.[35]

The Committee considered that 'raising the maximum penalty for breaches of DVOs will not, in isolation, address domestic and family violence in Queensland's communities', but noted the amendments were part of a broader package of reform.[36] It recommended the use of the new maximum penalties be monitored and research be commissioned into its effectiveness as a deterrent.[37]

In response to the Committee's recommendation, the Queensland Government said it would issue a reference to the Council.[38]

In 2016, at the time a Bill to establish the new aggravating factor for domestic violence offences was introduced, the then Attorney-General committed to have the Council review the impact that maximum penalties have on the commission of DV offences, as well as the aggravating factor.[39]

1.4 Our approach

1.4.1 Review stages

We conducted this review in 4 stages, shown in Figure 1-1.

Figure 1-1: Timeframes for the Council's review assessing the impacts of domestic and family violence sentencing reforms in Queensland

In **Stage 1**, we received 28 submissions from individuals and organisations, following a call for preliminary submissions to inform the Council's approach.

During the preliminary research in **Stage 2,** we identified key areas relating to the sentencing of DFV offences where existing research was lacking. To further our review, we responded to these gaps by either completing our own research.

---

[34] Communities, Disability Services and Domestic and Family Violence Prevention Committee, *Criminal Law (Domestic Violence) Amendment Bill 2015* (Report No 6, Parliamentary Committees, October 2015) 22 citing Submission no.4, Dr Silke Meyer, Submission no.13, ATSILS, Submission no.16, WLS Submission no.20, BoysTown.

[35] Ibid 23 citing Department, Response to Issues Raised in Submissions, 29 September 2015, p.3.

[36] Ibid 24.

[37] Ibid 25 rec 2.

[38] Queensland Government, 'Queensland Government Response to Communities, Disability Services and Domestic and Family Violence Prevention Committee Report No. 6, 55th Parliament on the Criminal Law (Domestic Violence) Amendment Bill 2015' 2–3.

[39] Queensland, *Parliamentary Debates*, Legislative Assembly, 2 December 2015, 3082 (Yvette D'Ath, Attorney-General and Minister for Justice and Minister for Training and Skills); This commitment was also made in 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill (No. 2)' (n 7) 2.

For the sentencing of **CDVO offences**, **we completed research projects** looking at:

1. the difference, if any, between sentencing outcomes for CDVO immediately before and after the 2015 increase to maximum penalties;
2. overarching trends in both the volumes and outcomes of sentencing CDVO;
3. the differences in the nature of the breach conduct sentenced for CDVO (as the most serious offence (MSO) sentenced);
4. the frequency of short sentences of imprisonment in response to DFV offences;
5. sentencing outcomes for CDVO (MSO), including offender characteristics and recidivism; and
6. sentencing outcomes for CDVO when it is not the MSO sentenced at the court event.

We also conducted a series of additional quantitative research analyses to supplement this work and explore specific questions about the use of pre-sentence custody and commissioned a literature review undertaken by Griffith University.

For the operation of the **aggravating factor, we completed research projects** examining:

1. the impact of the aggravating factor on sentencing outcomes for a broad range of offences;
2. the types of cases where exceptional circumstances (under section 9(10A)) are raised;
3. whether sentencing outcomes before and after the implementation of the aggravating factor resulted in a change in sentencing outcomes;
4. the circumstances where sentencing outcomes resulted in lesser penalties where the offence occurred in the DFV context compared with those in a non-DFV context; and
5. whether the aggravating factor for DFV offences affects victim satisfaction with the sentencing process. The Council commissioned the Monash University Gender and Family Violence Prevention Centre to conduct this research independently.

This research has been instrumental to our recommendations, findings and observations discussed throughout the report. Where this research has been published as a standalone brief or report, it is available on our website.

As part of **Stage 3** and across both components of the review, we released a consultation paper in March 2025. This paper asked 6 key questions focusing on different aspects of each reform. We received **19 submissions** in response from organisations and individuals. After releasing the paper, we conducted the following outreach:

- **52 consultation sessions and meetings** across Queensland, in locations including Cairns, Mount Isa, the Torres Strait Islands, Townsville, Roma, the Wide Bay region, South East Queensland, and online.
- **17 interviews with subject matter experts**, including judicial officers, police prosecutors, and defence practitioners.

1.4.2 Sources of evidence

The Council used a range of sources to inform its research projects and findings, including:

- written submissions received from individuals and organisations;
- administrative data from:
    - Queensland Courts and Tribunals regarding sentencing outcomes;
    - the Queensland Police Service relating to active domestic violence orders;
    - Queensland Corrective Services relating to actual time spent in custody;

- analysis of sentencing remark transcripts to identify trends in the treatment of DFV-related conduct and relevant judicial considerations;
- a review of Australian and international research, legislative frameworks, and reforms;
- case law analysis focused on appellate court decisions; and
- stakeholder interviews, including one-on-one discussions with victim survivors, advocacy and support services, and legal and criminal justice professionals.

For further details on our approach and sources of evidence, please refer to the appendices.

1.5 Challenges in measuring the impact of specific sentencing reforms

Our quantitative research, stakeholder views and legal research have been instrumental to the key findings and observations discussed throughout this report. However, during this review, the Council was faced with two significant challenges in measuring the impact of these sentencing reforms:

- significant overlapping reforms and system changes; and
- a lack of detail in the administrative data.

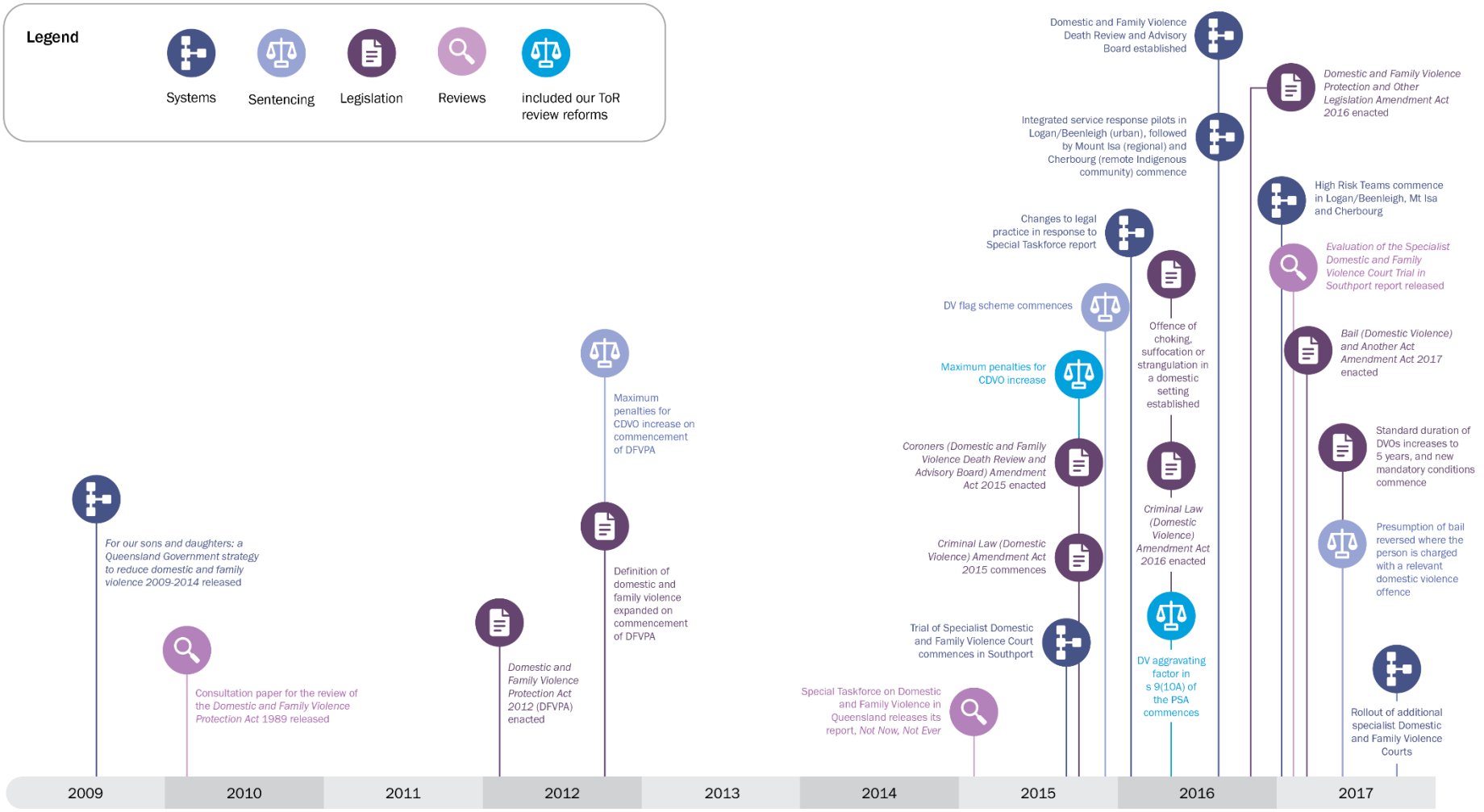
1.5.1 Significant overlapping reforms and system changes

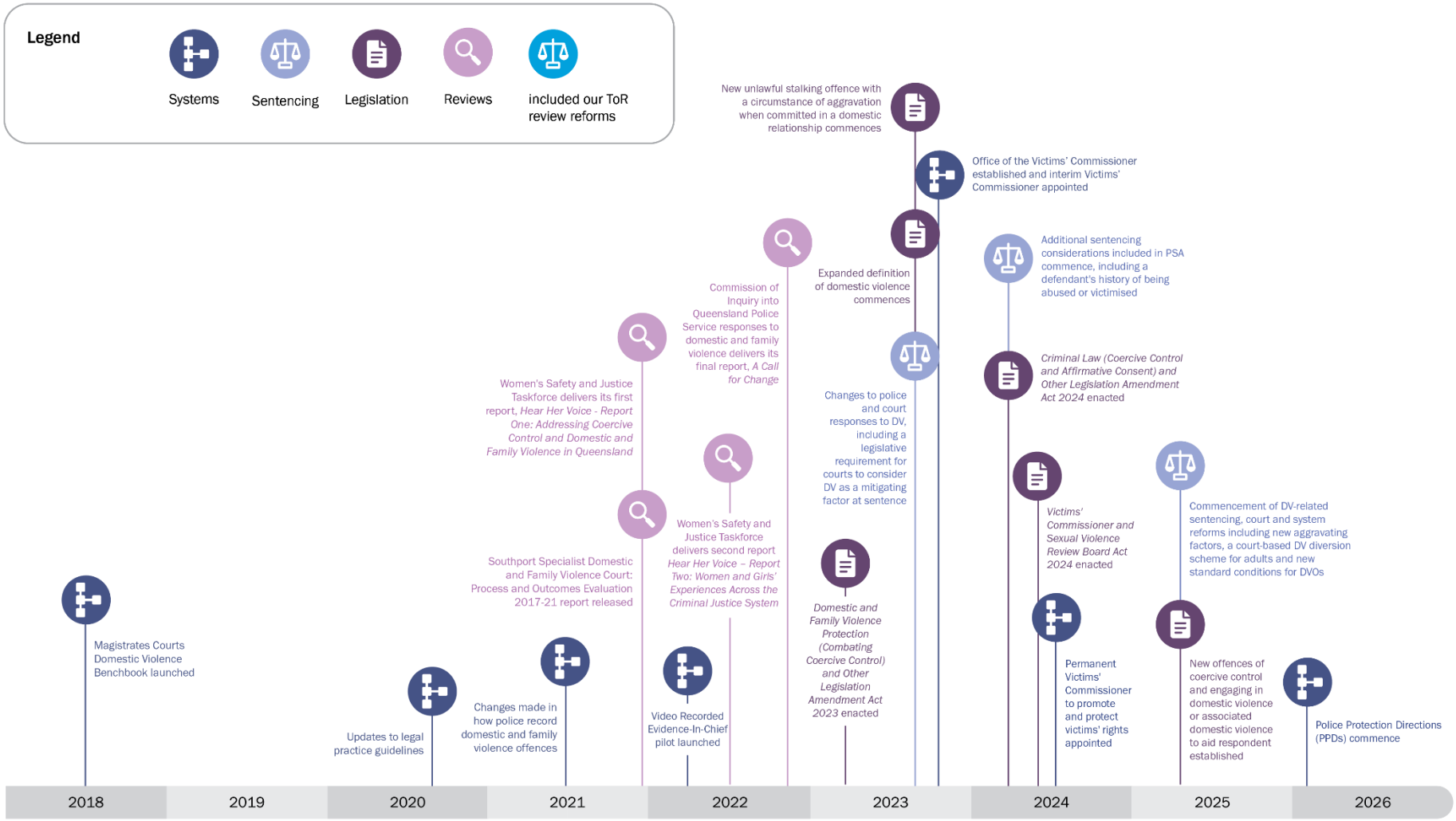
While this review focuses on the impact of 2 reforms, there have been a number of other reforms to the criminal law and to practice and procedure which may have impacted sentencing of domestic violence.

As shown in Figure 1-2, increasing awareness and growing concern about DFV over the past 15 to 20 years have driven significant legislative changes to domestic violence laws, alongside broader reforms to sentencing practices.[40]

[40] For a full list of legislative reforms since 2012 see Appendix 6.

Figure 1-2: Key reviews, reforms and legislative changes in Queensland since 2009 to respond to domestic and family violence




Legend
Systems
Sentencing
Legislation
Reviews
included our ToR review reforms
Magistrates Courts Domestic Violence Benchbook launched
Updates to legal practice guidelines
Changes made in how police record domestic and family violence offences
Southport Specialist Domestic and Family Violence Court: Process and Outcomes Evaluation 2017-21 report released
Women's Safety and Justice Taskforce delivers its first report, Hear Her Voice - Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland
Video Recorded Evidence-In-Chief pilot launched
Women's Safety and Justice Taskforce delivers second report Hear Her Voice – Report Two: Women and Girls' Experiences Across the Criminal Justice System
Commission of Inquiry into Queensland Police Service responses to domestic and family violence delivers its final report, A Call for Change
Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023 enacted
Changes to police and court responses to DV, including a legislative requirement for courts to consider DV as a mitigating factor at sentence
Expanded definition of domestic violence commences
New unlawful stalking offence with a circumstance of aggravation when committed in a domestic relationship commences
Office of the Victims' Commissioner established and interim Victims' Commissioner appointed
Additional sentencing considerations included in PSA commence, including a defendant's history of being abused or victimised
Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 enacted
Victims' Commissioner and Sexual Violence Review Board Act 2024 enacted
Permanent Victims' Commissioner to promote and protect victims' rights appointed
Commencement of DV-related sentencing, court and system reforms including new aggravating factors, a court-based DV diversion scheme for adults and new standard conditions for DVOs
New offences of coercive control and engaging in domestic violence or associated domestic violence to aid respondent established
Police Protection Directions (PPDs) commence
2018
2019
2020
2021
2022
2023
2024
2025
2026

Sentencing and related amendments

In 2015, amendments were made to the *Criminal Code* (Qld), *Justices Act 1886* (Qld) and PSA, requiring indictments and complaints to state that an alleged offence is a DV offence and for convictions for DV offences to be recorded as such in a person's criminal history.[41] These amendments improved the tracking and recording of DV offences, supporting more appropriate sentencing of repeat DV offenders. Further reforms in May 2025 expanded these requirements to include the recording of offences involving the exposure of a child to DV or that were committed against a child.[42]

In August 2023 and March 2024, additional amendments were made to the sentencing factors in section 9(2) of the PSA following recommendations of the Women's Safety and Justice Taskforce (WSJ Taskforce).[43] These changes require the court to consider an offender's experience of domestic violence as a mitigating factor in sentencing, as well as the hardship that the sentence might cause them. Specifically, these amendments require the court to consider:

- whether the offender is a victim of domestic violence; whether the commission of the offence is wholly or partly attributable to the impact of domestic violence on the offender;[44] and the offender's history of being abused or victimised;[45]
- the hardship any sentence imposed would have on the offender, having regard to their characteristics, including age, disability, gender identity, parental status, race, religion, sex, sex characteristics and sexuality;[46]
- the probable effect that any sentence imposed would have on a person with whom the offender is in a family relationship and for whom the defendant is the primary caregiver, or a person with whom the defendant is in an informal care relationship and where a defendant is pregnant, the probable effect of the sentence on the child, once born;[47]
- in determining the appropriate sentence for an offender who is a victim of DFV, treating the effect of the DFV on the offender as a mitigating factor, unless the court considers it is not reasonable to do so because of the exceptional circumstances of the case; and
- if the commission of the offence is wholly or partly attributable to the impact of the DFV on the offender, the extent to which the commission of the offence is attributable to the effect of the violence.[48]

The most recent amendment directly relevant to sentencing in DFV matters is the introduction of a court-based perpetrator diversion scheme (the 'diversion scheme'), which applies to a respondent's first contravention of the first protection order against them.[49] Commencing in May 2025, the diversion scheme was introduced in response to a recommendation of the WSJ Taskforce.[50] Currently operating in limited locations, the scheme allows for no conviction to be recorded and permits the dismissal of charges for contravening a protection order upon the successful completion of an approved diversion program or counselling. This initiative has the potential to significantly impact sentencing in DV matters by both reducing

---

41 *Criminal Code* (Qld) (n 12) sch 1, s 564(3A); *Justices Act 1886* (Qld) s 47(9); *Penalties and Sentences Act 1992* (Qld) s 12A ('PSA') as inserted by: *Criminal Law (Domestic Violence) Amendment Act 2015* (Qld) ss 4, 14, 18.

42 *Criminal Code* (Qld) (n 12) ss 564(3A)(b)–(c); Justices Act (n 41) ss 47(9)(b)–(c); PSA (n 41) ss 12A(1)(ii)–(iii) as amended by: *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024* (Qld) ss 24, 80, 87.

43 *Hear Her Voice Report 1* (n 29) recs 66, 79; *Hear Her Voice Report 2* (n 29) rec 126.

44 PSA (n 41) ss 9(2)(gb)(i)–(ii) as inserted by: *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023* (Qld) s 80.

45 PSA (n 41) s 9(2)(gb)(iii) as inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 83(2).

46 PSA (n 41) s 9(2)(fa) as inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 83(1).

47 PSA (n 41) s 9(2)(fb) as inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 83(1).

48 PSA (n 41) s 9(10B) as inserted by: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 80.

49 DFVPA (n 16) pt 4A as inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 40.

50 *Hear Her Voice Report 1* (n 29) rec 74.

convictions for protection order contraventions and minimising further domestic violence offending among participants who successfully complete the program.

The DV aggravating factor being reviewed by the Council was expanded in May 2025 to require the court to treat a DV offence committed against a child or that exposed a child to DFV as aggravated, as well as an offence committed in contravention of protection orders.[51]

The definition of domestic violence expanded

The definition of 'domestic violence' has expanded significantly over time, evolving from only covering specific acts by spouses[52] to its current form, which recognises a broader range of actions and behaviours within intimate personal relationships (both current and former), family relationships, and informal carer relationships.[53]

In 2012, the *Domestic and Family Violence Act 1989* (Qld) was repealed and replaced with the DFVPA, which introduced a broader definition of 'domestic violence' compared with the previous legislation, to reflect 'contemporary understandings of domestic and family violence'.[54] The updated definition included a wider range of behaviours, such as 'economic, emotional and psychological abuse' and 'behaviour that is physically or sexually abusive, threatening or coercive, or behaviour that in any other way controls or dominates another person'.[55]

These changes impacted how DFV cases were dealt with by the courts before the increase to the maximum penalties for CDVO and the introduction of the DV aggravating factor.

In August 2023, the definition of domestic violence was further expanded to better reflect coercive control as an element of DFV and as a pattern of behaviour.[56] This created consistency with amendments to the offence of unlawful stalking, intimidation, harassment, or abuse, as recommended by the WSJ Taskforce.[57]

The expansion of the definition of 'domestic violence' is relevant to this review as any conduct that constitutes an offence that also meets the definition of being domestic violence in the DFVPA can be charged as a DV offence.[58] The only exception is offences under the DFVPA where the nature of the offence as a DV offence is implicit in the offence.

For a complete list of changes see **Appendix 5**.

New DFV offences established

New offences have also been established, directed at specific types of DFV-related conduct.

Section 315A: Choking, suffocation or strangulation in a domestic setting

In 2016, the offence of choking, suffocation or strangulation in a domestic setting (non-fatal strangulation)[59] was introduced, creating a new criminal offence. Prior to its introduction, this behaviour was mostly captured under the offences of common assault and assault occasioning bodily harm (AOBH).[60] While both non-fatal

---

51 PSA (n 41) ss 9(10C), 9(10D) as inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 86. A DV offence must also be treated as aggravated if committed in contravention of a police protection notice, release conditions, an interstate or New Zealand order, or in contravention of another order of a court or an injunction.

52 In 1989, 'domestic violence' meant 'any injury, damage, intimidation, harassment' and applied only to violence between spouses (either married or living together as husband and wife): DFVPA 1989 (n 1) ss 3, 4.

53 DFVPA (n 16) pt 2, divs 2 and 3.

54 Explanatory Notes, Domestic and Family Violence Protection Bill 2011 (Qld) 2.

55 Ibid.

56 DFVPA (n 16) s 8 as amended by: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 31. See also Explanatory Notes, Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022 (Qld) 5.

57 *Criminal Code* (Qld) (n 12) s 359E; *Hear Her Voice Report 1* (n 29) recs 52–53.

58 *Criminal Code* (Qld) (n 12) s 1 (definition of 'domestic violence offence') provides a domestic violence offence is an offence against an Act, other than the DFVPA, where the act or omission constituting the offence is also domestic violence or associated domestic violence under the DFVPA (as defined in ss 8–9 of that Act); or a contravention of the DFVPA (n 16) s 177(2).

59 *Criminal Code* (Qld) (n 12) s 315A as inserted by: *Criminal Law (Domestic Violence) Amendment Act 2016* (Qld) s 3. Note, this offence is not examined in the Council's review because section 9(10A) of the PSA cannot be applied in sentencing. See *R v MCW* (2019) 2 Qd R 344, 352–3 [35] (Mullins J, Philippides JA and Boddice J agreeing).

60 *Criminal Code* (Qld) (n 12) ss 335, 339.

strangulation and AOBH simpliciter carry a maximum penalty of 7 years' imprisonment, the maximum penalty for common assault is 3 years' imprisonment. Further amendments were made in 2024 to clarify what constitutes non-fatal strangulation, which may contribute to increased convictions for this offence, thereby impacting sentencing outcomes.[61]

Section 359E(4): Unlawful stalking, intimidation, harassment and abuse in a domestic relationship

In August 2023, amendments were made to the unlawful stalking offence to reflect the association between stalking and DFV, including involving coercive and controlling behaviour.[62] These changes introduced a circumstance of aggravation for stalking, intimidation, harassment and abuse committed in a domestic relationship and increased the maximum penalty from 5 years' to 7 years' imprisonment.[63] The maximum penalty for contravention of a stalking restraining order was also increased from one year to 3 years' imprisonment, or 5 years' imprisonment where the person was convicted of a domestic violence offence within 5 years of the contravention.[64]

Section 334C: Coercive control

In May 2025, the coercive control offence commenced, criminalising a course of conduct that:

- occurs in a domestic relationship;
- consists of more than one occasion of behaviour that is physically, emotionally and/or economically abusive and/or that is isolating behaviour;
- is intended to coerce or control the other person; and
- is reasonably likely to cause the person harm.[65]

While a defendant may be charged for individual acts of domestic violence as well as coercive control,[66] the prosecution is not required to prove the individual acts constituted another criminal offence,[67] which expands the potential scope of behaviour captured. The coercive control offence has a maximum penalty of 14 years' imprisonment,[68] but may be finalised summarily if the person pleads guilty and the prosecution chooses to proceed this way.[69]

Section 179A: Engaging in domestic violence or associated domestic violence to aid respondent

Also commencing in May 2025 was a new offence established in the DFVPA that criminalises domestic violence behaviour committed against an aggrieved person or named person in a DVO, police protection notice or release conditions with the intent of aiding a respondent.[70] This offence was established following a recommendation of the WSJ Taskforce.[71] This offence is not considered a DV offence under the *Criminal Code* because it is an offence under the DFVPA. The maximum penalty is 3 years' imprisonment, or 5 years if the behaviour is done for a benefit, including payment. This offence could apply to cases such as private investigators paid by a respondent to investigate individuals protected by a court order, with convictions potentially resulting in the loss of their security provider licence.[72]

---

61 Ibid s 315A(1A) as inserted by: *Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Act 2024* (Qld) s 9A.
62 'Explanatory Notes, Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill' (n 56) 2.
63 *Criminal Code* (Qld) (n 12) s 359E as amended by: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 22.
64 *Criminal Code* (Qld) (n 12) s 359F(10)-(11) as amended by: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 23.
65 *Criminal Code* (Qld) (n 12) s 334C as inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 20.
66 *Criminal Code* (Qld) (n 12) s 334C(6).
67 Ibid s 334C(5)(a).
68 Ibid s 334C(1).
69 Ibid s 552A(1)(a).
70 DFVPA (n 16) s 179A; The person must also know or ought reasonably to have known, the other person was the aggrieved or a named person in the order, notice, or conditions: Ibid s 179A(1)(c).
71 *Hear Her Voice Report 1* (n 29) rec 75.
72 *Security Providers Act 1993* (Qld) sch 2 (Dictionary) as amended by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 94.

Other changes to court and police responses to domestic violence

In August 2023, amendments were made to the DFVPA and the *Criminal Code* (Qld) in response to a recommendation from the WSJ Taskforce.[73] These amendments require police to disclose a respondent's criminal and DFV history when a protection order application is made.[74] A new provision was inserted in the DFVPA with detailed guidance for police and courts to identify the person most in need of protection.[75]

Under these reforms, courts are now *required* to consider a respondent's DFV history when sentencing a DV offence[76] (which, for disclosure purposes, include offences in Part 7 of the DFVPA)[77] or in other relevant proceedings.[78] Courts also must consider a respondent's domestic violence history when determining protection order applications.[79] These decisions include assessing whether a protection order is necessary or desirable and where there are conflicting allegations,[80] which person is the person most in need of protection in the relationship.[81]

These amendments help police and courts in accurately identifying the primary person using violence. This will help prevent the criminalisation of victim survivors who use violence in self-defence or otherwise in response to their experience of DFV. They also seek to reduce the likelihood of protection orders being issued against victim survivors as respondents, thereby reducing the risks of them being charged with contravention offences.

1.5.2 Administrative data and detail of factors influencing sentencing outcomes

Broader system-related factors may influence the types of cases that come before the courts and the profile of offences charged, including in response to the types of reform, and all of these can have an impact on sentencing outcomes.

While administrative data is a useful source of information on both offences charged and sentencing outcomes, it does not tell the full story.

There are several important aspects of relevance to sentencing decision making, that Courts administrative data does not capture. This includes:

- The nature of the offences sentenced and how serious they were.[82]
    - For CDVO, administrative data does not enable us to identify the type of condition breached and what conduct constituted the breach – for example, whether it involved physical or non-physical acts of violence, property damage, threats of violence or making contact with the person or coming to their home when they were not permitted to do so and if there were children present.
    - For section 9(10A) offences, we are unable to identify the circumstances of the offending or the nature and extent of the harm caused to any victim.[83]
- The nature of the relationship between the person being sentenced and the victim survivor or the victim survivor's age or gender.[84] This means offences committed against immediate family

---

73 *Hear Her Voice Report 1* (n 29) rec 58.
74 DFVPA (n 16) ss 36A, 90A.
75 Ibid s 22A as inserted by: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 34 and amended by: *Domestic and Family Violence Protection and Other Legislation Amendment Act 2025* (Qld) s 7.
76 PSA (n 41) s 11(1)(b).
77 *Criminal Code* (Qld) (n 12) ss 590AH(3) and 590AH(4) (definition of 'domestic violence history').
78 Ibid s 590AH(3).
79 DFVPA (n 16) ss 37(2)(a)(ii)–(iii), (3), 91(3)-(4).
80 Ibid ss 4(2)(e)(i), 37(1)(c).
81 Ibid s 22A(2) provides that 'in deciding which person in a relevant relationship is the person most in need of protection, a court must consider … the history of the relevant relationship, and of domestic violence, between the persons' in addition to other factors such as the nature and severity of the harm caused to each person by the behaviour, the level of fear experienced, the capacity of each person to seriously harm or to control or dominate the other person, and characteristics that may make the persons particularly vulnerable to domestic violence.
82 This is a factor a court must consider when deciding the sentence PSA (n 41) s 9(2)(c).
83 Ibid. The exception is offences such as murder and manslaughter where the harm caused is the loss of the person's life.
84 This is relevant to factors such as the harm caused and the extent of the breach of trust involved in the offence.

members or other relatives and those committed against current or former intimate partners cannot be distinguished and we do not know whether offences were committed against children or older family members, and against different-sex or same-sex partners.

- Whether the person spent time in pre-sentence custody and if so, how long they spent, or how the sentencing court took this into account when deciding the sentence.[85]
- The personal circumstances of the person being sentenced, such as whether they had mental health issues, a cognitive impairment or drug or alcohol issues, or other factors that might be relevant at sentence, including the cultural background of non-Indigenous persons.[86]
- Whether the person had other sentences imposed on them for other offences on a different date that they had already served or had not yet served, or were liable to serve because they breached the conditions of another order.[87]
- For CDVO offences committed prior to 2015, whether the offence was an aggravated or non-aggravated offence and what maximum penalty therefore applied.[88]
- For offences committed prior to the introduction of the DV flag in December 2015, whether they were committed in a DV context.
- Additionally, while some information may be available from courts administrative data, such as a person's prior criminal history,[89] it can be difficult to use for the purposes of research and analysis, as there are challenges in linking administrative data between cases and across systems.

We discuss these challenges further in **Chapter 13** and consider opportunities to enhance the evidence base in relation to sentencing.

1.6 Measuring the 'effectiveness' of sentencing

A key reason this review was issued to the Council was the Queensland Government's desire to understand if reforms made to strengthen sentencing responses to domestic violence in 2015 and 2016 are working as intended.

Effective sentencing responses are responses best designed to meet the purposes of sentencing,[90] and in any given case, the purpose of a specific sentence may vary.

In the context of DFV this requires considering whether sentences for DFV-related offending, in general, are:

- punishing those who commit offences in the context of DFV and fail to comply with the conditions of protection orders in a way that is just in all the circumstances;
- communicating the community's strong disapproval of DFV (denunciation);
- deterring the person sentenced and other people from engaging in this type of behaviour;
- protecting victims and the broader community from the person engaging in DFV;
- adequately recognising the harm done to victims, including where the conditions of DVOs are contravened; and
- providing opportunities for rehabilitation.[91]

We consider these objectives and what type of criminal justice measures might better support these in **Chapter 13**.

---

85 PSA (n 41) s 9(2)(j) A court can also formally declare this time as time served under the sentence in certain cases; see ibid s 159A. Chapter 13 presents a recommendation for reform to capture this information on a more consistent basis.
86 See, for example PSA (n 41) ss 9(d), (f)–(fa), (g).
87 See ibid ss 9(2)(k)–(m).
88 See section 4.2.2 for how we endeavoured to overcome this limitation.
89 This is because CDVO offences committed from 17 September 2012 until 21 October 2015, were not recorded in the Courts Database as aggravated or non-aggravated. On the treatment generally of previous convictions as aggravating, see PSA (n 41) s 9(10).
90 See, for example, Arie Freiberg, 'Reflections on 50 Years of Sentencing Reform: The Good, the Bad and the Future' (2025) 50(2) *Alternative Law Journal* 140, 144.
91 PSA (n 41) s 9(1).

Chapter 2 – Domestic and family violence offending in Queensland

This chapter provides an overview of DFV offending in Queensland. We explore what DV is in Queensland legislation and provide a snapshot of DFV-related offences sentenced in 2024–25.

2.1 National snapshot

Sentencing deals with only a small proportion of DFV-related offending. Many offences are never reported to police, and no formal legal action is taken. In other cases, offences may be reported and recorded by police but may not result in the perpetrator being charged or being convicted and sentenced.

The latest *Personal Safety Survey*, which examines the nature and extent of Australians' experiences of violence, revealed that since the age of 15:

- one in 4 women (27%) has experienced violence by an intimate partner or family member; and
- one in 8 men (12%) has experienced violence by an intimate partner or family member.[92]

A 2025 study on intimate partner violence perpetrated by Australian men found that one in 3 men (35%) reported using violence against an intimate partner as an adult.[93] The most common form of violence was emotional abuse (32%), followed by physical violence (9%).[94]

2.2 What is 'domestic violence'?

2.2.1 What the legislation says

To understand DV,[95] we need to understand the nature of the behaviour, the relationship between the parties, and the time period in which the behaviour occurs.

Nature of behaviour

In Queensland, DV is defined as behaviour, or a pattern of behaviour,[96] that:

- is physically, sexually, emotionally, psychologically, or economically abusive;
- is threatening;
- is coercive; or
- in any other way controls or dominates the other person in a relationship and causes them to fear for their safety or wellbeing, or that of someone else.[97]

More information about this definition is available on the Queensland Government website.[98]

---

92 Australian Bureau of Statistics, *Personal Safety, Australia, 2021–22* (Report, March 2023).
93 Karlee O'Donnell et al, *The Use of Intimate Partner Violence Among Australian Men* (Australian Institute of Family Studies, 2025) Insights #3, Chapter 1, 1.
94 O'Donnell et al (n 93).
95 DFVPA (n 16) s 8.
96 Ibid.
97 Ibid.
98 'Different Types of Domestic and Family Violence' <https://www.qld.gov.au/disability/adults/domestic-violence-support/different-types-of-domestic-and-family-violence>.

Relationship between the parties

DV may occur between two people who:

- are in, or have been in, an intimate personal relationship;
- are in, or have been in, a family relationship; or
- are in, or have been in an informal care relationship.[99]

The meanings of these types of relationships are detailed in **Appendix 4**.

Time period

DV can take place over a period of time.[100] It can be a single act, multiple acts, or a series of acts that, when considered cumulatively, are abusive, threatening, coercive or cause fear.[101] A person's behaviour or pattern of behaviour is considered in the context of the whole relationship.[102]

Associated DV is DV behaviour by a respondent towards:

- a child of the aggrieved; or
- a child who usually lives with the aggrieved; or
- a relative of the aggrieved; or
- an associate of the aggrieved.[103]

2.3 Understanding different types of DFV-related offences

DFV-related offences fall into three broad categories:

1. **DV offence under the *Criminal Code* (Qld)**

   DV offences are defined in section 1 of the *Criminal Code* (Qld). There are two sub-categories of DV offences we refer to in this report:

   - **DV offence: 9(10A):** These are DV offences where the DV aggravating factor under section 9(10A) of the PSA applies. For further details, refer to **Chapter 7**.
   - **DV offence: non-9(10A)**: Some offences can only be committed in the context of DV: choking, suffocation or strangulation in a domestic setting;[104] and unlawful stalking, intimidation, harassment or abuse if a domestic relationship exists.[105] The Court of Appeal has said the aggravating factor should not be applied because 'all sentences … will be in respect of domestic violence offences'.[106]

2. **DV contravention offences under the DFVPA**

   These offences are for breaches of protective orders and conditions established under Part 7 of the DFVPA. These are further categorised as:

---

99 DFVPA (n 16) pt 2, div 3.
100 Ibid s 8(2)(a).
101 Ibid s 8(2)(b).
102 Ibid s 8(2)(c).
103 Ibid s 9 An 'associate' is further defined in section 24(3) and can include a person who is the current spouse or partner of the aggrieved, who works or live at the same place as the aggrieved, or who provides support to the aggrieved, such as a friend or neighbour.
104 *Criminal Code* (Qld) (n 12) s 315A.
105 Ibid s 359E(4).
106 See *R v MCW* (n 59) 352–3 [35] (Mullins J, Philippides JA and Boddice J agreeing). This finding was made in respect of offences against section 315A of the *Criminal Code* (Qld) (n 12).

- **CDVO**: An offence under section 177 of the DFVPA of failing to comply with the conditions of a domestic violence order (DVO).[107] If there are circumstances of aggravation, a higher maximum penalty applies. For more details, see section 3.3.
- **Other DV contravention offences:** Other contravention offences under the DFVPA include:
  - contravention of a Police Protection Notice (PPN) (section 178); and
  - contravention of release conditions (section 179).

  For more details, see **Appendix 4**.

3. Commonwealth offences in a DFV context

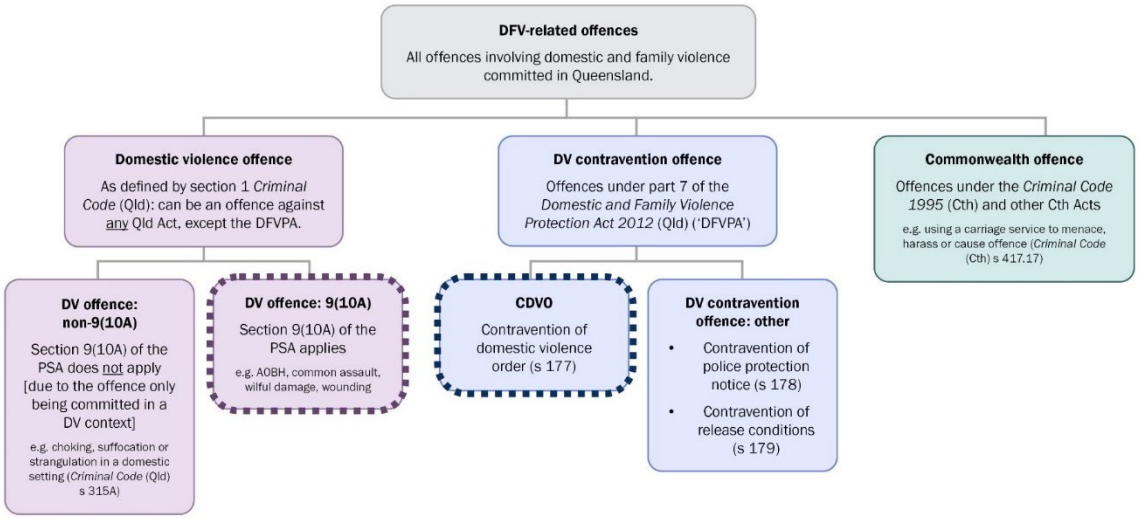
Certain offences under Commonwealth law can also occur in the context of DFV however, unlike Queensland offences, these are not separately identified or flagged as DV offences. Examples include:

- using a carriage service to menace or harass or cause offence;[108]
- using a carriage service to make a threat to kill or cause serious harm;[109] and
- production of child pornography for use through a carriage service.[110]

Figure 2-1 provides an overview of 3 categories of DFV-related offences sentenced in Queensland. The offences that are the focus of our review are represented in boxes with the bold broken lines.

Refer to Figure 2-4 later in the chapter, for details on the overlap between the different categories of offences within cases.

Figure 2-1: Types of DFV-related offences in Queensland, including offences under review



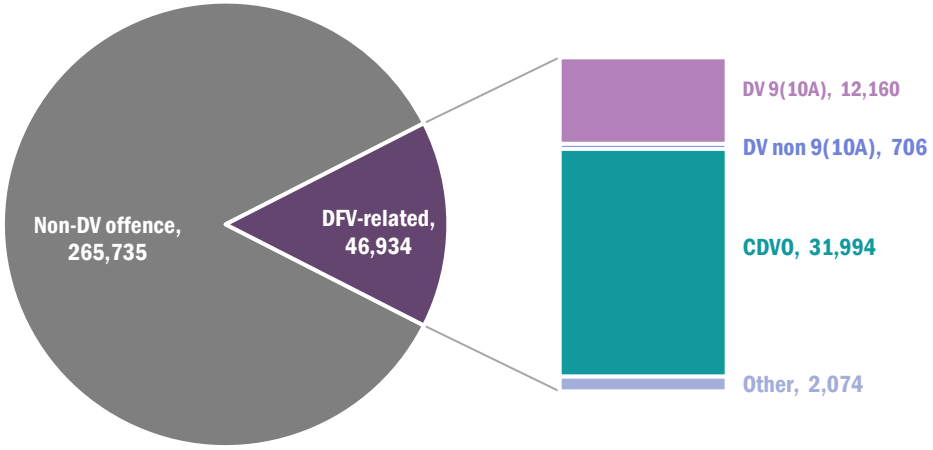
[107] A 'domestic violence order' is defined under the Act as a protection order or a temporary protection order: DFVPA (n 16) s 23(2).
[108] *Criminal Code Act 1995* (Cth) sch, s 474.17(1) ('*Criminal Code* (Cth)').
[109] Ibid s 474.15.
[110] Ibid s 474.20.

2.4 Snapshot of different types of sentenced DFV-related cases and offences in Queensland

From 1 July 2024 to 30 June 2025, 100,414 cases were sentenced in Queensland, involving 312,669 offences committed by adults. Of those cases, one in five involved at least one DFV-related offence (20.4%; n=20,476).

As shown in Figure 2-2 across all court levels in 2024–25, DFV-related offences accounted for 15 per cent of all offences sentenced (n=46,934/312,669), with CDVO making up the majority (68.2%, n=31,994/46,934). DFV offences subject to section 9(10A) of the PSA accounted for just over a quarter of all DFV-related offences sentenced (25.9%; n=12,160/46,934).

Figure 2-2: Volume and type of offences sentenced in all Queensland Courts, 2024–25



Data include adult offenders, offences sentenced between 1 July 2024 and 30 June 2025 in lower and higher courts. Commonwealth DFV offences are not able to be identified. The proportion of DV non-section 9(10A) offence numbers cannot be shown clearly in the bar chart due to small numbers (n=706, 1.5%). DFV-related 'other' offences include other types of contravention offences, such as contravention of a PPN or release conditions under Part 7 of the DFVPA.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Volume of DFV-related cases and offences by court level

In 2024–25, the vast majority of DFV-related cases (93.6%) and offences (88.1%) were sentenced in the Magistrates Court (see Figure 2-3 below). However, DFV-related offences comprised a higher proportion of offences dealt with by higher courts (23.4%), compared with the Magistrates Courts (14.3%).

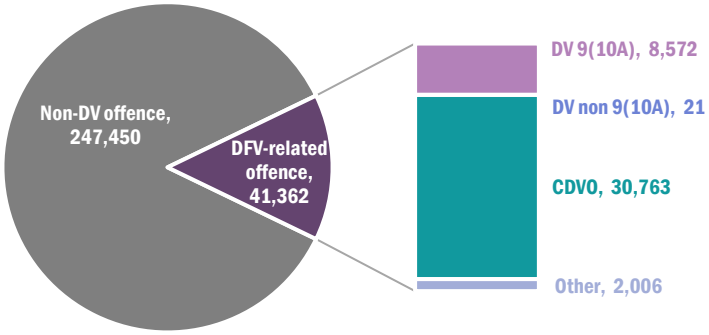
Unsurprisingly, the types of DFV-related offences differed between the lower and higher courts. In the Magistrates Courts, nearly three-quarters of DFV-related offences sentenced were CDVO (74.4%, n=30,763), while 20.7 per cent were DV offences subject to section 9(10A) of the PSA.

In contrast, for the higher courts, DV offences subject to section 9(10A) represented nearly two-thirds of DFV-related offences sentenced in 2024–25 (64.4%, n=3,588/5,572). CDVOs accounted for fewer than one-quarter of DFV-related offences sentenced in the higher courts (22.1%, n=1,231/5,572).

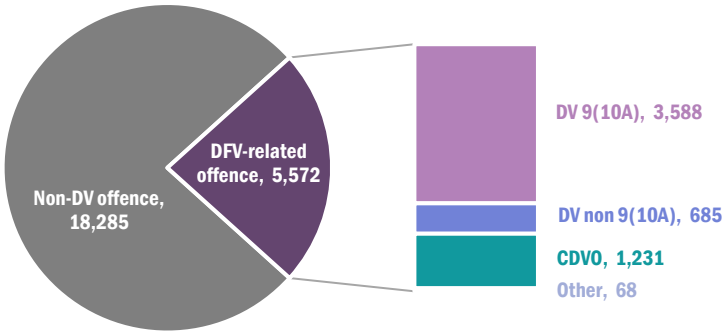
For more information about the sentencing outcomes for CDVO, see **Chapter 5,** and for section 9(10A) offences see **Chapter 9**.

Figure 2-3: Distribution of DV-related offences in the Magistrates and Higher Courts, 2024–25

Magistrates Courts



Higher courts



Data include adult offenders, offences sentenced between 1 July 2024 and 30 June 2025. Commonwealth DFV offences are not able to be identified. For the Magistrates Courts, the proportion of DV non-section 9(10A) offences numbers cannot be shown in the bar chart due to small numbers (n=21, 0.1%). For the higher courts, the proportion of other offences cannot be shown in the bar chart due to small numbers (n=68, 1.2%), DFV-related 'other' offences include other types of contravention offences, such as contravention of a PPN or release conditions under Part 7 of the DFVPA.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Co-occurrence of types of DFV-related offences

In 2024–25, 20,476 cases were sentenced in Queensland involving at least one DFV-related offence. Some cases involved more than one category of DV-related offence. Figure 2-4 shows that multiple categories of DV-related offences are often co-sentenced within the same case.

The top 3 combinations of DV-related offences sentenced in a single case were:

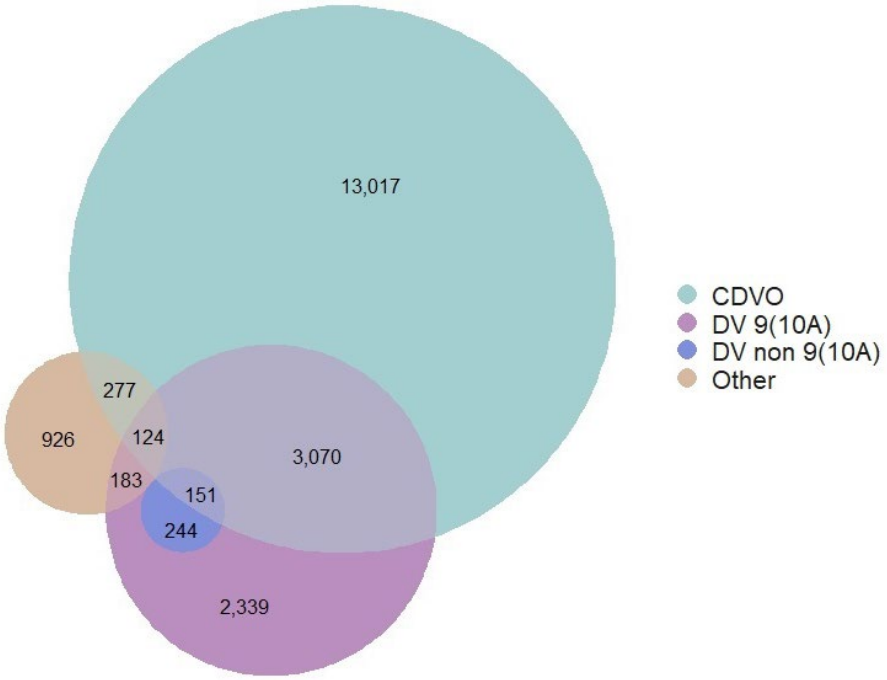
1. CDVO only (63.6% of cases involving at least one DFV-related offence, n=13,017);
2. CDVO and section 9(10A) offences (15.0% of cases, n=3,070); and
3. section 9(10A) offences only (11.4%, n=2,339).

Together, they represent 90 per cent of all cases sentenced in 2024–25 that involved at least one DFV-related offence.

Key findings for adults sentenced in 2024–25 include:

- About 4 out of 5 cases involved at least one CVDO offence (81.4%; n=16,680/20,476), of which most were not sentenced with any other category of DV offence (78.0%; n=13,017/16,680).
- Only 18.4 per cent of cases involving a CDVO offence were sentenced with at least one section 9(10A) DV offence (n=3,070); however, this was the largest co-occurrence category in 2024–25.
- Only 151 cases involved offences from all three categories: CVDO, section 9(10A) DV offence, and a non-section 9(10A) DV offence (such as strangulation).
- There were 124 cases involving at least one of each: a CDVO, an 'other' contravention offence (such as breach of a PPN), and a section 9(10A) DV offence.
- Only 88 non-section 9(10A) offences were sentenced during the data period without any other DV-related offence. Comparatively, there were 2,339 section 9(10) offences sentenced without any other category of DV-related offence.

Figure 2-4: Overlap between different categories of sentenced DV-related offences in cases sentenced involving at least one DFV-related offence, 2024–25



Data include adult offenders, Magistrates and higher courts, offences sentenced between 1 July 2024 and 30 June 2025. Analysis includes cases which involve at least one sentenced DV-related offence (n=20,476). If more than one offence within the same offence category was sentenced, it was counted once. DFV-related 'other' offences include other types of contravention offences, such as contravention of a PPN or release conditions under Part 7 of the DFVPA.
Note: Six combinations of offences are not presented as they are too small to accurately display: non-9(10A) only n=88; non-9(10A) and other n=4; non-9(10A) and CDVO n=32; non-9(10A) and 9(10A) and other n=12; non-9(10A) and 9(10A) and CDVO and other n=8; non-9(10A) and CDVO and other n=1.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

PART B:
Contravention of a domestic violence order

Chapter 3

About CDVO, the context of this review and our approach

Chapter 4

Impact of the increase to maximum penalties for CDVO

Chapter 5

Sentencing trends for CDVO

Chapter 6

Anomalies and other issues

Overview of Part B

Part B presents the Council's findings on how sentencing trends and outcomes for contravention of a domestic violence order (CDVO)[111] may have changed following the 2015 increase in the maximum penalties.[112] It also considers anomalies identified in sentencing CDVO and domestic violence (DV)-related conduct generally.

Chapter 3 explores the purpose of a domestic violence order (DVO), the offence of CDVO, the reasons behind the offence changes and case law guidance on relevant sentencing considerations. We also consider the role of maximum penalties, what parliament intended to signal to sentencing courts with those changes, and some of the challenges encountered in carrying out this part of the review.

Chapter 4 presents findings on how sentencing outcomes for CDVO (sentenced as the most serious offence (MSO)) changed following the maximum penalty increases by comparing outcomes from a pre-2015 and a limited post-2015 period (pre–post analysis). We found there have been some changes in sentencing outcomes across both non-aggravated and aggravated CDVO (MSO), including an increase in the use of custodial orders (such as imprisonment) and supervised orders, and a decrease in the use of fines.

While the pre–post analysis suggests a move towards the use of stronger penalties for CDVO offences following the increase in maximum penalties, no statistically significant changes were found in sentence lengths for custodial or imprisonment outcomes.

Chapter 5 sets out the sentencing trends for CDVO (MSO) since 2012–13. We consider how the volume of sentenced CDVO cases has increased and compare this to the increased volume of DVOs that are active each year. We also examine other sentencing trends where CDVO was not the MSO.

CDVO trends have been influenced by a combination of external factors. In addition, limitations in the administrative data constrain the Council's ability to fully understand the impact of increases in maximum penalties.

While custodial and imprisonment lengths for CDVO (MSO) have fluctuated over time, they have not substantially increased. However, recent appeal court guidance is likely to uplift sentences where there is a pattern of non-physical violence and, over time, we expect to see an increased use of custodial orders and longer penalties.

Chapter 6 discusses the anomalies and inconsistencies identified through the review, which may constrain the sentencing process for CDVO and DV offences generally. We explore several issues, including inconsistencies in recording an offence as a DV offence (the DV flag) and avoiding double punishment when a CDVO and another offence are based on the same act. Where appropriate, the Council makes observations in relation to these anomalies and inconsistencies.

111 DFVPA (n 16) s 177.
112 Criminal Law (Domestic Violence) Amendment Act (n 41) s 7; Attorney-General and Minister for Justice (n 24).

Chapter 3 – About CDVO, the context of this review and our approach

3.1 About DVOs

A DVO is a civil court order issued by the court under the *Domestic and Family Violence Protection Act 2012* (Qld) (DFVPA).

The purpose of a DVO is to protect the aggrieved person (the individual subjected to DV) from further DV by making certain behaviours of the respondent (the person who has committed DV) in contravention of an order a criminal offence.[113]

The paramount consideration for the court under the DFVPA is 'the safety, protection, and wellbeing of people who fear or experience domestic violence, including children'.[114]

A court can make 2 types of DVOs to protect an aggrieved person from DV: a temporary protection order and a protection order.[115] As the name suggests, a temporary protection order is an interim order made to protect the aggrieved until the court decides whether to make a protection order.[116]

All DVOs must include standard conditions, including that the respondent 'be of good behaviour towards the aggrieved and not commit domestic violence' against them.[117] In 2025, the standard conditions were expanded to include a condition that the respondent must not counsel or procure someone else, such as a family member or friend, to engage in behaviour that if engaged in by the respondent would be domestic violence or that exposes a child named on the order to domestic violence.[118] This change was made in response to a recommendation of the Women's Safety and Justice Taskforce (WSJ Taskforce).[119]

The court may impose other conditions if it is 'necessary or desirable' to protect a person,[120] including:

- preventing the respondent from being at the usual place of residence of the aggrieved (an ouster condition);[121]
- not contacting or attempting to contact the aggrieved (a no contact condition);[122]
- limiting contact between the respondent and a child;[123] and
- preventing the respondent from remaining at a premises or approaching within a stated distance.[124]

A DVO can also protect other people close to the aggrieved, such as:

- children;
- relatives;
- a current spouse or partner; and

---

113 DFVPA (n 16) ss 3(2)(a), (c).
114 Ibid s 4(1).
115 Ibid s 23.
116 Ibid s 23(3). For circumstances of when a temporary protection order ends, see s 98.
117 Ibid s 56(1)(a).
118 Ibid ss 56(1)(b), (c)(iii), (d)(iv)–(v) inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 48. These changes came into effect on 26 May 2025: see *Proclamation No. 146—Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 (Commencing Certain Provisions)* ('SL 2024 No. 146').
119 *Hear Her Voice Report 1* (n 29) vol 1, lxxvi, rec 76.
120 DFVPA (n 16) s 57(1).
121 Ibid ss 57(2), 64.
122 Ibid s 58(d).
123 Ibid ss 58(f), 62.
124 Ibid ss 58(c), 63.

- anyone who lives with, works with, or provides support to the aggrieved, such as a friend or neighbour.[125]

Once a DVO is made, a court may also vary the order – for example, amending the details of the aggrieved or named persons (such as change of address) or adding, removing, or amending conditions and/or the length.[126]

A DVO usually protects a person for 5 years but could be for any length of time the court considers 'necessary and desirable'.[127]

As it is a civil court order, a DVO does not appear on the respondent's criminal history unless it is contravened (breached).[128] However, a history of DVOs being made against the person as the respondent can be taken into account for other purposes, including when determining a person's character at sentence,[129] or assessing a person's suitability to hold a Blue Card[130] or a firearms licence.[131]

Data on the volume of DVOs made and in force are presented in section 5.1.2.

3.2 About CDVO

Failing to follow a condition of a DVO is a criminal offence.[132]

The prosecution must prove, beyond a reasonable doubt, that a respondent knew of the DVO condition[133] and that it was breached.

A respondent cannot argue as a defence that the aggrieved consented to the breach because a DVO is an order of the court, not an agreement between the parties.[134]

Contravening an order designed to prevent behaviour that is causing a person harm is serious.[135] However, the facts and circumstances of CDVO cases vary widely,[136] and sentencing CDVO is 'an extremely complex task'.[137]

A contravention can involve physical violence, and even the use of extreme violence.[138] It can also include conduct that would not be an offence without the presence of the DVO condition,[139] such as contacting the

---

125 Ibid s 24. The definition of an 'associate' under section 24 is broad and means: (a) a person whom the aggrieved regards as an associate; and (b) a person who regards himself or herself as an associate of the aggrieved; provided it is reasonable to regard that person as an associate.

126 Ibid s 91.

127 Ibid s 97(2). However, a period of less than 5 years can only be ordered if 'the court is satisfied there are reasons for doing so': Ibid s 97(2)(b).

128 DFVPA (n 16) s 177(2).

129 PSA (n 41) s 11(1)(b). This does not apply to orders made when the person was a child.

130 *Working with Children (Risk Management and Screening) Act 2000* (Qld) ss 220, 230 and 234.

131 *Weapons Act 1990* (Qld) s 10B.

132 DFVPA (n 16) s 177.

133 Ibid ss 177(1), (4).

134 Australian Law Reform Commission and New South Wales Law Reform Commission, *Family Violence—A National Legal Response* (Final Report No 114 (ALRC); 128 (NSWLRC), 2010) vol 1, 526 [12.65].

135 *R v Wood* [1994] QCA 297, 6 (McPherson JA and Ambrose J, Pincus JA agreeing) ('*Wood*'); *CDL* (n 10) [11]–[13], [24] (Bowskill CJ, Boddice JA agreeing); [64]–[66] (Brown JA).

136 Magistrates Court of Queensland, *Domestic and Family Violence Protection Act 2012 Benchbook* (14th ed, 2025) 221 ('*QMC DFVPA Benchbook*').

137 The Australian Institute of Judicial Administration, *National Domestic and Family Violence Bench Book* (2025) [9.3.1] ('*National DFV Bench Book*').

138 See e.g., *R v MKW* [2014] QDC 300 ('*MKW*') where the offender was also charged with grievous bodily harm, and the CDVO was based on the same facts.

139 See e.g., *JMM v Commissioner of Police* [2018] QDC 130, [43], [45]–[46] (Fantin DCJ) ('*JMM*'). 'The offending was limited to the appellant yelling at the child "little maggot" and "maggot c**t" after he called her a "slut" and pointed a knife at her while she was seated on the toilet. It was two instances of name calling, one of which contained an expletive': [43]. Fantin DCJ found 'At its highest, the appellant's behaviour fell within the definition of "domestic violence" in s 8 of the Act because it was "emotionally or psychologically abusive"', noting 'the examples given in section of 11 [of "emotional or psychological abuse"] include "repeated derogatory taunts"': [45].

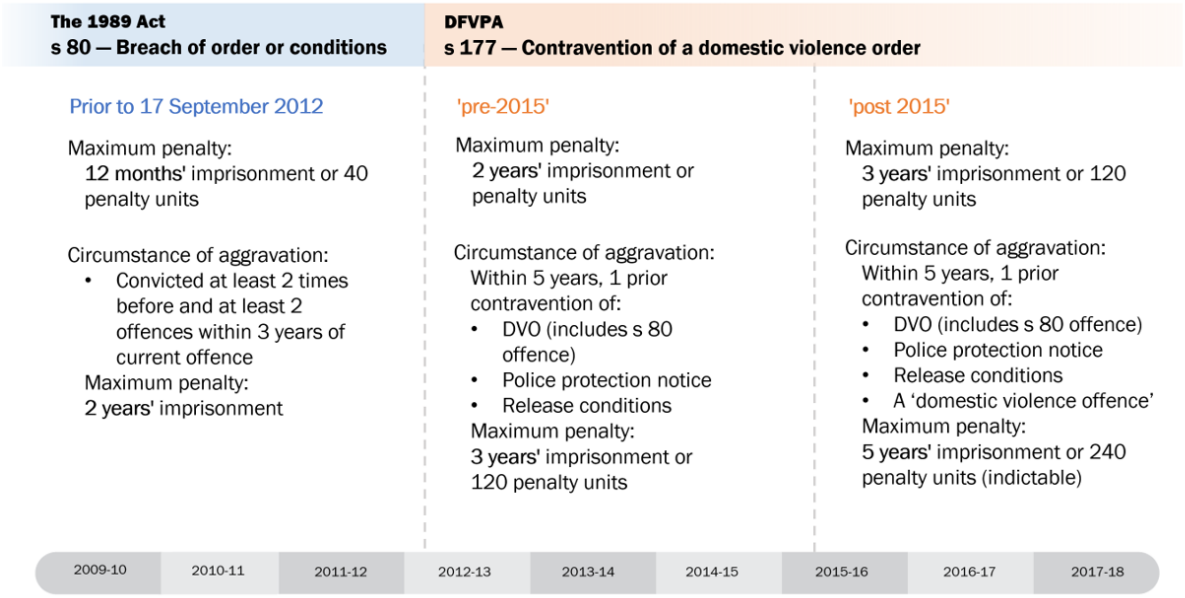
aggrieved when there is a no contact condition in place.[140] For examples of the range of conduct and sentences imposed, see **Chapter 5**.

Courts have recognised that '[d]omestic violence is a matter of great concern to the community' and '[p]erpetrators should be accountable for their actions',[141] although a recognition of these factors 'does not mean that all contraventions are the same'.[142]

3.3 Why CDVO was changed and maximum penalties increased

As shown in Figure 3-1, there have been 3 significant changes to maximum penalties for CDVO since July 2005, when sentencing data became readily available.

Figure 3-1: Changes to CDVO and maximum penalties over time



The offence of 'breach of order or condition' under the *Domestic and Family Violence Act 1989* (Qld)[143] changed with the introduction of the DFVPA in 2012. Although no longer an offence, a prior conviction under the 1989 Act could be relevant for an aggravated CDVO as a prior conviction.[144]

In 2012, along with a change to what was considered a circumstance of aggravation, the maximum penalties for CDVO increased:

- **non-aggravated**: from 12 months' imprisonment (or 40 penalty units)[145] to 2 years' imprisonment (or 60 penalty units); and
- **aggravated**: from 2 years' imprisonment to 3 years' imprisonment (or 120 penalty units).[146]

---

[140] See e.g., *CBC v Queensland Police Service* [2019] QDC 3. CBC attended the aggrieved's house the day after the DVO was made to retrieve her belongings so she could leave the area, in breach of a no contact condition. She made no actual contact with the aggrieved and the aggrieved did not notify police. The police attended the address coincidentally while CBC was there: [27], [42].

[141] *SH v Queensland Police Service* [2019] QDC 247, [24]; referring to the principle in DFVPA (n 16) s 3(1).

[142] *SH v Queensland Police Service* (n 141).

[143] DFVPA 1989 (n 1) s 80.

[144] The DFVPA 1989 (n 1) was reviewed in 2010. Following this review, it was replaced by the DFVPA (n 16); For a summary and background of the findings of this review, see 'Explanatory Notes, Domestic and Family Violence Protection Bill' (n 54) 1, 27–9. Legislative changes also took into account the recommendations made by the Australian Law Reform Commission and New South Wales Law Reform Commission (n 134).

[145] DFVPA 1989 (n 1) s 80.

[146] DFVPA (n 16) s 177 as at 17 September 2012.

The aggravated CDVO penalty was increased to the jurisdictional limit of the Magistrates Court. The justification for this was to:

> provide additional scope for courts to sentence offenders in relation to the more serious forms of behaviour that can constitute a breach of a domestic violence order. It may also provide an opportunity for increased distinction of penalties applied between first offenders and those who have previous convictions.[147]

Other significant changes were introduced by the DFVPA in 2012, which reflected contemporary understandings of DFV including relationship types and behaviours.[148]

In 2015, the Special Taskforce on Domestic and Family Violence in Queensland (Special Taskforce) made recommendations aimed at improving Queensland's DFV support systems and preventing future DFV incidents.[149] As part of its review, the Special Taskforce considered CDVO and noted that, in a one-year period, the majority of all custodial sentences for CDVO were less than 12 months (80.6%).[150]

The Special Taskforce recommended that the 'sufficiency of penalties to hold perpetrators to account for repeat contraventions' be considered by the Queensland Government,[151] as it was 'concerned that current legislation may not effectively recognise the pattern of behaviour which underpins domestic and family violence and apply appropriate sanctions'.[152]

In response, the Queensland Government increased the maximum penalties for CDVO:

- **non-aggravated**: from 2 years' imprisonment (or 60 penalty units) to 3 years' imprisonment (or 120 penalty units); and
- **aggravated**: from 3 years' imprisonment (or 120 penalty units) to 5 years' imprisonment (or 240 penalty units).[153] An aggravated CDVO became indictable[154] and the circumstances of aggravation were expanded to include a previous conviction of a domestic violence offence.[155]

The amendments were justified on the basis that they reflected 'the seriousness of the offences, particularly where there is a pattern of domestic violence behaviour involved'.[156] The increase in penalties aimed to:

- provide greater deterrence for perpetrators of domestic violence;[157]
- reinforce the community's view that domestic violence is not acceptable and will not be tolerated;[158] and
- align Queensland's penalties with other jurisdictions.[159]

147 'Explanatory Notes, Domestic and Family Violence Protection Bill' (n 54) 9.
148 Ibid 2. The changes to the definition of domestic violence in the DFVPA are set out in Appendix 5.
149 *Special Taskforce Report* (n 4).
150 Ibid 305 between July 2013–June 2014, citing: Department of Justice and Attorney-General (unpublished), data provided at request of Taskforce.
151 Ibid 305, rec 121.
152 Ibid 305.
153 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill' (n 7) 1.
154 Criminal Law (Domestic Violence) Amendment Act (n 41) s 8 amending: DFVPA (n 16) s 181.
155 Criminal Law (Domestic Violence) Amendment Act (n 41) s 7 amending: DFVPA (n 16) s 177.
156 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill' (n 7) 3–4.
157 Ibid 6.
158 Ibid.
159 Ibid 3–4. For a summary of maximum penalties in other jurisdictions, see Appendix 7.

3.4 The role of maximum penalties

A maximum penalty is a defined upper limit on the courts sentencing power.[160] It reflects the views of parliament (and the community) on the seriousness of an offence compared with other offences.[161] It also guides the judiciary on its limit to punish, deter the offender and/or others, denounce the conduct, provide conditions to help rehabilitate, recognise the harm done to a victim and to protect the community from the offender.[162]

Imposing the maximum penalty for an offence is reserved for the 'worst category of cases'[163] or 'worst possible case',[164] meaning the offending was 'so grave as to warrant the maximum prescribed penalty'.[165] It is not appropriate to use it as a starting point and then 'proceed by making a proportional deduction from it'.[166]

A court must take into account the maximum penalty when sentencing;[167] however, it is only one consideration to be 'taken and balanced with all of the other relevant factors'.[168]

Appellate guidance on maximum penalties

Queensland appellate courts have said the increased maximum penalties for CDVO are 'signalling to the courts the increased seriousness with which these offences are to be viewed'.[169]

This is consistent with Court of Appeal commentary on increases to the maximum penalties for other types of offences. For example, the Court of Appeal has held that where there is an increase in the maximum penalty, generally it is to be expected that there will be an increase in the severity of sentences.[170] However, that does not mean all offences committed after this increase should be given a higher penalty,[171] or that sentences should be proportionally increased.[172] For example, doubling the maximum penalty will not 'necessarily result in a doubling of sentences at all levels'.[173]

Prior sentences will usually no longer be comparable, unless there are no comparable sentencing decisions after the increase. Then it may be 'necessary to refer to the earlier cases, if only to shed light upon the circumstances in which the increased maximum was enacted'.[174]

---

160 *Encyclopaedic Australian Legal Dictionary* (online at 13 January 2026) 'maximum penalty'.

161 See *R v CBA* [2011] QCA 281, [19] (Margaret Wilson AJA, Muir and Fraser JJA) ('*CBA*') In respect of the increase to maximum penalties from 7 years to 14 years to life imprisonment for the offence of repeated sexual conduct with a child (formerly 'maintaining a sexual relationship with a child'): 'This increase is indicative of the legislature's intention that this type of offending be viewed more seriously and that accordingly more severe penalties be imposed for it.' See also *Markarian v The Queen* (2005) 228 CLR 357, 372 [31] (Gleeson CJ, Gummow, Hayne and Callinan JJ) ('*Markarian*'): 'careful attention to maximum penalties will almost always be required, first because the legislature has legislated for them; secondly, because they invite comparison between the worst possible case and the case before the court at the time; and thirdly, because in that regard they do provide, taken and balanced with all of the other relevant factors, a yardstick'.

162 PSA (n 41) s 9(1).

163 *Veen v The Queen (No 2)* (1988) 164 CLR 465, 478 (Mason CJ, Brennan, Dawson and Toohey JJ) ('*Veen*').

164 *Markarian* (n 161) 372 [31]; cited in *R v TBD* [2024] QCA 182, [34] (Kelly J, Dalton and Brown JJA agreeing) ('*TBD*').

165 *R v Kilic* (2016) 259 CLR 256, 265–6 [18] (Bell, Gageler, Keane, Nettle and Gordon JJ) ('*Kilic*'). This decision cautions against using the expression 'worst category' at [20] as used in *Veen* (n 163) 478 (Mason CJ, Brennan, Dawson and Toohey JJ).

166 *Markarian* (n 161) 372 [31] (Gleeson CJ, Gummow, Hayne and Callinan JJ).

167 PSA (n 41) s 9(2)(b); *Markarian* (n 161) [30]-[31] (Gleeson CJ, Gummow, Hayne and Callinan JJ). If the wrong maximum penalty is taken into account, this can be a material sentencing error: see *R v Kelly* [2018] QCA 307, [10] citing; *Kentwell v The Queen* (2014) 252 CLR 601; cf. *R v HCY* [2025] QCA 107.

168 *Markarian* (n 161) 372 [31] (Gleeson CJ, Gummow, Hayne and Callinan JJ).

169 *YSD v Commissioner of Police* [2022] QDC 92, [45] (Fantin DCJ) ('*YSD*'). Similar comments were made in *BH v Commissioner of Police* [2021] QDC 175, [49] (Fantin DCJ) ('*BH*'). See also *CDL* (n 10) [13] (Bowskill CJ, Boddice JA agreeing), [89] (Brown JA).

170 *R v Murray* (2014) 245 A Crim R 37, 42 [16] (Fraser JA, Gotterson and Morrison JJA agreeing) ('*Murray*') citing: *R v Benson* [2014] QCA 188, [36] (Morrison JA). See also *CBA* (n 161) [19] (Margaret Wilson AJA, Muir and Fraser JJA).

171 *Murray* (n 170) 42 [16] (Fraser JA, Gotterson and Morrison JJA agreeing) quoting: *R v Samad* [2012] QCA 63, [30] (Wilson AJA).

172 *Murray* (n 170) 42 [16] (Fraser JA, Gotterson and Morrison JJA agreeing) quoting: *R v SAH* [2004] QCA 329, [12]–[13]; and *R v CBI* [2013] QCA 186, [19] (Fraser JA, Gotterson JA and Mullins J agreeing) (which was a case about increases in maximum penalties for sexual offences).

173 *Murray* (n 170) 42 [16] (Fraser JA, Gotterson and Morrison JJA agreeing) citing: *R v SAH* (n 172) [12]–[13]. See similar comments in *R v O'Sullivan and Lee; Ex parte A-G (Qld)* (2019) 3 QR 196, 231, [93] fn 43 ('*O'Sullivan*') citing: Carter's Criminal Code (22nd ed).

174 *Murray* (n 170) 42 [17] (Fraser JA, Gotterson and Morrison JJA agreeing). See also *LJS v Sweeney* [2017] QDC 18 ('*LJS*') where Smith DCJA considered cases prior to the increase of maximum penalty for contravention of a domestic violence order as there were no comparable decisions.

3.5 The role and relevance of prior convictions

For CDVO, a prior conviction can be both a circumstance of aggravation and an aggravating factor, which is relatively rare.[175]

The *Penalties and Sentences Act 1992* (Qld) (PSA) states that a relevant prior conviction is an aggravating factor,[176] however, the sentence 'must not be disproportionate to the gravity of the current offence'.[177]

The PSA provision is based on the decision of *Veen v The Queen (No 2)* (*Veen*),[178] where the High Court held a prior conviction is relevant as it 'illuminates the moral culpability of the offender'.[179]

For repeated CDVO offences, Queensland appellate courts have noted that personal deterrence is relevant, but 'care must be taken to ensure that the criminal history is not elevated such as to form part of the behaviour subject of the sentence itself'.[180]

This assessment can be particularly difficult for a judge or magistrate where a person has a history of CDVO or DV offences and the court receives limited details on the nature of those previous convictions and their relevance to the current offence.[181]

In *CDL v Commissioner of Police*,[182] (*CDL*) the Court of Appeal held the legislative intention of increasing the maximum penalty for aggravated CDVO meant it was 'entirely appropriate … to place significant weight on the applicant's previous conviction',[183] without offending the principle in *Veen.* Bowskill CJ observed 'this is a case where repetition has increased the gravity of the offence'.[184]

3.6 The Council's approach

The Terms of Reference issued in May 2023, asked us to 'consider how sentencing trends and outcomes for contravention of a domestic violence order may have changed following the 2015 increase in the maximum penalties'.

A key consideration for this review is what parliament was seeking to achieve when it increased the maximum penalties for CDVO and how the legislative intention has been given effect by sentencing courts.

In order to assess the impact of this reform, we chose to take a mixed-methods approach, undertaking a series of quantitative research projects to explore different aspects of CDVO sentencing, as well as gathering stakeholder views from across Queensland, including the views of persons with lived experience of domestic and family violence. These views were gathered through community consultation, formal submissions, and interviews with subject matter experts (SME). This was supplemented by extensive legal research.

---

175 DFVPA (n 16) s 177; PSA (n 41) s 9(10).

176 PSA (n 41) s 9(10). This is qualified by a requirement to treat 'each previous conviction as an aggravating factor' only 'if the court considers that it can reasonably be treated as such having regard to: (a) the nature of the previous conviction and its relevance to the current offence; and (b) the time that has elapsed since the conviction',

177 Ibid s 9(11); See also *Veen* (n 163) 477 (Mason CJ, Brennan, Dawson and Toohey JJ) citing: *Director of Public Prosecutions v Ottewell* [1970] A.C. 642, 650.

178 *Veen* (n 163).

179 Ibid 477 (Mason CJ, Brennan, Dawson and Toohey JJ). Other legitimate reasons it may be taken into account include where it shows the person's propensity to commit further offences, and therefore the need for community protection, or a need to impose condign punishment for the purposes of general or specific deterrence: ibid.

180 *Green v Queensland Police Service* [2015] QDC 341, [35] (Morzone QC DCJ) ('*Green*').

181 *Mau v Queensland Police Service* [2024] QDC 135, [29] (Morzone KC DCJ)'in my respectful view, I think the learned Magistrate erroneously allowed the appellant's past offending and the criminal history … to overwhelm his sentencing discretion for the contravening calls without any description to gauge the level of abuse, and different to past domestic violent offending. This resulted in an excessive sentence outside the permissible range in the case circumstances'.

182 *CDL* (n 10).

183 Ibid [13] (Bowskill CJ, Boddice JA agreeing), [65] (Brown JA) for similar comments.

184 Ibid [16] (Bowskill CJ, Boddice JA agreeing).

Our research projects

We initiated a number of original research projects to inform our review, including research to:

1. compare sentencing outcomes for CDVO (MSO) immediately before and after the 2015 increase to maximum penalties (see **Chapter 4**).
2. understand overarching trends in the volume and outcomes of sentencing for CDVO (as the MSO), and when sentenced with another offence that is the MSO (referred to as non-MSO CDVO) (see **Chapter 5**).
3. explore the frequency of short sentences of imprisonment in response to DFV-related offences (see **Chapter 5**).
4. explore sentencing outcomes for CDVO (MSO), including understanding of offender characteristics and recidivism, published in our *Sentencing Spotlight on Contravention of a Domestic Violence Order*.
5. explore sentencing outcomes for non-MSO CDVO (see **Chapter 5**).
6. explore the use of pre-sentence custody (see **Chapter 5**).

We also commenced a research project to explore the nature of conduct involved in cases sentenced for CDVO (MSO) in the Magistrates Courts. This involves the manual coding of a sample of sentencing submissions and remarks from 2014–15 (prior to the reform) and 2023–24 (following the reform). Due to delays in accessing court audio files, it was not completed in time for the final report.

Where the research has been published as a standalone brief or report, it is available on our website.

Approach to gathering stakeholder views

We spoke to stakeholders across Queensland, including people with lived experience of DFV where a DVO had been contravened.

Our legal research

In addition to the quantitative research and stakeholder views gathered by the Council, we undertook extensive legal research, including analysing key appellate court decisions of the Queensland Court of Appeal and District Court of Queensland, both prior to and following the increase in maximum penalties for cases involving CDVO.

Chapter 4 – Impact of the increase to maximum penalties for CDVO

Data Snapshot

Sentencing Outcomes for CDVO Offences
Pre– and Post–2015

Custodial penalties increased slightly for both aggravated and non-aggravated CDVO offences.

Aggravated CDVO: 47.5% to 51.7%; Non-aggravated CDVO: 11.6% to 14.2%.

Supervised orders became **more common** for both offence types.

Aggravated CDVO: 50.7% to 52.9%; Non-aggravated CDVO: 24.1% to 27.0%.

Monetary penalties decreased for both aggravated and non-aggravated CDVO offences.

Aggravated CDVO: 28.9% to 25.0%; Non-aggravated CDVO 53.3% to 49.0%.

Convicted but not further punished outcomes decreased for non-aggravated CDVOs but increased slightly for aggravated CDVOs.

Aggravated CDVO: 2.2% to 2.8%; Non-aggravated CDVO: 4.1% to 3.5%

The **median imprisonment** sentence length remained unchanged at 6 months for both offence types.

Imprisonment sentences with pre-sentence custody declared increased.

Aggravated CDVO: 39.0% to 52.5%; Non-aggravated CDVO: 37.7% to 49.9%.

For imprisonment sentences with immediate release on parole, there was an increase in cases that had more than one month of pre-sentence custody declared.

Aggravated CDVO: 26.0% to 36.0%; Non-aggravated CDVO: 22.5% to 35.9%.

4.1 The pre–post analysis approach

The purpose of undertaking a pre–post analysis was to assist our consideration of whether sentencing outcomes for CDVO changed following the increase in maximum penalties.

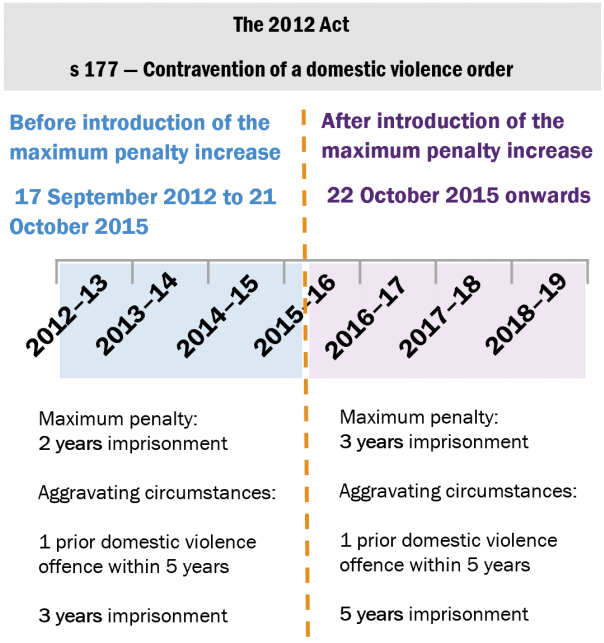
A pre–post outcomes analysis is a well-known methodological approach for evaluating whether there has been a change following an intervening event.[185]

A limitation with this pre–post analysis is that it cannot definitively determine whether the change in maximum penalties has *caused* any observed change in outcomes. The specific challenges and limitations of using administrative data to undertake a pre–post analysis are discussed in section 4.2.2.

4.1.1 Defining the pre–post period

The time periods selected for the pre–post analysis are shown in Figure 4-1.

Figure 4-1: The data period for the pre–2015 and post–2015 categories



The post–2015 period was restricted to 30 June 2019 for 4 key reasons:

1. It focused on the sentencing outcome immediately after the maximum penalty increase.
2. The volume of cases was more comparable, as the 3-year period is a similar length to pre–2015.
3. The impact of other significant reforms and changes occurring 10 years after the increase is limited.[186]
4. It avoids the impact of COVID-19 on the justice system.

From March 2020, the COVID-19 pandemic and associated government response significantly impacted crime rates, criminal justice responses, and sentencing practices. The unduly harsh conditions of imprisonment during the COVID-19 pandemic were a factor that could be taken into account in

---

[185] Adam Teperski and Stewart Boiteux, *The Long and Short of It The Impact of Apprehended Domestic Violence Order Duration on Offending and Breaches* (Crime and Justice Bulletin No 261, NSW Bureau of Crime Statistics and Research, November 2023); Hamish Thorburn, *A Follow-up on the Impact of the Bail Act 2013 NSW on Trends in Bail* (Crime and Justice Statistics Bureau Brief No 116, NSW Bureau of Crime Statistics and Research, August 2016); Evarn J Ooi, *The Impact of the Practice Guide for Intervention PGI on Recidivism among Parolees* (Crime and Justice Bulletin No 228, NSW Bureau of Crime Statistics and Research, August 2020).

[186] For a summary of the reviews and reform impacting domestic violence offending see section 1.5.1.

sentencing.[187] The Queensland Government Statisticians Office cautioned against comparing criminal justice statistics before and after the COVID-19 pandemic.[188] Restricting the post–2015 period to 30 June 2019 avoids this issue and ensures greater comparability with pre-2015.

All CDVO cases included in this analysis were sentenced in the period to 30 June 2019 as the MSO, and were categorised based on whether the CDVO offence was non-aggravated or aggravated.[189]

4.2 Changes in the profile of CDVO pre- and post-reform

The Council considered whether there were any changes in the overall profile and characteristics of CDVO (MSO) cases sentenced pre–2015 and post–2015.

There were 4 notable changes observed in the offending profile of those sentenced:

1. **Offence type:** Non-aggravated CDVO made up over half of cases pre-2015 (55.2%) and post-2015 (56.4%).
2. **Offending age**: The median age of CDVO offenders increased slightly post the reform.[190]

   For non-aggravated CDVO, the median age of the offender increased from 32.9 years to 34.2 years post the reform, and for aggravated CDVO it increased from 33.5 years to 34.1 years post the reform.
3. **Gender:** Men made up the largest proportion of people sentenced for both non-aggravated and aggravated CDVO, but the proportion of women sentenced for both forms of the offence increased post-2015.
   - Men accounted for:
     - more than 80 per cent of non-aggravated CDVO both pre-2015 (82.9%) and post-2015 (80.9%), and
     - just under 90 per cent of aggravated CDVO in both pre-2015 (89.3%) and post-2015 (87.9%).
   - Post the reform, more women were sentenced for both non-aggravated and aggravated CDVO (MSO), largely driven by an increase in the proportion of non-Indigenous women.
4. **Aboriginal and Torres Strait Islander status:** Aboriginal and Torres Strait Islander men accounted for around one-third of offenders sentenced for aggravated CDVO, both pre and post the reform. Non-Indigenous men were the most common cohort both pre and post the reform, accounting for more than half of offenders sentenced for both non-aggravated and aggravated CDVO.

For more information on the demographic profile of people sentenced for CDVO, see **Chapter 11**.

Understanding the demographic profile of people sentenced is important. For example, a younger, first-time offender with promising prospects of rehabilitation, might 'receive more leniency from courts than would otherwise be appropriate'.[191]

Importantly, many other factors influence sentencing outcomes, such as the nature and seriousness of the offence (including the nature of the contravention itself), prior offending, prior imprisonment, and the number

---

[187] *R v KAX* (2020) 285 A Crim R 81, 88–90 [27], [31] (Mullins JA, Philippides JA and Brown J agreeing) referring to: *R v Stasiak* (Supreme Court of Queensland – Cairns, 4 August 2020); *R v Phillips* 188 A Crim R 133, [43]–[46].

[188] Queensland Government Statistician's Office, *Justice Report, Queensland, 2020–21* (Criminal Justice Statistics, 2022) 1, 6.

[189] The pre-2015 non-aggravated and aggravated CDVO (MSO) offences were determined by a recidivism analysis to determine if they had sentenced contravention offences in the 5 years prior and would have been able to be treated as aggravated, as this was not captured in the administrative data. Discussed in 4.2.2.

[190] Age at time of offence.

[191] *R v Mules* [2007] QCA 47, [21] (McMurdo P, Keane JA and Mullins J agreeing) referring with approval to earlier statements made in: *R v Horne* [2005] QCA 218 quoted in: *R v Hopper; Ex parte A-G (Qld)* (2015) 2 Qd R 56, 70–1 [28] (Fraser JA, Morrison JA agreeing. Boddice J agreeing with Fraser JA's reasons but dissenting as to the disposition of the appeal) ('*Hopper*').

of offences sentenced.[192] The Council's pre-post analysis has not controlled for these factors. These challenges are discussed further below.

4.2.1 Changes in CDVO sentencing outcomes

We focused on 2 key research questions to explore whether there were any changes in sentencing outcomes for CDVO (MSO) cases between the pre-2015 and post-2015 periods:

1. Were there any changes in the type of penalties imposed?
2. Were there any changes in the duration of penalty outcome imposed?

We found the types of sentencing outcomes for both non-aggravated and aggravated CDVOs had changed since the increase to CDVO maximum penalties. However, there was limited change in the length of custodial or imprisonment sentences. Each of these findings is discussed below.

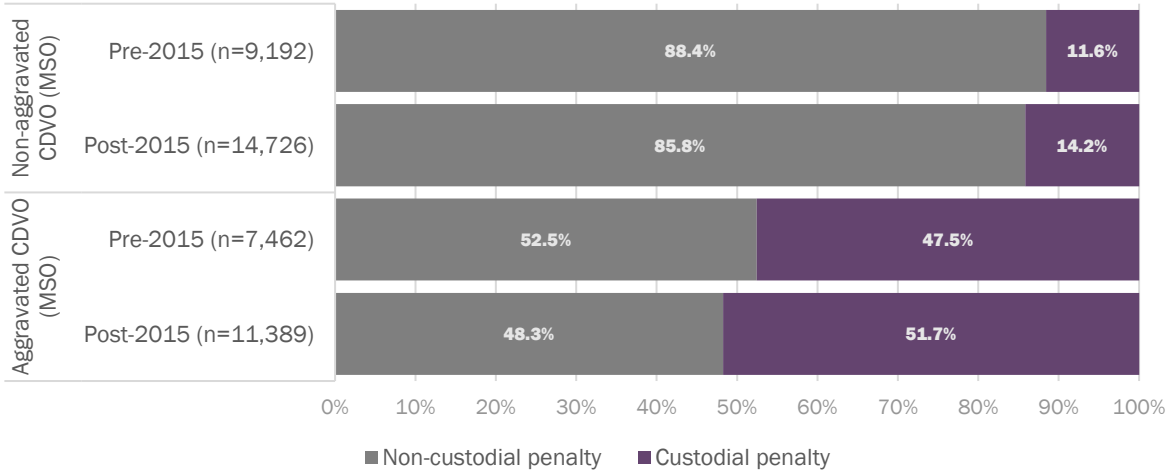
Changes in the type of penalties imposed

Custodial vs non-custodial penalties

There was a small but statistically significant increase in the proportion of cases receiving a custodial penalty for both aggravated and non-aggravated CDVO post–2015, as shown in Figure 4-2.

- For **aggravated CDVO**, custodial penalties became the most common outcome post–2015 (from 47.5% to 51.7%).[193]
- For **non-aggravated CDVO**, there was an increase in the proportion of cases receiving a custodial penalty immediately following the reform (from 11.6% to 14.2%).[194]

Figure 4-2: Proportion of custodial penalties imposed for CDVO (MSO), by offence type and pre–post



Data include adult offenders, CDVO MSO, cases sentenced between 1 July 2012 and 30 June 2019.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

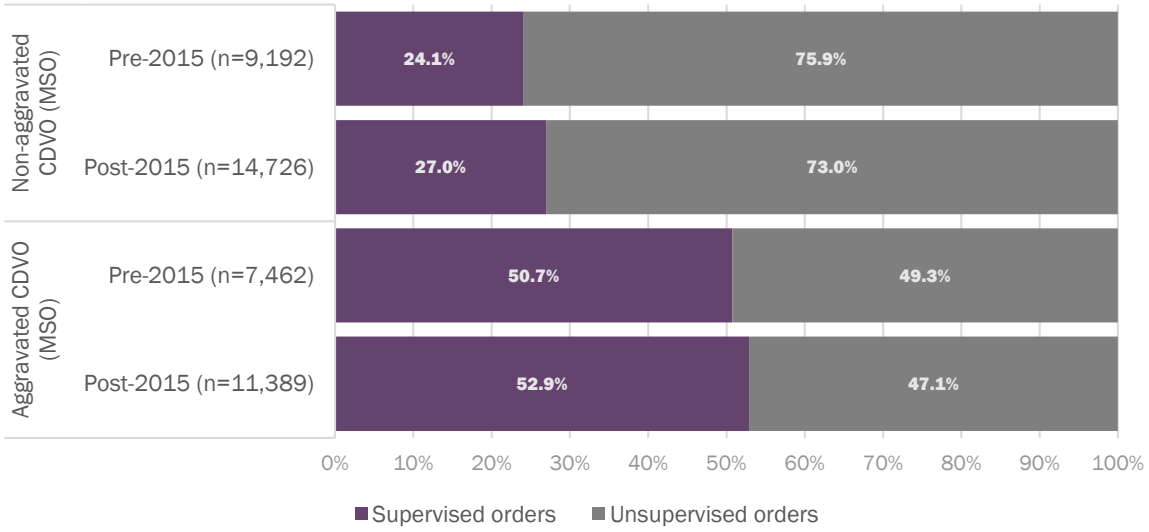
[192] See, e.g., Dr Klaire Somoray, Samuel Jeffs and Anne Edwards, *Connecting the Dots: The Sentencing of Aboriginal and Torres Strait Islander Peoples in Queensland* (Sentencing Profile, Queensland Sentencing Advisory Council, March 2021) 41–2.
[193] This is a statistically significant shift: Pearson's Chi-Square test: X^2 (1) = 31.47, p = <.0001, V=0.04.
[194] This is a statistically significant increase: Pearson's Chi-Square test: X^2 (1) = 33.20, p = .0001, V=0.04.

The use of supervision orders

The use of supervision orders was more common for aggravated than non-aggravated CDVO, and their use increased for both offence types following the reforms:

- For **aggravated CDVO,** the use of supervised orders increased (50.7% v 52.9%).
- For **non-aggravated CDVO,** the use of supervised orders increased (24.1% v 27.0%).

Figure 4-3: Proportion of supervision orders imposed for CDVO (MSO), by offence type and pre-post



Data include adult offenders, CDVO MSO, cases sentenced between 1 July 2012 and 30 June 2019.
Note: supervised orders include imprisonment, intensive correction orders, probation and community service orders. Unsupervised orders include all other penalty types.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Specific types of penalties imposed: Aggravated CDVO (MSO)

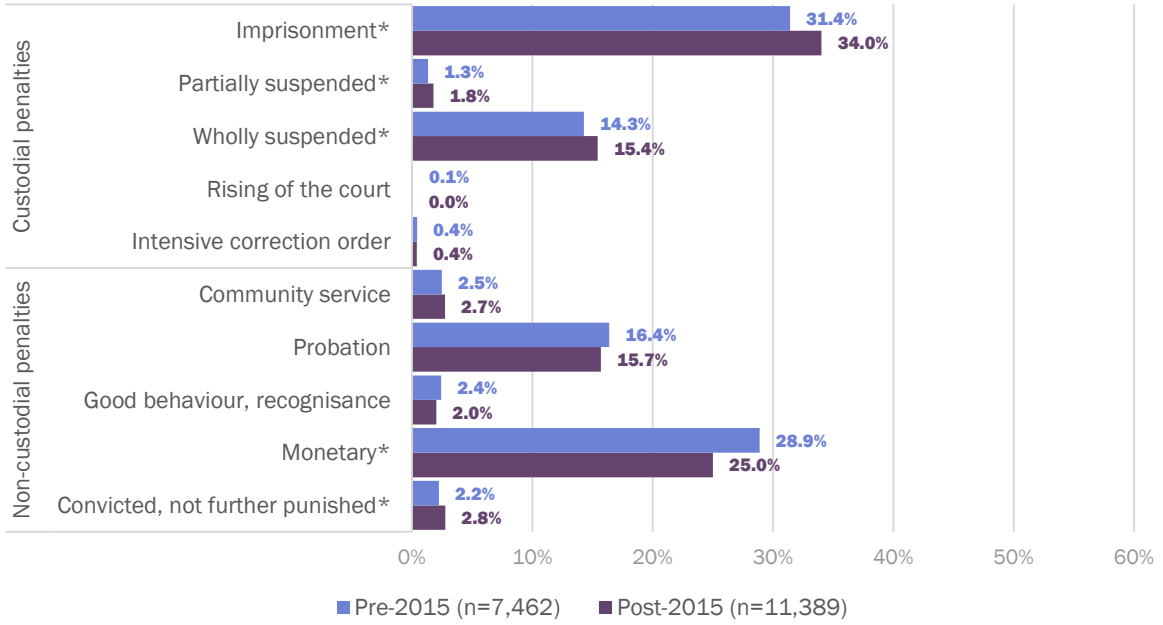
Prior to the reforms, the most common penalty for aggravated CDVO was imprisonment (31.4%), closely followed by monetary orders (28.9%). Immediately following the reforms, the proportion of cases receiving imprisonment significantly increased to 34.0 per cent,[195] and the proportion of cases where a monetary order was imposed decreased significantly to 1 in 4 cases (25.0%).[196]

There were also statistically significant increases to:

- partially suspended prison sentences (1.3% to 1.8%);[197]
- wholly suspended prison sentences (14.3% to 15.4%);[198] and
- convicted with no further punishment (2.2% to 2.8%).[199]

[195] Pearson's Chi-Square test: X^2 (1) = 41.00, p = .0002, V=0.03.
[196] Pearson's Chi-Square test: X^2 (1) = 34.76, p <.0001, V=0.04.
[197] Pearson's Chi-Square test: X^2 (1) = 6.36, p = .0116, V=0.02.
[198] Pearson's Chi-Square test: X^2 (1) = 4.75, p = .0292, V=0.02.
[199] Pearson's Chi-Square test: X^2 (1) = 5.36, p = .0206, V=0.02.

Figure 4-4: Penalty types imposed for aggravated CDVO (MSO) as a proportion of all penalty types, by pre-post



Data include adult offenders, aggravated CDVO MSO, cases sentenced between 1 July 2012 and 30 June 2019.
* indicates a statistically significant difference between the pre-2015 and post-2015 proportions for this penalty type.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Specific types of penalties imposed: Non-aggravated CDVO (MSO)

The use of monetary orders decreased significantly (from 53.3% to 49.0%).[200] The proportion of convictions with no further punishment also decreased significantly, from 4.1 per cent to 3.5 per cent.[201]

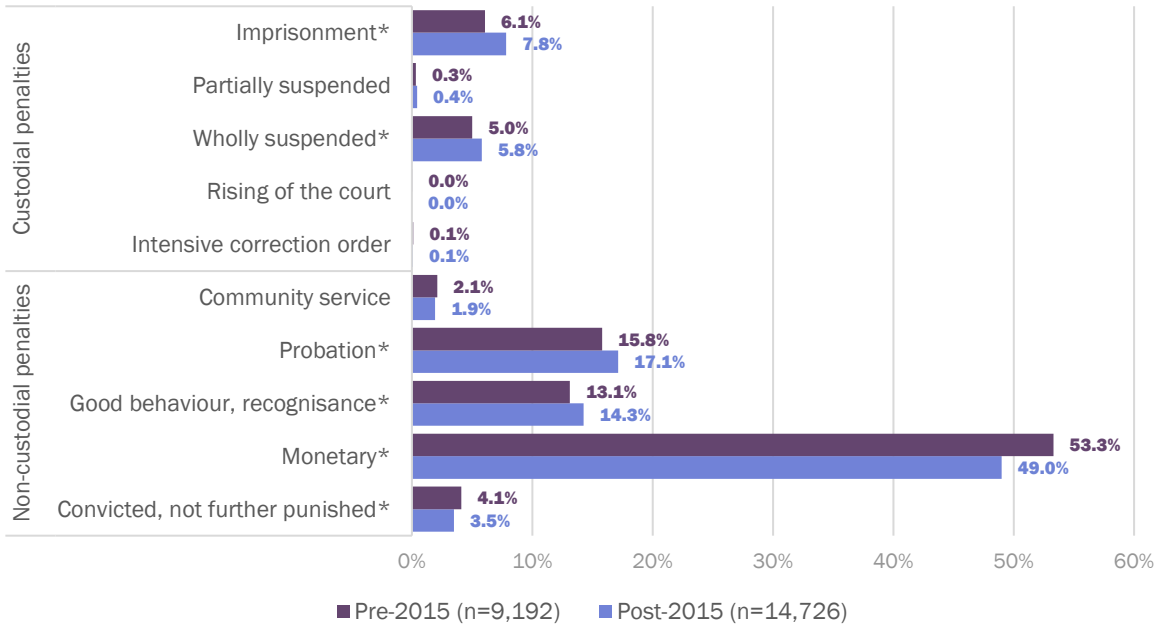
There were also statistically significant increases for:

- imprisonment orders (6.1% to 7.8%);[202]
- wholly suspended prison sentences (5.0% to 5.8%);[203]
- probation orders (15.8% to 17.1%);[204] and
- good behaviour orders (13.1% to 14.3%).[205]

Figure 4-5 shows the types of penalties imposed for non-aggravated CDVO as a proportion of all penalty types, and the differences pre– and post–2015.

[200] Pearson's Chi-Square test: X^2 (1) = 41.76, p <.0001, V=0.04.
[201] Pearson's Chi-Square test: X^2 (1) = 5.62, p = .0178, V=0.02.
[202] Pearson's Chi-Square test: X^2 (1) = 26.71, p <.0001, V=0.03.
[203] Pearson's Chi-Square test: X^2 (1) = 7.03, p = .0080, V=0.02.
[204] Pearson's Chi-Square test: X^2 (1) = 7.22, p = .0072, V=0.02.
[205] Pearson's Chi-Square test: X^2 (1) = 6.32, p = .0119, V=0.02.

Figure 4-5: Penalty types imposed for non-aggravated CDVO (MSO) as a proportion of all penalty types, by pre–post



Data include adult offenders, non-aggravated CDVO MSO, cases sentenced between 1 July 2012 and 30 June 2024.
* indicates a statistically significant difference between the pre-2015 and post-2015 proportions for this penalty type.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

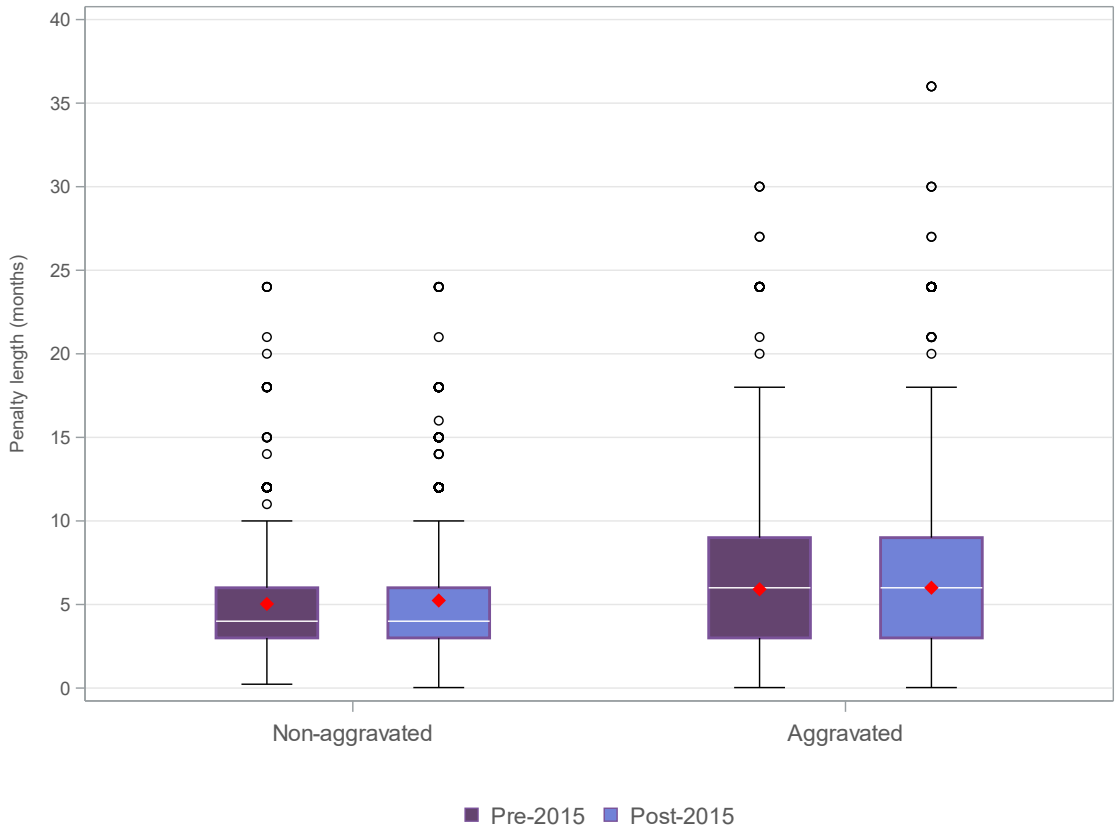
Changes in the duration of penalty outcomes imposed

Custodial penalty lengths

When comparing pre–2015 and post–2015 there was very little change in the length of a custodial penalty imposed for both aggravated and non-aggravated CDVO, as shown in Figure 4-6.

- For **aggravated CDVO**, the average custodial sentence length increased slightly from 5.9 months to 6.0 months, but this was not statistically significant. The median remained at 6.0 months, though the longest penalty imposed increased from 30.0 months to 36.0 months.
- For **non-aggravated CDVO**, the average custodial sentence length increased slightly from 5.0 months to 5.2 months, but this was not a statistically significant difference. The median remained at 4.0 months and the longest penalty imposed remained at 24.0 months.

Figure 4-6: Length of custodial penalties imposed for CDVO (MSO), by offence type and pre–post



Data include adult offenders, CDVO MSO, cases sentenced to imprisonment between 1 July 2012 and 30 June 2019. Refer to Appendix 8 for an explanation of how to interpret a box plot.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Penalty lengths of different orders

Table 4-1 shows that for **aggravated CDVO**, there were statistically significant changes in the distribution of sentence length for probation and good behaviour orders only.[206] All other penalty types saw no change in the distribution of sentence length.

There was also no change to the median imprisonment sentence length for aggravated CDVO offences. However, the longest imprisonment sentence imposed increased from 30.0 months to 36.0 months (3 years' imprisonment).[207]

[206] Probation order- Wilcoxon Rank Sum Test: Ws= 1785665, z= 2.59, p= .0095, r=0.05; good behaviour order - Wilcoxon Rank Sum Test: Ws= 34671.00, z= 2.36, p = 0.0183, r=0.12.

[207] This was imposed in 3 cases, although a review of these cases found 2 of these sentences were reduced on appeal on the basis that a sentence of 3 years' imprisonment was manifestly excessive: *LJS* (n 174) [26] (Smith DCJ); *Gibuma v Queensland Police Service* [2016] QDC 183, [2], [24] (Harrison DCJ) ('*Gibuma*'). Both judges on appeal referred to *R v Kowearpta* (QCA, 2009) in which a sentence of 3 and a half years' imprisonment was imposed for assault occasioning bodily harm while armed (10-year maximum penalty). In *LJS* (n 174), it was noted that Kowearpta was a more serious case taking into account the use of a weapon and that a higher maximum penalty of 10 years applied: [25]. In *Gibuma* it was concluded that 3 years was 'well outside the established range for that type of offending', and that the case of Kowearpta 'illustrates the type of offending which justifies a sentence in the region of a three and a-half years': [18], [21].

Table 4-1: Median penalty length/hours imposed for aggravated CDVO (MSO), by penalty type and pre–post

Penalty type	Pre-2015			Post-2015			Statistically significant change in distribution
	% of cases (MSO)	Median sentence	Maximum sentence	% of cases (MSO)	Median sentence	Maximum sentence	
Imprisonment	31.4%	6.0 months	30.0 months	34.0%	6.0 months	36.0 months	No
Partially suspended	1.3%	6.0 months	12.0 months	1.8%	6.0 months	12.0 months	No
Wholly suspended	14.3%	3.0 months	18.0 months	15.4%	3.0 months	24.0 months	No
Community service	2.5%	60.0 hours	240.0 hours	2.7%	60.0 hours	240.0 hours	No
Probation	16.4%	12.0 months	36.0 months	15.7%	12.0 months	36.0 months	**Yes**
Good behaviour	2.2%	9.0 months	24.0 months	2.8%	12.0 months	24.0 months	**Yes**

Data include adult offenders, aggravated CDVO MSO, cases sentenced between 1 July 2012 and 30 June 2019.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

As shown in Table 4-2, for **non-aggravated CDVO**, there were statistically significant changes in the distribution of sentence length for partially suspended prison sentences, probation and good behaviour orders.[208] However, partially suspended prison sentences only account for a very small proportion of penalty types (pre–2015: 0.3% v post–2015: 0.4%).

The median length for imprisonment and wholly suspended imprisonment did not change and nor did the community service order hours.

Table 4-2: Median penalty length/hours imposed for non-aggravated CDVO (MSO), by penalty type and pre–post

Penalty type	Pre-2015			Post-2015			Statistically significant change in distribution
	% of cases (MSO)	Median sentence	Maximum sentence	% of cases (MSO)	Median sentence	Maximum sentence	
Imprisonment	6.1%	6.0 months	24.0 months	7.8%	6.0 months	24.0 months	No
Partially suspended	0.3%	3.9 months	12.0 months	0.4%	6.0 months	12.0 months	**Yes**
Wholly suspended	5.0%	3.0 months	12.0 months	5.8%	3.0 months	18.0 months	No
Community service	2.1%	60.0 hours	240.0 hours	1.9%	60.0 hours	240.0 hours	No
Probation	15.8%	12.0 months	36.0 months	17.4%	12.0 months	36.0 months	**Yes**
Good behaviour	13.1%	6.0 months	60.0 months	14.3%	9.0 months	36.0 months	**Yes**

Data include adult offenders, non-aggravated CDVO MSO, cases sentenced between 1 July 2012 and 30 June 2019.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

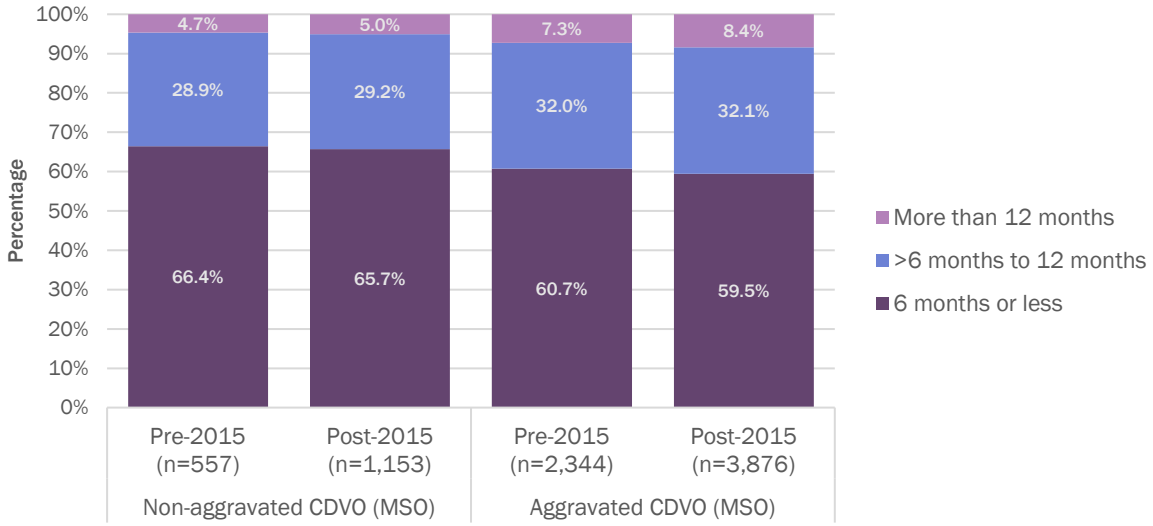
Imprisonment length

To explore imprisonment length further, the Council categorised sentence lengths into 3 distinct groups: 6 months or less, more than 6 months up to and including 12 months, and more than 12 months.

When grouping them in this way, for both **aggravated and non-aggravated CDVO** there was a very subtle shift towards longer sentencing durations (see Figure 4-7). These shifts were not statistically significant.

[208] Partially suspended prison sentence - Wilcoxon Rank Sum Test: Ws= 1226.00, z= 2.03, p= .0419, r=0.21.; probation order- Wilcoxon Rank Sum Test: Ws= 2781686, z= 3.11, p= .0018, r=0.05; good behaviour order- Wilcoxon Rank Sum Test: Ws= 1864663, z= 5.16, p <.0001, r=0.09.

Figure 4-7: Aggregate length of imprisonment sentences imposed for CDVO (MSO), by offence type and pre-post



Data include adult offenders, CDVO MSO, cases sentenced to imprisonment between 1 July 2012 and 30 June 2019.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Type of parole, pre-sentence custody and timing of release

Two types of parole are available: court ordered parole and board ordered parole. The type of parole ordered depends on several factors, including the length of the sentence, the type of offence, and whether the person has had a parole order cancelled.[209]

The majority of aggravated and non-aggravated CDVOs received court ordered parole.[210] However, in post–2015, both offences saw a statistically significant increase in the proportion of cases receiving board ordered parole.[211]

Unless otherwise ordered, time spent in custody prior to the sentence, may be declared (all or in part) and counted as time served under a sentence.[212] Administrative data only captures declared pre-sentence custody. However, pre-sentence custody is not always declarable,[213] and sometimes the court has ordered otherwise.[214] In these circumstances, a court may have taken this time into account and reduced the sentence,[215] but this is not reflected in the administrative data.

We explored the likelihood that a person had declared pre-sentence custody when receiving a sentence of imprisonment. We found there was a significant increase in the proportion of imprisonment sentences imposed post–2015 where pre-sentence custody had been declared for both non-aggravated CDVO (MSO, 37.7% to 49.9%)[216] and aggravated CDVO (MSO, 39.0% to 52.5%).[217]

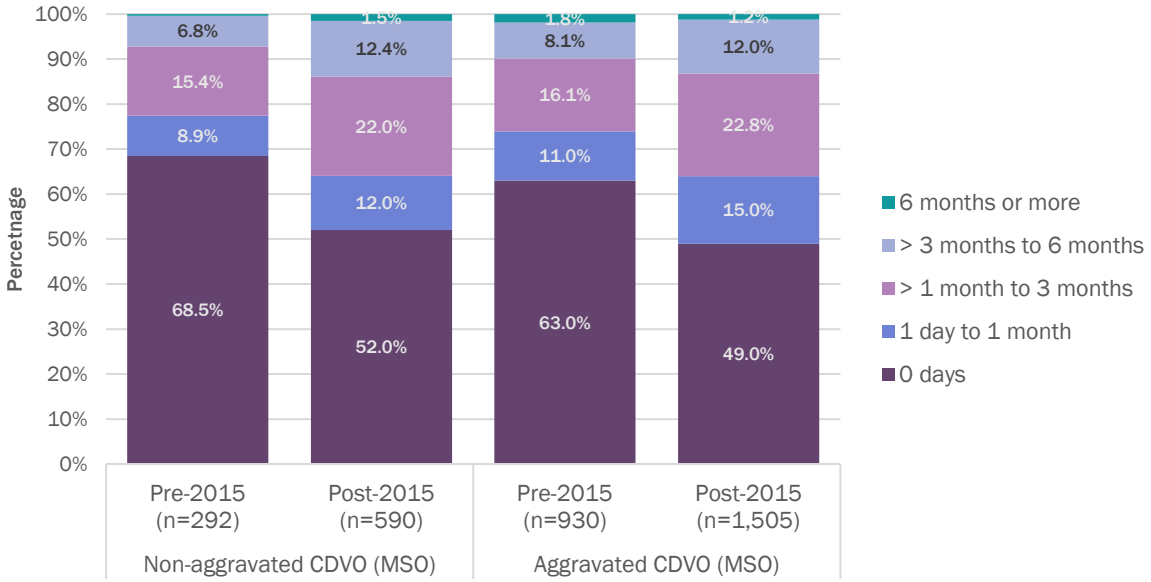
Figure 4-8 shows a considerable proportion of people sentenced to imprisonment with an immediate court ordered parole date, had no days of pre-sentence custody declared. This proportion decreased post–2015.

---

209 PSA (n 41) pt 9, div 3.
210 Aggravated CDVO (MSO): pre-2015 83.9%, post-2015 76.7%; Non-aggravated CDVO (MSO): pre-2015 85.9%, post-2015 81.9%.
211 Non-aggravated CDVO (MSO)- Pearson's Chi-Square Test: X^2 (1) = 4.14, p = .0418, V=0.06; aggravated CDVO (MSO)- Pearson's Chi-Square Test: X^2 (1) = 39.80, p = <.0001, V=0.09.
212 PSA (n 41) s 159A(1). There are some exceptions to this being: a period of custody or imprisonment of less than one day, to a term of imprisonment that has been wholly suspended, or to the suspended part of a partly suspended prison sentence: s 159A(2).
213 Ibid as at 30 June 2019. For a discussion of the law at this time see e.g., *R v Carter* [2016] QCA 86, [19]–[27] (Mullins J) discussing: *R v McCusker* [2015] QCA 179. From 20 May 2020 the wording of s 159A was amended: *Justice and Other Legislation Amendment Act 2020* (Qld) s 164.
214 PSA (n 41) s 159A(1).
215 See e.g., *R v Gray* [2016] QCA 322, [37] (Morrison JA, McMeekin J agreeing); *R v Skedgwell* (1999) 2 Qd R 97, 99–100; *R v Holton* (1998) 1 Qd R 671 (Pincus JA); *R v Jones* (1998) 1 Qd R 672, 674–5 (Davies JA, Thomas and Lee JJ).
216 Pearson's Chi-Square Test: X^2 (1) = 19.35, p <.0001, V=0.11.
217 Pearson's Chi-Square Test: X^2 (1) = 107.19, p <.0001, V=0.13.

Using aggregate categories of declared pre-sentence custody length, there were increases in almost all categories greater than zero days, with the largest increase seen for cases that had greater than one month, up to and including 3 months' imprisonment declared as pre-sentence custody.

Figure 4-8: Time served before immediate court ordered parole, by offence category and pre–post



Data include adult offenders, CDVO MSO, cases sentenced to concurrent imprisonment with immediate release on court ordered parole between 1 July 2012 and 30 June 2019.
Note: cases where the court ordered parole release date resulted in a term of imprisonment greater than the sentence imposed for the CDVO (MSO) were excluded from this analysis as this was likely due to other sentences imposed for other offences.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Excluding cases where no time was declared before immediate release on court ordered parole, for cases that had pre-sentence custody declared:

- For **aggravated CDVO**, the median time declared was 55.0 days (average = 67.2 days), increasing to 57.0 days (and an average of 65.0 days).
- For **non-aggravated CDVO**, the median time declared was 49.0 days (average = 61.4 days) increasing to 59.0 days (average = 68.5 days) post–2015.

Where the court ordered parole release date was not the date of sentence, we found for both offences the median (and average) time declared as pre-sentence custody was longer than in cases with an immediate parole release date. However, there were no statistically significant changes to the median (or average) time to be served after sentence and before release:

- For **aggravated CDVO**, the median time to serve post sentence increased slightly from 87.0 days to 90.0 days (average increased from 88.2 days to 92.3 days.
- For **non-aggravated CDVO**, the median time to serve post sentence increased slightly, from 80.0 days to 83.5 days (the average decreased slightly from 87.9 days to 83.1 days).

This means that while there was no change to the length of time a person was to serve post sentence, due to the increases in the proportion of cases with declared pre-sentence custody, there are more cases of CDVO where people on court ordered parole had at least some time of pre-sentence custody declared, and the median time spent in custody was longer post the reforms.

While not definitive, this might indicate that more people were remanded in custody before the offence was finalised, reflecting the change in bail considerations discussed in section 4.2.2.

4.2.2 Challenges and limitations

Legislative changes impacting the data period

There were 2 specific legislative changes in the pre–post data period. These changes may have influenced sentencing outcomes but they were unable to be controlled for.

Requirement for imprisonment to be a last resort in certain circumstances

If an offence does not involve physical violence or personal harm,[218] the principle of imprisonment as a last resort applies and a sentence that allows the person to stay in the community is preferable.[219] Between 28 March 2014 and 30 June 2016, this was removed as a sentencing consideration, and 'the court must not have regard to any principle that a sentence of imprisonment should be imposed only as a last resort'.[220]

Changes to bail presumption and considerations

When the maximum penalties were increased, aggravated CDVO became an indictable offence. Under bail laws, a defendant must 'show cause' why custody is not justified for an indictable offence in certain circumstances.[221]

On 30 March 2017, amendments to the *Bail Act 1980* (Qld) also meant that for a person charged with a CDVO:

1. a court must also consider 'the risk of the person committing further domestic violence or associated domestic violence' in deciding whether the person is an unacceptable risk;[222] and
2. where other circumstances apply (including whether there was a prior CDVO conviction within 2 years or the CDVO offence involved the use of violence to a person or property, including threatened or attempted use of violence), bail is refused, unless the person can show cause why it is not justified.[223]
3. In addition, other legislative amendments not specific to CDVO may have impacted CDVO sentencing practices and these are unable to be controlled for in the data.[224]

Limitations with administrative data

Estimating whether a pre–2015 offence was aggravated or non-aggravated

For pre–2015 CDVO offences, the courts database (Queensland Wide Inter-linked Courts (QWIC)) did not record if the offence was aggravated or non-aggravated. To overcome this limitation, a recidivism analysis was conducted on individuals in the pre-2015 group to determine whether they had received a prior conviction for a contravention offence in the previous 5 years.[225] All individuals with prior CDVO convictions were assumed to be sentenced for aggravated CDVO. For the post-2015 group, QWIC recorded whether a CDVO offence was aggravated, and this recidivism analysis was not required.

---

218 PSA (n 41) s 9(2A). This principle also does not apply to any offence of a sexual nature committed in relation to a child under 16 years or a child exploitation material offence: Ibid s 9(4)(b).

219 PSA (n 41) s 9(2)(a).

220 Ibid s 9(12) as at 28 March 2014 until 30 June 2016; see *Youth Justice and Other Legislation Amendment Act 2014* (Qld) ss 34(1), (13) that removed the principle of imprisonment as a last resort. This principle was reinserted by *Youth Justice and Other Legislation Amendment Act (No. 1) 2016* (Qld) s 61(2) that commenced 1 July 2016.

221 *Bail Act 1980* (Qld) ss 16(3)(a), (c).

222 Ibid ss 16(1)(a), (2)(f) inserted by: *Bail (Domestic Violence) and Another Act Amendment Act 2017* (Qld) s 16(1).

223 Bail Act (n 221) ss 16(3)(g), (6)(d) inserted by: Bail (Domestic Violence) and Another Act Amendment Act (n 222) ss 6(3)–(4).

224 See e.g.: From 28 March 2014 to 1 July 2016, when sentencing an adult, a court could have regard to offences committed as a child, whether or not a conviction was recorded: Youth Justice and Other Legislation Amendment Act (n 220) s 8 repealed by: Youth Justice and Other Legislation Amendment Act (No. 1) (n 220) s 15. Before 12 February 2018, a 'child' for the purposes of the *Youth Justice Act 1992* ((Qld)) was a person who had not turned 17 years. Until that date, young people who were 17 were treated as adults for the purposes of sentencing.

225 Offences considered in the recidivism analysis to determine aggravation were: DFVPA (n 16) ss 177, 178, 179; DFVPA 1989 (n 1) s 80.

Estimating which maximum penalty applied

A further limitation of the administrative data is that, while it is possible to determine whether a CDVO offence was considered (or deemed, as outlined above) to be aggravated, the data only indicates whether the offence was *eligible* for the increased maximum penalty, not whether the higher maximum penalty was applied.

This is because a circumstance of aggravation requires a 'Notice to Allege Previous' to be served and tendered at sentencing, which is not captured in the administrative data. The Council heard from stakeholders and observed in case examples that this practice is inconsistent. This issue is further discussed in **Chapter 6**.

Not knowing the nature of the conduct

The nature and seriousness of the conduct in CDVO offences can vary widely. The *National DFV Bench Book* acknowledges that sentencing CDVO offences is 'an extremely complex task', requiring careful balancing of different considerations.[226]

The nature and seriousness of the offence can greatly impact the sentencing outcome. For example, offences involving personal violence or actual harm introduce different primary sentencing considerations, such as the risk of physical harm to the community if a custodial sentence is not imposed and the need to protect people from that risk.[227]

A CDVO offence can involve conduct that would not be an offence without the presence of the DVO condition (e.g. breaching a no-contact condition),[228] as well as acts involving extreme violence.[229] Therefore, while any breach of a court order is serious, judicial discretion to impose a sentence that is just with regard to all the circumstances remains fundamentally important in these cases.

During consultation, the Queensland Law Society (QLS), Aboriginal and Torres Strait Islander Legal Service (Qld) (ATSILS), and an individual submitter highlighted the importance of capturing and understanding the nature of the contravention.[230]

Unfortunately, no agency in the criminal justice sector collects quantitative data on the circumstances of a person's offending in a way that enables sentencing outcomes to be analysed based on the nature of the conduct. Further, as almost all CDVOs are sentenced in the Magistrates Courts, transcripts are not available on the Queensland Sentencing Information Service.

To overcome this significant research and information gap, the Council explored ways to understand the nature of the CDVO conduct by undertaking a review of a small sample of cases sentenced in the Magistrates Court. This is discussed in **Chapter 5**.

Not controlling for other influencing factors

The pre–post analysis did not assist the Council to understand other factors that may have influenced sentencing outcomes, as these were either unknown or not controlled for. These factors include the nature and seriousness of the offence, such as whether a single offence was one act or a course of conduct,[231] whether other offences were sentenced at the same time, relevant criminal history, other sentences being served, or to be served, and time spent in custody that was considered but not declared.

---

[226] The Australian Institute of Judicial Administration (n 137) 9.3.1.

[227] PSA (n 41) s 9(3).

[228] See e.g. *CBC v Queensland Police Service* (n 140) [42]. CBC attended the aggrieved's house the day after the DVO was made to retrieve her belongings so she could leave the area, in breach of a no contact condition. She made no actual contact with the aggrieved.

[229] See e.g. *MKW* (n 138) where the offender was also charged with grievous bodily harm, and the CDVO was based on the same facts.

[230] Submission 14 (Queensland Law Society); Submission 9 (Aboriginal and Torres Strait Islander Legal Service (Qld)); Submission 12 (M Halliday).

[231] See e.g. *CDL* (n 10) [4](i): one contravention was 'Between 26 December 2023 and 3 January 2024 ("again breach of no contact, alleged 216 calls made")'; *DAY v Commissioner of Police* [2018] QDC 3, [16] ('*DAY*'): There was a 'no contact' condition and one charge 'related to the appellant sending a total of 154 text messages to his ex-wife between 27 April 2017 and 9 May 2017'; *RMR v Sinclair [2012] QDC 204* [2012] QDC 204, [4]: one contravention involved ripping the victim's shirt causing bruising to her upper arm, punching a wall, throwing her mobile phone and breaking it, leaving and returning to rip her shirt again, grabbing her around the neck, threating to kill and punching her on the back of the head.

Therefore, while the pre–post analysis is a way to illustrate changes following the increase in maximum penalties, it cannot say whether the change in maximum penalties has *caused* the observed change in outcomes.

Opportunities to improve the capturing of sentencing data for the purposes of research and monitoring are discussed in **Chapter 13**.

4.2.3 Stakeholder views

Once the Council finalised the pre-post analysis, targeted consultation on the findings was undertaken with the Aboriginal and Torres Strait Islander Advisory Panel (the Panel), the Practitioner Consultative Forum and SMEs.

The Panel considered that the small changes in sentencing outcomes, as indicated by the pre–post analysis, do not reflect their experience that sentencing practices for CDVO have shifted substantially. While the 2015 increase to the maximum penalties for CDVO was one change, the 2017 changes to the presumption of bail for CDVO have had a significant impact on sentencing practices and outcomes. Those changes mean more people are spending time in pre-sentence custody which a court must take into account in deciding the sentence, even if it is not declared as time served under the sentence.

The inability to link an individual through the system based on administrative data and to capture bail status and time on remand means the pre-post analysis is limited. Reported sentencing outcomes will not accurately reflect the true punishment imposed or how sentencing practices have changed.

In light of these, the Panel recommended that the Council review appellate court guidance as one measure of determining whether there has been a meaningful shift in sentencing practices. The Panel noted this form of guidance sets a benchmark for sentencing and lower courts rely on this guidance. However, the Panel noted there are limitations when it comes to relying on District Court appeals, as external factors may influence whether a matter is appealed.

Several SME participants regarded the imposed penalty outcome as being reflective of the context in which the breach occurred.[232] For example, the penalty imposed depends on the nature and circumstances of the offence, any aggravating factors including the prior history of the respondent, the respondent's mental cognition, the harm to the victim and, depending on the circumstances, the future risk of physical harm to a victim if a custodial sentence is not imposed.[233]

Participants were overwhelmingly of the view that CDVO offences are being treated more seriously, resulting in increased penalties being imposed by the courts.[234] The increase in maximum penalties was seen as an indication from parliament that the CDVO offending should be viewed as more serious and prior comparable cases were not as relevant.[235] This 'sharpening up' of contravention penalties was viewed as being particularly important in cases where the conduct would amount to another charge but the aggrieved does not wish to proceed.[236] It was also highlighted that courts are 'more informed' about the nature and dynamics of domestic violence, which was impacting penalties.[237]

SME participants also pointed to the 2017 changes to bail laws as having a significant impact and that 'more often than not' people were unable to 'show cause' as to why bail should be granted or a court could be satisfied that bail conditions would mean they are an acceptable risk of committing further domestic violence.[238] For example, in one case a mentally unwell respondent was refused bail to his mother's address

---

[232] Subject Matter Expert Interview 1; Subject Matter Expert Interview 2; Subject Matter Expert Interview 3; Subject Matter Expert Interview 16.

[233] Subject Matter Expert Interview 1. These factors reflect those required to be taken into account under section 9 of the PSA (n 41). For example, section 9(3) of the PSA, which applies to offences involving the use of or attempted use of violence or that resulted in physical harm, lists as a primary sentencing consideration: 'the risk of physical harm to any members of the community if a custodial sentence were not imposed'.

[234] Subject Matter Expert Interview 1; Subject Matter Expert Interview 2; Subject Matter Expert Interview 3, Subject Matter Expert Interview 4; Subject Matter Expert Interview 6; Subject matter Expert Interview 8; Subject Matter Expert Interview 10; Subject Matter Expert Interview 16.

[235] Subject Matter Expert Interview 1.

[236] Subject Matter Expert Interview 12.

[237] Subject Matter Expert Interview 3.

[238] Subject Matter Expert Interview 1.

(the aggrieved) which was the only suitable accommodation for him as she was his paid carer under Centrelink. The mother had called the police because she wanted their assistance, not for him to be charged or imprisoned.[239]

If bail is refused, this may impact sentencing because time spent in custody on remand may result in a lesser penalty recorded administratively, which has taken into account the time already served in custody, particularly if imprisonment was not an appropriate outcome.[240]

Practitioner Consultative Forum members told the Council that the increased use of custodial penalties, imprisonment and supervision orders accorded with members' experiences.

They considered that the amendments to bail considerations in 2017 and increased refusal of bail have played a role in the increased use of imprisonment and other custodial orders. This is because a person might have spent several months in pre-sentence custody prior to sentence and this time may be viewed as sufficiently reflective of the seriousness of the offending conduct.

Practitioners are now more proactive in identifying the triggers and factors that have contributed to the offending, as well as the protective factors that support clients to identify steps they can take prior to sentence to demonstrate their commitment to addressing these. In this way, the non-custodial component of the sentence reflects subjective factors of the perpetrator, including insights into their offending. A demonstration of rehabilitation may be reflected in sentencing outcomes.

Practitioners considered that it might be expected that outcomes for non-aggravated CDVO may not have changed, as first-time offenders should not necessarily be treated differently post the increase to the maximum penalty.

The absence of a noticeable shift in median imprisonment and custodial penalties for aggravated CDVO likely reflects the nature of the offence and the behaviour being sentenced. The increase in the maximum penalty is important but is just one sentencing consideration.

[239] Subject Matter Expert Interview 2.

[240] Subject Matter Expert Interview 1; Subject Matter Expert Interview 2; Subject Matter Expert 5; Subject Matter Expert 6; Subject Matter Expert Interview 16.

4.3 The Council's view

Finding 1: Sentencing outcomes have changed since the increase to contravention of a domestic violence order maximum penalties

The Council's pre-post analysis of sentencing outcomes for contravention of a domestic violence order shows changes following the increase in maximum penalties across both non-aggravated and aggravated offences, including:

- an increase in the use of custodial orders;
- an increase in the use of supervised orders;
- an increase in the use of imprisonment; and
- a decrease in the use of monetary penalties.

However, the pre–post analysis found there was no statistically significant change in the custodial or imprisonment sentence length. Understanding the reasons behind this would be highly beneficial, and further research, along with improvements in data collection, could provide greater insights.

Observation 1: Limitations in administrative data capture and linkage across and within the criminal justice system constrains the ability to fully understand sentencing reforms

Due to limitations in administrative data, it has not been possible for the Council to conclusively attribute the changes identified in sentencing outcomes to the increase in maximum penalties. This is because the administrative data does not enable the Council to account for other important case and offender-specific factors that may have impacted the type of sentence imposed, and in the case of custodial sentences, their length.

The 2015 increase to CDVO maximum penalties was intended to signal the increased seriousness of contravention offences, particularly, repeated contraventions.[241]

There are several ways to assess whether there has been an overall increase in the seriousness of penalty outcomes. This includes the increased use of custodial penalties, orders involving supervision and longer median sentence lengths.

Our pre–post analysis shows CDVO sentencing outcomes changed immediately following the increase to maximum penalties as there was a greater use of custodial and supervised orders, suggesting CDVO offences are being treated as more serious forms of offending. An increase in the use of supervised orders also may signal greater awareness by prosecutors and courts of the importance of supervision, particularly for those with a prior history of DV offending, to encourage compliance with orders made.

We also found an increase in the use of imprisonment, and an increase in the proportion of cases with time spent in custody declared. There were fewer cases of immediate release on parole with no time declared, indicating that more people are spending actual time in custody than prior to the reforms.

At the same time, the proportion of cases resulting in a monetary order reduced. While monetary penalties remained the most common penalty for non-aggravated CDVO, their use decreased significantly – although, as discussed in **Chapter 5**, this trend has not continued.

While the observed changes correlate with the increase in maximum penalties for CDVO, we cannot say that the increase caused these changes, and it may have been the result of other legislative changes or the nature and seriousness of the offences before the court during this time.

We have not been able to make a conclusive finding about why custodial and imprisonment sentence lengths did not change significantly pre- and post-reform, but there are several potential reasons. One possible explanation is that sentence types and lengths generally reflect the nature and circumstances of offences committed. Over time, changes in the nature and circumstances of the offending that result in custodial sentences may have influenced these outcomes. The Council heard from stakeholders that policing practices had changed and this was likely influencing sentencing outcomes and trends (presented in **Chapter 5**). For

[241] 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill' (n 7) 3–4.

example, it was suggested that more police officers are now charging CDVO in circumstances where previously the person's conduct may have been considered a 'technical' or 'minor' breach and not charged as a contravention. Additionally, shifts in the amount of time individuals spend in pre-sentence custody, as well as decisions regarding whether that time is declared or just taken into account, could also play a role.

While we have not been able to quantitatively analyse sentencing outcomes by the type of CDVO conduct or determine what types of CDVO are commonly sentenced (or whether these have changed over time), we have initiated a new research project to explore this further. This is discussed further in **Chapter 5**.

Our pre–post analysis is based on indications and estimations. This includes assumptions about whether a CDVO charge was sentenced as a non-aggravated or aggravated offence and, consequently, which maximum penalty applied. This is because, in the pre period, aggravated charges were not separately identified in administrative courts data.

The Council is committed to evidence-informed policy development and law reform. The government should have a clear evidence base on the impact and operation of reforms, whether they are meeting their objectives and any unintended consequences, to guide future decisions. This current review, along with our previous work on sentencing for rape and sexual assault, demonstrates the critical need to improve the quality of data available to us and other research and advisory bodies. More comprehensive data is required to be captured in administrative data systems and linked at a charge level to enable the impacts of reforms to be better understood.

In **Chapter 13**, the Council makes a recommendation on improving the evidence-base.

Chapter 5 – Sentencing trends for CDVO

5.1 CDVO charges and DVO trends

Data Snapshot

Trends in CDVOs and Active DVOs

The number of **sentenced CDVO charges increased** by 258% from 2013–14 to 2024–25, rising from **8,944** to **31,994**.

In 2024–25, two-thirds of CDVO offences (67.7%) were aggravated, and the proportion of aggravated charges has been increasing.

Cases where a **CDVO charge** was sentenced alongside a more serious offence increased, from **24.7%** in 2012–13 to **32.5%** in 2024–25

Active DVOs **increased by 251%** between 30 June 2013 and 30 June 2025, with over 86,000 more active orders.

The **highest growth in active DVOs** occurred between **2018** and **2022**, with a 108.5% increase (from 55,170 to 115,048), before stabilising.

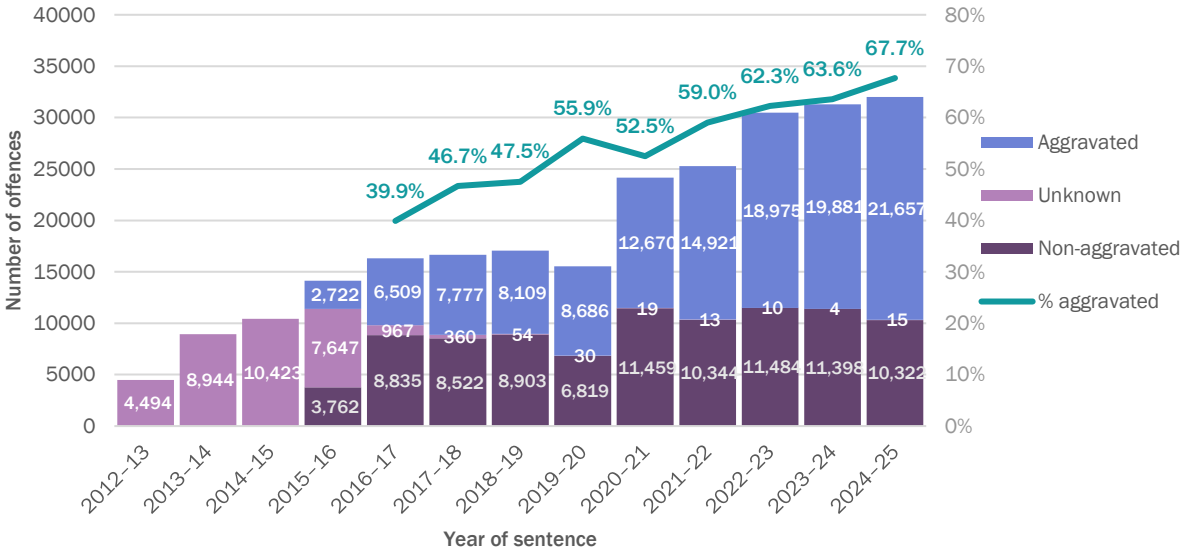
5.1.1 Volume of CDVO charges sentenced in court

Since 17 September 2012, the volume of CDVO charges sentenced in courts has considerably increased.

Figure 5-1 shows that from 2013–14, the first full year of CDVO offences, until 2024–25, the total charges for CDVO increased by 257.7 per cent (from 8,944 to 31,994). The volume of sentenced CDVO charges increased considerably in 2020–21.

An increase in the volume of CDVO charges may be due in part to the increased volume of active DVOs (see Figure 5-3 below).

Figure 5-1: Volume of CDVO offences sentenced over time, by offence type, 2012–13 to 2024–25



Data include adult offenders, CDVO (s177) offences sentenced between 1 July 2012 and 30 June 2025, higher and lower courts.
Notes: Unknown are cases where the CDVO (MSO) was committed prior to 22 October 2015, when circumstances of aggravation for CDVO began to be recorded, therefore circumstances of aggravation are not known.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

As shown in Figure 5-1, from 2016–17, while the volume of charges for both aggravated CDVO and non-aggravated CDVO have generally increased over the period, the proportion of all charges sentenced that involve aggravated CDVO increased considerably from 39.9 per cent in 2016–17 to 67.7 per cent in 2024–25.

As discussed in **Chapter 4**, CDVO charges committed from 17 September 2012 to 21 October 2015 were not recorded in the Courts Database as aggravated or non-aggravated and are presented as 'unknown' in Figure 5-1. As charges are presented by year of sentence, the 'unknown' offences have recorded offence dates from prior to the increase in maximum penalties. For example, there were 15 CDVO charges with offence dates prior to 22 October 2015 and sentenced in 2024–25.

Cases involving at least one charge of CDVO

There can be multiple CDVO charges sentenced in a single sentencing event (known as a 'case').

Since 17 September 2012, the total volume of cases sentenced in the Queensland courts that involve at least one charge of CDVO has generally been increasing steadily.

Figure 5-2 shows that from 2012–13 to 2024–25, the volume of cases sentenced involving at least one charge of CDVO substantially increased over time, from 6,535 cases in 2013–14 to 16,680 cases in 2024–25. The only exception was 2019–20, which encompassed the COVID-19 pandemic period. In 2024–25, there was a slight reduction in the total volume of cases sentenced involving at least one charge of CDVO.

Also shown in Figure 5-2 is the volume of CDVO cases by MSO and non-MSO:

- **CDVO (MSO):** where a CDVO charge received the most serious penalty in a case.[242] Other CDVO charges sentenced with a CDVO (MSO) were removed from this dataset.

[242] The MSO is defined as the offence that received the most serious sentence, as ranked by the classification scheme used by the Australian Bureau of Statistics (ABS). See Australian Bureau of Statistics, *Criminal Courts, Australia Methodology* (Report, April 2025) Sentence Type Classification.

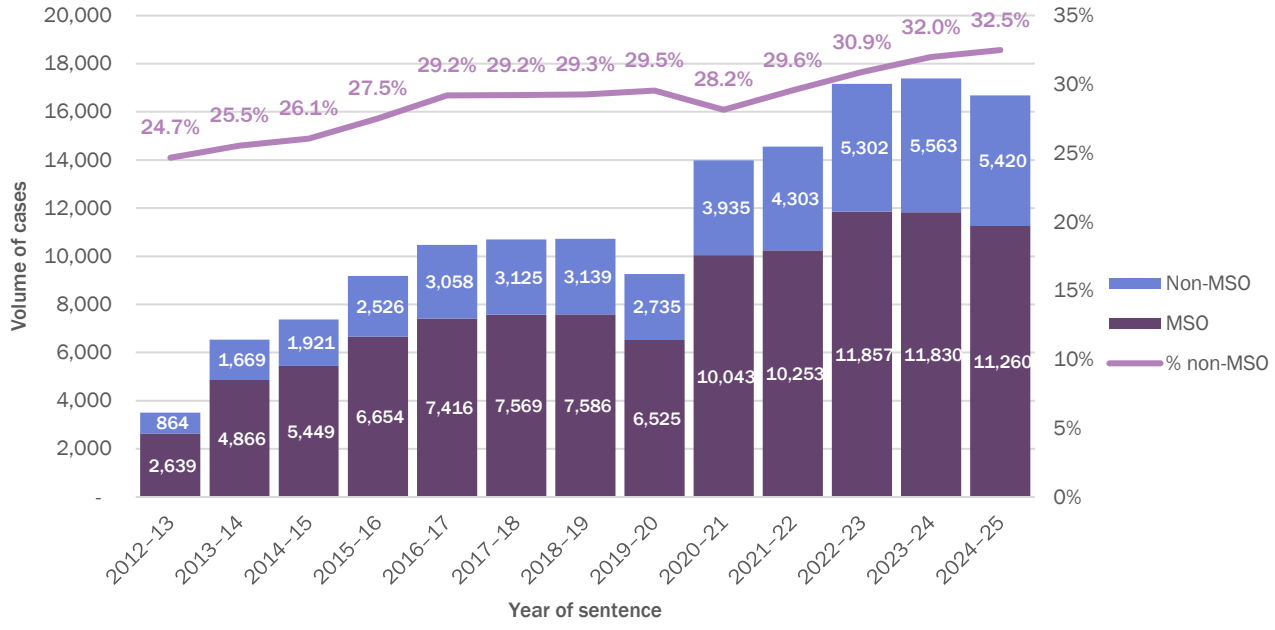
- **Non-MSO CDVO:** where a CDVO charge/s were sentenced with another offence which received the more serious penalty.[243]

As shown in Figure 5-2, the proportion of cases involving a non-MSO CDVO has steadily increased over time from 24.7 per cent in 2012–13 to 32.5 per cent in 2024–25. There was a decrease in non-MSO CDVO in 2019–20.

An increase in the proportion of cases sentenced with CDVO as the non-MSO could be explained by:

- A change in perpetrator behaviour and an increase in contraventions occurring with other more serious offending;
- More victims being willing to report contraventions, particularly where it would amount to a separate offence; and/or
- Changes in police charging practices.[244]

Figure 5-2: Volume of CDVO cases sentenced over time, by MSO and non-MSO, 2012–13 to 2024–25



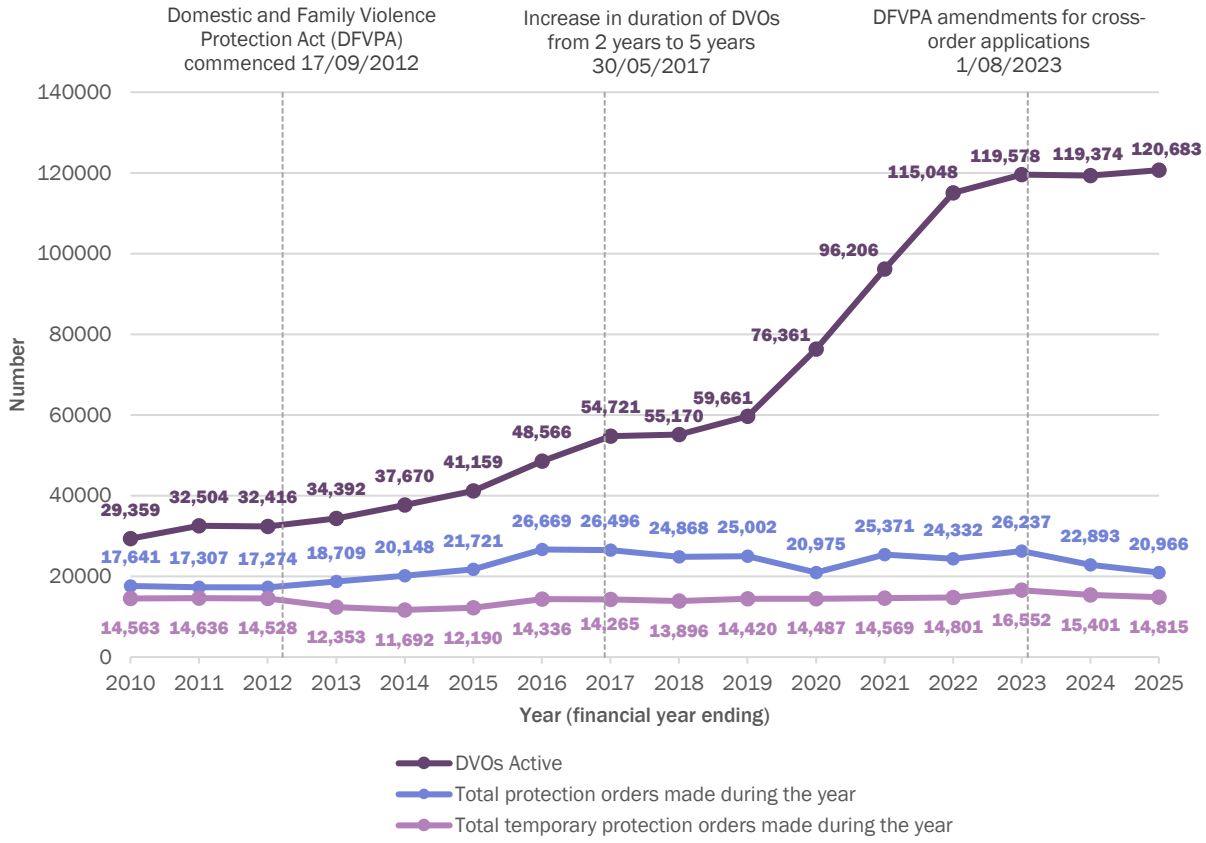
Data include CDVO (s177) cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

5.1.2 DVOs made and orders active

Figure 5-3 presents data obtained from the Queensland Police Service (QPS) on the number of DVOs which were active at 30 June each year,[245] as well as Queensland Courts data on the number of temporary protection orders and protection orders made during a financial year.[246]

[243] Australian Bureau of Statistics, *Criminal Courts, Australia Methodology* (n 242).
[244] Queensland Government Statistician's Office, Queensland Treasury, *Crime Report, Queensland, 2023–24* (Report, 2025) 86.
[245] Queensland Police Service, unpublished data, extracted July 2025.
[246] Magistrates Court Annual Reports, 2009–10 to 2018–19 and https://www.courts.qld.gov.au/court-users/researchers-and-public/stats, accessed 19 Nov 2025.

Figure 5-3: Volume of DVOs made each year by order status, and volume of DVOs active at 30 June, by year, 2010 to 2025



QPS data include total DVOs active at 30 June each year. Where an individual is listed as a respondent on multiple orders, all orders are counted. Total active DVO data include temporary orders. Courts data include the total number of protection orders and temporary protection orders made each year. A temporary protection order may be replaced with a protection order in the same period.
Source: Active Orders - Queensland Police Service (QPS), extracted July 2025; and total temporary orders and protection orders made in each financial year - Magistrates Court Annual Reports, 2009–10 to 2018–19 and https://www.courts.qld.gov.au/court-users/researchers-and-public/stats, accessed 19 Nov 2025.

Figure 5-3 shows that the number of active DVOs at 30 June have increased by 250.9 per cent between 2013 to 2025 (from 34,392 to 120,683).

The increased volume of active DVOs may explain, in part, the increased volume of CDVO charges sentenced shown in Figure 5-1.

In the 3 most recent years, from 30 June 2023 to 2025, the numbers of active orders have remained relatively stable.

The number of DVOs made each year does not, however, reflect the number of active orders at any given time, because DVO durations vary and can be amended over time.[247]

The total number of domestic violence orders made in each year has fluctuated over time, indicating that while the volume of new protection orders is a contributing factor, the increase in active DVOs is more likely a result of the longer duration of DVOs.

The decreasing trend in volume of temporary protection orders and protection orders from 2022–23 coincides with an amendment to the DFVPA to limit cross applications by requiring the court to decide who is 'the person most in need of protection' and to dismiss the other application or if the application is for a

[247] From 17 September 2012 to 29 May 2017, the duration of a DVO was 2 years, unless the court was satisfied that there were special reasons for a longer order. From 30 May 2017, a DVO is in force for 5 years, and may only be less if the court is satisfied there are reasons for doing so: DFVPA (n 16) s 97 as amended by: *Domestic and Family Violence Protection and Other Legislation Amendment Act 2016* (Qld) s 17.

variation of an existing order, to reduce its duration so that it ends, unless there are exceptional circumstances.[248] The reduction in protection orders in 2019–20 coincided with the COVID-19 pandemic.

Calculating a DVO breach rate

CDVO charges are not administratively linked on the QWIC database to the specific DVO order that was breached. It was, therefore, not possible to accurately calculate the rate of DVO breaches. Understanding the rate and characteristics of CDVOs, and monitoring this over time, would assist in the development of future domestic and family violence interventions, and is discussed further in **Chapter 13**.

5.2 CDVO trends

Data Snapshot

CDVO (MSO) in 2024–25

CDVO was the **2nd most common offence** sentenced in Queensland Courts, accounting for 11.2% of all cases.

Nearly two-thirds of **sentenced CDVO** were aggravated.

5.2.1 Volume and profile of CDVO

Between 17 September 2012 and 30 June 2025, there were 103,947 CDVO cases sentenced and the volume of CDVO cases sentenced generally increased each year over the data period as shown in Figure 5-4. The exception was 2019–20, which may be due to the COVID-19 pandemic. Of note, the most recent year (2024–25) saw a slight reduction in CDVO cases sentenced which may mean that breach rates are now stabilising or there are other factors at play, such as changes in policing practices. The Domestic and Family Violence Diversion court program commenced in Brisbane on 26 May 2025.[249] This program may impact the future volume of cases involving non-aggravated charges.

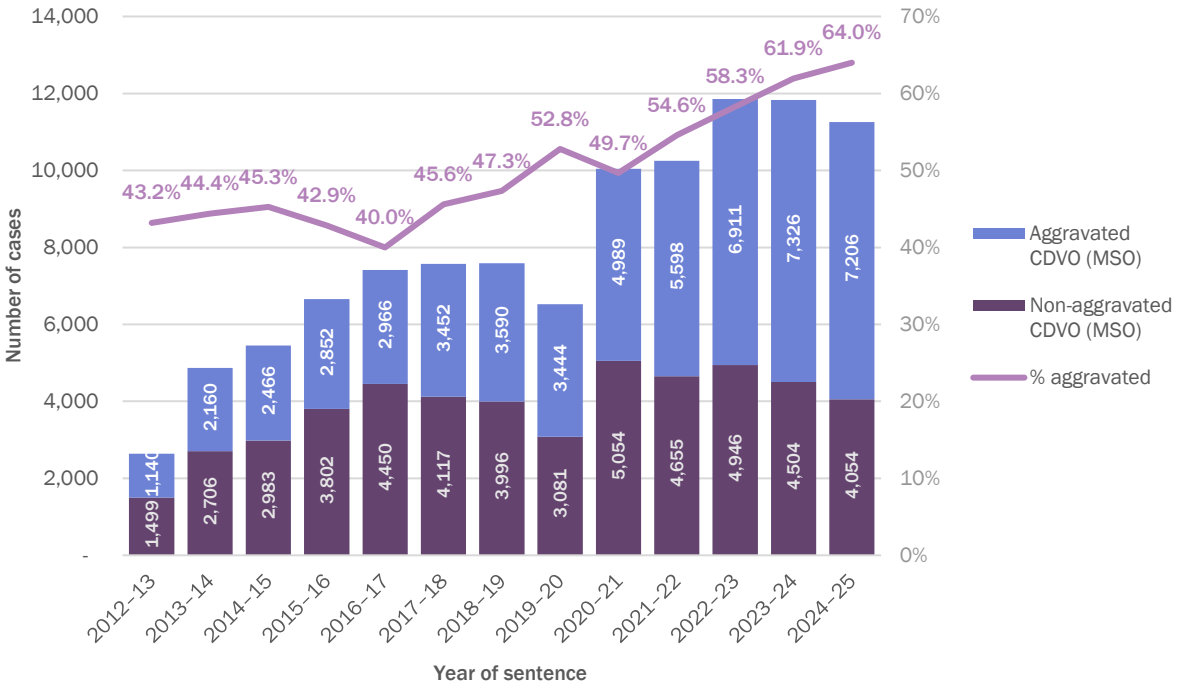
The increase in CDVO volume over time is also reflected in how commonly it is sentenced by Queensland Courts. In 2013–14, CDVO was the **8th most common offence sentenced** (3.1% of all MSO cases). By 2024–25 it was the **2nd most common offence** sentenced (11.2% of all MSO cases).

Throughout the data period, almost all CDVO cases were sentenced in the Magistrates Court, with only 0.1 per cent sentenced as the MSO in the higher courts (n=118/103,947). Of those 118 CDVOs sentenced in the higher courts, 90.7 per cent were aggravated CDVOs (n=107/118).

[248] DFVPA (n 16) s 22A, 41G(2)-(3) inserted by: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) ss 34, 39.

[249] 'Queensland Courts', *Domestic and Family Violence Diversion* (Web Page, 16 January 2026) <https://www.courts.qld.gov.au/services/court-programs/domestic-and-family-violence-diversion>.

Figure 5-4: Volume of CDVO (MSO) cases sentenced by offence type, 2012–13 to 2024–25



Data include CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Offence Type

Both the volume and proportion of **aggravated CDVO** cases have generally increased over time, whereas the volume of **non-aggravated CDVO** has fluctuated over the period and had a decreasing trend after 2022–23, as shown in Figure 5-4.[250]

From 2019–20 to 2020–21, there was a 64.0 per cent increase in the volume of **non-aggravated CDVO** (3,081 to 5,054), and a 44.9 per cent increase in **aggravated CDVO** (3,444 to 4,989), which may reflect the reduced charges and court appearances because of the COVID-19 pandemic.

The overall volume of aggravated CDVO cases sentenced has increased by 233.6 per cent, from 2,160 cases sentenced in 2013–14 to 7,206 in 2024–25. The highest growth was over a 4-year period from 2019–20 to 2023–24, increasing by 112.7 per cent (from 3,444 to 7,326). In 2024–25, aggravated CDVO cases accounted for 64.0 per cent of all cases sentenced where CDVO was the MSO.

Since 2021–22, aggravated CDVO has been the most common CDVO offence type sentenced, and this has continued to increase.

[250] CDVO offences committed from 17 September 2012 until 21 October 2015, were not recorded in the Courts Database as aggravated or non-aggravated. For this section, a recidivism analysis was undertaken, to estimate whether a CDVO (MSO) committed prior to 22 October 2015 would have been considered aggravated or non-aggravated.

Offender Demographics

Data Snapshot

CDVO (MSO) demographics in 2024–25

The majority of people sentenced were men, representing **85.5%** of people sentenced for **aggravated CDVO** and **81.5%** of people sentenced for **non-aggravated CDVO**.

Aboriginal and Torres Strait Islander people were **disproportionately represented** among those sentenced for CDVO representing 36.9% of those sentenced for aggravated CDVO and 17.1% of those sentenced for non-aggravated CDVO.

It is important to understand the demographic profile of people sentenced. For example, a young, first-time offender with promising prospects of rehabilitation, might 'receive more leniency from courts than would otherwise be appropriate'.[251]

Importantly, many other factors also influence sentencing outcomes, such as the nature and seriousness of the offence (including the nature of the contravention itself), prior offending, prior imprisonment, and the number of offences sentenced.[252] Due to the limitations with administrative data captured, the Council's analysis has not controlled for these unknown factors. These challenges are discussed further below.

Gender

Across the 13-year period from 2012–13 to 2024–25, men accounted for 84.0 per cent of all those sentenced for CDVO, with higher proportions of men sentenced for aggravated CDVO, than non-aggravated CDVO (87.0% vs 80.8%).

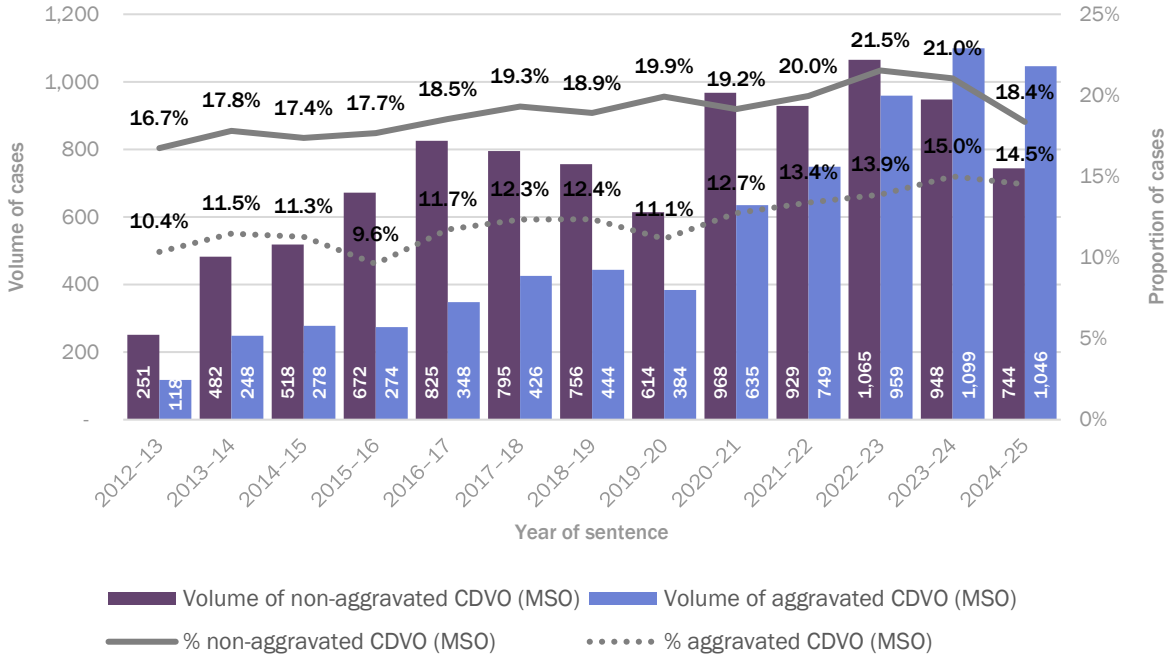
In 2024–25, **men** accounted for 81.5 per cent of all non-aggravated CDVO and 85.5 per cent of all aggravated CDVO cases sentenced.

Figure 5-5 shows that while proportionally **women** remain a minority of those sentenced for CDVO, they are increasingly being sentenced for these offences, both aggravated and non-aggravated. Notably, a decrease was seen for the most recent year for aggravated CDVO and for the latest 2 years for non-aggravated CDVO.

[251] *Hopper* (n 191) [28] (Fraser JA, Morrison JA agreeing. Boddice J agreeing with Fraser JA's reasons but dissenting as to the disposition of the appeal) quoting: *R v Mules* (n 191). See also *R v Kelley* [2018] QCA 18, [42] (Morrison JA).

[252] Somoray, Jeffs and Edwards (n 192) 41–2.

Figure 5-5: Proportion and number of CDVO (MSO) cases sentenced involving women, 2012–13 to 2024–25



Data include CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025 for women, adult offenders, higher and lower courts.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Aboriginal and Torres Strait Islander status

Aboriginal and Torres Strait Islander peoples are 4.6 per cent of the population[253] and are overrepresented in sentenced CDVO cases. Any statistics on the disproportionate representation of Aboriginal and Torres Strait Islander peoples should be interpreted in the context of their chronic social, economic and cultural disadvantage, as well as the ongoing impact of colonisation and complex intergenerational factors.[254] **Chapter 11** explores this issue in more detail.

As shown in Figure 5-6, the number of Aboriginal and Torres Strait Islander people being sentenced has increased over time. However, the decrease in the proportion of cases involving Aboriginal and Torres Strait Islander people is due to a higher number of non-Indigenous people being convicted of CDVO offences, rather than a reduction in the number of Aboriginal and Torres Strait Islander people being sentenced for this offence.

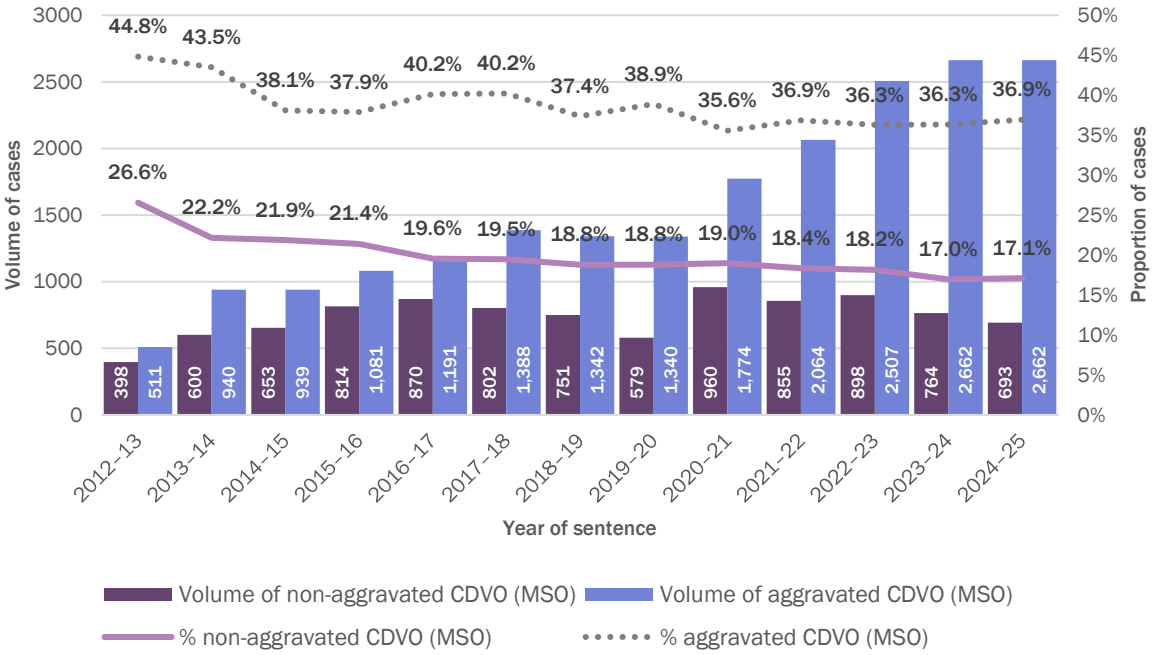
Across the data period, Aboriginal and Torres Strait Islander persons accounted for 19.3 per cent of all **non-aggravated** CDVO cases, and 37.7 per cent of all **aggravated** CDVO cases. In 2024–25 there was a small drop in those proportions, as they accounted for 17.1 per cent of all non-aggravated CDVO cases and 36.9 per cent of all aggravated CDVO cases.

---

253 'Australian Bureau of Statistics', *Queensland: Aboriginal and Torres Strait Islander population summary* (Web Page, 1 July 2022) <https://www.abs.gov.au/articles/queensland-aboriginal-and-torres-strait-islander-population-summary>. The proportion of people identified as Aboriginal and Torres Strait Islander in the Queensland population has changed over time, increasing from 3.6 per cent in 2011 and 4.0 per cent in 2016.

254 Commission of Inquiry into Queensland Police Services Responses to Domestic and Family Violence, *A Call For Change: Commission of Inquiry into Queensland Police Services Responses to Domestic and Family Violence* (Final Report, 2022) 18 ('*A Call for Change*'); Australian Law Reform Commission, *Pathways to Justice - An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Final Report No 133, Australian Government, December 2017) 93 [3.13], 100 [3.30], 102 [3.36], 105 [3.41].

Figure 5-6: Proportion and number of CDVO (MSO) cases sentenced involving Aboriginal and Torres Strait Islander persons, 2012–13 to 2024–25



Data include CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025 for Aboriginal and Torres Strait Islander people, adult offenders, higher and lower courts.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

5.2.2 Sentencing outcomes

Data Snapshot

CDVO (MSO) sentencing outcomes 2024–25

Over half of aggravated CDVO cases (51.8%) resulted in a custodial penalty, with a median sentence length of 4.0 months. Imprisonment was the most common penalty (32.2%), with a median length of 6.0 months.

Custodial penalties were less common for non-aggravated CDVO cases, imposed in only 8.1% of cases, with a median sentence length of 4.4 months.

Monetary penalties were the second most common penalty for aggravated CDVO cases (25.9%), with a median fine amount of $500.

For non-aggravated CDVO cases, monetary penalties were the most common penalty (56.5%), with a median fine amount of $500.

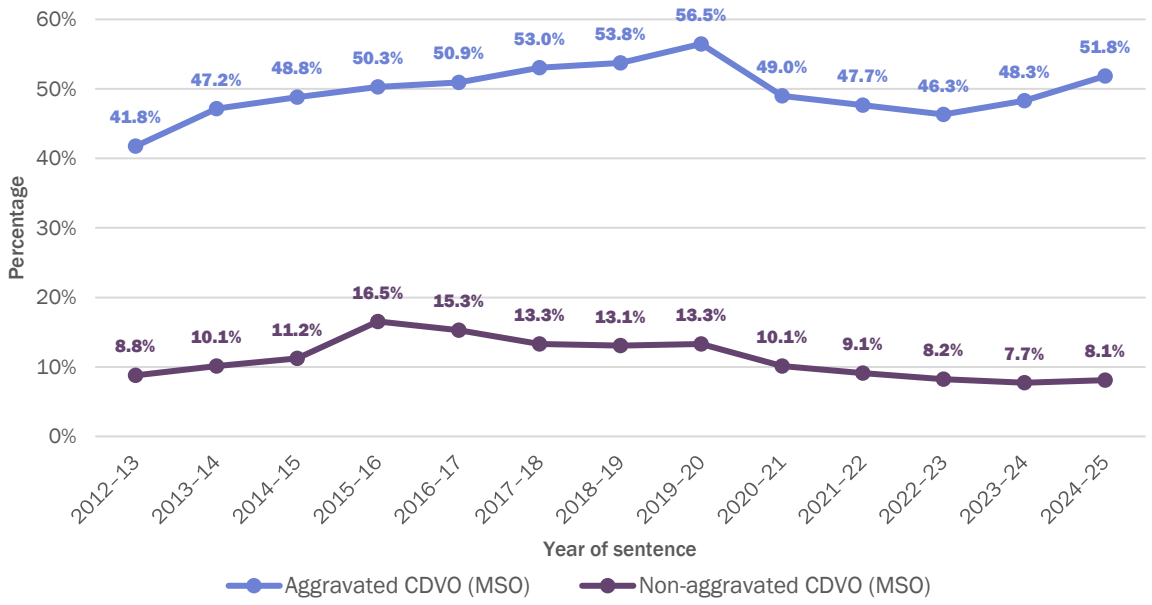
Custodial and non-custodial orders

Figure 5-7 shows the proportion of aggravated and non-aggravated CDVOs receiving custodial penalties by year from 2012–13 to 2024–25.

The proportion of **aggravated CDVO** cases receiving custodial orders increased steadily over time, peaking in 2019–20, then declined until 2022–23. However, the most recent 2 years has seen an increase in the proportion of custodial sentences. In 2024–25, 51.8 per cent of all cases sentenced for aggravated CDVO received a custodial penalty.

For **non-aggravated CDVO**, cases receiving custodial orders peaked in 2015–2016 at 16.5 per cent and these penalties have generally decreased since then. In the most recent year (2024–25) there has been a small increase, with 8.1 per cent of all cases receiving a custodial penalty.

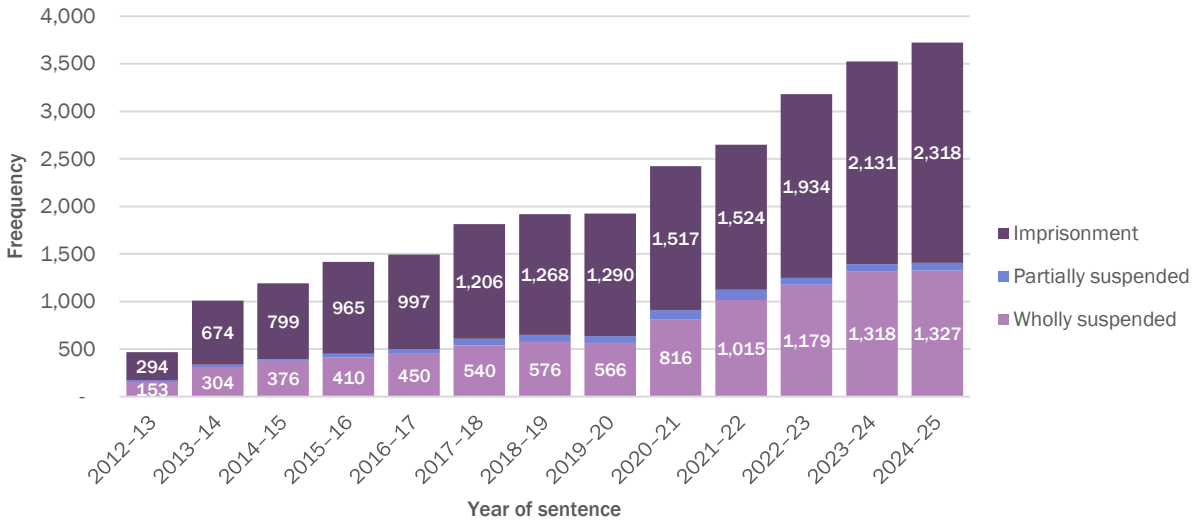
Figure 5-7: Proportion of CDVO (MSO) cases receiving custodial penalties, by offence type, 2012–13 to 2024–25



Data include CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

When considering volume of custodial orders for **aggravated CDVO**, Figure 5-8 shows the volume of cases receiving custodial orders increased steadily over time. The highest volume of cases receiving a custodial order was in 2024–25. The most common custodial penalty type was an imprisonment order, followed by a wholly suspended prison sentence.

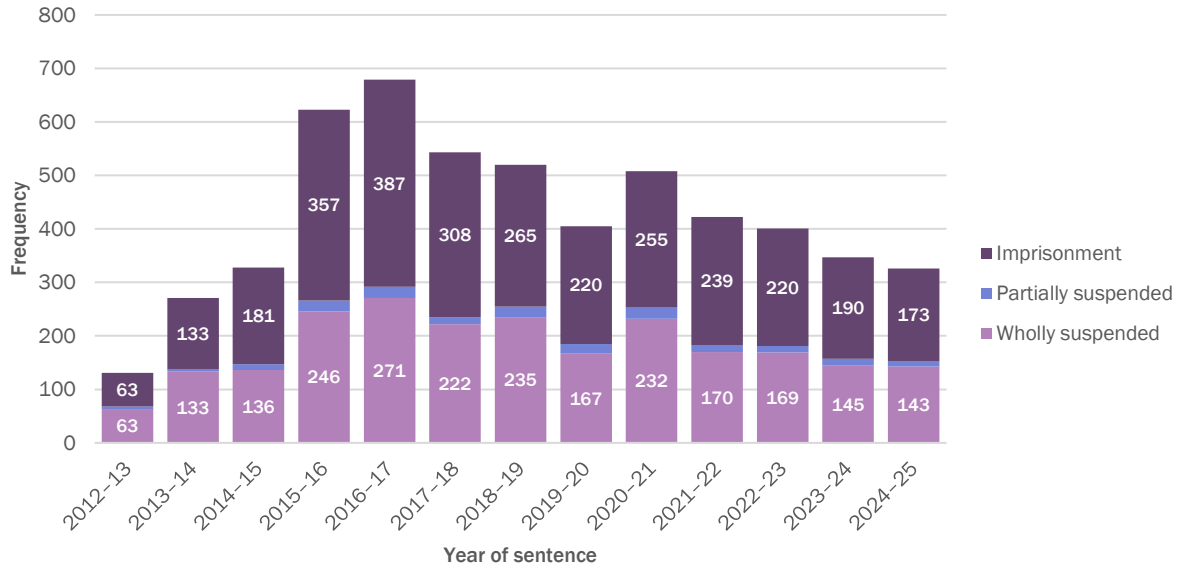
Figure 5-8: Volume of all custodial orders, aggravated CDVO (MSO), by custodial penalty type, 2012–13 to 2024–25



Data include aggravated CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts. Excludes 30 cases resulting in rising of the court.
Notes: a total of 168 intensive correction orders were imposed over the data period. These have not been presented in the figure.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

By contrast, when considering volume of custodial and non-custodial orders for **non-aggravated CDVO**, Figure 5-9 shows the actual volume of custodial orders over time peaked in 2016–17 and has generally decreased since that time. Of those receiving a custodial sentence, the most likely custodial sentence type was imprisonment, followed by a wholly suspended prison sentence.

Figure 5-9: Volume of all custodial orders, non-aggravated CDVO (MSO) by custodial penalty type, 2012–13 to 2024–25



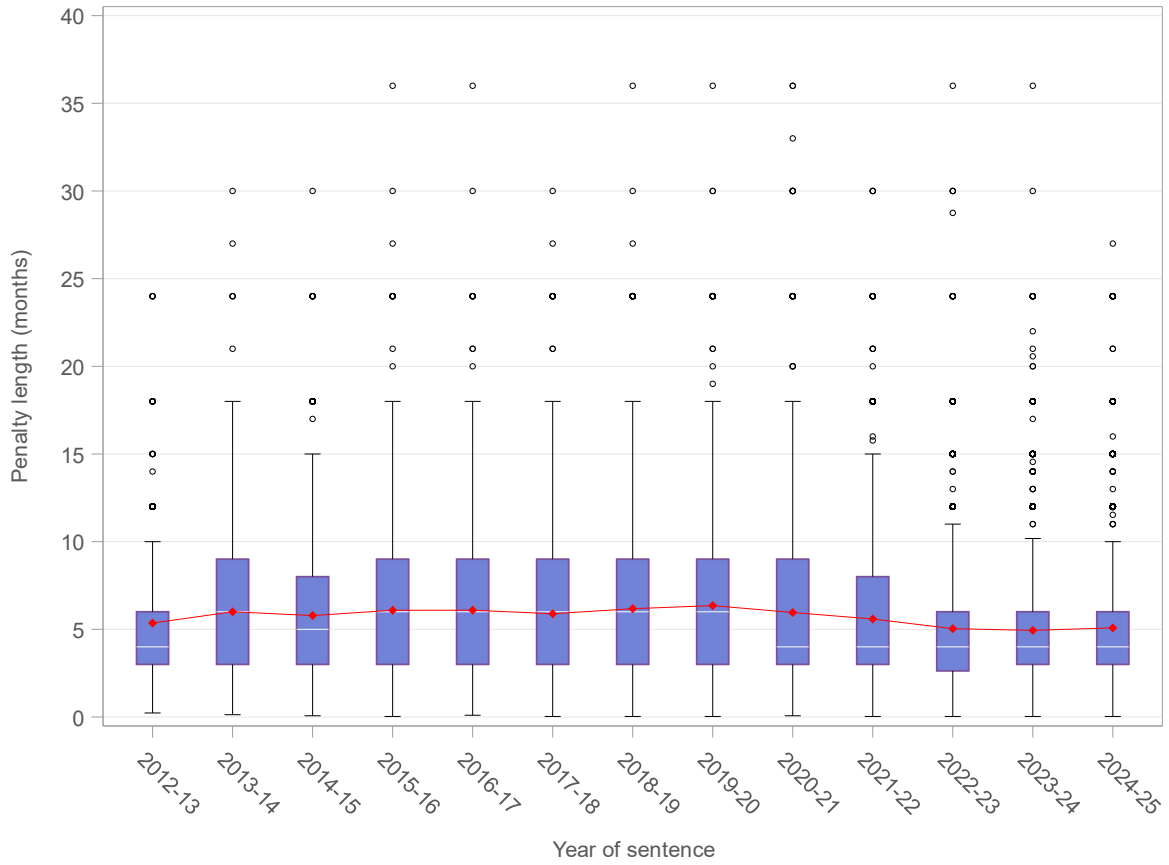
Data include non-aggravated CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts. Excludes 11 cases resulting in rising of the court.
Notes: a total of 35 intensive correction orders were imposed over the data period. These have not been presented in the figure.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Custodial order lengths

For **aggravated CDVO**, Figure 5-10 shows that, over time, the median custodial sentence length generally hovered around 6.0 months, up to 2019–20; however, since then the median sentence length has dropped to 4.0 months. Since 2020–21 the spread of sentence lengths for aggravated CDVO has also seemed to be quite constrained. In most years there have been cases that have received the maximum penalty available in the Magistrates Court (i.e. 3 years). In 2024–25, the median custodial sentence length was 4.0 months.

Over the data period, 80 aggravated CDVOs sentenced in the higher courts received a custodial penalty. The median sentence was 9.0 months and the longest sentence imposed was 3.0 years.

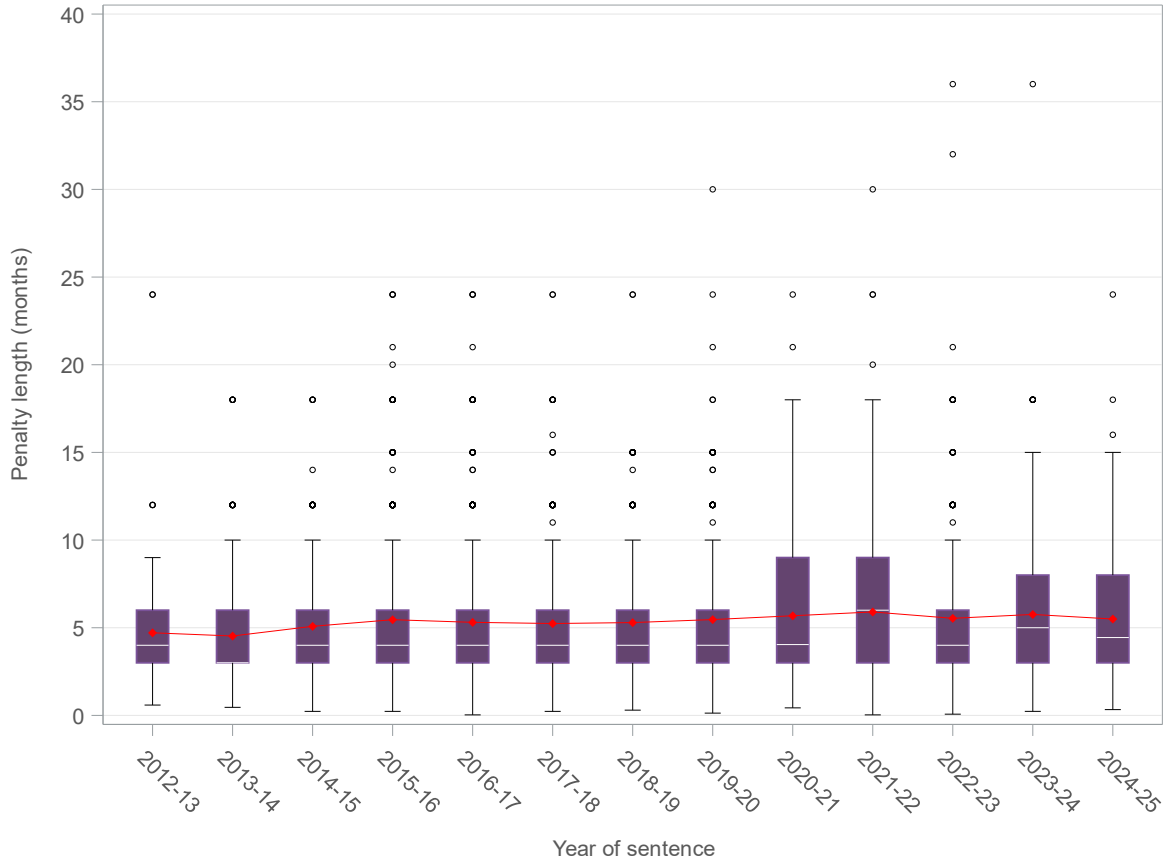
Figure 5-10: Length of custodial orders imposed for aggravated CDVO (MSO) by year of sentence, 2012–13 to 2024–25



Data include aggravated CDVO (s177) MSO, cases sentenced to a custodial penalty between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Notes: rising of the court was excluded.
Refer to Appendix 8 for an explanation of how to interpret a box plot.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

For **non-aggravated CDVO**, Figure 5-11 shows that, over time, the median custodial sentence length has hovered around 4 months. The lowest point was in 2013–14 at 3.0 months, and the high point was 6.0 months in 2021–22. In 2024–25 the median was 4.4 months. In recent years, there has been a greater spread of sentence lengths, with a higher proportion of sentences greater than 6 months, with cases receiving the maximum penalty of 3 years. Generally, wholly suspended prison sentences were shorter than sentences of imprisonment.

Figure 5-11: Length of custodial orders imposed for non-aggravated CDVO (MSO) by year of sentence, 2012–13 to 2024–25



Data include non-aggravated CDVO (s177) MSO, cases sentenced to a custodial penalty between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Note: rising of the court was excluded.
Refer to Appendix 8 for an explanation of how to interpret a box plot.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Non-custodial orders with no conviction recorded

When a non-custodial order is imposed, the judicial officer can determine whether a conviction is recorded. The proportion of cases where a conviction was not recorded for a CDVO has increased over time for both aggravated and non-aggravated CDVOs.

For **aggravated CDVO**, the proportion of non-custodial orders that did not have a conviction recorded increased over the data period, with a spike in 2015–16, followed by a decrease, then a gradual increase from 2019–20 onwards. In 2024–25, nearly one-third of aggravated CDVOs with a non-custodial order imposed did not have a conviction recorded (31.8%).

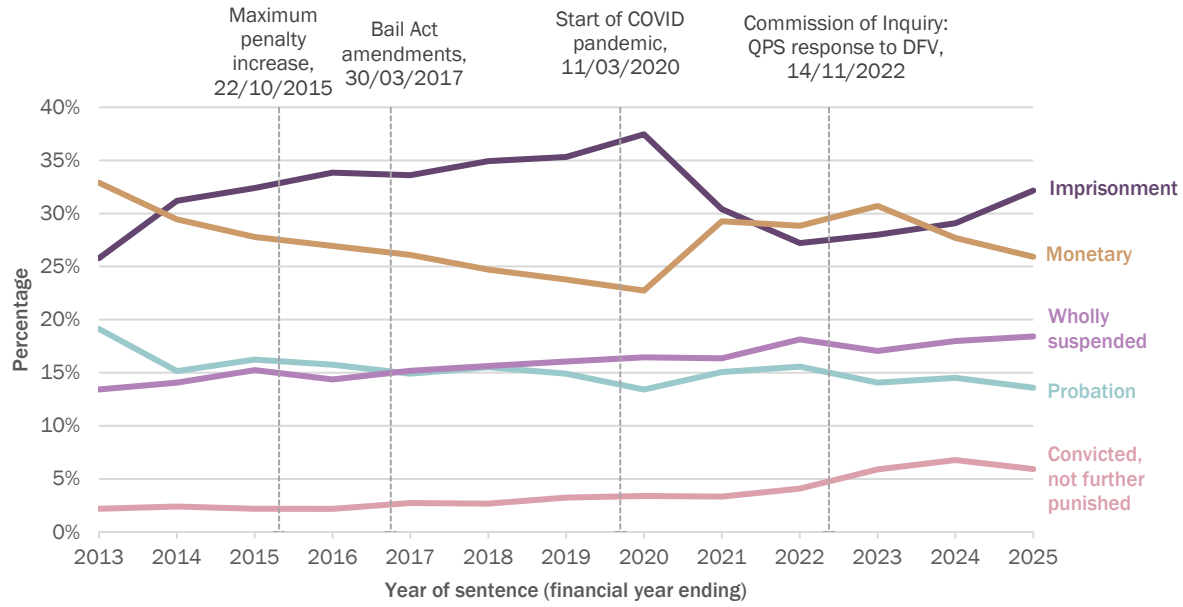
For **non-aggravated CDVO**, the proportion of non-custodial orders that did not have a conviction recorded increased steadily over the data period, from 57.8 per cent in 2012–13, to 74.7 per cent in 2024–25.

Penalty types

Aggravated CDVO (MSO) penalties

Figure 5-12 shows the change in the proportion of the most common penalty types imposed for aggravated CDVO, from 2012–13 to 2024–25.

Figure 5-12: Proportion of penalty types imposed for aggravated CDVO (MSO), 2012–13 to 2024–25



Data include aggravated CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Notes: 1) Penalty types that were below 5% every year have not been presented: community service, good behaviour/recognisance, intensive correction order, partially suspended, rising of the court;
2) a small number of cases were sentenced under the previous legislation after the maximum penalty was introduced as the offence was committed prior.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025

The proportion of imprisonment sentences was on an upwards trend from 2012–13, which was emphasised further in 2015–16 (the year that maximum penalties were increased). This trend continued until the COVID-19 pandemic in 2019–20, when imprisonment decreased considerably until 2021–22, before stabilising and then increasing. In 2024–25, 32.2 per cent of aggravated CDVO (MSO) cases received an imprisonment order.

By contrast, the use of monetary orders was gradually declining until 2019–20, when it rose and then stabilised, before once again declining from 2022–23. In 2024–25, one-quarter of all aggravated CDVO cases received a monetary penalty (25.9%).

The proportion of probation orders imposed for aggravated CDVO showed a small decline over the data period. However, the volume of probation orders increased, from 327 in 2013–14 to a peak of 1,064 in 2023–24. In 2024–25, 978 probation orders were imposed for aggravated CDVO. The increased volume of probation orders means more people are being supervised and may have the opportunity to complete relevant programs.

The proportion of cases receiving the outcome of 'convicted, not further punished' (CNFP) has generally been increasing over the period, from 2.2 per cent of case receiving this outcome in 2012–13, reaching a peak of 6.8 per cent in 2023–24. In the most recent year this has declined to 5.9 per cent.

Non-aggravated CDVO (MSO) penalties

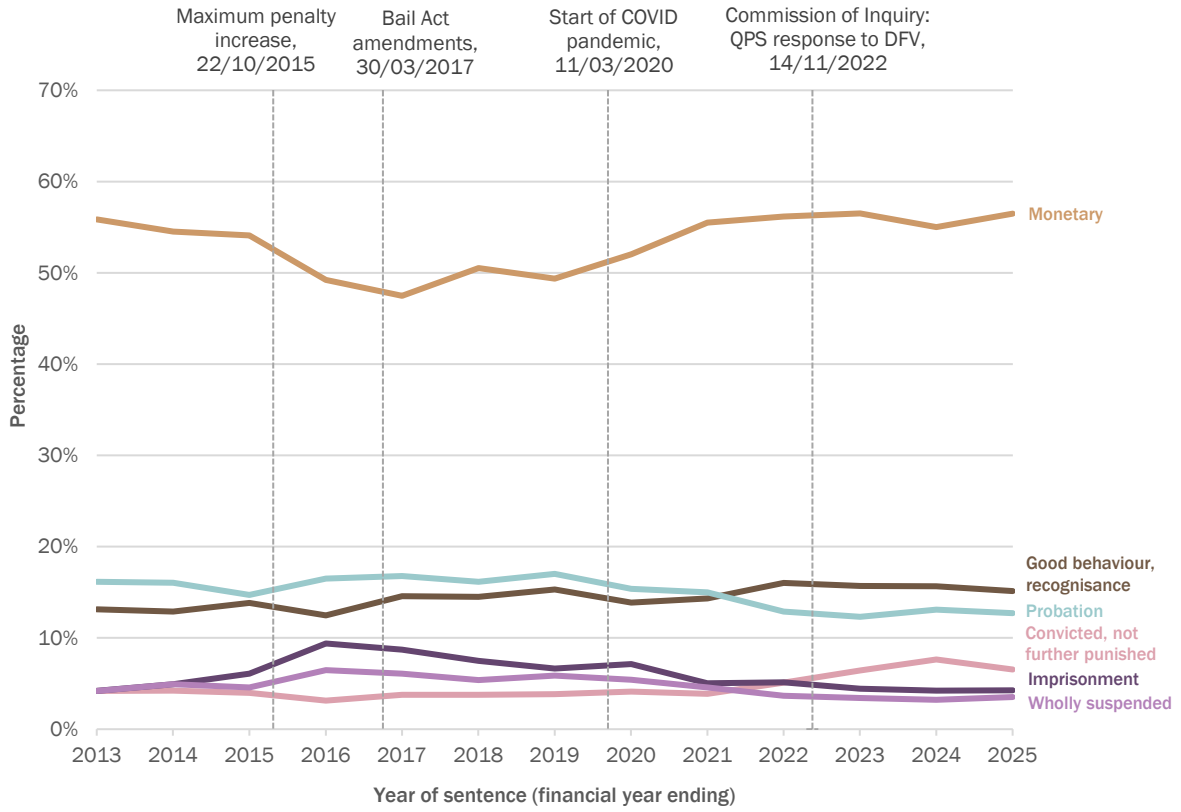
Figure 5-13 shows the changes in the proportion of the most common penalty types imposed for non-aggravated CDVO, from 2012–13 to 2024–25.

A monetary order remained the most common penalty imposed over the period for non-aggravated CDVO . A decrease was seen following the introduction of the maximum penalty increase on 22 October 2015. However, an upward trend was again seen following the amendments to the *Bail Act 1980* (Qld) in March 2017. CNFP increased from 3.9 per cent in 2020–21 to 7.6 per cent in 2023–24. There was a slight decrease to 6.5 per cent in 2024–25.

The COVID-19 pandemic had a limited impact on non-aggravated CDVOs compared to aggravated CDVOs , possibly because monetary orders were already the most common penalty and were already on an upward

trajectory. In 2024–25, monetary penalties accounted for over half of all penalties received for non-aggravated CDVO (56.5%).

Figure 5-13: Proportion of penalty types imposed for non-aggravated CDVO (MSO), 2012–13 to 2024–25



Data include non-aggravated CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Note: 1) Penalty types that were below 5% every year have not been presented: community service, intensive correction order, partially suspended, rising of the court;
2) a small number of cases were sentenced under the previous legislation after the maximum penalty was introduced as the offence was committed prior.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

In 2015–16, there was an observed increase in the likelihood of receiving imprisonment orders, probation orders, and wholly suspended prison sentences. However, these increases were not sustained over the remainder of the data period.

The use of monetary penalties

Monetary penalties were the most common penalty type for non-aggravated CDVO before and after the change to CDVO maximum penalties.

Figure 5-14 shows that over the 13-year data period, there was a steady decline in the use of monetary penalties across all offences (MSO) sentenced in the Magistrates Courts[255] – a decrease of 19.4 percentage points from 2012–13 to 2024–25.

For aggravated CDVO, the use of monetary penalties decreased 6.9 percentage points between 2012–13 and 2024–25. The median fine amount was $500 each year.

By contrast, for non-aggravated CDVO, while the use of monetary penalties decreased slightly and then increased over the data period, the proportion imposed in 2024–25 was almost equal to that of 2012–13,

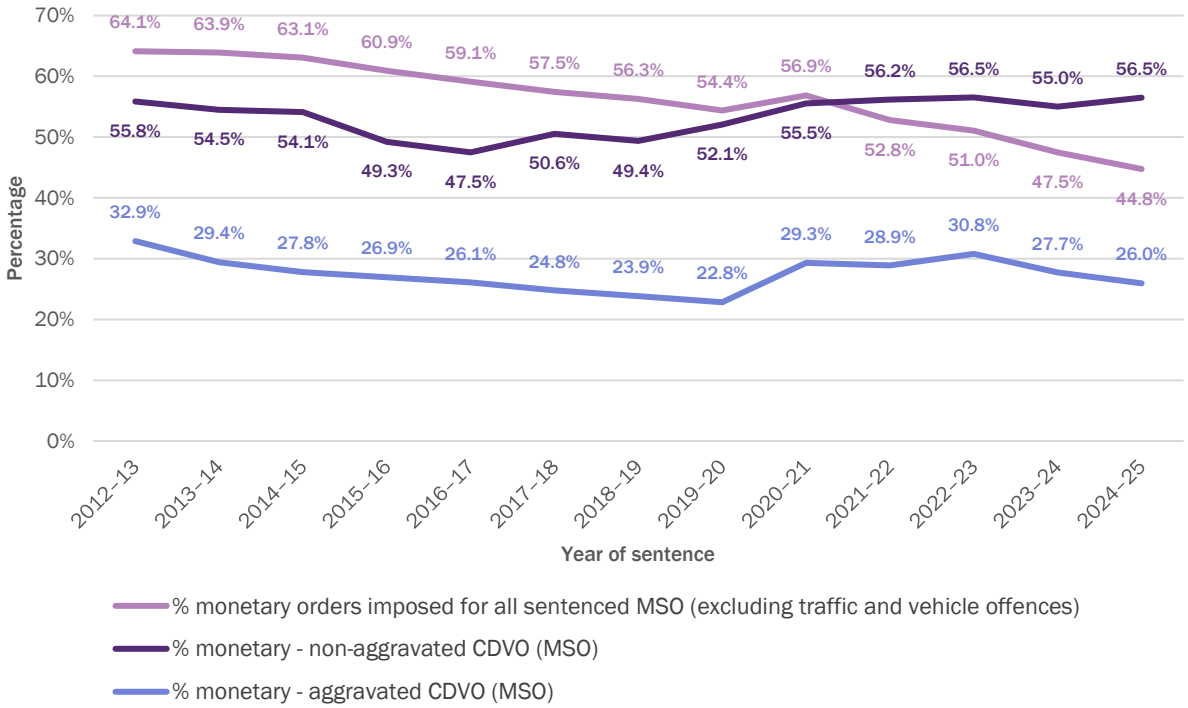
[255] Traffic and vehicle offences were excluded from this analysis, due to the high likelihood of monetary penalties being imposed for this type of offences.

a difference of 0.7 percentage points. The median fine amount was $400 in 2012–13 and 2013–14, increased to $450 in 2014–15 and 2015–16, and then remained stable at $500 from 2016–17 to 2024–25.

This suggests that the use of monetary penalties for CDVO is not following the same trend seen for all offences sentenced in the Magistrates Courts. The reasons are uncertain but may be due to a mix of individual and case-related features.

For examples of where a fine has been found to be a suitable option based on our review of District Court appeal decisions, including for aggravated charges, see section 5.4.1.

Figure 5-14: Proportion of MSO cases receiving a monetary penalty in the Magistrates Courts, 2012–13 to 2024–25



Data include adult offenders, offences sentenced between 1 July 2012 and 30 June 2025, Magistrates courts only. CDVO offences (s177) by aggravated or non-aggravated. Excludes traffic and vehicle offences (division 13 of the Australian Standard Offence Classification).
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

The evidence from the literature and stakeholder views on the use of fines for CDVO are discussed in **Chapter 13**.

Stakeholder views

SME participants told us repeated offending or contraventions are more challenging to respond to, and generally there is a 'gradual escalation' of the penalty each time.[256] Where there is repeated failure to comply with contact conditions, for example, the sentencing task may be particularly challenging:

> It's really difficult for the court … when … you've got people who have to communicate about children or what have you and there's a repetition of contact outside the bounds of that order, but it's not vindictive. It's not abusive or anything like that. So, it is really difficult, I think, to fashion a sentence that deters that person … I think that really becomes difficult because then you put someone on probation and it's not like they necessarily need supervision or need to do courses in counselling or alcohol counselling necessarily. It's just literally that this order exists and they just can't stick with the bounds

[256] Subject Matter Expert Interview 8.

> of it. And I don't know that a probation parole officer will necessarily be the best person to … say: 'Stick with the bounds', or 'Let's practise a text message that doesn't go outside the bounds'.[257]

Repeated non-compliance means a court will have few options other than to send the person to prison.[258] More options – such as electronic monitoring as a condition of probation – may also have the potential to be used where there are concerns about the risk.[259]

Prison-probation orders were also viewed as a good option if the period of imprisonment could be defined – such as if people have been held in custody since a breach, and it is appropriate to impose a period of imprisonment, but add on probation (noting that the person must consent to this).[260]

The potential to have a combined sentence of community service (for punishment) and probation (to support rehabilitation through counselling) was viewed as potentially useful in place of imprisonment – but there would need to be the services available to support it for courts to have confidence in this.[261] Greater flexibility in the lower end of the hours that can be ordered for community service (for example, 20 hours rather than 40) was also suggested.[262]

Some participants viewed short prison sentences as potentially counterproductive, suggesting that individuals might be less likely to comply after discussing their experiences with other prisoners, no rehabilitation programs were available in prison or they were not provided with clear guidance on what was expected of them.[263]

Noting the disruptive effect on housing and employment (as protective factors) associated with short terms of imprisonment, other options suggested were to convert short prison sentences to home detention-type options.[264]

Another participant thought short custodial sentences were appropriate in some cases as 'respondents need to know they will get … custodial sentences depending on the level of offence committed'.[265] Another participant said: 'They can't still just keep [engaging in the behaviour] and not expect to get a custodial sentence.'[266] Similar views were expressed by another participant, who considered that prison sentences did serve a specific and general deterrent function and, if they breached their parole order, they would be returned to prison.[267] Actual imprisonment also has a practical benefit in giving an aggrieved a break from the person perpetrating violence.[268]

One participant thought there could potentially be greater use of intensive correction orders, which would require people to engage with programs.[269] The mandatory elements of this order were viewed as difficult to comply with while maintaining employment, and the person may not consent.[270]

The options were also described in terms of being a graduated response, with 'anything beyond the first … trivial breach for someone with no meaningful history' requiring a sentencing response 'with teeth' such as probation or parole where the person was required to engage with rehabilitative programs.[271] If they reoffended after this, the person would be removed from the community to stop them engaging in the behaviour.[272]

We were told that an outcome of CNFP may be appropriate where a person has already been sufficiently punished. For example, a person has spent time in custody prior to sentence and the judicial officer determines imprisonment is not appropriate so the time served is not declared.[273] Participants said there

---

257 Subject Matter Expert Interview 3.
258 Subject Matter Expert Interview 1.
259 Ibid.
260 Subject Matter Expert Interview 17.
261 Subject Matter Expert Interview 4.
262 Ibid.
263 Subject Matter Expert Interview 3.
264 Subject Matter Expert Interview 1.
265 Subject Matter Expert Interview 16.
266 Ibid.
267 Subject Matter Expert Interview 4.
268 Ibid.
269 Subject Matter Expert Interview 3.
270 Subject Matter Expert Interview 1.
271 Subject Matter Expert Interview 15.
272 Ibid.
273 Subject Matter Expert Interview 2; Subject Matter Interview 5; Subject Matter Expert Interview 17.

may also be totality considerations if a person has been sentenced on a different day in another court for other offending committed at around the same time.[274] For example, where a person has been sentenced to imprisonment by the District Court for choking, suffocation or strangulation in a domestic setting and that offence breached a DVO which is dealt with by the Magistrates Court on a different day. The latter might impose a CNFP for the CDVO, having regard to the sentence imposed in the District Court.[275]

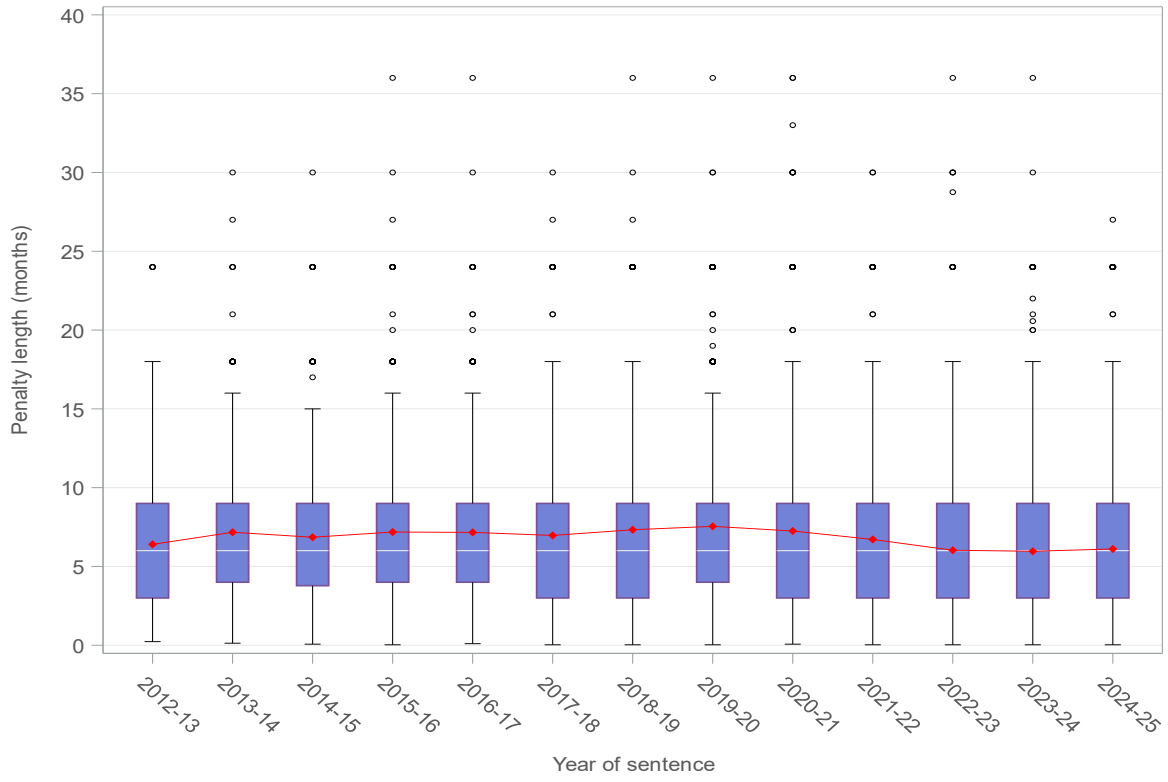
Stakeholder views on the impact of pre-sentence custody on sentence are discussed further below.

Imprisonment

Figure 5-15 shows, over time, the median imprisonment sentence length for **aggravated CDVO** remained constant at 6.0 months, and the overall spread of sentences also remained relatively constant. In 2024–25 the median custodial sentence length was 6.0 months.

Since 2015–16, in most years that followed, a number of cases also received the maximum penalty available in the Magistrates Court (3 years). A 3 year imprisonment sentence was imposed in 8 cases, of which one was sentenced in the higher courts. In 2024–25, 95.2 per cent of imprisonment sentences were 12 months' duration or less.

Figure 5-15: Length of imprisonment sentences imposed for aggravated CDVO (MSO) by year of sentence, 2012–13 to 2024–25



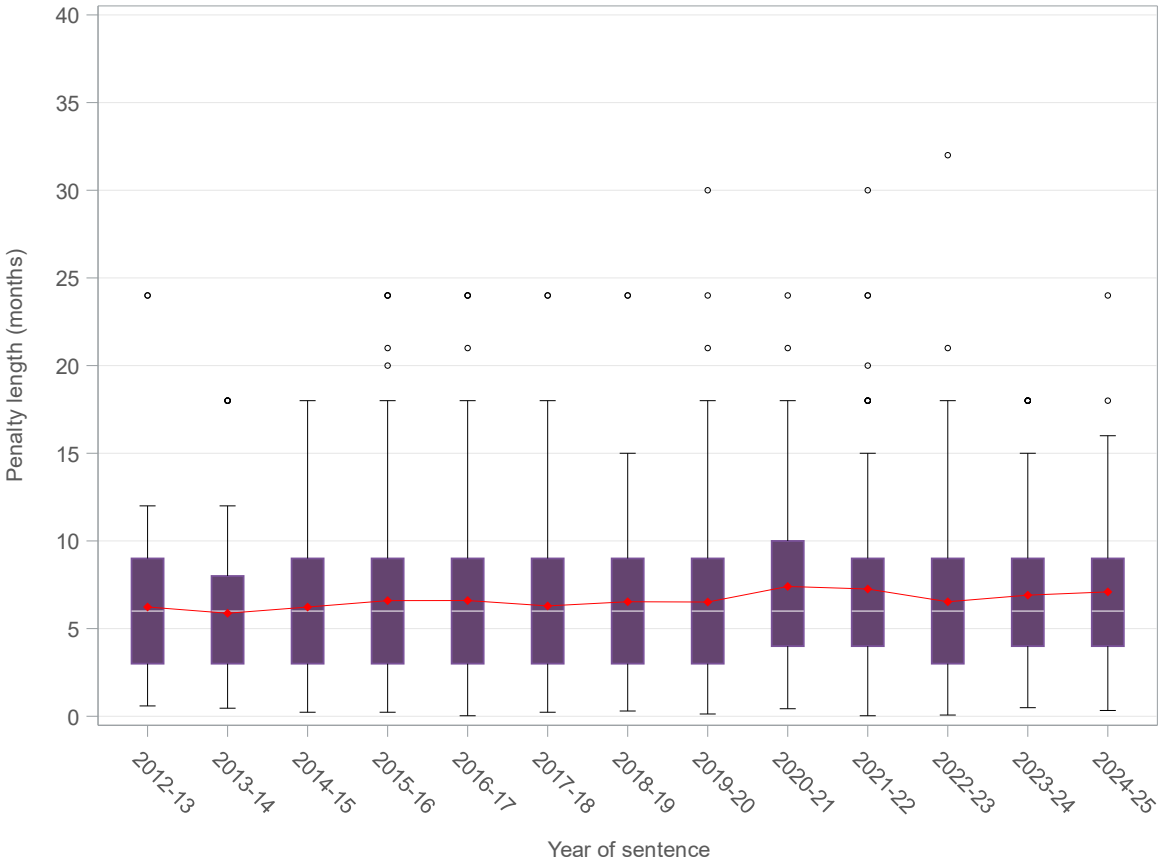
Data include aggravated CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Refer to Appendix 8 for an explanation of how to interpret a box plot.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Figure 5-16 shows that for **non-aggravated CDVO**, the median imprisonment sentence length has remained consistently at 6.0 months, and the general spread of sentence lengths has also remained relatively consistent. In 2024–25, the median was 6.0 months. The maximum penalty of 3 years has not been received

[274] Subject Matter Expert Interview 11; Subject Matter Expert Interview 16.
[275] Subject Matter Expert Interview 1.

for an imprisonment order, though in 2022–23 an imprisonment sentence of 32 months was received. In 2024–25, 95.4 per cent of imprisonment sentences were 12 months' duration or less.

Figure 5-16: Length of imprisonment sentences imposed for non-aggravated CDVO (MSO) by year of sentence, 2012–13 to 2024–25



Data include non-aggravated CDVO (s177) MSO, cases sentenced between 1 July 2012 and 30 June 2025, adult offenders, higher and lower courts.
Refer to Appendix 8 for an explanation of how to interpret a box plot.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Stakeholder views

SME participants considered that imprisonment was more likely based on the nature of the contravention (e.g. involving physical violence), the significance of the harm caused, the person having a previous history of committing similar offences, and multiple contraventions of existing orders or other court orders (going to issues of culpability).[276] The exposure of children to violence was also considered to be another important consideration.[277] Conversely, being young with no criminal history and good rehabilitative prospects might support a non-imprisonment (although still custodial) outcome.[278]

One SME participant considered that, historically, behaviour breaching a 'no contact' condition by walking down the street with the aggrieved or having contact when children are collected would have resulted in a non-custodial sentence, but now for aggravated CDVO, a sentence of imprisonment for that behaviour is more likely.[279]

[276] Subject Matter Expert Interview 1; Subject Matter Expert Interview 3.
[277] Subject Matter Expert Interview 1.
[278] Subject Matter Expert Interview 11. This comment was made with respect to all DV offending, not solely contraventions.
[279] Subject Matter Expert Interview 2, Subject Matter Expert Interview 6.

In support of this position, a participant cited the guidance in the 2023 decision of *Queensland Police Service v KBH*,[280] which found a fine was manifestly inadequate for an aggravated CDVO involving breach of a 'no contact' condition and imposed imprisonment.[281] This decision has given guidance to the legal profession about the importance of understanding the whole context of the relationship and re-traumatisation and harm of repeated breaches on the victim.[282]

Some participants also considered that aggravated CDVO penalties were increasing, resulting in sentences of 2 and 3 years' imprisonment,[283] reflecting appellate court guidance supporting this range.[284] In particular, the 2024 decision of *CDL*[285] was viewed as setting a benchmark for Magistrates Courts for repeated contraventions of a no contact condition and threatening behaviour, and that a 2-year sentence of imprisonment with a parole eligibility date was not manifestly excessive.[286] Legal Aid Queensland (LAQ) considered that *CDL* 'has provided the clearest endorsement as to how courts sentence persistent domestic violence offenders and confirms that a clear cultural shift within the criminal justice system has occurred'.[287]

QLS considered that generally there is an increased likelihood of imprisonment for aggravated CDVO, however, as the nature of this offending is broad and 'each case turns on its own merits', 'it is difficult to discern trends'.[288]

The Red Rose Foundation reported they 'have never seen nor heard of a breach of a DVO receiving the maximum penalty'[289] and noted that most custodial sentences were less than 12 months'[290] which were 'overly lenient'.[291] These sentences may reflect 'a need for greater understanding and recognition of coercive control and non-physical violence within the criminal justice system'.[292]

The Red Rose Foundation recommended 'all sentence ranges related to domestic and family violence be reviewed in consultation with sector professionals to ensure they are fair, appropriate, and logically aligned'.[293]

---

280 *Queensland Police Service v KBH* [2023] QDC 26 ('*KBH*').
281 Ibid a fine of $500 was found to be 'manifestly inadequate', 'unreasonable and unjust', with a sentence of 3 months' imprisonment with immediate release on parole for the most serious charge substituted.
282 Subject Matter Expert Interview 4.
283 Ibid.
284 Subject Matter Expert Interview 1.
285 *CDL* (n 10).
286 Ibid.
287 Submission 18 (Legal Aid Queensland).
288 Submission 14 (Queensland Law Society).
289 Submission 11 (Red Rose Foundation).
290 Ibid Submission 11 (Red Rose Foundation), 5 referring to Queensland Sentencing Advisory Council, *Sentencing Spotlight on Contravention of a Domestic Violence Order* (May 2025).
291 Submission 11 (Red Rose Foundation).
292 Ibid.
293 Ibid.

Pre-sentence custody and Imprisonment orders

Data Snapshot

CDVO (MSO) Pre-Sentence Custody

Aggravated CDVO

More than half of imprisonment orders (57.2%) had declared pre-sentence custody in 2024–25. This proportion peaked at 62.3% in 2021–22 and has declined since.

The median pre-sentence custody time declared was 56.0 days in 2024–25, slightly below the highest median of 60.0 days in 2022–23.

Non-aggravated CDVO

Nearly three-quarters of imprisonment orders (72.3%) had declared pre-sentence custody in 2024–25. This proportion has steadily increased from 31.7% in 2012–13.

The median time declared for pre-sentence custody was 68.0 days in 2024–25, down from a peak of 78.0 days in 2021–22.

Where a person is sentenced to imprisonment and has spent time in custody prior to a sentence, this may be declared (all or in part) and counted as time served under a sentence.[294] Administrative data captures declared pre-sentence custody. However, the time spent in pre-sentence custody is not always declarable, or a court may have ordered otherwise, which is not captured in the administrative data.[295]

Pre-sentence custody duration can be influenced by external factors, such as time needed for:

- an application for legal aid to be processed, lawyer allocated, and instructions taken;
- obtaining brief of evidence material;
- the charge and/or other charges to be resolved so all charges are sentenced together;
- assessments of capacity if there are mental health concerns;
- preparation for sentence (supporting material, a pre-sentence report); and/or
- court availability for the sentence hearing, including whether the matter needs to be adjourned to a specialist court.

For both aggravated CDVO and non-aggravated CDVO, the proportion of imprisonment orders with declared pre-sentence custody has increased over time, as seen in Figure 5-17.

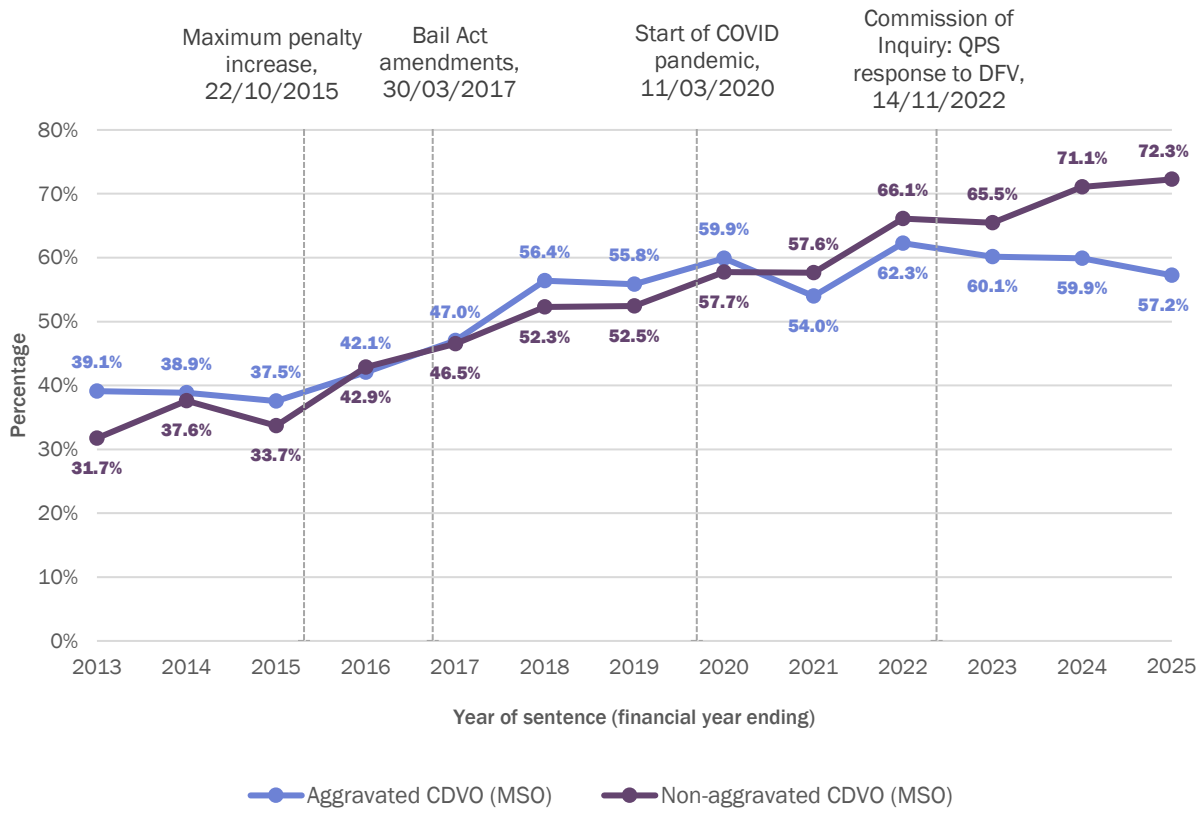
For **aggravated CDVO** with an imprisonment order imposed, the proportion of cases with pre-sentence custody generally followed a similar trend to that for non-aggravated CDVO until reducing in 2020–21 followed by a peak in 2021–22 at 62.3 per cent. Since then, the proportion has been slowly declining. In

[294] PSA (n 41) s 159A.
[295] See e.g., *LPN v Queensland Police Service* [2021] QDC 276, [10] (Morzone QC DCJ).

2024–25, 57.2 per cent of those receiving an imprisonment order had declared pre-sentence custody, which was much lower than for those sentenced to imprisonment for non-aggravated CDVO in the same period.

For **non-aggravated CDVO** with an imprisonment order imposed, the proportion of cases with pre-sentence custody declared increased steadily over the data period, from 31.7 per cent in 2012–13 to 72.3 per cent in 2024–25.

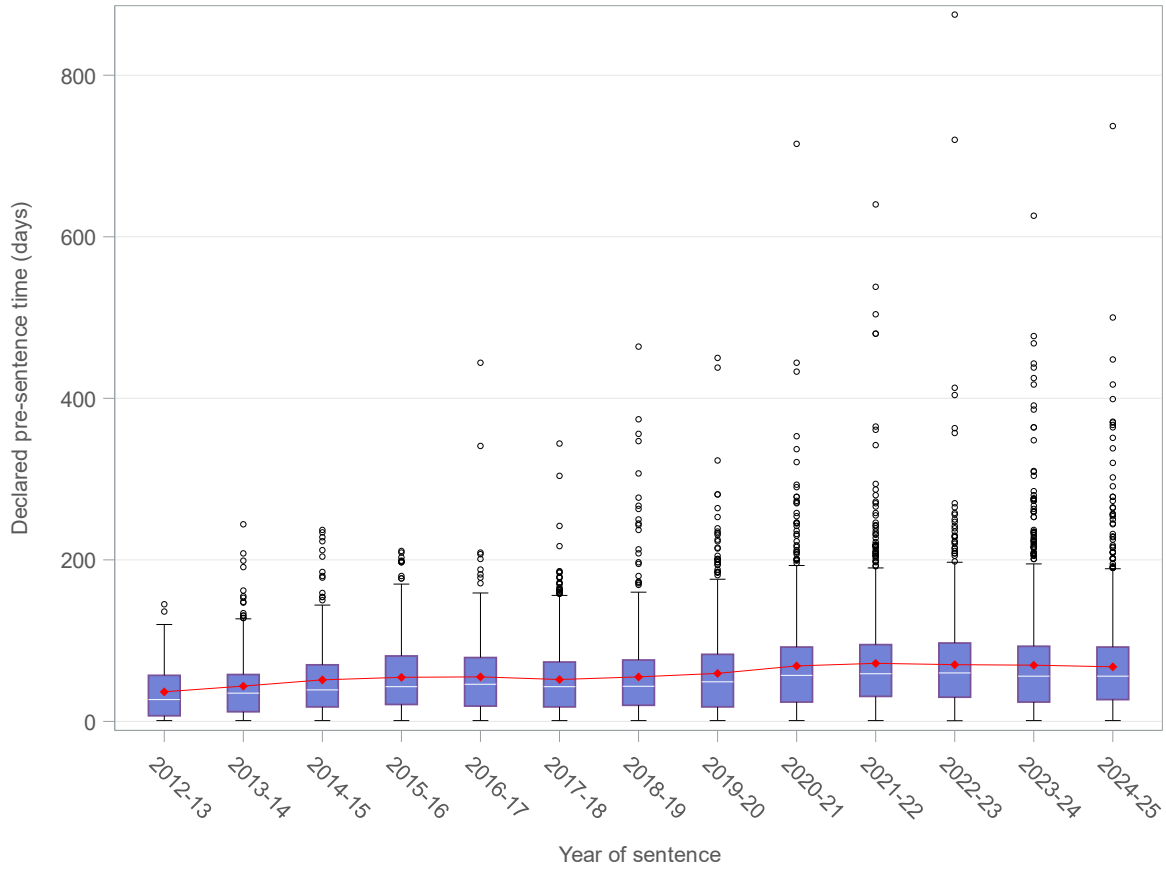
Figure 5-17: Proportion of imprisonment orders with declared pre-sentence custody, by type of offence and year of sentence, 2012–13 to 2024–25



Data include CDVO (s177) MSO, cases sentenced to imprisonment between 1 July 2012 and 30 June 2025 with pre-sentence custody declared, adult offenders, higher and lower courts.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Figure 5-18 shows that the median number of days declared pre-sentence custody increased for **aggravated CDVO**, from 27.0 days in 2012–13 to a high of 60.0 days in 2022–23. In 2024–25, the median declared pre-sentence custody was 56.0 days, which was lower than for non-aggravated CDVO (MSO). Since 2020–21, there have been cases with well over 600 days (1.6 years) of declared pre-sentence custody.

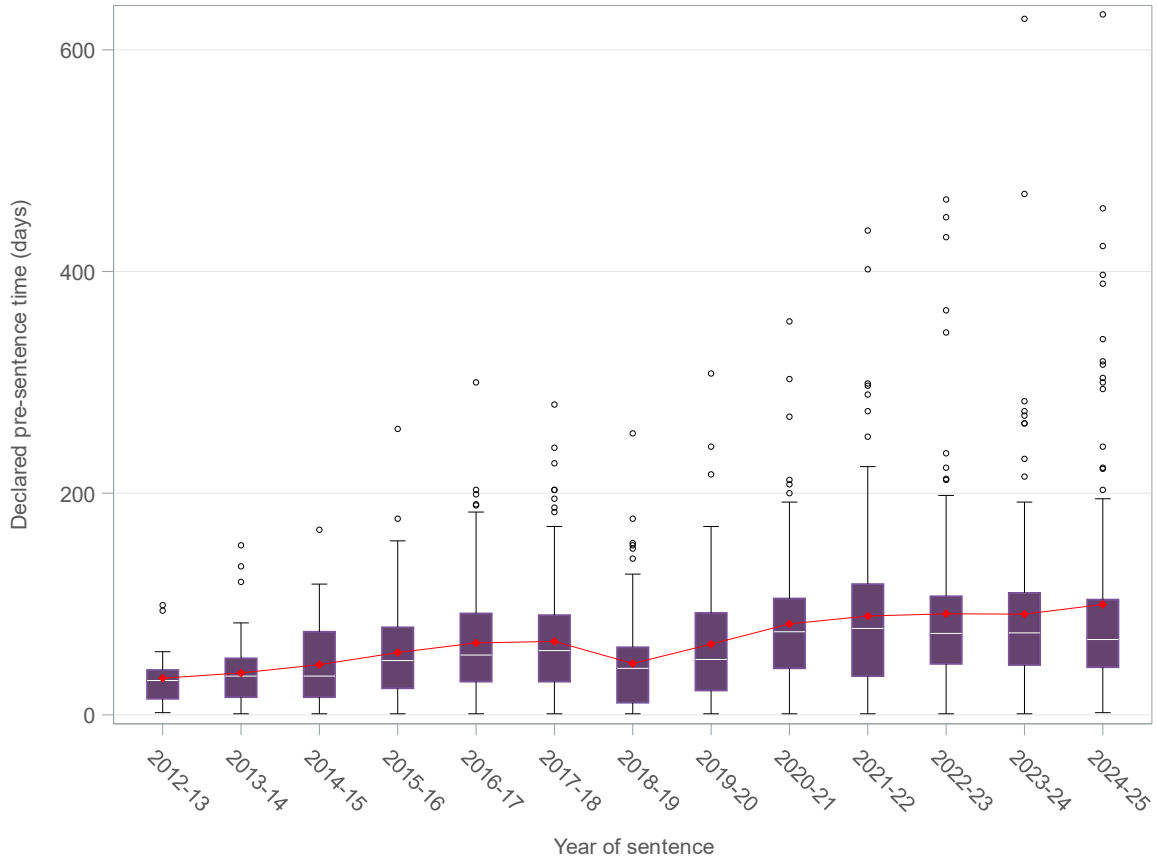
Figure 5-18: Length of declared pre-sentence custody for imprisonment orders for aggravated CDVO (MSO), by year of sentence, 2012–13 to 2024–25



Data include aggravated CDVO (s177) MSO, cases sentenced to imprisonment orders between 1 July 2012 and 30 June 2025 with pre-sentence custody declared, adult offenders, higher and lower courts.
Refer to Appendix 8 for an explanation of how to interpret a box plot.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Figure 5-19 shows that the median number of days of declared pre-sentence custody has also increased for non-aggravated CDVO, from 31.0 days in 2012–13 to a high of 78.0 days in 2021–22. In 2024–25, the median declared pre-sentence custody was 68.0 days, and in the last 2 years, there were cases with over 600 days (1.6 years) of declared pre-sentence custody.

Figure 5-19: Length of declared pre-sentence custody for imprisonment orders for non-aggravated CDVO (MSO), by year of sentence, 2012–13 to 2024–25



Data include non-aggravated CDVO (s177) MSO, cases sentenced to imprisonment orders between 1 July 2012 and 30 June 2025 with pre-sentence custody declared, adult offenders, higher and lower courts.
Refer to Appendix 8 for an explanation of how to interpret a box plot.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Pre-sentence custody and non-custodial penalties

Pre-sentence custody information is not recorded in the administrative data if a non-custodial order has been given. The Council sought data from Queensland Corrective Services (QCS) to determine how many people receiving a non-custodial outcome were in custody at the time of sentence.[296]

For people sentenced to a non-custodial sentence for **aggravated CDVO** between 1 July 2012 and 30 June 2024, we found that 2.5 per cent (n=591/23,899) were in custody at the date of sentence. For people sentenced to CNFP 13.7 per cent (n=219/1,601) were in custody at the date of sentence.

Overall, for people who were sentenced to a non-custodial sentence for **non-aggravated CDVO** within the same period, 1.5 per cent (n=601/40,909), were in custody at the date of sentence. And for those who were sentenced to CNFP, 8.4 per cent (n=204/2,418) were in custody at the date of sentence.

Stakeholder views

LAQ told the Council they have observed that people on remand are spending longer in custody. They explained:

> LAQ practitioners have experienced some reluctance by a court to proceed with a sentence when a matter is first before it. This can be because further information is requested regarding the previous convictions of the defendant, or they wish to ensure that a victim has the opportunity to provide a victim impact statement or make submissions in relation to the variation of a domestic violence order (where

[296] This does not include people in custody in a watchhouse where a person is in the custody of the Queensland Police Service.

> dealing with a contravention offence).[297] This is consistent, for example with Magistrates Court Practice Direction 1 of 2025 following the introduction of the Summary DV List in Brisbane. However, the hesitation in finalising a domestic violence related charge in an arrest court, in LAQ's experience, is not limited to the Brisbane jurisdiction. As a result, LAQ practitioners have identified an increased number of defendants with presentence custody to be dealt with in sentencing proceedings. The other impact of being on remand, is that rehabilitation programs to assist with treatment and support services that might otherwise assist with housing, employment, drug and alcohol, health, or other social needs are not available for un-sentenced prisoners.[298]

In addition, LAQ emphasised that sentencing practices are impacted by whether there is pre-sentence custody, declared or not, and the nature of the conduct. They told us:

> In some cases, the declaration of that pre-sentence custody would result in a sentence that might be unjust for the circumstances. That may result in a sentence that, on the face of it [is] … out of touch with community standards, however that is more a responsibility for accurate reporting. It is not the role of the court to ensure that the criminal history is an accurate record – but to impose a sentence that is just.[299]

The QLS also commented on the influence of pre-sentence custody on sentencing:

> Pre-sentence custody has therefore played a number of different roles in sentence including to change the sentence one might otherwise receive because of the amount of time already served, the imposition of community based orders where one might otherwise expect a sentence of imprisonment, or the imposition of shorter head sentences with longer operational periods to reflect that time on remand.[300]

An individual submitter, M Halliday, noted that pre-sentence custody can often impact how the sentence is perceived by the public and the victim:

> • Time spent in pre-sentence custody is often not declared on the sentencing record, creating public confusion about the actual time served.
>
> • Victims may believe offenders received a lenient sentence when, in reality, time served in remand was accounted for but not made transparent.[301]

In **Chapter 13** we recommend changes be made so that pre-sentence custody information is more consistently captured for reporting purposes.

---

297 DFVPA (n 16) s 42.
298 Submission 18 (Legal Aid Queensland).
299 Ibid.
300 Submission 14 (Queensland Law Society).
301 Submission 12 (M Halliday).

5.3 Non-MSO CDVO sentencing trends

Data Snapshot

CDVO (non-MSO) Sentencing Outcomes

In most cases (about 80%), the penalty type for the non-MSO CDVO was the same as the penalty type for the MSO offence.

When the MSO received a suspended sentence the non-MSO CDVO charge was less likely to attract the same penalty.

In these cases, the non-MSO CDVO penalty was most commonly probation, a monetary penalty, or a shorter term of imprisonment.

A CDVO offence may be the offence that received the most serious sentence (MSO) or it may be co-sentenced with another offence which received the most serious sentence (non-MSO CDVO).[302] The proportion of cases involving a non-MSO CDVO has been steadily increasing over time.[303]

This section explores how often penalty outcomes for non-MSO CDVO cases are similar to the penalty outcome for the MSO and how often they contribute to combined sentencing approaches. For example, when a suspended sentence is ordered for the MSO and community supervision in the form of probation is ordered for the non-MSO CDVO.[304]

Relationship between outcome for the MSO offence and non-MSO CDVO offence

In the vast majority of cases sentenced between July 2012 and June 2024[305] (about 80%), the penalty type received for the primary non-MSO CDVO was the same penalty type ordered for the MSO offence, and this proportion has remained relatively consistent across the period, however there was some variation, depending on the outcome received for the MSO.

Cases in which there was the lowest likelihood of a match between the outcomes of the MSO and the non-MSO CDVO were where the MSO received a wholly suspended imprisonment sentence (56.5%) or a partially suspended imprisonment sentence (40.3%).

Figure 5-20 shows that for wholly suspended imprisonment sentences where the non-MSO CDVO penalty did not match the MSO penalty, it was most likely to be paired with probation (21.6%) or a monetary penalty (11.1%). This shows wholly suspended sentences can still result in a person being subject to supervision in the community on a different charge.

In **Chapter 13** we discuss reforms previously recommended by the Council that would enable a suspended sentence to be ordered with probation or another form of community-based order when sentencing a person for a single offence.

---

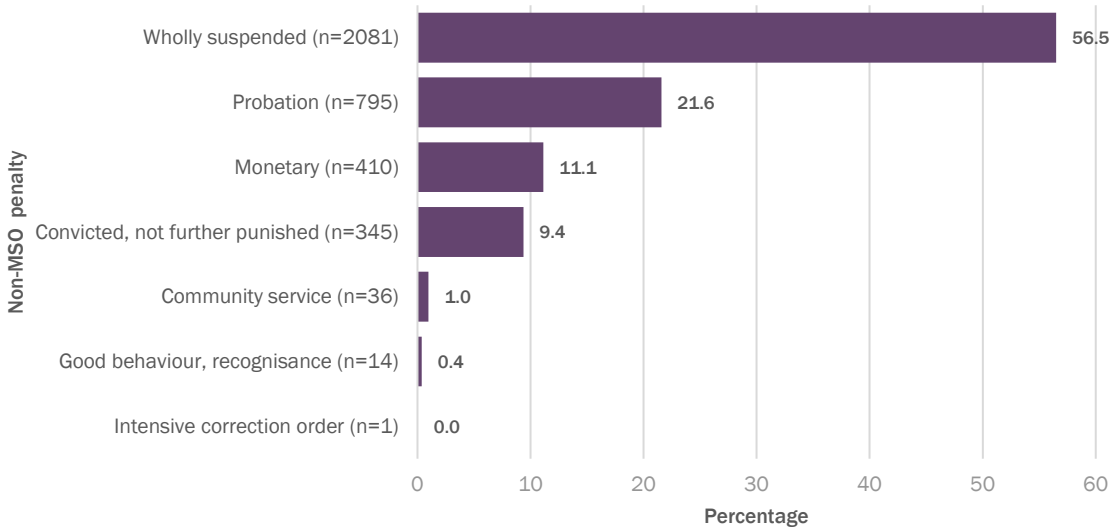
302 This is ranked by the classification scheme used by the Australian Bureau of Statistics, see Australian Bureau of Statistics, *Criminal Courts, Australia Methodology* (n 242).

303 See section 5.1.1 and Figure 5-2.

304 For the methodology of this analysis see Appendix 9.

305 The data presented in this section uses a different time period than the analysis presented above and is based on data extracted prior to 2024–25 data being available. Figures presented may be slightly different from those presented elsewhere.

Figure 5-20: Penalty type outcome match for primary non-MSO CDVO where MSO penalty is wholly suspended prison sentence, 2012–13 to 2023–24



Data include adult offenders, CDVO non-MSO, cases sentenced between 1 July 2012 and 30 June 2024, higher and lower courts. Non-MSO CDVO case counts exclude those where the MSO was CDVO to avoid duplication in counting. MSO outcome rising of the court (n=2) excluded, present for wholly suspended prison sentence MSO outcomes only.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

5.4 Sentencing factors and case law developments

The way courts view the seriousness of CDVO offences has shifted over time, particularly in the case of multiple charges and aggravated contraventions involving the use of non-physical violence.

As most CDVOs are sentenced in the Magistrates Court,[306] most of the comparable case authority comes from District Court appeals.[307]

In 2022, His Honour Judge Smith presented at the Magistrates Court Conference on 'Sentencing for Domestic Violence Offences and Procedural Fairness'.[308] He gave an overview of appellate case examples of CDVO from before and after the increase to maximum penalties,[309] and concluded that 'courts place great weight upon the fact that offences occur in the domestic violence setting'[310] and 'each case depends on its own facts' and comparable decisions are a guide.[311]

The cases discussed in this section illustrate appellate guidance on sentencing ranges and appropriateness of sentencing options and also provide examples of the type of CDVO conduct sentenced.

5.4.1 Sentencing purposes

The PSA is the key legislation that gives courts the power to sentence and guides sentencing for offences in Queensland. The purposes of sentencing under section 9(1) of the PSA are:

> (a) to punish the offender to an extent or in a way that is just in all the circumstances; or
>
> (b) to provide conditions in the court's order that the court considers will help the offender to be rehabilitated; or

306 From 2016–17 to 2023–24, 99.9% of contravene DVO (MSO) sentenced cases were heard in the Magistrates Courts (Magistrates Courts n=73,608; District Court n=98).
307 Justices Act (n 41) s 222.
308 Judge Smith DCJ, 'Sentencing for Domestic Violence Offences and Procedural Fairness' (Speech at the Magistrates Court Conference, September 2022).
309 Ibid [40]-[62].
310 Ibid [65].
311 Ibid [67], [23] (p 19).

(c) to deter the offender or other persons from committing the same or a similar offence; or

(ca) to recognise the harm done by the offender to a victim of the offence;[312] or

(d) to make it clear that the community, acting through the court, denounces the sort of conduct in which the offender was involved; or

(e) to protect the Queensland community from the offender; or

(f) a combination of 2 or more of the purposes mentioned in paragraphs (a) to (e).

As early as 1994, the Court of Appeal highlighted the importance of deterrence, as well as denunciation, in sentencing for contravention of DVO offences as '[u]nless breaches of such orders are, and are well known to be, visited with appropriate severity, they will quickly lose their value in the minds both of those who obtain them and of those who are subject to them'.[313]

This statement was referred to with approval by the Court of Appeal in 2024.[314]

The Court of Appeal has also made statements of general principle for serious instances of domestic violence, which maintain significant sentences of actual imprisonment are appropriate to not only deter individual offenders but also the wider community.[315]

The nature and seriousness of the conduct can impact the sentencing factors to which a court must give primary consideration.

Sentencing acts of physical violence in a CDVO

Under section 9(2A) of the PSA, special sentencing considerations apply when sentencing a person for an offence that 'involved the use of, or counselling or procuring the use of, or attempting or conspiring to use, violence against another person' or that resulted in 'physical harm to another person'. In these cases the principle of imprisonment as a last resort does not apply[316] and courts must give primary consideration to the factors in section 9(3) of the PSA.[317]

Whether section 9(2A) applies will depend upon the facts and circumstances of the case. The term 'violence' is not defined in the PSA, and the Court of Appeal has said it should not have a broad meaning because a person will be subject to a 'harsher sentencing regime that can affect the level of punishment'.[318]

In cases of CDVO, the Court has found that it depends on the acts alleged because the definition of 'domestic violence' under section 8 of the DFVPA covers physical and non-physical acts and is broader than 'violence' for the purpose of section 9(2A) of the PSA.[319] Therefore, CDVO offending conduct could amount to 'domestic violence', but if it did not result in 'physical harm', section 9(2A) of the PSA would not apply.[320]

Pre-October 2015 appeals

The only Court of Appeal authority for CDVO prior to the 2015 increase to the maximum penalties was the 2012 decision of *R v James* (*James*).[321] In *James*, the Court of Appeal dismissed an appeal against a sentence of 9 months' imprisonment with parole release after 4 months. The breach involved the appellant punching his de facto partner in the face, causing pain and swelling, while she was in hospital being treated for other injuries. No charge was made for the assault, which was committed a day after the order was served. He had a history of other violence and 6 prior breaches (for the same victim) and had received imprisonment for the most recent 2 breaches. There was no Notice to Allege Previous so therefore the

---

312 New purpose introduced by the *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Act 2025* (Qld) s 12(1). This commenced on 1 November 2025: ibid s 2(2).
313 *Wood* (n 135) 6 (McPherson JA and Ambrose J, Pincus JA agreeing).
314 *CDL* (n 10) [18], [24] (Bowskill CJ, Boddice JA agreeing) [66] (Brown JA).
315 *Fairbrother* (n 3) [23] (McMurdo P, Jerrard JA and Cullinane J agreeing); *R v Major; Ex parte A-G (Qld)* (2012) 1 Qd R 465 cited in: *BH* (n 169) [50] (Fantin DCJ).
316 PSA (n 41) s 9(2A).
317 This does not mean that general factors in section 9(2) are wholly irrelevant: *R v HYQ* [2024] QCA 151, [78] (Bowskill CJ, Dalton JA and Wilson J agreeing) ('*HYQ*') citing: *R v McGrath* (2006) 2 Qd R 58, [37] (Mackenzie J).
318 *R v Breeze* (1999) 106 A Crim R 441, 445–6 [16]–[18] (Pincus and Davies JJA, Demack J). See also *R v Oliver* (2019) 3 Qd R 221, 227–8 [31]–[32], 229 [42] (Sofronoff P, Fraser and Philippides JJA agreeing).
319 *Queensland Police Service v JSB* [2018] QDC 120, [48] (Fantin DCJ) ('*JSB*').
320 Ibid [49] (Fantin DCJ). See also *MH v Queensland Police Service* [2015] QDC 124, [8], [34] (Smith DCJA).
321 *R v James* [2012] QCA 256.

maximum penalty was 12 months' imprisonment and not 2 years' imprisonment. The Court of Appeal did not consider the sentence was manifestly excessive for the parole release date to be after one-third.

District Court appeals involving a charge of CDVO as the MSO heard prior to the increase to maximum penalties include:

- *PMB v Kelly*:[322] The Court dismissed an appeal against a sentence of 12 months' imprisonment with parole after 3 months for aggravated CDVO. The conduct involved threatening conduct and physical violence including choking and punching the aggrieved with a closed fist and slamming her into the tiled floor as well as holding her in a headlock. The offending was considered more serious than *James* and the sentence was not considered excessive.
- *IFM v Queensland Police Service:*[323] The Court dismissed an appeal against a sentence of 15 months' imprisonment with parole release after about 7.5 months (being half the sentence), including the 116 days in pre-sentence custody. The aggravated CDVOs involved pushing the aggrieved and punching her jaw and, on another occasion, grabbing her by the throat, hitting her, knocking her to ground and kicking her. He verbally abused her, dragged her to a nearby park. He knocked her to the ground on the way there, hit her in the head and then picked her up and continued to drag her with him. The neighbours intervened to stop the offending. No physical injuries were alleged from either occasion. The Court did not consider either *PMB* or *James* were 'really comparable' or that they demonstrated the sentence was manifestly excessive.[324]

Post-October 2015 appeals

In *LJS*,[325] the first District Court appeal since the increase in the maximum penalty, a sentence of 3 years' imprisonment for 2 aggravated CDVO offences, with lesser concurrent terms for property and fraud offences, was reduced to 2 years' imprisonment with parole eligibility after 8 months. The contravention offences included the appellant being in the victim's house at 1:45am, waking her, physically assaulting her, and taking her cash and mobile phone. On another occasion, he physically assaulted her again, as well as calling and texting her.

He had 15 previous convictions for CDVO and had been sentenced to imprisonment. A psychological report noted that as a child he had experienced physical and sexual abuse, suffered a head injury, and witnessed traumatic events. He had behaviour problems at school and was diagnosed with psychological conditions.

On appeal, Smith DCJ, although noting that '[t]here is an absence of comparable sentencing decisions since the increase in the maximum penalty', found:

> At first blush I would have considered a 3 year head sentence high, but within the sentencing range, but having considered the comparable decisions and noting the Crown's concession, it would appear that a head sentence of 3 years imprisonment was excessive despite the applicant's previous convictions. It seems to me that the parties' concessions that 2 to 2 [and] a half year's imprisonment is within the sentencing range in this matter is accurate.[326]

LJS has been used regularly to support sentences of between 12 months' and 2 years' imprisonment for CDVO offences involving physical violence.[327] For example in *RJD v Queensland Police Service*,[328] the Court did not consider a sentence of 18 months' imprisonment cumulative on an effective 15 months' imprisonment sentence with a parole eligibility date after one-third to be excessive for 3 counts of CDVO.[329] The offending involved the appellant pushing the victim causing her to fall against and break a window. He returned to the house on 2 further occasions and was aggressive and abusive; and he threatened to kill her with a piece of glass from the broken window. At sentence the prosecutor sought 12 months' imprisonment

---

322 *PMB v Kelly* [2014] QDC 301.
323 *IFM v Queensland Police Service* [2016] QDC 140 ('*IFM*').
324 Ibid [19]–[20], [23]–[24] (Durward SC DCJ).
325 *LJS* (n 174).
326 Ibid [26] (Smith DCJ).
327 *BH* (n 169) [54] (Fantin DCJ): 2 years' imprisonment cumulative on a previously imposed sentence; *RJD v Queensland Police Service* [2018] QDC 147, [17], [40]–[41] (Morzone QC DCJ) ('*RJD*'): 18 months' imprisonment cumulative on a previously imposed sentence; *BHN v Queensland Police Service* [2019] QDC 129, [11], [33] (Morzone QC DCJ): 2 years' imprisonment; *OWL v Queensland Police Service* [2021] QDC 5, [21]–[22] (Clarke DCJ): 12 months' imprisonment substituted for a sentence of 18 months' imprisonment, cumulative on a previously imposed sentence of 11 months' imprisonment. However, a sentence of 2 to 2.5 years' imprisonment was open: [22], [29].
328 *RJD* (n 327).
329 Ibid [6]-[10], [19] (Morzone QC DCJ).

and the defence sought 6 to 9 months. The magistrate relied on *LJS* and imposed 18 months' imprisonment, being moderated for totality.[330]

Depending on the circumstances of a non-aggravated CDVO case, the Court has also held that where there is a limited criminal history the purposes of sentencing may be achieved by a prison probation order, with the condition that domestic violence counselling be undertaken, rather than imprisonment with parole. For example, in *SKS v Commissioner of Police* (*SKS*),[331] 18 months' imprisonment with a parole release date after 6 months was found to be manifestly excessive. The appellant pleaded guilty to a non-aggravated CDVO involving him yelling at the aggrieved, punching her twice on the head, dragging her across the ground by her hair, throwing her into a fence and kicking her. He also threatened to run her over and hit her with a machete. The judge agreed a sentence of 12 months' imprisonment with release after 4 months was open due to 'the extended actual physical violence' committed.[332] However, the court substituted a prison-probation order that would require the appellant to serve 6 months in custody and 18 months under parole supervision on his release as 'the community and the complainant' would receive 'additional protection if the appellant [received]' DV counselling.[333]

In *SKS*, the Court was also clear it was an error for the magistrate to sentence the appellant on the basis that the conduct amounted to assault occasioning bodily harm which had a maximum penalty of 7-years' imprisonment.[334] The Magistrate 'was entitled to take in account the facts of the case and determine how serious the breach was' but not apply a higher maximum penalty than prescribed.[335]

In *CDL*, where the CDVO conduct would constitute another offence, Bowskill CJ considered that 'the offender should be charged with that additional offence and expect a penalty to be imposed which reflects that crime'.[336] However, the Court found that the fact that an additional offence was not committed in this case did 'not diminish the objective seriousness' of the repeated contraventions, further noting that a maximum penalty of 5 years' imprisonment applied.[337]

Sentencing acts of non-physical violence in a CDVO

Except for a limited period in 2014–16, the principle of imprisonment as a last resort applies to offences that do not involve physical violence or harm.[338] Despite this principle, imprisonment can still be imposed for non-physical violence offences.

Pre-October 2015 appeals

There was limited appellate guidance that imprisonment was appropriate for CDVOs involving non-physical conduct prior to the increase in maximum penalties:

- *TZL v QPS*:[339] The Court reduced a sentence of 10 months' imprisonment to 6 months' imprisonment with immediate release on parole with 11 days of pre-sentence custody declared. The appellant sent 41 emails over 11 weeks. There was a no-contact condition unless the contact related to the child. On appeal, the judge noted that the magistrate was not assisted by submissions made by the prosecutor as it was clear that not all 41 emails breached the order, although he had been told that 'the majority did'.[340] The magistrate was given only a brief description of the contents and was not told 'how many contained insults and abuse'.[341] This was considered 'an unusual case' and 6 months' imprisonment reflected that 'the offence involves contact, not actual or threatened violence, in the context of communications about their child' along with the need for specific

[330] Ibid [14], [18]–[19] (Morzone QC DCJ).
[331] *SKS v Commissioner of Police* [2022] QDC 176.
[332] Ibid 4 (Smith DCJA).
[333] Ibid.
[334] Ibid 3 (Smith DCJA).
[335] Ibid.
[336] *CDL* (n 10) [22] (Bowskill CJ, Boddice JA agreeing).
[337] Ibid.
[338] PSA (n 41) s 9(2)(a). The principle of imprisonment as a last resort was removed on 28 March 2014, see: Youth Justice and Other Legislation Amendment Act (n 220) ss 34(1), (13) reinserted by: Youth Justice and Other Legislation Amendment Act (No. 1) (n 220) s 61(1) that commenced on 1 July 2016.
[339] *TZL v QPS* [2015] QDC 171 ('*TZL*').
[340] Ibid [18] (Kingham DCJ).
[341] Ibid.

deterrence (he had 10 prior convictions for CDVO offences, of which 8 related to the current victim) and that he had been on probation for similar offending.[342]

- *Green v Queensland Police Service*:[343] The appellant contacted the aggrieved 60 times by various devices, contravening a no-contact condition. The purpose of the contact was to get her to withdraw a complaint in another matter. He was sentenced to 6 months' imprisonment, cumulative on a previous sentence of 15 months' imprisonment. On appeal, the Court noted he had committed the offence while on parole and was returned to custody, meaning he had spent almost 8 months in custody and had received mental health treatment. He had 8 previous convictions for CDVO against the same aggrieved. The court noted that while personal deterrence was relevant, 'care must be taken to ensure that the criminal history is not elevated such as to form part of the behaviour subject of the sentence itself'.[344] He was re-sentenced to 3 months' imprisonment, ordered to be served concurrently with the previous sentence.

In some cases, the Court has also held that a lengthier probation order with a condition to attend DV counselling can be more appropriate than a short wholly suspended imprisonment sentence. For example, in *MH v Queensland Police Service*,[345] within 17 days of the DVO being made with a no-contact condition, the appellant went to the aggrieved's address and there was an argument. He was sentenced to 3 months' imprisonment, wholly suspended for an operational period of 12 months. On appeal, the court said 'the community would far better be protected' by an 18 month probation order with a condition that he attend DV and anger management counselling.[346]

Post-October 2015 appeals

The District Court has acknowledged that CDVO cases involving non-physical violence can have serious impacts, including emotional or psychological abuse.[347] For example, in *YSD v Commissioner of Police*, Fantin DCJ found non-physical acts or physical acts can form part of a pattern of behaviour capable of exerting 'dominance, control or coercion over the victim; degrade the victim's emotional or cognitive abilities or sense of self-worth; or induce feelings of fear and intimidation in the victim'.[348]

In cases decided after the reform, the District Court has observed that a fine 'provides little by way of rehabilitation',[349] but it may be appropriate depending on the circumstances of the case.[350] For example:

- *SH v Queensland Police Service*:[351] A $750 fine with a conviction recorded was imposed in circumstances where there was an ouster condition, but SH had written permission to reside with the aggrieved (and had been for 3 months). The offending occurred when he was instructed by police that she had withdrawn her consent and told him he was to leave the home and stay away, but he returned a short time later to recover a work laptop.[352]
- *KFL v Commissioner of Police*:[353] A fine of $800 with a conviction recorded was ordered for an aggravated CDVO. KFL was prohibited from remaining at the aggrieved's residence, but the aggrieved had given him permission to reside with her while he recovered from COVID. The breach occurred when he refused to leave once feeling better. At the time of sentence, the DVO had been varied removing the no-contact condition.[354] The prosecutor accepted that a fine was an appropriate penalty in those circumstances.[355]

---

342 Ibid [21], [34].
343 *Green* (n 180).
344 Ibid [35] (Morzone QC DCJ).
345 *MH v Queensland Police Service* (n 320).
346 Ibid [35], [37] (Smith DCJA).
347 *YSD* (n 169) [49] (Fantin DCJ); *KBH* (n 280) [25], [30], [34] (Coker DCJ).
348 *YSD* (n 169) [49] (Fantin DCJ).
349 *CBC v Queensland Police Service* (n 140) [40] (Morzone QC DCJ).
350 *JMM* (n 139) [65], [67] (Fantin DCJ): a short period of probation or a fine may be appropriate for a non-aggravated CDVO, where there was 'a single instance of verbal abuse in response to some provocation' also taking into account other factors including in this case the appellant's early plea of guilty, limited criminal history and personal circumstances.
351 *SH v Queensland Police Service* (n 141).
352 Ibid [2] (Clare SC DCJ). The recording of a conviction was set aside on appeal.
353 *KFL v Commissioner of Police* [2023] QDC 20 ('*KFL*').
354 Ibid [13] (Holliday KC DCJ).
355 Ibid. On appeal, the order to record a conviction was set aside with no conviction recorded.

- *Queensland Police Service v JSB*:[356] A $1,000 fine was imposed on the respondent for verbally abusing the aggrieved for refusing to allow him to go through her mobile phone, which was an argument they often had 'due to ongoing jealousy and mistrust'. It was noted he had pleaded guilty, the offending involved a single instance of verbal abuse, he had spent 3 days in pre-sentence custody and a 2 month suspended imprisonment sentence was activated. In those circumstances the fine 'may be considered to be generous … [but] it was not so wrong that there must have been some misapplication of principle'.[357]

In 2023, the District Court held that where there are repeated acts, a fine was not appropriate and imprisonment was warranted.[358]

Case summary: *Queensland Police Service v KBH* [2023] QDC 26

KBH was fined $300 for 2 counts of CDVO, and $200 for an additional 2 counts of CDVO (totalling $500). The offending involved KBH:

- approaching the victim, his former partner, at a football game, making multiple attempts to talk to her and using derogatory language towards her. He then attended her address despite being told 'no', let himself in and refused to leave. He left once police were called.
- calling the phone of their 15-year-old daughter and asking to speak with the victim. When he spoke to the victim he accused her of drinking and seeing other men so the call was terminated. He then attended her address, entered the yard and yelled before leaving.
- attending the victim's address to celebrate a birthday with the victim's permission on the condition that he left after dinner. He did not leave and questioned the victim about who she had been texting. He left once police were called.

Coker DCJ found that the magistrate mischaracterised the offending as minor when the acts involved were 'controlling' and 'coercive' and 'significant indications of a lack of appreciation or respect by the respondent of the orders previously made' [28]. The penalty imposed was found to be manifestly inadequate, unreasonable and unjust. Coker DCJ stated:

> There are a multitude of means by which there can be control exercised upon another and it is important, in fact, in my view, overwhelmingly so, that penalties imposed reflect the recognition of the importance of ensuring that such behaviours do not continue. [32]

It was also held that continuously contravening a no-contact condition, even without physical violence was 'not a situation where the offending is minor or trivial, lacking in real impact' but it 'is a situation where it is a crime against the State warranting salutary punishment'. [34]

Coker DCJ also commented on the need for escalation of penalties in cases where there have been repeated contraventions, and where a lenient sentence has been given previously, in some cases a fine, for a single contravention. [39]

Coker DCJ allowed the appeal, set aside the fines and instead ordered 3 months' imprisonment for the most serious charge of CDVO (entering and remaining on the aggrieved's premises) and one month's imprisonment for each of the remaining 3 CDVO charges (to be served concurrently with the other sentence and the suspended sentence).

Although imprisonment and monetary orders are the most common penalty types for CDVO, wholly suspended imprisonment sentences are relatively common for aggravated CDVO.[359] Fantin DCJ has provided guidance on the appropriate use of suspended sentences,[360] finding that they are not appropriate for an appellant with a 'high risk of reoffending' because of his relevant criminal history and past reoffending on parole.[361]

The 2024 decision of *CDL* illustrates the increased understanding courts have of the impact of non-physical violence on victim survivors.

---

356 *JSB* (n 319).
357 Ibid [74] (Fantin DCJ).
358 *KBH* (n 280).
359 See Figure 5-12.
360 *YSD* (n 169) [63]–[68] (Fantin DCJ).
361 Ibid [80] (Fantin DCJ).

Case summary: *CDL v Commissioner of Police* [2024] QCA 245

CDL was sentenced to a head sentence of 2 years' imprisonment with an immediate parole eligibility date for 5 charges of CDVO. The offending was in breach of the mandatory conditions, a no-contact condition and a condition to not approach within 100 metres of the victim. The offending involved:

- going to the victim's home. The victim had invited him over but then revoked the invitation.
- calling the victim 55 times, leaving voice messages including telling the victim to '[j]ust f*** out of my life now'.
- texting the victim 5 times, with abusive and denigrating messages.
- calling the victim 3 times. During a call he said 'you are f***ed and I am coming to get you'. He made another call about 10 minutes later, saying 'you know who this is' before hanging up.
- being with the victim at her home, where he recorded sexual activity on an unknown device.

There were 13 prior contraventions in less than 2 years against the same victim and at the time of some of these offences, CDL was on parole, meaning he could not be sentenced to imprisonment with a parole release date.

In dismissing the appeal that the sentence was manifestly excessive, the Court of Appeal held that:

- prior convictions for the 'same offence are a particularly aggravating factor' [13]
- continued disobedience and disregard for DVOs highlights a person's moral culpability and increases the gravity of the offence, meaning 'it is appropriate for a longer sentence to be tried' [16]
- threats of violence can be equally sinister to physical violence [23](b)
- 'breaches of domestic violence orders [are] to be met with appropriately severe penalties, to strongly denounce this conduct, encourage compliance with such orders – in the interests of both perpetrators and victims – and endeavour to give the orders meaning, in terms of the protection they are intended to provide'. [24]

The cases of *CDL* and *KBH* have provided guidance to Magistrates Courts on sentencing repeated contraventions. Although the nature and seriousness of CDVO conduct vary widely, since the increase in maximum penalties there have been stronger appellate court statements in respect of CDVO offences involving repeated non-physical violence. This is discussed further in the Council's view in section 5.7.

5.5 Changes in the nature of the CDVO conduct

As discussed in section 4.2.2, no agency in the criminal justice sector collects quantitative data on the circumstances of a person's offending in a way that sentencing outcomes can be analysed based on the nature of the CDVO conduct. Furthermore, as almost all CDVOs are sentenced in the Magistrates Courts, sentencing proceedings are not transcribed or available on the Queensland Sentencing Information Service.

To overcome this significant research and information gap, we developed a pilot methodology to identify a representative sample of cases sentenced in the Magistrates Courts before and after the reforms (see **Appendix 10**). The Council was not able to complete this work within the review timeframes, but has commenced this project. We will publish our findings once this work is complete.

5.6 Stakeholder views

There were mixed views from stakeholders about whether there had been a change in sentencing practices for CDVO following the increase in maximum penalties, with some stakeholders considering there are now more serious penalties imposed than would have previously been imposed. Other stakeholders considered that CDVO sentences had not meaningful shifted, have not deterred offenders or improved victim safety and do not adequately reflect the harm caused.

We were told that there have been other impacts such as increased incarceration of women due to misidentification of the person most in need of protection and a disproportionate impact on Aboriginal and Torres Strait Islander peoples. We heard that CDVO is complex and requires balancing sentencing purposes and diverse factors to the individual circumstances of the case.

Consistently, stakeholders noted that sentencing is one part of a wider and broader response to domestic violence and more behaviour change and rehabilitation programs to address the root causes of behaviour are needed for long term change.

5.6.1 Mixed views on the impact of the increase to CDVO maximum penalties

Most legal stakeholders and SME participants told us, based on their observations, that CDVO sentences had increased.[362] This was because previous comparable sentences were not as relevant[363] and courts are now 'more informed' about the nature and dynamics of domestic violence, impacting penalties.[364] Other stakeholders noted the increase in custodial sentences has not equated to greater victim protection and more evidence is needed on what works for long term behaviour change.

ATSILS advised that there has been a:

> notable increase in sentencing outcomes for domestic and family violence matters … wherein matters which would not ordinarily result [in] a custodial sentence, have resulted in custodial sentence, and matters that would be expected to have a custodial sentence have resulted in longer custodial sentences than what would otherwise be expected.[365]

LAQ said 'sentencing courts are certainly recognising the varied behaviour that can constitute domestic violence' and there is now 'staunch criticism from the court' if a CDVO is described as 'trivial', 'low-level', or of a 'technical nature'.[366] Similarly, one SME participant agreed that identifying a 'no contact' breach as being a 'technical' or 'trivial' breach was not the right way to characterise the behaviour.[367] The view now is that it is a breach of a court order, which is what makes it serious.[368]

We also heard that the increased maximum penalties had disproportionately impacted Aboriginal and Torres Strait Islander people's incarceration rates, as well as other marginalised groups including women.[369] Sisters Inside considered that increased penalties:

> translate into real punishment and harm for criminalised women and girls. Women supported by us report receiving longer sentences, more time on remand, and facing higher thresholds to secure bail—all from breaches of DVOs that stem from minor infractions, mutual conflict, coercive control by other party, or misidentification.[370]

Sisters Inside further noted that 'in many cases, women breach DVOs under duress, fear, or continued emotional entanglement with their partner—yet they are punished with little regard for these complexities'.[371]

The impact of the DV reforms on disadvantaged and marginalised groups is discussed in **Chapter 11**.

The First Nations Women's Legal Services Qld (FNWLSQ) was supportive of DV offences being treated seriously and considered that the sharp rise in the number of CDVOs and prison numbers for First Nations people was evidence that there are now harsher penalties.[372] However, FNWLSQ was mindful that harsher penalties do not mean more safety for victims as the 'frequent view expressed by our clients [who are victims] is that they want the DV to stop. In this respect, the efforts to punish DFV offenders more harshly has failed our clients'.[373] They noted:

---

362 Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); Submission 14 (Queensland Law Society), 2; Submission 17 (First Nations Women's Legal Services Qld); Submission 18 (Legal Aid Queensland); Subject Matter Expert Interview 1; Subject Matter Expert Interview 2; Subject Matter Expert Interview 3, Subject Matter Expert Interview 4; Subject Matter Expert Interview 6; Subject Matter Expert Interview 8.
363 Subject Matter Expert Interview 1.
364 Subject Matter Expert Interview 3.
365 Submission 9 (Aboriginal and Torres Strait Islander Legal Service).
366 Submission 18 (Legal Aid Queensland).
367 Subject Matter Expert Interview 3.
368 Ibid.
369 Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); General consultation in Cairns, 15–16 April 2025; Consultation session with service providers, Townsville, 13 June 2025. This issue was also raised at several other regional consultation sessions.
370 Submission 10 (Sisters Inside Inc).
371 Ibid.
372 Submission 17 (First Nations Women's Legal Services Qld).
373 Ibid; Similar views were expressed in General consultation in Cairns, 15–16 April 2025.

> Having regard to the disproportionately high criminalisation and incarceration of First Nations people … and the lack of evidence that harsher prison sentences have either a deterrent or rehabilitative effect, we are of the view that increases in prison sentences will not reduce domestic violence in Queensland communities. Imprisonment, is a blunt instrument which may be counter-productive or detrimental with respect to the purposes of rehabilitation, protection of the community and deterrence.[374]

Similarly, the Royal Australian College of General Practitioners supported increased penalties for CDVO and consequences for repeat offenders, but noted there 'is insufficient evidence to support greater use of custodial sentencing as the preferred outcome' and there is a 'lack of evidence that lengthy stays [in prison] may reduce risk of reoffending (and may even increase the risk of reoffence)'.[375] It also noted that victim survivors may seek 'accountability and desistance' as the primary outcome.[376]

Stakeholders told us that victim survivors are dissatisfied with CDVO sentencing outcomes because they are not always reflective of the serious nature of the breach, do not hold the person to account or promote appropriate behaviour and do not protect the victim.[377] One national service provider told us many victim survivors see sentencing as recognition of the harm caused to them, but many do not feel the outcome reflects what happened to them. Victim survivors may also feel like the penalty does not deter the offending. For this reason, sentencing cannot be the only deterrent because only a small proportion of cases reach the criminal justice system.[378]

The Parole Board Queensland considered current penalties for CDVO offences committed by prisoners while in custody are 'demonstrably inadequate' and 'do little to protect victims from domestic and family violence; do not hold domestic and family violence offenders to account; and erode public confidence in the criminal justice system'.[379]

The Red Rose Foundation raised more general concerns about the adequacy of penalties for CDVO and their ability to protect victims and hold offenders accountable and told us 'the increase in maximum penalties for contravening a DVO has had no discernible effect on the number of domestic abuse-related fatalities'.[380] They referred to research undertaken with the Queensland Centre for DFV Research with victim survivors of non-fatal strangulation as revealing 'systems abuse to varying levels' by perpetrators, leaving victim survivors feeling unsupported and unprotected.[381]

An individual submitter referred to 'the available evidence' on sentencing outcomes as suggesting 'actual court sentencing practices have not meaningfully shifted'.[382]

The Red Rose Foundation highlighted the importance of sentencing for domestic violence offences to reflect the harm experienced, as their service users:

> report feeling validated when the court acknowledges their experiences of domestic violence within the legal process. Conversely, when this recognition is lacking, it further intensifies feelings of being dismissed, unimportant, and invisible.[383]

The Office of the Victims' Commissioner (OVC) recommended increasing the use of Victim Impact Statements (VISs) as one mechanism that could be used in support of victims' empowerment and healing, as well as to facilitate judicial officers' understanding the harm experienced by victim survivors and the seriousness of the offending behaviour.[384]

Some stakeholders advocated for more serious legal consequences to change an offender's attitude and actions.[385] Fighters Against Child Abuse Australia told us 'DVOs are not enforced despite them having the

---

374 Submission 17 (First Nations Women's Legal Services Qld).
375 Submission 4 (Royal Australian College of General Practitioners).
376 Ibid.
377 General consultation in Cairns, 15–16 April 2025; General consultation in Roma, 19 June 2025; Consultation in Roma, 18–20 June 2025; Submission 15 (Office of the Victims' Commissioner).
378 Meeting with Full Stop Australia, 23 July 2025.
379 Preliminary submission 9 (Parole Board Queensland).
380 Submission 11 (Red Rose Foundation).
381 Ibid.
382 Submission 12 (M Halliday). Another individual submitter had similar concerns that 'these crimes are not be treated more seriously in court, as most offenders avoid imprisonment and receive non-custodial sentences': Submission 6 (name withheld).
383 Submission 11 (Red Rose Foundation).
384 Submission 15 (Office of the Victims' Commissioner).
385 See e.g., Preliminary submission 2 (Small Steps 4 Hannah Foundation).

literal purpose of saving lives';[386] therefore, an 'immediate custodial imprisonment response' should be standard to ensure deterrence:

> This will be a significant deterrent to anyone considering breaching a DVO as they would be fully aware that anything they did as a result of that breach would most certainly see them land behind bars where now the reality is they can repeatedly breach the DVO and get told to "calm down and go home".[387]

Another stakeholder recommended mandatory penalties for repeated contraventions after the third contravention conviction.[388]

5.6.2 Complex considerations and intersecting disadvantage

While there is no doubt people should be protected from experiencing domestic violence, stakeholders noted that because of the broad definition of 'domestic violence' and a 'relevant relationship' under the DFVPA, many CDVO offences are not the stereotypical profile of domestic violence. For example, it was observed CDVO offences in a family relationship context are very common, often involving a respondent with mental health issues offending against a parent or an adult sibling dispute.[389] In those cases, the sentence will reflect those factors., Although meeting the definition of domestic violence, the nature of the offending is often of a different character to domestic violence committed in an intimate partner violence context.[390]

We also heard that sentencing people convicted of CDVO requires a court to balance many complex considerations such as cognitive impairment and mental health issues, childhood trauma, intergenerational trauma, drug and alcohol addiction, homelessness and unemployment, which need to be taken into account when imposing the penalty, but are also additional issues a person needs support for in order to change behaviour.[391] We heard that in some cases, the respondent and aggrieved have a genuine lack of understanding about the order and conditions, or the conditions are unnecessarily complex or not consistent with other orders, which impacts a person's culpability.[392]

5.6.3 Sentencing is part of a broader response

During statewide consultation we heard that the increase in maximum penalties for CDVO has not and would not discourage or deter respondents from breaching orders.[393] For many victims who 'just want the offender to stop', the increase in maximum penalties and sentences imposed have not resulted in behaviour change and a continued broader response is needed.[394] This includes more community education as well as early behaviour change and rehabilitation programs which are culturally appropriate, particularly in regional and remote areas.[395] While many supported some kind of mandatory program for perpetrators, its success at changing behaviour depends on when and how it is run as it was observed that prison is not a rehabilitative environment.[396]

The Queensland Police Union (QPU) said 'there appears to be little positive impact' from the CDVO penalty increases.[397] However, it referred to the significant increases in police responses to domestic violence and thought it was 'very difficult to consider the deterrent effect of these sentencing charges in isolation (without them, DFV may be even more profoundly symptomatic of domestic life in Queensland)'.[398] The QPU said that victim protection and rehabilitation of offenders through intervention should be a sentencing focus and 'strong penalties work best when accompanied by education and positive reinforcement' highlighting that

---

386 Preliminary submission 17 (Fighters Against Child Abuse Australia).
387 Ibid.
388 Consultation in Townsville, 11–13 June 2025.
389 Subject Matter Expert Interview 1; Subject Matter Expert Interview 2. Similar concerns about the broad definition of 'family relationship' were made in Consultation in the Torres Strait, 19–23 May 2025.
390 Subject Matter Expert Interview 1.
391 Consultation in Cairns, 15–16 April 2025; Consultation in Mt Isa, 1–2 May 2025; Consultation in the Torres Strait, 19–23 May 2025.
392 This is discussed further in section 6.7.
393 Consultation in Cairns, 15–16 April 2025; Consultation in Mt Isa, 1–2 May 2025.
394 Consultation in Cairns, 15–16 April 2025; Consultation in the Torres Strait, 19–23 May 2025.
395 Consultation in Cairns, 15–16 April 2025; Consultation in the Torres Strait, 19–23 May 2025.
396 Consultation in Cairns, 15–16 April 2025.
397 Submission 16 (Queensland Police Union).
398 Ibid.

the most effective impact will be the implementation of social programs, education, and appropriate resources for support agencies such as the police and NGOs.[399]

The Red Rose Foundation noted that the 'sheer volume' of matters exceed the current capacity of police to respond 'which likely further impacts the quality of response'.[400] Responding to DFV requires 'a commitment to long-term investment and partnerships with specialists and experts involved in the system'.[401]

We discuss the importance of sentencing being part of a broader integrated service system response in **Chapter 13**.

5.7 The Council's view

Finding 2: Sentencing trends for contravention of a domestic violence order have changed and the reasons for this are complex.

The Council's examination of contravention of a domestic violence order (CDVO) sentencing trends over time shows changing sentencing patterns due to a complex range of factors.

CDVO trends have been influenced by a combination of external factors in the 10-year data period since the increase to maximum penalties including:

- the impacts of the COVID-19 pandemic;
- legislative reforms, including changes in the presumption of bail for some types of CDVO offences; and
- significant reviews and other reforms impacting policy and practice.

Trends over time show changing sentencing patterns

The sentencing trends for aggravated CDVO (MSO) and non-aggravated CDVO (MSO) are very different. These shifts have occurred in the context of increasing numbers of CDVO cases coming before the courts for sentence – an over 250 per cent increase over the data period – largely corresponding with the growth in active DVOs.

Aggravated CDVO

Over half of all penalty outcomes for aggravated CDVO are custodial (51.8% in 2024–25) and this proportion has been increasing from 2022–23, following the COVID-19 pandemic years when the use of custodial orders dropped. The median custodial sentence length up to 2019–20 generally sat around the 6.0 month mark, before dropping to 4.0 months. However, this is in the context of a greater proportion of people sentenced for this offence receiving a custodial order.

The use of imprisonment has fluctuated over time. Imprisonment orders for aggravated CDVO increased over the data period, peaking at 37.7% of all penalty types in 2019–20, but declined sharply to 28.8 per cent during the pandemic period. In 2023–24, imprisonment once again became the most common penalty type, overtaking the use of monetary orders. In 2024–25, imprisonment represented just under one-third (32.2%) of all penalty outcomes for aggravated CDVO. The use of wholly suspended imprisonment sentences has also been increasing.

An increase in the use of custodial orders has been accompanied by a decrease in the use of monetary orders. This reflects a similar decline in the use of monetary orders across all offence types in the Magistrates Courts, but the decrease is at a greater rate across all offence types than for aggravated CDVO.

Non-aggravated CDVO

For non-aggravated CDVO, non-custodial orders were the most common order type over the data period. The proportion of custodial outcomes peaked in 2015–16 at 16.5 per cent but declined in the subsequent period. Their use has been stable since 2022–23, sitting at between 7.7 and 8.2 per cent of all outcomes.

---

399 Ibid.
400 Submission 11 (Red Rose Foundation).
401 Ibid.

When considering penalty type, monetary orders are by far the most common penalty for non-aggravated CDVO (MSO). Although the use of fines decreased immediately following the change to the maximum penalty, their use increased steadily from 2017–18, coinciding with the changes to bail laws. The use of monetary penalties continued to generally increase over the COVID-19 pandemic period. In 2024–25, monetary penalties accounted for over half of all penalty outcomes for non-aggravated CDVO (MSO) (56.5%).

Good behaviour orders were the next most common penalty type and represented 15.1 per cent of all penalty outcomes in 2024–25. Their use remained relatively stable across the data period, although they overtook probation as the second most common penalty outcome from 2021–22.

A suggestion that these findings indicate non-aggravated CDVO offences are not being treated as seriously as they once were, fails to account for several important changes over this period. It also does not reflect the experience of most legal support services and key legal stakeholders with whom we spoke to.

The increase in non-MSO CDVO

Over the 13-year data period, there also has been an increase in cases where CDVO is not the most serious offence sentenced (non-MSO). This means more CDVO offences are being co-sentenced with other offences that have received a higher penalty or are classified as constituting a more serious form of offence.

These observed changes may be due to a variety of factors including:

- changes in police and prosecution practices;
- improved support for complainants, increasing their willingness to cooperate with criminal investigations;
- improvements in evidence gathering, including increased availability of audio and video evidence.

This provides further support that the overall profile and seriousness of conduct for CDVO offences sentenced as the MSO has changed.

Often, the penalty outcome type for the non-MSO CDVO will match the MSO. Wholly suspended imprisonment sentences are an exception to this general rule, where we observed a probation order commonly imposed for a non-MSO CDVO charge, possibly reflecting a desire by courts to achieve a supervised form of order by combining imprisonment with probation.

A period of significant change and reform

While there have been changes to sentencing practices for CDVO over time, the breadth of reform and societal changes mean it is not possible to identify what is driving sentencing trends and the extent to which specific reforms have contributed.

This was a period of significant changes to the law, policy and practice, with many reforms implemented in response to government-initiated reviews and inquiries intended to improve responses to this complex and pervasive problem.[402] Since at least 2009, the government's strategy has been to promote a zero tolerance approach to DFV.[403]

At the same time, important shifts in community attitudes to domestic violence have occurred. This has included improved recognition of the scope of DV behaviour to include patterns of behaviour and the use of non-physical acts of violence to coerce and control, and the cumulative impacts on victim survivors. The important role of community attitudes and values in sentencing is explored in **Chapter 13**.

It is also clear that the COVID-19 pandemic and associated government response, in particular, had a major impact on reported crime rates, criminal justice responses and sentencing practices.[404] The unduly harsh conditions of imprisonment during the pandemic was a factor sentencing courts took into account.[405] This

---

[402] Key events and reviews are summarised in Appendix 6 of this report.
[403] Queensland Government, 'For Our Sons and Daughters: A Queensland Government Strategy to Reduce Domestic and Family Violence 2009–2014' 6 ('DFV Strategy 2009–14'); Queensland Government, 'Domestic and Family Violence Prevention Strategy 2016-2026' 13, 17 ('DFV Prevention Strategy 2016-26').
[404] Queensland Government Statistician's Office (n 188) 1.
[405] *R v KAX* (n 187) [27], [31] (Mullins JA, Philippides JA and Brown J agreeing) referring to: *R v Stasiak* (n 187).

can be seen in the decreased use of custodial orders and correlating increased use of monetary orders across both aggravated and non-aggravated CDVO over the pandemic period. The differences in outcomes can to some extent be explained by the scope of reform and shifting criminal justice landscape.

Changes in the nature and circumstances of CDVO

Our analysis also was unable to account for likely changes in the nature and seriousness of conduct prosecuted as a CDVO offence over time. Stakeholders told us that police increasingly are charging CDVO in circumstances where a person's conduct may previously have been considered to be a 'technical' or 'minor' breach and therefore not charged[406] We also found CDVO became more likely to be charged with a more serious offence over the data period, which may mean that a larger proportion of cases where CDVO was the MSO may involve different forms of conduct.

The expanded circumstances for aggravated CDVO since the increase to maximum penalties also means those sentenced for non-aggravated CDVO are less likely to have a recent DV-related offending history than may previously have been the case. Depending on the nature and circumstances of a breach, a court may assess a person who does not have a relevant prior DV history as having a lower level of culpability and better prospects of rehabilitation than those with a history of such offending, or where the offending forms part of a pattern of offending. The need for a deterrent sentence in these circumstances will also be lessened.

Another potential contributing factor is reforms to bail laws that came into effect in March 2017. We were told this had resulted in more people sentenced for CDVO having spent time in pre-sentence custody and for longer periods than was previously the case. Our pre–post analysis, presented in **Chapter 4**, supports this view. A court is required by law to take this time into account when deciding the appropriate sentence,[407] but this time is not necessarily apparent from the sentence recorded. This may result in the sentence imposed not appearing to match the seriousness of the person's offending.

In **Chapter 13** we note that time in pre-sentence custody is not recorded in administrative data unless it is formally declared as time served under the sentence. We recommend changes be made so this information is captured to promote greater transparency in sentencing and in support of future research and evaluation.

The importance of judicial discretion

The dynamics of domestic violence mean the circumstances of every offender, victim survivor and offence are infinitely varied. The behaviour, or pattern of behaviour, can be physically, sexually, emotionally, psychologically, or economically abusive, threatening, coercive, or cause the other person in a relationship to fear for their, or someone else's, safety, or wellbeing.[408] Depending on the behaviour and context, it can be an isolated event or occur over an extended period.[409] It can be committed against a current or former intimate partner, an immediate family member or other relative, or a person who is unrelated but with whom the victim is or was in an informal care relationship.[410] The behaviour can be directed at children, younger or older partners or relatives, or a person of the same age. The person being sentenced may also be a primary victim who has committed acts of domestic violence in retaliation or in response to acts by a primary perpetrator, that is mitigating but not an excuse at law. For this reason, it can be a delicate task for courts to appropriately balance the purposes of sentencing based on the nature and circumstance of the offence and 'context of the relationship … as a whole'.[411]

In **Chapter 13** we note that sentencing approaches that promote individualised justice applied within a framework of broad judicial discretion are generally more likely to support positive outcomes than a 'one size fits all' or 'one size fits most' approach.

---

406 Practitioner Consultative Forum meeting, 14 October 2025; Email from Consultative Forum member to Director, Queensland Sentencing Advisory Council, 23 October 2025.
407 PSA (n 41) s 9(2)(j).
408 DFVPA (n 16) s 8(1).
409 Ibid s 8(2).
410 Ibid s 13.
411 The Australian Institute of Judicial Administration (n 137) [9.3.1].

Recent appellate court guidance

Finding 3: Recent appeal court guidance is likely to change future sentencing trends

In December 2024, the Court of Appeal issued its first guidance on sentencing for contravention of a domestic violence order in *CDL v Commissioner of Police* [2024] QCA 245. This guidance has the potential to uplift sentences in circumstances where there is a repeated pattern of non-physical violence. Over time, we expect sentences for these types of repeated acts of non-physical domestic violence to increase, including through the increased use of custodial orders and longer custodial penalties.

A clear area of concern raised by stakeholders is the sentencing of repeat contraventions. Repeated non-compliance raises particular challenges for the criminal justice system in responding in a way that is most likely to protect the victim both in the immediate and longer-term, and that it is most effective in stopping the person from engaging in this type of behaviour.

The 2024 decision of *CDL*[412] provides a clear direction that a 'continuing attitude of disobedience and disregard for domestic violence orders' through repeated contraventions increases the seriousness of the offending and demonstrates a need for appropriate (condign) punishment in support of personal and general deterrence.[413] Even if the type of conduct involved in breaching the order does not involve actual physical violence, a lengthy sentence of imprisonment may be warranted.

Other decisions at the District Court level[414] reinforce that repeated breaches involving non-physical violence should not be characterised as being 'trivial' or 'minor' and can involve controlling behaviour that can result in significant distress and psychological harm. Lower-level penalties, such as fines imposed in this context may be viewed as manifestly inadequate and unjust.

We expect that *CDL* will have an impact over time in terms of increasing the use of custodial sentences and longer custodial penalties in cases that involve a repeated pattern of non-physical violence.

In **Chapter 13** we consider potential system improvements and make reference to previous recommendations made by the Council that would increase the sentencing options available to a court to better respond to domestic violence offending.

412 *CDL* (n 10).
413 Ibid [16] (Bowskill CJ, Boddice JA agreeing), [88] (Brown JA).
414 For example, such as *KBH* (n 280).

Chapter 6 –Anomalies and other issues

6.1 Improving the information available at sentence and recognition of harm at sentence

The information presented to courts at sentence may relate to a range of factors, including:

- the harm caused to any victim survivor of the offending;
- details about the offence itself and what happened, and the events leading up to it;
- the background of the person being sentenced, including their age, education and employment history, family circumstances, whether they have a mental illness or cognitive impairment and their cultural background, as well as any prior offending;
- any action the person has taken since they offended that may demonstrate their remorse, acceptance of responsibility, and a willingness to facilitate the course of justice, such as through their cooperation with the investigation and the entering of a guilty plea, as well as any steps taken towards their rehabilitation, such as voluntary engagement in counselling or treatment.

In responding to Part 1 of the Terms of Reference, the Council considered the use of VISs and recognition of harm at sentence and the information available to courts to inform sentence.[415] The Council found that VISs require improvement within the sentencing process and made 3 recommendations on this issue,[416] including a comprehensive review of the VIS regime.[417] The government implemented our recommendation to strengthen the wording in section 179K(5) of the PSA to ensure a court does not draw any inference about whether the offence caused little or no harm because there was no VIS.[418]

In considering the use of pre-sentence reports, specialist reports and cultural reports, the Council found that the information available to courts to inform sentence may not be sufficient and could be improved.[419] The Council recommended additional funding and exploration of alternative models for professional advice to inform sentence through court-ordered reports and cultural reports.[420] These recommendations, if implemented, would have similar benefits when sentencing CDVO, however there are significant challenges when preparing reports for Magistrates Courts matters due to the large volume of cases finalised in these courts and associated workload pressures.

Stakeholder views

The OVC highlighted the importance of Victim Impact Statements (VIS):

> Providing a VIS is one way that victims can find dignity and exercise choice and control in a complex and often confronting environment. The capacity for victims to participate in this way in the justice process, and to voice their experience in their own words, is critical for their empowerment and healing. Victim impact statements are also important tools for judicial officers to hear and understand the physical, mental or emotional harm experienced by victims, the nature of the offence and how [serious] it was.[421]

---

415 Queensland Sentencing Advisory Council, *Sentencing of Sexual Assault and Rape: The Ripple Effect* (Final Report, December 2024) ('*The Ripple Effect*').
416 Ibid 571–91, Key Finding 16, recs 21–23.
417 Ibid 578–84 rec 21.
418 Ibid 588–90, rec 23. See section 13 of the Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Act (n 312).
419 *The Ripple Effect* (n 415) 460–7, Key Finding 11.
420 Ibid 460–7, recs 11–13.
421 Submission 15 (Office of the Victims' Commissioner).

The OVC considered that if non-physical CDVO offences are receiving lesser sentences than CDVO offences with physical violence,

> this may be reflective of the Court's misunderstanding of the nature of domestic and family violence, it may also be a result of the Court not being provided adequate material relating to the seriousness of the offences and the harm caused to the victim.[422]

To improve the courts' understanding of the nature of the domestic violence, the OVC recommended increasing the use of VISs, and advocated for more 'adjournments to enable victim survivors time to prepare a VIS, and expanded options for providing a VIS, such as having the option to pre-record'.[423]

LAQ considered that VISs were more commonly being placed before magistrates and were being read into the record in the delivery of sentencing remarks.[424]

SME participants told us that to better understand the context of CDVO and the pattern of behaviour, it would be useful if more information about the history of the relationship and the basis on which the DVO was made (such as by having access to the original application that underpinned the DVO or any variation applications) was provided to a court.[425] For example, when sentencing a CDVO, a submission might be made that it was an isolated incident; however this would be inaccurate if the reason a DVO was made was for similar conduct.[426] While a court may receive 'any information … it considers appropriate to enable it to impose the proper sentence',[427] it was noted that there could be arguments about how much weight allegations in a DVO application might have where a DVO was made by consent without admission.[428]

Another participant said the courts were often not told about relationship complexities, which spoke to the need for balance in the sentencing process given that this was not fully understood.[429]

One participant highlighted that, following a trial, a court would often have more information about the nature of the relationship, referring to the new section 103CA of the *Evidence Act 1977* (Qld).[430]

One way to ensure a court has adequate information is for more information about the relationship history to be set out in an agreed schedule of facts, as this would be relevant in assessing the nature and seriousness of the offence, the impact on the victim, and the risk of reoffending.[431]

6.2 Inconsistencies when recording an offence as a 'domestic violence offence' (the 'DV flag')

Prior to 1 December 2015, there were limited ways for the court to identify whether a person's prior convictions were committed in the context of domestic and family violence.[432] The Special Taskforce on Domestic and Family Violence in Queensland recommended that 'domestic and family violence related convictions… be recorded' to enable courts 'to consider the perpetrator's history and conduct in subsequent sentencing for similar matters'.[433]

In response, a DV flag notation scheme was introduced to ensure 'an offender's pattern of domestic violence behaviour is more easily identifiable on a person's criminal history and therefore ensures that offenders can be sentenced more appropriately'.[434] Enabling a court to identify 'any pattern, or increased frequency or escalation, in domestic violence'[435] may also provide 'greater protection for victims against future violence

---

422 Ibid.
423 Ibid.
424 Submission 18 (Legal Aid Queensland).
425 Subject Matter Expert Interview 4; Subject Matter Expert Interview 5.
426 Subject Matter Expert Interview 4.
427 PSA (n 41) s 15.
428 Subject Matter Expert Interview 4. For details of consent orders see DFVPA (n 16) s 51.
429 Subject Matter Expert Interview 5.
430 Subject Matter Expert Interview 4.
431 Ibid.
432 Unless specified as an element of the offence: see e.g., *Criminal Code* (Qld) (n 12) sch 1, s 222 (incest); DFVPA (n 16) pt 7.
433 *Special Taskforce Report* (n 4) rec 119, 15, 303.
434 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill' (n 7) 3.
435 Attorney-General Yvette D'Ath, *First Reading of Criminal Law (Domestic Violence) Amendment Bill* 15 September 2015, 1739, First Reading of Criminal Law Domestic Violence Amendment Bill (Yvette D'Ath, Attorney-General and Minister for Justice).

through timely identification of this type of conduct'.[436] The DV flag also enabled relevant prior 'domestic violence offences' to be identified for the purpose of the circumstance of aggravation for CDVO.[437]

A 'domestic violence offence' term and definition was introduced in the *Criminal Code* (Qld)[438] and the *Justices Act 1886* (Qld),[439] so offences can be averred on indictments and complaints for offences committed under Queensland legislation. The PSA was amended to enable an offence to be recorded on a criminal history with a DV flag, including a previous offence.[440] Case law has interpreted eligible prior offences as being offences committed since the commencement of the DFVPA, thereby meeting the definition of 'domestic violence offence' in the *Criminal Code* (Qld).[441]

Under the PSA:

- Where a complaint or an indictment for a charge for an offence states that it is also a 'domestic violence offence' it **must** be recorded as a 'domestic violence offence', whether or not a conviction was recorded.[442]
- A DV flag can be recorded for a previous offence of which the person has been convicted in some circumstances.[443]
- The onus of proving the DV flag applies is on the prosecutor.[444]
- A DV flag will not be recorded where a court is satisfied that the offence is not a 'domestic violence offence',[445] and it may be removed where the court is satisfied there has been an error.[446]
- From 1 December 2015 the recording of a DV flag required an order from the court;[447] this changed in June 2017, to be administratively done unless the court orders otherwise.[448]

From 26 May 2025, an offence may also be recorded as:

> (ii) a domestic violence offence committed against a child;
>
> (iii) a domestic violence offence that exposed a child to domestic violence[449]

These amendments 'are intended to enable future courts, police, prosecutors, and corrective services officers to easily identify patterns of behaviour against the same or different victims'.[450] They were based on the WSJ Taskforce's findings 'about the immense harm caused to children who are victims of domestic violence or are exposed to domestic violence'.[451]

---

436 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill' (n 7) 3.
437 DFVPA (n 16) s 177(2)(a) as amended by: Criminal Law (Domestic Violence) Amendment Act (n 41) s 7. A 'domestic violence offence' means a domestic violence offence within the meaning of the *Criminal Code* (Qld) (n 12) s 1. It also includes for this purpose offences under pt 7 of the Act, including CDVO: DFVPA (n 16) s 5, sch.
438 *Criminal Code* (Qld) (n 12) s 1 def ('domestic violence offence' means an offence committed by a person involving behaviour that is also domestic violence or associated domestic violence; and/or is a contravention of the DFVPA [n 16] s 177(2).
439 Justices Act (n 41) ss 47, 48.
440 PSA (n 41) s 12A inserted by: Criminal Law (Domestic Violence) Amendment Act (n 41) s 18.
441 *R v Poynter* (QDC, 2016) 82, [11]-[12] (McGill SC DCJ).
442 PSA (n 41) ss 12A(1), (2), (3).
443 Ibid ss 12A(5)-(8).
444 Ibid s 12A(11).
445 Ibid s 12A(4).
446 Ibid s 12A(10).
447 Criminal Law (Domestic Violence) Amendment Act (n 41) s 18.
448 *Court and Civil Legislation Amendment Act 2017* (Qld) s 189 amending: PSA (n 41) s 12A.
449 PSA (n 41) s 12A(1)(a)(ii)–(iii) inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 87.
450 Explanatory Notes, Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill 2023 (Qld) 13.
451 Ibid 39.

Inconsistencies identified

DV flag not recorded

When undertaking other research projects for this review, several inconsistencies with the DV flag were identified:

- During a qualitative analysis of higher court sentencing remarks available on the Queensland Sentencing Information Service in the period 2019–20 to 2023–24,[452] we identified 318 cases involving a 'relevant relationship'. When matched to the Courts Database, 20 per cent were not flagged.[453] The majority of those were sexual offences committed against a child, followed by physical violence offences.[454]
- In a separate analysis of manslaughter cases sentenced from 1 July 2008 to 30 June 2024, we identified 80 cases involving a 'relevant relationship' sentenced in the 'post period' from 5 May 2016,[455] When matched to the Courts Database, 30 per cent of cases did not have a DV flag.[456]
- For offences of choking, suffocation or strangulation in a domestic setting (MSO) sentenced from 2016–17 to 2023–24, 15.7 per cent were not flagged as a DV offence.[457] As the fact that the offence was committed in the context of a domestic relationship is an element of the offence, all cases should have a DV flag.

Whether an offence sentenced under the Youth Justices Act 1992 (Qld) can have a DV flag

There is currently conflicting District Court case law on whether a DV flag applies to offences sentenced under the *Youth Justice Act 1992* (Qld) (YJA), because the legislative power to record an offence with a DV flag is in the PSA.

In *GEPI v R (GEPI)*,[458] Judge Farr SC found that the charging and recording of offences as DV offences do not apply to an offence sentenced under the YJA.[459] However, in *R v JM*,[460] Rafter SC DCJ considered the decision in *GEPI* and reached a different conclusion that a child could have an offence recorded with a DV flag.[461] Judge Rafter noted there is 'significant public purpose in having statistics on domestic violence available' and 'there is no logical reason' why children convicted of DV offences should not have the offences recorded as such.[462] He further noted that a child 'sentenced as an adult … would be exposed to the recording of domestic violence offences' under section 12A of the PSA.[463]

No DV flag for Commonwealth offences

Unlike Queensland offences, there is no easy way for courts to know whether a previous Commonwealth offence that appears on a person's criminal history would meet the definition of being a domestic violence offence. This means that:

- if a person contravenes a DVO and has been convicted previously of a Commonwealth offence that would otherwise meet the definition of being a 'DV offence' (assuming that in this case they have no prior convictions for a state-based DV offence), the lower maximum penalty of 3 years would apply because it would not meet the legal test in section 177 of the DFVPA to be treated as an aggravated form of the offence; and
- the court, when sentencing, may not recognise that prior offences within a person's criminal history occurred within a DV context and form part of a pattern of behaviour, which may affect how seriously the current offence is viewed.

---

452 The purpose of this research was to explore the application of exceptional circumstances for section 9(10A) of the PSA. See Appendix 11 for methodology and search terms.
453 n=62/318.
454 Sexual offences against a child (n=37/62); Physical violence offences (n=25/62).
455 DFVPA (n 16) pt 2, div 3.
456 n=24/80.
457 n=306/1,954.
458 *GEPI v The King* [2024] QChC 13 ('*GEPI*').
459 Ibid [4].
460 *R v JM* [2025] QChC 21, [4]–[6], [45].
461 Ibid [45].
462 Ibid [42]–[43].
463 Ibid [43].

This issue would apply to offences sentenced in other jurisdictions where there is no DV flag.

Stakeholder views

SME participants were asked about potential inconsistencies in the charging of offences as 'domestic violence offences'. One participant said that including the domestic violence offence averment was important. Failing to do so was creating an anomaly.[464]

SME participants noted that the absence of a DV flag may mean the prosecution would not access this information to inform the current sentence.[465] But it was also noted that it was 'really easy to get criminal histories and facts of previous offending' to inform the sentencing process and to understand the context of the person's offending, even if this involved a different victim.[466] Other participants noted that prior domestic violence history information was routinely put before the court and was 'incredibly important',[467] and that if there was insufficient information based on an entry in the person's criminal history, generally this information could be obtained by the prosecutor.[468]

Participants recognised how this may have future implications, such as without a prior conviction being flagged, if a person were charged with CDVO the circumstance of aggravation would not apply.

For offences of a sexual nature involving a child in a relevant relationship, it was suggested that the DV flag may not be included because that element could be a circumstance of aggravation which increases the maximum penalty.[469] It was thought that it being a 'domestic violence offence' would be unlikely to further impact the sentence.[470] Two participants said the prosecution's focus typically would be on proving the elements of these offences and the DV averment might be missed, in addition to the time and workload pressures involved.[471]

The Practitioner Consultative Forum members considered that the DV flag was applied in most cases and was an oversight where it was not. There were no suggestions about how to ensure greater consistency.[472]

The Council's view

Finding 4: Commonwealth offences and offences committed in some other jurisdictions are not consistently recorded as 'domestic violence offences' which could impact sentencing practices

The inability to record or note whether a Commonwealth offence occurred in a domestic violence context may impact sentencing practices by:

- any future contravention of a domestic violence order not being aggravated (assuming the person has no other domestic violence offences on their criminal history); and
- the court, when sentencing, potentially not recognising that prior offences occurred in a domestic violence context and form part of a pattern of behaviour, which may affect how seriously the current offence is viewed.

These same issues apply to domestic and family violence related offences committed in other jurisdictions where such offences are not clearly identified on a person's criminal history.

The purpose of the DV flag is to administratively capture a person's history of committing offences in a domestic violence context. This enables the justice system to identify a pattern of behaviour, rather than regarding each DV offence as an isolated incident and to ensure DV offences with circumstances of aggravation are charged appropriately.

---

464 Subject Matter Expert Interview 14.
465 Subject Matter Expert Interview 13.
466 Subject Matter Expert Interview 12.
467 Subject Matter Expert Interview 11.
468 Subject Matter Expert Interview 17.
469 See e.g. *Criminal Code* (Qld) (n 12) s 210(4).
470 Subject Matter Expert Interview 13.
471 Subject Matter Expert Interview 12; Subject Matter Expert Interview 14.
472 Practitioner Consultative Forum Meeting, 14 November 2025.

Commonwealth and other interstate offences committed in a DV context are not routinely flagged as being DV offences, which may impact sentencing practices in Queensland. Unless evidence is put before the court about a person's DV history, it may not be possible to discern from a person's criminal history alone if their current conduct forms part of a broader pattern of DV offending behaviour. As discussed in section 8.2.1, we consider this is a matter for the Commonwealth Government and other state and territory governments.

With respect to Queensland offences, we found the DV flag is not applied consistently to administratively record that the offence was committed in a DV context to:

- help future courts identify a pattern of behaviour;
- form the basis of an aggravated CDVO charge; and
- administratively allow research bodies such as the Council to review sentencing outcomes based on whether or not the offence was a 'domestic violence offence'.

While the DV flag is linked to the DV aggravating factor, these 2 PSA provisions are distinct. For sexual offences committed by a family member, the DV flag should be applied to identify in that person's criminal history that they have committed that offence in a DV context.[473] We note the guidance provided in *R v O'Sullivan; Ex parte Attorney-General (Qld)*[474] that these reforms (and others) put 'beyond question that the legislature has made a judgment about the community's attitude towards violent offences committed against children in domestic settings'.[475]

The Council's research activities illustrate that a concerning proportion of relevant relationships are without a DV flag. This may require further research and consultation to understand the causes and how to address this issue.

6.3 No access to registry committals for an aggravated CDVO

A registry committal is an administrative process undertaken by the registrar or clerk of the court that replaces the need for a Magistrates Court committal hearing for indictable offences.[476] The parties must agree to this and the person charged must be legally represented.[477]

Aggravated CDVO was reclassified as an indictable offence in 2015,[478] meaning it may be sentenced in the Supreme or District Courts.

Section 181 of the DFVPA provides that a CDVO 'must be heard summarily'[479] (in the Magistrates Court), unless:

- the court is satisfied that the nature or seriousness of the offence would not be adequately punished on summary conviction[480] (the jurisdictional limit of Magistrates Courts is ordinarily 3 years' imprisonment);[481] or
- the defence successfully argues that it should not be heard summarily due to exceptional circumstances.[482]

---

473 For example, indecent treatment of a child under 16 subject to the 20 year maximum penalty may be committed by a lineal descendant or a person who had care of the child at the time: *Criminal Code* (Qld) (n 12) s 210(4). Care of the child may not fall within the definition of an 'informal care relationship' in DFVPA (n 16) s 20.

474 *O'Sullivan* (n 173).

475 Ibid 231 [93].

476 Justices Act (n 41) s 114.

477 Justices Act (n 41) There are other eligibility criteria that must be met including that the person does not intend to call witnesses and, if on bail, is not in breach of any bail conditions.

478 Criminal Law (Domestic Violence) Amendment Act (n 41) s 8 amending: DFVPA (n 16) s 181.

479 DFVPA (n 16) s 181(4).

480 Ibid s 181(6)(a).

481 Ibid s 161ZT.

482 Ibid s 181(6)(b); Examples of exceptional circumstances under a similar provision in the *Criminal Code* (Qld) (n 12) s 552D(2) are if there is another sufficiently connected charge being tried on indictment, there is an important issue of law involved, there is an issue of general community importance or public interest involved, or a jury trial is justified to establish contemporary community standards.

While this is consistent for some other indictable offences that can be heard and dealt with summarily, the mandatory wording of the DFVPA does not allow section 104 of the *Justices Act 1886* (Qld) to operate to allow a registry committal.[483]

Therefore, for an aggravated CDVO to be transmitted to a higher court, a magistrate needs to be satisfied that one of the 2 exceptions apply, meaning that a defendant cannot *elect* for a trial on indictment by registry committal process for an aggravated CDVO.[484] However, the Crown still has the power to charge an aggravated CDVO by *ex officio* indictment.[485]

Where another offence is being sentenced by the Supreme or District Courts, a summary matter can only be transferred to a higher court if the defence makes an application and the Director of Public Prosecution consents.[486]

The 2023 review into criminal procedures noted stakeholders raised concerns about access to registry committals for CDVO.[487] It was determined that changing this process would require amending the DFVPA which was beyond the scope of the review, and that such an amendment would be better addressed in 'the context of the other reforms to the domestic and family violence laws'.[488]

The inability for offences under the DFVPA to have access to the registry committal process may potentially be a contributing factor for a CDVO that relates to a higher court matter not being transmitted and sentenced at the same time. This could hinder the courts' ability to take a pattern of behaviour into account.

The Council considers this issue beyond the scope of its review but notes it is an area which may constrain the sentencing process for CDVO and domestic violence offences generally.

Stakeholder views

This was not expressly raised by stakeholders as constraining the sentencing process, however, SME participants noted there were occasions where a more serious offence was sentenced in a higher court which related to a CDVO that had not also been transmitted to be dealt with at the same time.[489] In this situation, the summary CDVO offence would often receive a sentence of convicted and not further punished, either to avoid double punishment or because it would have been known to the higher court that the offending occurred during the operation of a DVO.[490]

6.4 The Notice to Allege Previous process is inconsistent

A general principle of sentencing is that a person can only be punished for the offence for which they are convicted.[491] Therefore, where a circumstance of aggravation is intended to be relied on for conviction or sentence, it must be charged.[492] A circumstance of aggravation for CDVO is certain prior convictions, meaning the maximum penalty increases to 5 years. Noting this on a charge may disadvantage a defendant as it indicates to the court that there is a relevant criminal history before there has been a conviction.

The current process for CDVO is for the prosecution to serve the defendant with a 'Notice to Allege Previous' and tender this document when sentenced in the Magistrates Court, in order for the higher maximum penalty

---

483 Justices Act (n 41) s 114.
484 *R v SC* [2021] QDCPR 4, [55], [65] (Fantin DCJ).
485 Ibid [61]; *Criminal Code* (Qld) (n 12) s 561.
486 *Criminal Code* (Qld) (n 12) ss 651, 652; See also, The Office of the Director of Public Prosecutions, 'Director's Guidelines' 53–5. One consideration is whether there is 'some connection to an indictable matter' and an example includes 'an indictable assault which also constitutes a breach of a domestic violence order', but there is no guidance if there are also other CDVOs against the same victim but not otherwise connected to the indictable matter.
487 Michael Shanahan, *Criminal Procedure Review—Magistrates Courts* (Summary Report No Volume 1, 2023) 374.
488 Ibid.
489 Subject Matter Expert Interview 1; Subject Matter Expert Interview 2; Subject Matter Expert Interview 11; Subject Matter Expert Interview 16
490 Subject Matter Expert Interview 1; Subject Matter Expert Interview 11; Subject Matter Expert Interview 16.
491 *R v De Simoni* (1981) 147 CLR 383, 389 ('*De Simoni*') (Gibbs CJ, Mason and Murphy JJ agreeing).
492 *Criminal Code* (Qld) (n 12) s 564(2); Justices Act (n 41) s 47(4); *De Simoni* (n 491) 389 (Gibbs CJ, Mason and Murphy JJ agreeing).

to apply.[493] A prior conviction on a criminal history tendered, without a Notice to Allege Previous, is not sufficient.[494]

Where there is no Notice to Allege Previous for an aggravated CDVO, the court can still consider a prior offence but can only apply the non-aggravated maximum penalty (i.e. 3 years' imprisonment maximum penalty instead of the 5 years' imprisonment maximum penalty).[495] For a brief period, the court could not take a previous contravention offence into account at all without a Notice to Allege Previous.[496]

There appears to be inconsistency with regard to the Notice to Allege Previous process based on a review of District Court appeals.[497] For example, in *HFC v Commissioner of Police (Queensland)*,[498] the appellant was originally charged with an aggravated CDVO but 'for unknown reasons' was arraigned and sentenced for a non-aggravated CDVO.[499] He had been sentenced on 2 prior occasions for CDVO within 5 years,[500] but because no Notice to Allege Previous was served or tendered, the maximum penalty was 3 years' imprisonment.[501]

Criminal Procedures Review

The 2023 *Criminal Procedure Review—Magistrates Courts* found that while the Notice to Allege Previous process ensures the court is not influenced by the knowledge of a criminal history when deciding guilt, it is a 'cumbersome and time-consuming' process.[502] The review proposed that a circumstance of aggravation should be listed on the charge sheet without requiring a separate Notice to Allege Previous to be served.[503] The charge may subsequently be amended as long as 'the defendant would not suffer material injustice or prejudice'.[504]

The Council notes the Notice to Allege Previous process may change following this recommendation. This would address this anomaly identified by the Council, provided that this information on the charge sheet is captured in the data in a way that can be analysed as part of the sentencing outcome.

Stakeholder views

Stakeholders told us that, for CDVOs sentenced in the Magistrates Courts, a Notice to Allege Previous is served and tendered more often than not. However, this is inconsistent.[505] Reasons included:

- a lack of preparation time for police and prosecution;[506]
- it was additional work for police;[507]
- the process was 'cumbersome';[508]

---

493 Justices Act (n 41) s 47(5)-(8); *Miers v Blewett* (2014) 1 Qd R 318, 328 ('*Miers*') (Fraser JA, Holmes JA and Atkinson J agreeing); *DDM v Commissioner of Police* [2024] QDC 215, [11], [14] ('*DDM*') (Everson DCJ); *JMM* (n 139) [18]; *HFC v Commissioner of Police (Queensland)* [2022] QDC 139, [9], [44] ('*HFC*') (Farr SC DCJ); *Singh v Queensland Police Service* [2013] QDC 37, [44] ('*Singh*') (Robertson DCJ).

494 *HFC* (n 493) [9], [43] (Farr SC DCJ).

495 *Criminal Code* (Qld) (n 12) s 564(2A); Justices Act (n 41) ss 47(7)–(8).

496 *Miers* (n 493) 327–8 (Fraser JA, Holmes JA and Atkinson J agreeing); *Singh* (n 493) [44] (Robertson DCJ); both decided prior to the: *Criminal Law Amendment Act 2014* (Qld). Sections 33 and 58 of this Act amended the Justices Act (n 41) s 47; and *Criminal Code* (Qld) (n 12) s 564 to overcome the decision in Miers. These amendments came into effect on 15 August 2014.

497 See, for example *DDM* (n 493) [11], [14] (Everson DCJ); *JMM* (n 139) [18]; *HFC* (n 493) [9], [31]–[32], 44 (Farr SC DCJ); *Miers* (n 493) 328 (Fraser JA, Holmes JA and Atkinson J agreeing); *Singh* (n 493) [44] (Robertson DCJ).

498 *HFC* (n 493).

499 Ibid [9], [31]–[32] (Farr SC DCJ).

500 Ibid [11], [14] (Farr SC DCJ).

501 Ibid [44], [46] (Farr SC DCJ).

502 Shanahan (n 487) 191–2 [12.109]–[12.113]. The Department of Justice is progressing implementation through the development of a new Criminal Procedure (Magistrates Court) Bill and a related consequential amendments Bill. See Shanahan (n 487).

503 Shanahan (n 487) rec 12.8.

504 Ibid rec 12.9.

505 Submission 14 (Queensland Law Society), 2; Consultation Roma, 19 June 2025; Consultation Townsville 11–13 June 2025; Consultation Wide Bay, 25–27 June 2025; Subject Matter Expert Interview 2, 3, 4, 8.

506 Subject Matter Expert Interview 3.

507 Subject Matter Expert Interview 8.

508 Subject Matter Expert Interview 4.

- perceptions that it had a minimum impact on sentencing outcomes given the jurisdictional limit of the Magistrates Courts being 3 years imprisonment.[509]

6.5 CDVO offences committed in custody

The Parole Board Queensland (Parole Board) submitted:

> It is common for the [Parole] Board to consider an application for a parole order by a prisoner whose index offending involves domestic violence and or contravention of a domestic violence order, having committed that index offending whilst subject to parole for similar offences. And in considering the application, it becomes apparent to the [Parole] Board the prisoner is committing further acts of domestic violence and or contravening the domestic violence order whilst in custody. It is a regular occurrence that these prisoners when sentenced for the new offences committed in custody, are sentenced to a wholly-suspended term of imprisonment or are given immediate parole eligibility.

The Council identified limited case law on the sentencing of contraventions committed while the person was in custody as a basis for determining if current sentences are inadequate.

In a 2024 decision of *R v TBD*,[510] the applicant breached a no contact condition of a DVO while in custody, by instructing other prisoners to contact the victim, resulting in 3 additional charges.[511] For those acts, he was sentenced to 15 months' imprisonment to be served cumulatively on the 3 year sentence he was ordered to serve for 2 counts of choking and one count of AOBH.[512] At the time of sentence, he was already in custody serving periods of imprisonment in relation to drug and weapons-related offences meaning his total cumulative term was 9 years and 9 months' imprisonment with parole eligibility after 3.8 years.[513] On appeal, the total effective sentence was reduced for totality reasons to 6 years and 9 months, but the 15 month cumulative sentence was not changed, although it was considered lenient.[514] Kelly J stated:

> No authority of this Court was cited as a yardstick for an appropriate sentence for the offending in custody … The breaches of the protection order the subject of the offending in custody reflected calculated, protracted conduct which may have been expected to cause significant emotional harm to the complainant upon her realisation that, despite the protections intended to be afforded by the protection order, the applicant remained able to orchestrate contact with her from custody. The offending was persistent and devious and fundamentally undermined the intended operation of the protection order.[515]

In *NVZ v Queensland Police Service*,[516] a sentence of 9 months' imprisonment with an immediate parole eligibility date (with 36 days in custody declared as time served) was not considered manifestly excessive for a CDVO involving a threat to the aggrieved while appearing on videolink.[517] The magistrate needed to moderate the sentence for totality.[518] The Court considered it aggravating that the CDVO occurred while in custody.[519]

---

509 Consultation in Roma, 19 June 2025.
510 *TBD* (n 164).
511 Ibid [15] (Kelly J).
512 Ibid [27] (Kelly J).
513 Ibid [3] (Kelly J).
514 Ibid [34], [60] (Kelly J, Dalton JA and Brown JA agreeing).
515 Ibid [34] (Kelly J, Dalton JA and Brown JA agreeing).
516 *NVZ v Queensland Police Service* [2018] QDC 216 ('*NVZ*').
517 Ibid [1], [3], [88] (Kefford DCJ).
518 Ibid [65] (Kefford DCJ).
519 Ibid [15], [38] (Kefford DCJ).

6.6 Avoiding double punishment when CDVO is not the only offence charged

Under the *Criminal Code* (Qld), a person cannot be punished twice for the same act or omission.[520]

The DFVPA does not prevent criminal proceedings continuing for both a CDVO and non-contravention offence (where the offence constitutes part of the CDVO), but the penalty imposed must not offend the principle against double punishment.[521]

A review of case law illustrates the complexity this has created in sentencing.

In *QPS v DLA*,[522] DLA pleaded guilty to using a carriage service to menace or harass or cause offence (a Commonwealth offence)[523] and a CDVO based on the same facts. The magistrate found that to convict DLA of both offences would be contrary to the provisions of section 16 of the *Criminal Code* (Qld) and ordered a permanent stay of the offence of CDVO, noting that a conviction for breach of a protection order has a consequence that the defendant would be liable for an increased penalty if he committed a subsequent CDVO.[524]

In *DAY v Commissioner of Police* (*DAY*),[525] the applicant was sentenced to imprisonment for 9 contraventions, and 9 breaches of bail offences based on the same facts. It was held to be an error to punish the applicant twice and the imprisonment for the breach of bail offences was substituted with a sentence to convict and not further punish.

A similar approach to *DAY* was followed in *JWD v The Commissioner of Police*.[526] But a consistent approach is not always taken and in other cases a person has been sentenced to concurrent imprisonment terms for both the CDVO and the non-contravention offence.[527]

A 2025 appeal provided guidance on this issue, when the substantive offence is unlawful stalking. In *R v CDO*,[528] the applicant was sentenced in the District Court for unlawful stalking with a circumstance of aggravation, being that the acts contravened an order. CDO had been sentenced in the Magistrates Courts for three offences of CDVO and one offence of contravening a PPN, and was later charged with unlawful stalking based on the same acts.[529] It was held that CDO could be punished for the unlawful stalking because it 'was the totality of [CDO's] conduct',[530] and section 16 of the *Criminal Code* (Qld) did not apply because 'the same act or omission was not being punished'.[531] However, section 16 of the *Criminal Code* (Qld) did apply to the circumstance of aggravation, meaning that while CDO could still be charged with a circumstance of aggravation, the higher maximum penalty would not apply.

New aggravating factors

From 26 May 2025, section 9(10D) of the PSA requires:

> (10D) In determining the appropriate sentence for an offender convicted of a domestic violence offence, the court must treat the fact that either of the following circumstances apply as an aggravating factor—
>
> (a) during the commission of the offence a child was exposed to domestic violence;

---

520 *Criminal Code* (Qld) (n 12) s 16. The only exception is where the act or omission causing the death of another person; For a discussion of the reason for this law see *Pearce v The Queen* (1998) 194 CLR 610, 623 [40]; *R v Dibble; Ex parte A-G (Qld)* (2014) 238 A Crim R 511.

521 DFVPA (n 16) s 138. For a discussion of how this section has been interpreted by the courts to operate consistently with s 16 of the *Criminal Code* (Qld), see Magistrates Court of Queensland (n 136)'21.11 – Dealing with a breach of DVO and another criminal offence – s 16 Code'.

522 *QPS v DLA* [2015] QMC 6 ('*DLA*').

523 *Criminal Code* (Cth) (n 108) s 474.17(1).

524 *DLA* (n 522) [38], [41]–[42].

525 *DAY* (n 231).

526 *JWD v The Commissioner of Police* [2019] QDC 29 ('*JWD*').

527 See, *HJA v Commissioner of Police* [2022] QDC 285, [1], [10]–[12], [14]–[15] ('*HJA*').

528 *R v CDO* [2025] QCA 56 ('*CDO*').

529 Ibid [3], see [16] for chronology; *Criminal Code* (Qld) (n 12) s 359E(3)(c). The offence occurred prior to the 23 August 2023 introduction of unlawful stalking, intimidation, harassment or abuse with a circumstance of aggravation where a domestic relationship exists: s 359E(4).

530 *CDO* (n 528) [27].

531 Ibid [28].

(b) the offence committed was also—

(i) a contravention of any of the following under the *Domestic and Family Violence Protection Act 2012*—

(A) a domestic violence order;

(B) a police protection notice;

(C) release conditions;

(D) an interstate order;

(E) a New Zealand order; or

(ii) a contravention of another order of a court or of an injunction.[532]

It is possible that this new aggravating factor may lead to more cases with a CDVO charge and substantive offence based on the same facts. It may also overlap with the unlawful stalking circumstances of aggravation,[533] although, there is now an alternative circumstance where the person was in a domestic relationship with the stalked person.[534]

Stakeholder views

The OVC considered:

> An offence of contravening a domestic violence order or police protection notice is distinct in its criminality – that criminality concerning the breach of orders prohibiting the respondent from doing certain things to protect an aggrieved. This is opposed to, for example, the criminality of conduct such as an assault, where the conduct causes physical harm. Conduct that constitutes both a contravention offence and a non-contravention offence should be capable of being dealt with in a way that reflects the relevant criminality and holds perpetrators to account.[535]

SME participants noted that this issue required careful consideration. They had observed cases where CDVO was charged with a substantive offence based on the same facts and the general approach was to impose a sentence on the substantive offence and impose a 'nominal penalty' or 'convicted not further punished' for the CDVO as it would be a factor taken into account in the context of the substantive offence and it avoids punishing a person twice for the same act.[536] This approach is given further support by the fact that if the commission of the substantive offence breached a DVO, this would be treated as aggravating and the person sentenced accordingly.[537]

While this is the general approach, a substantive offence and a CDVO will not always be based on the same act so it involves a case-by-case assessment.[538] Where the conduct constituting the CDVO is separate and distinct (for example if a person is remanded in custody and is calling the complainant/aggrieved asking them to drop the charges), a cumulative term of imprisonment may be an appropriate outcome.[539] Alternatively, if imprisonment is not appropriate but the person is in custody and cannot otherwise engage in probation or has the capacity to pay a fine, they might be 'convicted and not further punished'.[540]

SME participants also noted this issue was not confined to CDVO but occurs in other types of offences, such as torture; this includes malicious acts causing grievous bodily harm and other malicious acts as an element of the torture.[541]

---

532 Inserted by Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 86.
533 *Criminal Code* (Qld) (n 12) ss 359E(3)(c).
534 Ibid ss 359E(4).
535 Submission 15 (Office of the Victims' Commissioner).
536 Subject Matter Expert Interview 1; Subject Matter Expert Interview 2; Subject Matter Expert Interview 3; Subject Matter Interview 4; Subject Matter Expert Interview 5; Subject Matter Expert Interview 8; Subject Matter Expect Interview 10; Subject Matter Expert Interview 13; Subject Matter Expert Interview 15.
537 Subject Matter Expert Interview 1.
538 Subject Matter Expert Interview 2; Subject Matter Expert Interview 1.
539 Subject Matter Expert Interview 13.
540 Subject Matter Expert Interview 3.
541 Subject Matter Expert Interview 13.

The Council's view

Observation 2: There is some complexity in sentencing contravention of a domestic violence order and substantive offences involving the same conduct

The current wording of the new aggravating factor in section 9(10D)(b)(i) of the *Penalties and Sentences Act 1992* (Qld) (i.e. considerations where the offence committed was also a contravention of a domestic violence order) may create additional complexity in sentencing and the wording may require reconsideration.

In circumstances where a contravention offence is not charged, it is unclear if this aggravating factor will apply. If a contravention offence is charged based on the same act or omission, the courts must consider section 16 of the *Criminal Code* (Qld) (i.e. that a person is not to be twice punished for the same offence).

Sentencing CDVO and substantive offences involving the same conduct is complex. There is a risk the current wording of section 9(10D)(b)(i) of the PSA may create additional complexity in sentencing and thus may require reconsideration. In circumstances where there is no charge and conviction for a contravention offence, it is unclear if this aggravating factor will apply. If the contravention is charged based on the same act or omission, the courts must consider section 16 of the *Criminal Code* (Qld).

Given the complexity of section 9 of the PSA, the Council has previously recommended it be reviewed to ensure it provides a coherent framework for sentencing.[542] The Queensland Government has committed to undertake this review, which may provide an opportunity to consider the intended operation of this new section and its appropriate framing.[543]

6.7 Other issues

DVO conditions

During statewide consultation, a key theme we heard was that the number, type and understanding of DVO conditions, as well as location and personal circumstances, have significantly contributed to the increased volume of CDVOs being charged and sentenced.[544]

LAQ noted that it can 'be more difficult to strictly comply with conditions that prohibit being within a certain distance of the aggrieved person in smaller communities' and 'impractical conditions set respondents up to breach their order'.[545]

The Office of the Public Guardian (OPG) raised several concerns about how the current justice system impacts people with impaired decision-making capacity both as aggrieved and respondents.[546] They suggested orders and conditions be tailored to the communication needs, impairment and understanding of those subject to them,[547] noting that courts may not tailor their language or communication to individuals with impaired decision-making abilities, relying instead on standardised scripts.[548] The legal and technical language in DVOs and their associated conditions can be difficult to understand, increasing the likelihood of breaches.[549] 'To enable a smoother process' between the Magistrates Courts exercising their criminal jurisdiction and DFV Courts, the OPG further recommended reviewing and aligning existing court practice directions.[550]

---

542 *The Ripple Effect* (n 415) rec 3.
543 'Crisafulli Government Delivers Major Changes to Restrict 'good Character' Evidence and Prioritise Victims', *Ministerial Media Statements* <https://statements.qld.gov.au/statements/103545>.
544 Consultation in Cairns, 15–16 April 2025; Consultation in Mt Isa, 1–2 May 2025; Consultation in the Torres Strait, 19–23 May 2025; Consultation in the Torres Strait, 19–23 May 2025.
545 Submission 18 (Legal Aid Queensland).
546 Submission 8 (Office of the Public Guardian).
547 Ibid.
548 Ibid.
549 Ibid.
550 Ibid. This was with reference to: Magistrates Courts Practice Direction No. 1 of 2025: Summary proceedings for domestic violence offence – Brisbane Magistrates Court (noting it only applies to the Brisbane Magistrates Court, which causes inconsistencies across the registries); and Magistrates Courts Practice Direction No. 4 of 2022: Domestic and Family Violence.

FNWSLQ noted that police sometimes impose unnecessary DVO conditions that 'may be counterproductive to the purpose for which the DVO is intended':[551]

> A common scenario is that we are asked to assist with an application to vary after a DVO has been breached. Frequently the aggrieved is exasperated by the restrictions.
>
> Case 3: A woman sought help to vary after she had asked the respondent to come and mow the lawn. 'I asked him to come and mow the lawn and the police were driving by and stopped and arrested him'.
>
> Case 4: 'I just wanted him to be there for the kids. The kids miss him. He's a good father.'
>
> Such scenarios do not require harsher penalties. They require a reconsideration of police training and the availability of community behavioural change programs that do not separate families but aim to address behaviours in cases where this does not pose a risk to the aggrieved.[552]

Stakeholders highlighted how stringent DVO conditions can cause difficulty and complexity – for example, where the aggrieved is relying on the respondent for parenting arrangements.[553]

The Red Rose Foundation considered that police are often slow to act or hesitant to believe women reporting violence,[554] while another stakeholder noted that there was limited discretion for police officers to not charge CDVO.[555] This can disproportionately impact people in small towns, where compliance with a DVO can be challenging as the aggrieved and respondent may inadvertently encounter each other.[556]

An individual submission observed that because a respondent can accept a DVO without admissions of wrongdoing, there can be unjust criminalisation of some breaches, such as those involving non-threatening contact, accidental communication, or contact regarding parenting matters, which can have disproportionate consequences, such as 'public shaming, employment impact and legal strain, particularly in matters where parenting orders are concurrently in place'.[557]

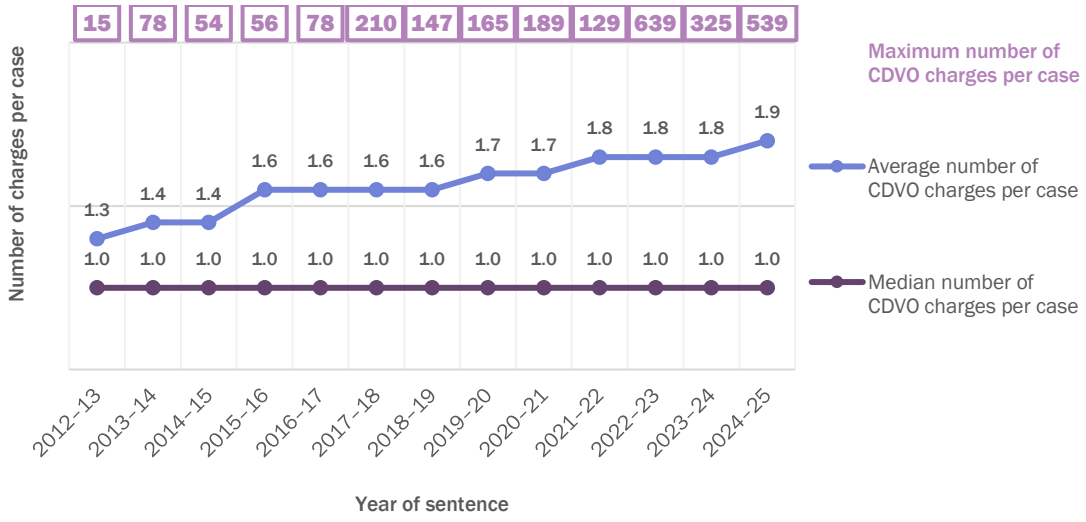
In consultation, a stakeholder suggested that, in some cases technical breaches were being misreported and in a vexatious way, such as small gestures like waving at a victim survivor.[558] On the other hand, a stakeholder told us that legal professionals need education on recognising coercive control, and legal representatives should be mindful of victim-blaming.[559]

Number of CDVO charges vary, subject to local charging practices

It is possible for multiple charges of CDVO to be resolved and sentenced in a single case. While the median number of charges per case has remained consistent at one charge, since 2012 the average number of CDVO charges per case has generally increased every year, from 1.4 in 2013–14 to 1.9 in 2024–25.[560] Of particular note, in some cases there were an exceptionally high number of charges of CDVO dealt with in a single case, such as in 2022–23 where a single case included 639 charges of CDVO. Data on the number of CDVO charges by region are presented below.

551 Submission 17 (First Nations Women's Legal Services Qld).
552 Ibid.
553 Consultation in Townsville, 12 June 2025; Consultation in Mt Isa, 1–2 May 2025.
554 Submission 11 (Red Rose Foundation).
555 Community consultation in Roma, 19 June 2025. Similar comments were made at other regional consultation sessions.
556 General consultation in Roma, 19 June 2025.
557 Submission 1 (name withheld).
558 Consultation 11 June 2025.
559 General consultation in Roma, 18 June 2025.
560 The only exception was 2017–18 which slightly decreased from 1.59 to 1.58.

Figure 6-1: Average, median and maximum number of CDVO charges per case, 2012–13 to 2024–25



Data include adult offenders, CDVO (s177) cases sentenced between 1 July 2012 and 30 June 2025, higher and lower courts.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

The QPS Operational Procedures Manual (QPS OPM) states 'Officers are to commence a proceeding for the relevant offence where there is sufficient evidence to prove a respondent contravened … a DVO'.[561] Cautions cannot be administered for an offence involving DV and police cannot refer it to an adult restorative justice conference.[562]

While the gravamen of the offence is non-compliance with a DVO condition, charging practices can result in a single offence encompassing a wide range of conduct or a series of behaviours.[563] There is no guidance in the QPS OPM on whether each act should be charged as a separate offence or a single charge is appropriate to capture a course of conduct for CDVO offences.

The prosecution of offences must have regard to the sufficiency of evidence and be in the public interest.[564] This may mean that multiple CDVO charges are 'rolled up' into a single charge, but particularised as multiple acts, if the person agrees to plead guilty. The prosecution may agree to this in circumstances where the aggrieved does not want to attend court to give evidence and be cross-examined.

During statewide consultation, the Council heard that there was variability in police charging practices for CDVO across Queensland.[565]

The Council's data analysis found that the mean number of charges per case also varied geographically, with the mean number of charges being highest in North Queensland (1.9 charges per case), with the mean for all other regions being 1.6 or 1.7 charges per case, as shown in Table 6-1.

---

561 Queensland Police Service, 'Operational Procedures Manual' 9.3.2 'Contravention of a DVO, release conditions, PPD or PPN' ('QPS OPM').
562 Ibid 3.2.2; 3.3.1.
563 See e.g. *CDL* (n 10) [4](i), it notes one contravention was 'Between 26 December 2023 and 3 January 2024 ('again breach of no contact, alleged 216 calls made'; *DAY* [n 231] [16] there was a no contact condition and one charge 'related to the appellant sending a total of 154 text messages to his ex-wife between 27 April 2017 and 9 May 2017'; *RMR v Sinclair [2012] QDC 204* [n 231] [4] one contravention involved ripping the victim's shirt causing bruising to her upper arm, punching a wall, throwing her mobile phone and breaking it, leaving and returning to rip her shirt again, grabbing her around the neck, threating to kill and punching her on the back of the head. In an unreported District Court sentence from 2018, the offender was sentenced for 210 CDVO offences, being 210 telephone calls made while on remand in custody.
564 The Office of the Director of Public Prosecutions (n 486) 4; Queensland Police Service (n 561) 3.4.3.
565 Consultation in Townsville, 12 June 2025.

Table 6-1: Average, median and maximum number of CDVO charges per case, by region, 2012–13 to 2023–24

Region	Average	Median	Maximum
Central Queensland	1.7	1.0	66
Darling Downs South West	1.6	1.0	165
Far North Queensland	1.6	1.0	98
Metropolitan	1.6	1.0	325
North Coast	1.6	1.0	639
North Queensland	1.9	1.0	210
South East	1.7	1.0	186

Data include adult offenders, all CDVO charges (both MSO and non-MSO) sentenced between 1 July 2012 and 30 June 2024 higher and lower courts. Cases are allocated to regions according to the location of the courthouse in which the case has been finalised. Regions are based on the Department of Education's administrative boundaries with some modifications.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

How Queensland compares with other states and territories

All Australian states and territories have DVOs or their equivalent, and it is a criminal offence to breach or contravene these orders. **Appendix 7** summarises the corresponding offences and maximum penalties across jurisdictions.

Although the approach and circumstances of aggravation differ between jurisdictions, Queensland's current maximum penalty of 5 years' imprisonment for aggravated CDVO broadly aligns with those of most other states and territories.[566]

South Australia has the highest maximum penalty for a circumstance of aggravation, being 7 years' imprisonment if the offence involved physical violence or threat of physical violence, increasing to 10 years' imprisonment if the offence occurred in the presence of a child and involved violence or threats of violence, or if it is a repeat offence.[567]

[566] *Family Violence Act 2016* (ACT) s 43(2); *Domestic and Family Violence Act 2007* (NT) s 121; *Family Violence Act 2004* (Tas) s 35; *Family Violence Protection Act 2008* (Vic) ss 123(2),123A(2), 125A(1).
[567] *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 31.

PART C:
Section 9(10A) of the *Penalties and Sentences Act 1992* (Qld)

Overview: Part C

Part C reviews the operation and impact of the introduction of section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) (PSA) (the DV aggravating factor). The DV aggravating factor applies to a broad range of offences that can be charged under the *Criminal Code* (Qld)[568] and other legislation.[569]

Chapter 7 explores why the DV aggravating factor was introduced, its intended purpose and operation, the recommendations made by the Women's Safety and Justice Taskforce (WSJ Taskforce) regarding the reform, and the Council's previous findings about this provision.

Chapter 8 discusses stakeholder views and explores how the DV aggravating factor may have impacted sentencing practices. This includes how it has changed the relevance of comparable cases pre-dating the introduction of the aggravating factor, and the approach taken by sentencing courts.

We conclude that the DV aggravating factor has changed sentencing practices in important ways. However, measuring the full extent of its impact is challenging due to the volume and scope of other relevant reforms, changes to practice and shifts in community attitudes and understanding of domestic violence.

We discuss potential anomalies and inconsistencies with the operation of section 9(10A) and consider the use of 'exceptional circumstances' as a reason for not treating a DV context as aggravating. We found exceptional circumstances were rarely raised by defence practitioners at sentencing hearings and, when they were, generally aligned with the statutory examples in section 9(10A), particularly in cases involving intimate personal relationships.

Chapter 9 presents findings on how outcomes for offences sentenced as DV offences (post-introduction of the DV aggravating factor) differ from non-DV offences and what this might suggest about the operation of the aggravating factor. This analysis examines outcomes for a series of distinct offences sentenced in the Magistrates Courts and in the higher courts. It considers differences in penalty types, the proportion of outcomes that were custodial, custodial sentence lengths and sentence length distributions**.**

We found that, with a few exceptions, DV offences resulted in more custodial penalties and/or longer median custodial sentences compared with non-DV offences. Our findings also show differences in penalty and sentence length distributions for DV offences compared with outcomes for non-DV offences.

Our analysis builds on the evidence presented in our 2021 Research Brief,[570] demonstrating that courts generally regard DV offences as more serious forms of offending compared with the same offence committed in a non-DV context. This applies not only to offences involving violence, but also to those involving non-physical, coercive and controlling behaviours.

Chapter 10 considers whether the introduction of the aggravating factor has impacted victims' satisfaction with the sentencing process. The chapter reports on the findings from a literature review conducted by Griffith University, alongside research by the Monash Gender and Family Violence Prevention Centre for this review, which included interviews with victim survivors and victim survivor advocates. It also summarises the views expressed to the Council in consultations, submissions and interviews.

We conclude that there is limited awareness of section 9(10A) among victim survivors, and that victim satisfaction with sentencing is impacted by factors other than section 9(10A).

---

568 *Criminal Code* (Qld) (n 12) 1.

569 A 'domestic violence offence' for the purposes of section 9(10A) of the PSA (n 41) is defined in: *Criminal Code* (Qld) (n 12) s 1. See also PSA (n 41) s 4 (definition of 'domestic violence offence'). This definition excludes offences charged under the DFVPA (n 16).

570 Hidderley, Jeffs and Banning (n 29).

Chapter 7 – About the DV aggravating factor

This chapter provides an overview of why section 9(10A) of the PSA was introduced and how the Council has undertaken its review to assess the impact on sentencing practices and outcomes following its commencement.

7.1 Why the aggravating factor was introduced

In 2015, the Special Taskforce on Domestic and Family Violence in Queensland recommended the Queensland Government introduce a circumstance of aggravation of domestic and family violence to be applied to all criminal offences.[571]

Rather than adopting this recommendation, the Queensland Government chose to introduce an aggravating factor under section 9(10A) of the PSA.[572]

The intended effect of the new aggravating factor was explained in the Explanatory Notes to the Bill:

> An aggravating factor increases the culpability of an offender which means that the offender should receive a higher sentence within the existing sentencing range up to the maximum penalty for the offence. The amendment reflects community attitudes about the seriousness of criminal offences that occur in a domestic and family context and makes these offenders more accountable.[573]

The potential for higher sentences was 'considered justified to protect vulnerable members of our community, denounce this type of offending and provide adequate deterrence to perpetrators of this type of offending'.[574] The compatibility of section 9(10A) with the *Human Rights Act 2019* (Qld) is explored in **Chapter 12**.

7.2 What the legislation says

From 5 May 2016, if an offence is a 'domestic violence offence', in most cases the court must treat this as an aggravating factor.[575]

Any offence under an Act, other than the *Domestic and Family Violence Protection Act 2012* (Qld) (DFVPA), can be a domestic violence offence if the offending behaviour is also domestic violence and/or is a contravention of a domestic violence order (DVO).[576] There does not need to be a current DVO in place for the person to be convicted of a 'domestic violence offence'.

The DV aggravating factor increases the seriousness of the offence and may result in the person receiving a more severe penalty,[577] but it does not change the maximum penalty that applies.[578]

---

571 *Special Taskforce Report* (n 4) rec 118.

572 See Criminal Law (Domestic Violence) Amendment Act (n 59) s 5 and; Queensland (n 39) 3082 (Yvette D'Ath, Attorney-General and Minister for Justice).

573 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill (No. 2)' (n 7) 2.

574 Ibid 3. Community protection, deterrence, and denunciation are all purposes of sentencing under section 9(1) of the PSA (n 41) in addition to just punishment and rehabilitation. From November 2025, recognition of the harm done by the offender to a victim of the offence is another legislative purpose: Ibid s 9(1)(ca) inserted by: Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Act (n 312) s 12(1).

575 PSA (n 41) s 9(10A). This section was inserted by section 5 of the Criminal Law (Domestic Violence) Amendment Act (n 59) which commenced on 5 May 2016. (see *Acts Interpretation Act 1954* (Qld) s 15A). This means the DV aggravating factor can only apply to offences committed on and after 17 September 2012: *R v Poynter* (n 441) [11] (McGill SC DCJ); The aggravating factor applies to all offences sentenced on or after 5 May 2016 which constitute a domestic violence offence. See: *R v CLN* [2016] QDC 111, [15] (Jones DCJ); *R v BNQ* [2016] QDC 113, [17] (Moynihan QC DCJ); *Hutchinson* (n 15) [43] (Mullins J, Fraser and Morrison JJA agreeing); *R v O'Malley* [2019] QCA 130, [94] (Bradley J, Gotterson and McMurdo JJA agreeing); However, it only applies to an act or omission that was also domestic violence under the DFVPA (n 16).

576 *Criminal Code* (Qld) (n 12) s 1 definitions ('domestic violence offence').

577 See *R v RBO* [2024] QCA 214, [119] ('*RBO*') (Henry J, Mullins P and Brown JA agreeing).

578 Cf circumstances of aggravation, such as under the DFVPA (n 16) s 177(2)(a). As to the definition of a 'circumstance of aggravation', see *Criminal Code* (Qld) (n 12) s 1.

A court may choose not to apply the aggravating factor where it considers it is not reasonable due to the exceptional circumstances of the case[579] – for example, if the victim of the offence has previously committed serious or repeated acts of domestic violence against the person being sentenced.[580]

7.3 The WSJ Taskforce recommendation

In March 2021, the former Queensland Government tasked the WSJ Taskforce with examining the experiences of women across the criminal justice system.[581] Its first report contained 89 recommendations, including recommendation 73 which called for a review of the impact of the operation of the aggravating factor in section 9(10A) of the PSA.[582]

The WSJ Taskforce recommended this review 'include consideration of the impact of the aggravating factor on sentencing outcomes for charges involving all forms of DFV, including non-physical violence and coercive control'.[583] In doing so, the Taskforce noted feedback from victims and specialist DFV stakeholders about the lack of seriousness attributed to non-physical forms of abuse, which are often indicators of coercive control.[584]

The WSJ Taskforce described coercive control as a pattern of controlling and abusive behaviours by one person against another, intended 'to create a climate of fear, isolation, intimidation, and humiliation'.[585] These behaviours can involve a range of abusive actions that, over time, restrict a person's freedom and deprive them of their autonomy.[586]

Although the new offence of coercive control under the *Criminal Code* (Qld) commenced on 26 May 2025,[587] the Council's review focuses on existing offences that can involve similar patterns of non-physical violence.

The WSJ Taskforce recommended several other amendments to the PSA that may apply to the sentencing of domestic violence offences. These amendments have since been legislated and also came into operation on 26 May 2025. They created two new aggravating factors under sections 9(10C) and 9(10D), that apply to:

- domestic violence offences committed against a child when the offender was an adult; and
- domestic violence offences where:
    - during the commission of the offence a child was exposed to domestic violence; or
    - the offence committed was also a CDVO (or a similar order made in Queensland, another part of Australia or New Zealand).[588]

Changes were also made to the factors in section 9 of the PSA that a court must consider in sentencing a person, including for a domestic violence offence. This section now requires a court:

- to have regard to:
    - the hardship of any sentence imposed on an offender, having regard to the offender's characteristics, including age, disability, gender identity, parental status, race, religious, sex, sex characteristics and sexuality;

---

579 PSA (n 41) s 9(10A).
580 Ibid example 1 provided under the provision.
581 Queensland Government, 'Terms of Reference: Taskforce on Coercive Control and Women's Experience in the Criminal Justice System'.
582 *Hear Her Voice Report 1* (n 29) vol 1, lxxiii–lxxiv, rec 73.
583 Ibid.
584 Ibid vol 1, xxii–xxiii.
585 Ibid vol 2, 6.
586 Ibid.
587 Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) pt 3, div 5.This offence is now established under s 334C of the *Criminal Code* (Qld) (n 12). See SL 2024 No. 146 (n 118).
588 Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 86; and SL 2024 No. 146 (n 118).

- the probable effect that any sentence would have on a family member for whom the offender is the primary caregiver, a person the offender is in an informal care relationship with and, if the person is pregnant, the child of the pregnancy;
- a person's history of being abused or victimised; and
- if the offender is an Aboriginal or Torres Strait Islander person, any cultural considerations, including the effect of systemic disadvantage and intergenerational trauma on the offender;[589]

- when considering their character (a relevant sentencing consideration under section 9), to consider the history of domestic violence orders made or issued against that person as an adult,[590] in addition to other matters such as their criminal history;[591]
- to treat as mitigating where an offender is a victim of domestic violence:
  - the effect of the domestic violence on the offender, unless the court considers it is not reasonable to do so because of the exceptional circumstances of the case; and
  - if the commission of the offence is wholly or partly attributable to the effect of the domestic violence on the offender, the extent to which the commission of the offence is attributable to the effect of the violence.[592]

Some stakeholders raised concerns that balancing the aggravating factor with a history of domestic violence as a mitigating factor could introduce unnecessary complexity and it may be difficult for the courts to achieve an appropriate balance. This is discussed in **Chapter 8**.

7.4 The Council's 2021 Research Brief

In our 2021 Research Brief, the Council examined the impact of the DV aggravating factor on sentencing outcomes for common assault and assaults occasioning bodily harm (AOBH) by comparing offences sentenced as domestic violence offences with those that were not.

We found that courts treated domestic violence offences more seriously, leading to an increased use of custodial penalties and longer custodial sentences.[593]

We concluded that the 2016 sentencing reforms appeared to be achieving their intended effect of supporting more serious sentencing outcomes for domestic violence offences, while also recognising the need for further research.[594]

---

589 PSA (n 41) ss 9(2) (fa), (fb), (gb)(iii), (oa). These statutory considerations were inserted by Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 83 and commenced on the date of assent (18 March 2024). Section 9(2)(gb) was inserted by s 80(1) of the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) and requires a court also to consider if the offender is a victim of domestic violence 'whether the commission of the offence is wholly or partly attributable to the effect of the domestic violence on the offender'.

590 PSA (n 41) s 11(1)(b). This provision was inserted by Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 81. It came into operation on 1 August 2023: 'Proclamation No. 94—Domestic and Family Violence Protection (Combatting Coercive Control) and Other Legislation Amendment Act 2023 (Commencing Certain Provisions)' ('SL No. 94'). A 'domestic violence order' for s 11(3) is defined to mean any of the following orders under the DFVPA (n 16): a domestic violence order; a police protection notice; an interstate order; an order that corresponds to an interstate order made under a repealed law of another State; a New Zealand order. It also includes a domestic violence order under the repealed DFVPA 1989 (n 1).

591 PSA (n 41) s 11(1). These include any previous convictions, any significant contributions made to the community by the offender, and any other matters the court considers are relevant.

592 Ibid s 9(10B). This section was inserted by Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 80(2) and came into effect on 1 August 2023. See 'Proclamation No. 94—Domestic and Family Violence Protection (Combatting Coercive Control) and Other Legislation Amendment Act 2023 (Commencing Certain Provisions)' (n 590).

593 Hidderley, Jeffs and Banning (n 29) 1, 12.

594 Ibid 14.

Chapter 8 – The impact of section 9(10A) on sentencing practices

In this chapter, we explore how sentencing practices may have changed following the introduction of the DV aggravating factor. We find that the DV aggravating factor has changed sentencing practices in important ways.

8.1 Sentencing practices

8.1.1 What are 'sentencing practices'?

The Council has defined 'sentencing practices' to include:

- sentencing outcomes (explored in **Chapter 9**);
- case law, including guidance about the use of comparable cases pre-dating the reform; and
- procedural and practice-related aspects including:
    - the nature of submissions made on sentence by the prosecution and defence;
    - how often sentencing courts directly refer to section 9(10A); and
    - if the treatment of domestic violence at sentence has changed and if so, in what way.

8.1.2 The courts' approach to DV as an aggravating factor pre-2016

Before the DV aggravating factor came into effect on 5 May 2016,[595] the relationship between the sentenced person and victim was already a relevant sentencing factor.[596]

In 2013, the High Court provided guidance on recognising 'the human dignity of the victim of domestic violence' and the need to denounce and punish 'brutal, alcohol-fuelled destruction of a woman by her partner'.[597] Three years later, the High Court recognised that changes in community attitudes towards domestic violence meant sentencing practices for domestic violence offending can depart from past practices.[598]

Although there was no legislative requirement to treat the domestic violence context as aggravating prior to 2016, courts found this conduct could increase culpability[599] and warranted condign (appropriately punitive) responses, as well as a need for specific and general deterrence.[600]

---

595 PSA (n 41) s 9(10A). This section was inserted by Criminal Law (Domestic Violence) Amendment Act (n 59) s 5 and commenced on the date of assent (5 May 2016).

596 See, for example, *R v West* [2011] QCA 76, [17], [21]] (McMurdo P, Holmes JA and Mackenzie agreeing). The then President of the Court of Appeal noted the offender who had initially been sentenced to 4 years' imprisonment for AOBH had a 'bad criminal history' that showed him to be a recidivist offender who, 'when intoxicated, persists in serious attacks upon his female partners', that 'necessitate the imposition of a substantial term of imprisonment' (in this case, required to be served cumulatively). See also *R v RAP* (QCA, 2014) [57] (Alan Wilson J, Margaret McMurdo P and Fraser JA agreeing) in respect of assaults committed in a domestic setting. In *R v Pickup* [2008] QCA 350, [30]] (Fraser JA, McMurdo P and McMeekin J agreeing) the relationship was relevant to the victim harm experienced because the offences 'were calculated to degrade and to demonstrate the applicant's physical and emotional domination of the complainant'. Cf *R v McCauley* [2000] QCA 265, 5–6 (Thomas JA, Davies and McPherson JJA agreeing) which discussed whether an earlier consensual sexual relationship was mitigating.

597 See *Munda v Western Australia* (2013) 249 CLR 600, 620 [55] ('*Munda*') (French CJ, Hayne, Crennan, Kiefel, Gageler and Keane JJ) .

598 *Kilic* (n 165) 267 [21] (Bell, Gageler, Keane, Nettle and Gordon JJ).

599 See, for example, *Munda* (n 597) 621 [57] in which the Court concluded: 'Indulging in drunken bouts of domestic violence is an example of moral culpability to a very serious degree'.

600 *R v Mallie; Ex parte A-G (Qld)* [2009] QCA 109, [32] citing: *R v Lester* [2004] QCA 34, [4] and; *R v Babsek; Ex parte A-G (Qld)* [1999] QCA 364, [13]–[14], [36].

In one such decision in 2005, *R v Fairbrother; Ex parte Attorney-General (Qld)* (*Fairbrother*),[601] the then president of the Queensland Court of Appeal, acknowledged the 'insidious' and 'prevalent' nature of domestic violence and said those who committed serious acts of domestic violence could 'expect the courts to impose significant sentences of imprisonment involving actual custody'.[602]

8.1.3 The courts' approach to DV as an aggravating factor following the introduction of section 9(10A)

How the DV aggravating factor is to be taken into account

The domestic violence context of offending has been recognised following the introduction of the DV aggravating factor as being 'a powerful aggravating factor'.[603] The DV aggravating factor 'mandates that considerations such as denunciation and deterrence should have greater weight than they might otherwise'.[604]

A key decision that considered the intended impact of section 9(10A), handed down two years after this section was legislated, is *R v Hutchinson.*[605] The Court commented that the DV aggravating factor

> is likely to have an effect over time on the sentencing for offenders convicted of offences that are also domestic violence offences, but the effect in any particular case will depend on the balancing of all the relevant factors related to that offending and offender.[606]

This reflects commentary on other aggravating factors in the PSA, which 'inform the exercise of the sentencing discretion', but it does not mean that there *must* be punishment 'to any greater extent than was authorised by the former law'.[607] However, penalties may[608] increase because

> some of the principles prescribed by s 9 of the PSA may have great weight and others little weight, depending on the circumstances of each offence and each offender. In some cases, some of these principles will have little or no effect upon the outcome of the process because, in the particular circumstances, other principles have an almost overwhelming claim on the sentencing discretion.[609]

For offences where the domestic violence context was already considered aggravating, such as repeated sexual conduct with a child ,[610] the Court of Appeal has observed that the aggravating factor is less likely to have a significant impact. This is because past sentences 'were imposed in similar circumstances and where similar aggravating circumstances were taken into account'.[611] However, it may serve 'to support a sentence being imposed at the upper end of [the court's] sentencing discretion'.[612]

The relevance of past cases

One reason why the introduction of the DV aggravating factor may lead to increased sentences is because past sentences are no longer considered as useful as they were prior to the introduction of the aggravating factor in acting as relevant benchmarks.

---

601 *Fairbrother* (n 3).
602 Ibid [23] (McMurdo P, Jerrard JA and Cullinane J agreeing). Similar comments were made in *R v Major; Ex Parte A-G (Qld)* (n 315) [53] (Margaret McMurdo P).
603 *R v SEB* [2023] QCA 69, [19] ('*SEB*') (Dalton JA, Boddice JA and Crow J agreeing). This decision concerned an appeal against sentence for one count of malicious act with intent to cause grievous bodily harm. The original sentence of 7 years' imprisonment with a serious violent offence declaration (meaning the applicant would have to serve 80% prior to being eligible for parole) was affirmed on appeal, and leave to appeal against sentence was refused.
604 *R v HCH* [2021] QCA 218, 7 (Davis J, Sofronoff P and Williams J agreeing) referring to: *O'Sullivan* (n 173).
605 *Hutchinson* (n 15).
606 Ibid 515 [40] (Mullins J, Fraser and Morrison JJA agreeing) citing: *R v Pham* (2009) 197 A Crim R 246, 247–8 [5]–[7] (Keane JA) ('*Pham*').
607 *Pham* (n 606) 247–8 [5] (Keane JA). This was in the context of considering if section 9(6A) and 9(6B) applied to the sentencing of an offender who offended before the provisions had been enacted, but sentenced after they commenced with reference to section 11(2) of the *Criminal Code* (Qld) (n 12).
608 *Pham* (n 606) 248 [6] (Keane JA) cited in: *RBO* (n 577) [119] (Henry J, Mullins P and Brown JA agreeing).
609 *Pham* (n 606) 248 [7] (Keane JA).
610 *Criminal Code* (Qld) (n 12) s 229B previously called 'Maintaining a sexual relationship with a child'.
611 *R v BDQ* (2022) 298 A Crim R 120, 133 [54] (Brown J, Morrison and McMurdo JJA agreeing).
612 Ibid (Brown J, Morrison and McMurdo JJA agreeing).

In 2019, in *R v O'Sullivan, Ex parte Attorney-General (Qld)* (*O'Sullivan*),[613] the Court of Appeal referred to the introduction of the DV aggravating factor and other legislative changes since 1997 as signifying a legislative intention that offences committed in the context of domestic violence are more serious than previously decided cases.[614]

These legislative amendments could not 'be regarded as being merely declaratory of the pre-existing law'.[615] The Court found that the 'range for appropriate sentences that was established by [previous] cases … can no longer be regarded as useful for purposes of comparison because in none of them' the current legislative provisions were taken into account.[616]

The position in *O'Sullivan* has been qualified.[617] In 2020 in *R v Castel* (*Castel*),[618] Mullins JA (as Her Honour then was) said:

> It does not necessarily follow that little or no guidance will be obtained from those sentences for similar offending … provided that any absence of treating the commission of the offence as a domestic violence offence as an aggravating factor is taken into consideration.[619]

Similarly, in the 2024 decision of *R v RBO*,[620] Henry J said that, while domestic violence would be more consistently treated as an aggravating factor than previously, which means a 'more reliable indication of sentencing range is likely',

> the commencement of s 9(10A) did not make all past sentences in this area irrelevant. Those past cases which took the aggravating context of violent offending in a domestic setting into account as a relevant circumstance, may retain some potentially comparable relevance.[621]

In the 2025 decision of *R v DCQ*,[622] Bowskill CJ cautioned that 'the comparability of sentences imposed prior to 2016 should be considered with some care'.[623] Her Honour said that 'dated decisions may lack contemporary relevance, having regard to the development over time of the community's greater understanding of the harm caused by certain offences'.[624]

In *R v MEU*,[625] also decided in 2025, the Court distinguished the outcome in the 2012 decision of *R v Conway (Conway),*[626] on the basis that in the current instance, the DV aggravating factor applied whereas in *Conway* it had not.[627]

How sentencing courts refer to domestic violence and section 9(10A)

Another indication of changing sentencing practices is statements made by sentencing courts about the relevance of the DV context and to section 9(10A) directly. This research approach is commonly referred to as 'discourse analysis' or 'narrative analysis', as it considers the language used in context and its meaning.

---

613 *O'Sullivan* (n 173).

614 See ibid [93], [110] (Sofronoff P and Gotterson JA and Lyons SJA). See also, *Hutchinson* (n 15) [40], [52]–[53] (Mullins J, Fraser and Morrison JJA agreeing); *R v McConnell* [2018] QCA 107, [17], [22] ('*McConnell*') (Fraser JA, Sofronoff P and Philippides JA agreeing).

615 *O'Sullivan* (n 173) [97].This comment was made with respect to this and other relevant changes to section 9.

616 Ibid [110].

617 *R v O'Malley* (n 575) [94]; *R v Castel* [2020] QCA 91, [35] ('*Castel*').

618 *Castel* (n 617).

619 Ibid [35] (Mullins JA). Boddice J considered section 9(10A) does 'impact upon the use of some decisions as comparable': see [49].

620 *RBO* (n 577).

621 Ibid [111] (Henry J, Mullins P and Brown JA agreeing).

622 *R v DCQ* [2025] QCA 146 ('*DCQ*').

623 Ibid [59].

624 Ibid. In making this observation, Bowskill CJ referred to, by analogy, *R v Free; Ex parte Attorney-General* [2020] QCA 58; (2020) 4 QR 80, [66] and [69]; and *R v VN* [2023] QCA 220, [32]: Ibid fn 30. The offences in *DCQ* (all domestic violence offences) included rape, sexual assault (while armed), assault occasioning bodily harm (while armed) and deprivation of liberty.

625 *R v MEU* [2025] QCA 193 ('*MEU*').

626 *R v Conway* (2012) 223 A Crim R 244 ('*Conway*'). The Court allowed an appeal against a sentence of 7 years' imprisonment, with parole eligibility after 28 months (one-third) and substituted a sentence of 6 years' imprisonment, with parole eligibility after one-third of that term for two counts of rape.

627 *MEU* (n 625) [39] (Bradley JA and Hall AJA and Hindman J). Another decision of *R v Rodriguez* [2025] QCA 34 was also distinguished given the 'differences between the nature and circumstances of the applicant's offending' and 'in particular the aggravating factor': Ibid [42]. The Court further noted the obligation under s 9(10C) inserted by the *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024* (Qld) s 86, to treat the fact that an adult offender committed a domestic violence offence against a child as an aggravating factor in determining the appropriate sentence for the offender commenced on 26 May 2025, about seven weeks after the applicant was sentenced: Ibid [39] fn 18. See also *R v GBU* [2025] QCA 196, [61], [69].

A search of the Queensland Sentencing Information System (QSIS) identified several case examples that highlight how the domestic violence context and the aggravating factor have been referenced by sentencing judges when delivering their remarks.

We do not know how common it is in practice for judicial officers to refer to the DV context and the aggravating factor in circumstances where it applies as we were unable to undertake a comprehensive case analysis. But we are aware of several case examples where the aggravating factor and its impact have not been expressly acknowledged at sentence.

We also recognise the 'way in which a sentencing judge sentences a person … is not formulaic'[628] and 'the impossibility of [a trial judge] expressing all of the considerations leading to an outcome in judicial reasons', particularly in the context of sentencing that involves considerations of discretionary judgement.[629]

In **Chapter 10**, we discuss the importance to victim survivors of having the increased seriousness of offending in a DV context and the harm caused to them being formally recognised by sentencing courts as part of the sentencing process.

Examples of statements about domestic violence in post-s 9(10A) reforms sentencing remarks

'Domestic violence is a scourge on our society and that's why these new provisions have been introduced, to make note when domestic violence offences are committed.'

AOBH and GBH committed against an ex-partner, District Court of Queensland, 1 December 2016

'It is not unsurprising that politicians throughout the land and certainly throughout this state have spoken about the scourge of domestic violence and its effect upon our community as well as the individuals upon whom domestic violence is perpetrated. There needs therefore to be consideration, not only of penalising you or punishing you in relation to your behaviours, but making it clear to others in our community that such behaviour is frowned upon by our society and that the Court acting on behalf of our community considers that such behaviours are inappropriate. If you like, the community at large needs to know that such behaviours are unacceptable in a civilised society.'

Attempting to pervert the course of justice and CDVO involving current intimate partner, District Court of Queensland, 22 May 2018

'Quite simply, domestic violence is a scourge in our community. It is cowardly offending; it is very damaging and very, very disturbing.'

AOBH while armed and strangulation in a domestic setting committed against a partner, District Court of Queensland, 1 March 2023

'The community is rightly concerned at the prevalence of domestic violence, and the courts need to do what they can to impose penalties that [send] a clear message to the community that domestic violence, no matter what the circumstances, will not be tolerated.'

Wounding perpetrated against partner in circumstances where defendant had also been victim of violence perpetrated by the victim, District Court of Queensland, 13 February 2024

'Domestic violence of this kind really is a scourge on our society and can't be tolerated. And that is the reason for the imposition of section 9 (10A) in the *Penalties and Sentences Act* making … the fact that it's a domestic violence offence, a factor which must be taken into account as being aggravating, unless there are some exceptional circumstances.'

AOBH against ex-partner, District Court of Queensland, 19 February 2024

'There is an increasing awareness in our community about the bad impacts of domestic violence. Domestic violence ruins people's lives. It ruins families, and it places women like the complainant in danger of serious injury and death. The bottom line for you is that behaviour like that and like yours on this day simply cannot be tolerated. It is an

[628] *KMC v Director of Public Prosecutions (SA)* (2020) 267 CLR 480, 492 [32] (Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ). The Court made this observation with respect to acts of sexual exploitation forming the basis of a conviction for the persistent sexual exploitation of a child contrary to s 50(1) of the *Criminal Law Consolidation Act 1935* (SA).

[629] *Markarian* (n 161) 394 (Kirby J).

absolute blight on our community, and men who engage in such behaviour directed at their intimate partners must know that, if caught, they risk jail time.'

AOBH while armed and two counts of wilful damage involving ex-partner, District Court of Queensland, 7 June 2024

'The fact that the offences are domestic violence offences is an aggravating factor on sentence … [The defendant's conduct involved] really, inexcusable violence towards a vulnerable victim and, unsurprisingly … caused her significant emotional impact … in addition to the physical injuries. Our community is well and truly sick of the scourge of domestic violence and for that reason the court must treat such offending seriously.'

Multiple offences, including AOBH, strangulation, dangerous operation of a motor vehicle and wilful damage against an intimate partner, District Court of Queensland, 10 February 2025

'Your offending was domestic violence offending. That is an aggravating factor that I must take into account. It is plainly obvious that a strongly deterrent sentence is required, both to deter you and others like you from behaving in such a despicable manner to their intimate partners or former partners. It is also necessary that the sentence I impose serves to firmly denounce your offending behaviour. Domestic violence is a scourge on our community and behaviour like yours simply cannot be tolerated.'

Stalking sentenced alongside 2 offences of CDVO committed against a former partner, District Court of Queensland, 21 March 2025

'These are domestic violence offences which I must, and do, regard as an aggravating circumstance … The law has now long recognised the insidious, prevalent and serious problem that domestic violence represents in our society. Not only can it impact significantly on those directly involved but it also undermines the general sense of safety and well-being felt throughout the whole community. There is therefore a powerful community interest in stopping domestic violence. Perpetrators of serious acts of domestic violence must know that society will not tolerate such behaviour. And those who do conduct themselves in this way can expect that the courts will impose significant sentences of imprisonment to deter not only the perpetrators but others who might think that they can commit such acts with impunity.'

Fourteen offences (various, including multiple counts of rape) committed in 5 different episodes of offending against ex-wife, District Court of Queensland, 27 March 2025

'Our community is rightly concerned with the scourge of domestic violence, and the courts have emphasised that deterrent sentences are necessary to try and address it.'

AOBH, 2 counts of strangulation in a domestic relationship, and one of common assault against an intimate partner, District Court of Queensland, 1 October 2025

8.1.4 Stakeholder views

The impact of the aggravating factor on sentencing practices

Legal stakeholders' view that the aggravating factor has changed sentencing practices

Most legal stakeholders considered that the aggravating factor had impacted sentencing practices, as demonstrated through the increased use of custodial penalties and longer custodial penalties.

Legal Aid Queensland (LAQ) observed that section 9(10A) is 'a foremost factor for a sentencing court'.[630] Subject matter expert (SME) interviewees made similar observations, with one participant commenting that when section 9(10A) was raised, it was given 'a lot of weight' and was 'a large feature of the sentencing remarks'.[631]

The Aboriginal and Torres Strait Islander Legal Service (Qld) (ATSILS) commented that since the introduction of section 9(10A), it had observed 'a notable increase in sentencing outcomes for domestic and family violence matters' for their clients including the imposition of custodial sentences for matters that would not ordinarily result in a custodial sentence, and longer custodial sentences.[632]

630 Submission 18 (Legal Aid Queensland).
631 Subject Matter Expert Interview 6.
632 Submission 9 (Aboriginal and Torres Strait Islander Legal Service).

Most SME interview participants also told us that penalties had increased to some extent over the period the aggravating factor had been in operation.[633] Some were of the view penalties had 'significantly increased'.[634] Different timeframes for when this change in sentencing practices became noticeable were suggested, ranging from the past 5 years[635] to as early as 10–15 years ago, pre-dating the introduction of the aggravating factor in 2016.[636]

The change was viewed as occurring not only in the higher courts but also at the Magistrates Courts level, with the aggravating factor and the fact the offence was a DV offence, and therefore must be treated as aggravated, commonly mentioned.[637]

LAQ advised that practitioners anecdotally reported the more serious treatment of DV offences, even for non-physical violence offences such as wilful damage.[638]

Regionally based legal services equally observed the increasing use of custodial sentences and longer custodial sentence lengths in more recent years, including for people who had no prior history of domestic violence offending and for offences involving non-physical violence.[639] This view was shared by several justice service providers who considered that the community and courts were treating matters involving domestic violence more seriously and that penalties had increased.[640]

The view that the aggravating factor had changed how courts treated offending in a DV context was challenged by some SME interview participants and legal service providers, who considered that the more serious treatment of a DV offence was 'just codified' through the introduction of the aggravating factor.[641] For example, one participant reflected that statements made by the Court of Appeal in the 2005 decision of *Fairbrother*[642] were commonly cited prior to the aggravating factor as a general sentiment about the community not tolerating domestic violence and it being 'insidious'.[643] This continued to be the case following the introduction of section 9(10A).[644]

However, while noting the existence of *Fairbrother* and other relevant case authorities, several other interview participants considered that the aggravating factor did change the view of domestic violence.[645] One reason was that 'it's now a legislatively mandated' consideration; previously courts might have exercised discretion on that issue based on the facts of the case, but now 'it must be taken into account'.[646] Another reason was that before section 9(10A) was introduced, there was no clear statement that the fact an offence occurred in a domestic violence context should be treated as aggravating.[647] The introduction of section 9(10A) also brought in a body of law regarding what an aggravating factor is and its intended impact.[648]

The aggravating factor was also viewed by some as having changed prosecution practices. For DV offences sentenced in the higher courts, it was now 'very standard' practice for the prosecution to make submissions emphasising that the domestic violence factor alone must be treated as a factor in aggravation.[649] The prosecution also is no longer in the position of having to persuade a court the offending was more serious on this basis.[650] This was considered to be a 'big difference' from previous practice.[651] The court's 'attention

---

633 Subject Matter Expert Interview 2; Subject Matter Expert Interview 3, Subject Matter Expert Interview 4; Subject Matter Expert Interview 6.
634 Subject Matter Expert Interview 1; Subject Matter Expert Interview 2.
635 Subject Matter Expert Interview 6.
636 Subject Matter Expert Interview 2.
637 Subject Matter Expert Interview 2.
638 Preliminary Submission 17 (Legal Aid Queensland).
639 For example, Legal Service Provider, Bundaberg, 27 June 2025.
640 For example, Justice service provider, Maryborough, 26 June 2025; DV service provider, Torres Strait, 19 May 2025; Justice service provider, Mount Isa, 2 May 2025.
641 Subject Matter Expert Interview 2; Subject Matter Expert Interview 6; Legal service provider, Townsville, 11 June 2025.
642 *Fairbrother* (n 3).
643 Subject Matter Expert Interview 6.
644 Subject Matter Expert Interview 6. See, for example, *CDL* (n 10) [19] (Bowskill CJ); *KBH* (n 280) [33] (Coker DCJ); *BH* (n 169) [50] (Fantin DCJ). A search of cases in the Queensland Sentencing Information System (QSIS) identified several other first instance sentencing decisions cases where a statement of this kind had been made in the context of domestic violence-related offending.
645 Subject Matter Expert Interview 1; Subject Matter Expert Interview 9.
646 Subject Matter Expert Interview 9; Subject Matter Expert Interview 15.
647 Subject Matter Expert Interview 1.
648 Ibid.
649 Subject Matter Expert Interview 13.
650 Subject Matter Expert Interview 12; Subject Matter Expert Interview 14. This comment was made in the context in particular of written submissions in the District Court.
651 Subject Matter Expert Interview 11; Subject Matter Expert Interview 12; Subject Matter Expert Interview 14.

is explicitly turned to that' fact, whereas previously 'the domestic violence context was not necessarily raised in that way'.[652] One participant reflected 'anything that explicitly asks or requires a judge to weigh [domestic violence] into the explicit factors that are to be considered is a positive thing because it forces both of the parties to engage with that as an issue'.[653]

Another big change identified by several interviewees was the approach to previous case authorities, acknowledging that these may no longer be viewed by courts as relevant or useful.[654] This view was shared by members of the Council's Practitioner Consultative Forum.[655] It was acknowledged that the Court of Appeal had more recently clarified the position, confirming that earlier cases remained relevant and could be relied upon, provided that the court in these earlier decisions made clear that the domestic relationship had been treated as an aggravating feature.[656] One interview participant noted, however, that reliance was still placed on older case authorities that pre-dated the introduction of section 9(10A).[657]

Different treatment of offences involving the use of or threats of physical violence and those that do not

Generally, it was considered that a distinction still existed between cases involving physical violence and those that do not. However, we were told there had been a marked shift away from categorising non-physical acts as trivial or not serious.[658] The 'gap' between treating physical acts as more serious than non-physical ones was thought to 'be closing a little bit'.[659]

Several interview participants noted that for an offence involving physical violence, section 9(2A) of the PSA applies, meaning imprisonment is no longer a sentence of last resort. This does not apply to cases involving non-physical acts of domestic violence, such as wilful damage, or in cases involving breaches of 'no-contact' conditions of a DVO.

It was considered that there were legitimate reasons why the use of physical violence or attempts to seriously injure someone are, in some cases, treated more seriously than non-physical acts of violence.[660] For example, if you injure someone seriously and nearly kill them, that will always be a much more serious offence than a non-physical act.[661] But this is not a general rule, and is context-specific.[662] The example was provided of there being a pattern of coercive controlling behaviours that are more frightening and more serious for the complainant than a drunken slap following an argument.[663] Most courts recognise that difference.[664]

Reducing courts' treatment down to a 'simplistic level' of distinguishing physical versus non-physical acts was viewed as unhelpful given the complexity of the issues involved, including the need to consider the previous history of violence, aggravating factors, and the circumstances of the person being sentenced.[665]

The extent of any impact is difficult to measure

ATSILS, the QLS and LAQ were among those stakeholders who cautioned that while the aggravating factor may have had an impact, it would be 'impossible to attribute with any certainty how each of the amendments might have contributed to any changes in trends'.[666] This was because of the instinctive synthesis approach to sentencing, as well as the overlapping nature of the amendments.

This view was shared by SME interview participants: 'Even if it's expressly referred to in sentencing remarks, there's no way of measuring how much that contributes to the outcome because [sentencing is] an

---

652 Subject Matter Expert Interview 11.
653 Ibid.
654 See *O'Sullivan* (n 173) [94].
655 Practitioner Consultative Forum meeting, 14 October 2025.
656 Subject Matter Interview 4.
657 Ibid. This interviewee referred, in particular, to *R v RAP* (n 596).
658 Subject Matter Expert Interview 3.
659 Subject Matter Expert Interview 6.
660 Subject Matter Expert Interview 1.
661 Ibid.
662 Ibid.
663 Ibid.
664 Ibid.
665 Ibid.
666 Submission 9 (Aboriginal and Torres Strait Islander Legal Service) Submission 14 (Queensland Law Society); Submission 18 (Legal Aid Queensland).

instinctive synthesis process, and it's never mathematical.'[667] The domestic violence context was only one factor among numerous other factors that must be considered.[668]

Further, while 'having data about upward sentencing trends and outcomes is measurable … [the impact of this reform is] obscured when it's with other changes around the same time'.[669] LAQ pointed to several other developments that may be impacting sentencing, such as:

- changes to the 'show cause' provisions in the *Bail Act 1980* (Qld), which had increased remand numbers;
- the increased reluctance by some courts to proceed to sentence when the matter is first before it. This may be for reasons including seeking additional information about a person's criminal history, obtaining a victim impact statement or the varying of a DVO aligning with Magistrates Court Practice Direction 1 of 2025; and
- the unavailability of programs to prisoners on remand to assist with housing, employment, drugs and alcohol, or other social needs.[670]

Concerns the DV aggravating factor is not having a significant impact and consistency of treatment

The Queensland Police Union was concerned the reform had had 'little positive impact'.[671] An individual submitter suggested courts were not treating domestic violence offences more seriously 'as most offenders avoid imprisonment and receive non-custodial sentences'.[672]

This view was shared by some domestic violence services and justice service providers during our regional consultations;[673] they considered that the penalties being imposed by courts for DV offending had not changed and were not sufficient.[674] Stakeholders in some regional locations reflected that they did not see the language of 'aggravation' commonly used in the Magistrates Courts when imposing sentence.[675]

Specific reasons for this were not identified – although reference was made by some stakeholders to the continuing value of professional education and training.

One individual submitter was concerned that the impact of the DV aggravating factor on sentencing practices had been inconsistent, taking into account judicial officers' broad sentencing discretion, and in many cases the impact had been minimal.[676]

Improved understanding of domestic violence and influence on practice

Many legal stakeholders noted that there had been improvements in judicial understanding about the dynamics of DV and that many judicial officers referred to section 9(10A) in their sentencing remarks alongside statements denouncing domestic violence.[677] An individual submitter observed that while they considered the impact on sentencing practices had been inconsistent, positive impacts of section 9(10A) included that 'some courts now make more explicit reference to the domestic violence context during sentencing remarks, acknowledging the power dynamics, coercive control, and breach of trust involved' and it had also 'driven some improvements' in judicial training.[678] The view that judicial understanding of DV had changed was echoed by SME interview participants, with this improved understanding seen as also extending to the broader legal profession.[679]

---

667 Subject Matter Expert Interview 6.
668 Subject Matter Expert Interview 8.
669 Subject Matter Expert Interview 6.
670 Submission 18 (Legal Aid Queensland).
671 Submission 16 (Queensland Police Union).
672 Submission 6 (name withheld).
673 For example, DV Service Provider, Maryborough, 27 June 2025.
674 For example: Justice service provider, Townsville, 11 June 2025; Justice service provider, Townsville, 12 June 2025; Justice service provider, Mount Isa, 1 May 2025.
675 DV Support Service, Cairns, 15 April 2025.
676 Submission 12 (M Halliday).
677 Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 14 (Queensland Law Society); Submission 18 (Legal Aid Queensland).
678 Submission 12 (M Halliday).
679 Subject Matter Expert Interview 1; Subject Matter Expert Interview 3; Subject Matter Expert Interview 5.

In general, courts were viewed as being far more attuned to the nature and dynamics of domestic violence, which impacted their approach. It was acknowledged that enhancing professional development opportunities for legal professionals had been a focus particularly since the *Not Now, Not Ever* Special Taskforce report,[680] and was also a necessity given the significant legislative reforms that followed.[681] This had led to an improved understanding of aspects such as coercive control and different forms of emotional abuse[682] – for example, that part of the pattern of control may be about 'kindness and forgiveness', and that domestic violence is 'not always about threats and intimidation'.[683]

We were told that enhanced understanding of the nature and dynamics of domestic violence had a practical impact on the treatment of submissions made by defence practitioners that what the respondent did was due to some behaviour on the part of the aggrieved. The response to this by judicial officers had shifted in that submissions suggesting that an assault was somehow provoked by something the complainant did and they were somehow to blame were no longer being entertained.[684]

Another interview participant commented that the courts were now taking into account whether there was a pattern of behaviour for domestic violence offending.[685] This includes whether 'there [are] aspects of the offending outside of the elements of the offence that demonstrate domestic violence attitudes, [and if so] they go to inform risk and what sort of sentence needs to be imposed'.[686] This view aligns with those of some legal services, which similarly told us there had been a noticeable shift by magistrates in seeking to better understand the nature of previous charges – particularly those involving the same victim.[687] Prosecutors were now also routinely tendering the person's prior history of orders made.[688]

Statements from the bench about the 'insidious' nature of DV and what a 'scourge' it is in the community were generally considered to be much stronger than has historically been the case.[689] One interviewee referred to judicial officers now commonly referring to community standards and expectations.[690] In the case of recidivist offenders, comment will often be made that the person is not learning from their behaviour,[691] and prosecutors were observed to be making these types of submissions more frequently.[692]

While greater reference to the domestic violence context and the nature of the offending cannot directly be attributed to section 9(10A), the more routine consideration of this factor may encourage these types of statements being made.

8.1.5 The Council's view

Finding 5: The aggravating factor appears to have impacted sentencing practices

Sentencing practices for domestic violence offences have changed following the introduction of section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) supporting the treatment of these offences as more serious forms of offending.

680 *Special Taskforce Report* (n 4).
681 Subject Matter Expert Interview 1.
682 Subject Matter Expert Interview 4.
683 Ibid.
684 Subject Matter Expert Interview 3; Subject Matter Expert Interview 5.
685 Subject Matter Expert Interview 10.
686 Ibid.
687 Legal service provider, Townsville, 11 June 2025.
688 Ibid. This reflects legislative reforms in 2023 that provide that a court may consider the history of domestic violence orders made or issued against the offender (other than orders made or issued when the offender was a child) in considering the person's character: PSA (n 41) s 11 as amended by: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 81. The purpose of these reforms 'is for a sentencing court to be aware of a relevant domestic violence history and to be able to take it into account': Statement of Compatibility: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022 (Qld) 22.
689 Subject Matter Expert Interview 2. In regional consultations, justice service providers made similar observations that judicial officers are now more commonly referring to the seriousness of domestic violence offending - e.g. Justice service provider, Mount Isa, 1 May 2025.
690 Subject Matter Expert Interview 2.
691 Ibid.
692 Ibid.

The Council agrees that it is difficult to measure the impact the aggravating factor has had on sentencing outcomes, given the volume of reforms impacting the sentencing of DV offences, particularly since the Special Taskforce's *Not Now, Not Ever* report in 2015 and the WSJ Taskforce reports in 2021 and 2022.

However, based on our review of appellate court decisions and stakeholder views, we have concluded that the aggravating factor has contributed to changes in sentencing practice in important ways for several reasons:

1. The aggravating factor now provides clear legislative guidance to sentencing courts that the fact the offence occurred in the context of domestic violence must be treated as increasing the seriousness of the offending with limited exceptions. This ensures the more consistent treatment of the domestic violence context as aggravating than was previously the case.
2. The relevance of case authorities pre-dating the introduction of the aggravating factor must be clearly established.
3. As this factor is legislated, it encourages all parties involved in the sentencing process to view the offending through a domestic violence lens. It supports greater consideration of the broader context in which such offending has occurred within the framework of instinctive synthesis.
4. The prosecution is supported to make submissions on the way in which the domestic violence context of the offending is aggravating. This ensures the court's attention is expressly drawn to the nature of the offending when assessing its seriousness and determining sentence. Courts are thereby encouraged to make explicit reference to the domestic violence context and to strongly denounce such conduct.

Other key reforms and developments have supported these practice changes. These have included significant enhancements to professional development and training for prosecutors, defence practitioners and judicial officers, as well as improved understanding by those involved in the criminal justice system and the broader community about the nature and dynamics of domestic and family violence and its devastating impacts.

In this context, we acknowledge the Court of Appeal's observations in *Hutchinson*[693] that in our view apply equally to sentencing practice as they do to outcomes. While changes made to sentencing law are of immediate effect, their impact on sentencing outcomes and practice is likely to be apparent only after some time has passed as case law develops and these reforms are embedded in practice.

There are opportunities for the impacts of the reform to be explored through future research. For example, it was not possible for the Council to undertake a comprehensive analysis of sentencing remarks to determine whether courts' understanding of domestic violence and recognition of its seriousness has changed. During the first part of this review, we acknowledged that sentencing remarks can serve a powerful communicative function in promoting offender accountability, acknowledging victim harm, and denouncing the person's behaviour.[694] They also serve a broader function of making the community aware of the type of sentences imposed for that kind of criminal conduct. This, in turn, may act as a deterrent to others in the community who are inclined to commit similar offences and help strengthen confidence in the operation of the criminal justice system.[695] These objectives are particularly important in the context of sentencing for domestic violence offending, given its prevalence and impacts, as well as high rates of under-reporting.

8.2 Anomalies and complexities

The Council has also been asked to identify any anomalies that occur in the application of the aggravating factor that create inconsistency or constrain the sentencing process.

---

693 *Hutchinson* (n 15) [40] (Mullins J, Fraser and Morrison JJA agreeing). Citing as authority, *Pham* (n 606) [5]–[7] (Keane JA) .
694 See *The Ripple Effect* (n 415) 630 citing Andrew von Hirsch et al. Principled Sentencing: Readings on Theory and Policy (Bloomsbury Publishing, 2009) 129.
695 Ibid 643.

8.2.1 Commonwealth offences

Generally, state-legislated sentencing principles, including the DV aggravating factor, do not apply when sentencing Commonwealth offences. Offences that may be committed in a DV context include:

- using a carriage service to:
  - menace or harass or cause offence;[696]
  - transmit sexual material without consent;[697] or
  - make a threat;[698]
- production of child abuse material for use through a carriage service.[699]

For Commonwealth offences, the *Crimes Act 1914* (Cth) guides sentencing,[700] and the common law may apply to fill a gap in Commonwealth law.[701] State statutory principles such as the PSA are only applicable if, and to the extent that, Commonwealth law makes them applicable.[702] Generally, there is 'little room for general sentencing principles set down in State or Territory legislation to be applied as surrogate federal law to the sentencing of federal offenders'.[703]

State or territory laws have been found to apply where there is a gap (meaning the common law and Part 1B of the *Crimes Act 1914* (Cth) has made no provision) and the relevant state provision was not inconsistent.[704] There has been no guidance allowing the DV aggravating factor to apply to Commonwealth offences.

In the Consultation Paper, we noted this limitation, as well as the inability to 'flag' a Commonwealth offence as a domestic violence offence on a person's criminal history.[705] The inconsistency between state and Commonwealth law was also identified when the Queensland Government was considering whether to introduce a domestic violence circumstance of aggravation, and it was not suggested that a DV aggravating factor would overcome this.[706]

One submitter considered that this anomaly 'inhibits proper recognition of coercive control' and 'creates inequity in sentencing outcomes based solely on whether the prosecution chose to proceed under state or federal law'.[707] They submitted the DV offence should be recognised as an aggravating factor, regardless of jurisdiction.[708]

The Council's view

The Council agrees with comments made by stakeholders that the absence of a statutory aggravating factor for Commonwealth offences committed in a DV context may create an inconsistency in sentencing domestic violence offences. However, we also note that courts, in sentencing for Commonwealth offences, can apply the common law. This extends to applying the sentencing purposes of community protection[709] and

---

696 *Criminal Code* (Cth) (n 108) s 474.17.
697 Ibid s 474.17A.
698 Ibid s 474.15.
699 Ibid s 474.22 Section 474.23 of the Act also includes acts of possession or control of material or supplying or obtaining this material.
700 *Crimes Act (Cth) 1914* (Cth) pt 1B, in particular s 16A.
701 *Judiciary Act 1903* (Cth) s 80.
702 Ibid; *Johnson v R* (2004) 78 ALJR 616, [15]. Discussed in Commonwealth Director of Public Prosecutions, *Sentencing of Federal Offenders in Australia: A Guide for Practitioners* (7 July 2024) 44 [199]–[200].
703 Commonwealth Director of Public Prosecutions (n 702) 44 [202].
704 Ibid, see discussion in 3.1.3 and [205]: A rare example was from Victoria which required a court to not have regard to any consequences from the registration of the offender as a sexual offender: *R v ONA* (2009) 24 VR 197; cf *Sabel v R* [2014] NSWCCA 101, [206]–[209].
705 Queensland Sentencing Advisory Council, *Assessing the Impacts of Domestic and Family Violence Sentencing Reforms in Queensland* (Consultation Paper, March 2025) 35 ('*QSAC Consultation Paper*').
706 Department of Justice and Attorney-General (Queensland), *Circumstances of Aggravation and Strangulation* (Discussion Paper, October 2015) 6–7.
707 Submission 12 (M Halliday) 9.
708 Ibid.
709 Commonwealth Director of Public Prosecutions (n 702) 97–8 [435].

denunciation for offences that occur in a domestic violence context.[710] We further note that, under the *Crimes Act 1914* (Cth), a court must take into account:

- the nature and circumstances of the offence,[711] and if the offence forms part of a course of conduct;[712]
- the personal circumstances of the victim, and any harm suffered;[713] and
- the need to ensure a person is adequately punished.[714]

These factors allow a court to take into account that the offence occurred in the context of domestic violence.[715] For example, in *Shields v The Commissioner of Police*,[716] the appellant was sentenced for wilful damage, possessing a dangerous drug, and using a carriage service to menace, harass or cause offence. In respect of the Commonwealth offence, Loury QC DCJ noted:

> The nature and circumstances of the offence are serious because of the domestic relationship that existed between the appellant and complainant. The offence was serious because the menacing phone calls involved threats to kill and/or harm the complainant, her children and her foster mother.[717]

We were also told during consultation that although there is no DV 'flag' for Commonwealth offences, the facts of the earlier offence could be sought, such as by accessing a copy of earlier sentencing remarks.[718]

As discussed in section 6.2, this same issue applies to offences sentenced in other jurisdictions where there is no DV flag.

To the extent any inconsistency exists, we consider this is a matter for the Commonwealth Government and other state and territory governments.

8.2.2 Offences that only occur in a DV context

Another potential 'anomaly' identified is that the DV aggravating factor is of no practical effect for offences that can only be committed in a DV context.[719] These offences include:

- choking, suffocation or strangulation in a domestic setting;[720]
- coercive control;[721]
- stalking in circumstances where a domestic relationship exists between the person and the stalked person;[722]
- indecent treatment of children under 16, where the child is the offender's lineal descendant;[723]
- abuse of persons with an impairment of the mind, where the person is the offender's lineal descendant;[724]
- incest.[725]

SME participants who commented on this aspect supported the current position of these offences still being charged and flagged as 'domestic violence offences' for the purposes of an offender's criminal history as

---

710 Ibid 99 [439] citing; *Munda* (n 597) [54].
711 Crimes Act (Cth) (n 700) s 16A(2)(a).
712 Ibid s 16A(2)(c).
713 Ibid ss 16A(2)(d)–(ea).
714 Ibid s 16A(2)(k).
715 *GHN v Commissioner of Police* [2022] QDC 86, [43]–[44] (Judge A J Rafter SC) citing; *Fairbrother* (n 3) [23].
716 *Shields v The Commissioner of Police* [2021] QCA 51.
717 Ibid [14] (Loury QC DJC).
718 Subject Matter Expert Interview 1; Subject Matter Expert Interview 13.
719 See *R v MCW* (n 59) 352, [35] in which the Court stated this section 'does not operate in relation to sentencing for an offence against s 315A of the Code, as all sentences under s 315A will be in respect of domestic violence offences'.
720 *Criminal Code* (Qld) (n 12) s 315A.
721 Ibid s 334C.
722 Ibid s 359E(4): A higher maximum penalty of 7 years applies.
723 Ibid s 210(4): A higher maximum penalty of 20 years applies.
724 Ibid s 216(3A). The maximum penalty for an offence with this circumstance of aggravation is 14 years' imprisonment.
725 Ibid s 222.

they legally met the requirement to be averred as a DV offence.[726] However, the aggravating factor should not apply to increase the penalty that might otherwise be imposed.

The approach in Queensland is in contrast to that in NSW that sets out aggravating and mitigating factors. Section 21A of the *Crimes (Sentencing Procedure) Act 1999* (NSW) provides that: 'The court is not to have additional regard to any such aggravating factor in sentencing if it is an element of the offence.'

The Council previously recommended that section 9 of the PSA be reviewed, given its complexity and the number of changes made over time.[727] The Queensland Government has committed to undertaking this review.[728] This may be an appropriate avenue for the government to consider whether further clarification is needed on the application of section 9 to offences where domestic violence is an element of the offence or that only can be committed in a domestic violence context.

8.2.3 Experiencing domestic violence and committing a domestic violence offence

The PSA was amended in 2023 to require a court to treat the effect of experiencing domestic violence as a mitigating factor (that may reduce the sentence), and to consider the extent to which the offence was attributable to this.[729]

Prior to this amendment, it was a relevant consideration and could be mitigating.[730] For example, in *R v MacKenzie*,[731] there was 'substantial independent documented evidence' that the defendant had suffered domestic violence over a protracted period from the deceased.[732] The Court of Appeal considered that 'the history of domestic violence has considerable relevance and was a significant mitigating factor'.[733] In *R v Fisher*,[734] the defendant's exposure to severe domestic violence and prejudicial upbringing was found to have contributed to 'a range of disorders', which to some degree impacted his 'capacity to maintain self-control' and was seen as mitigating.[735]

There can be complexity in sentencing where a factor is both aggravating and mitigating. For offences committed in a domestic violence context, this context can be aggravating, but being a victim of domestic violence can also reduce a person's moral culpability.[736]

A case example is *O'Sullivan*, where the death of a toddler was caused by the child's mother's abusive partner. The mother was also convicted of manslaughter (DV offence) on the basis of criminal neglect. While the DV aggravating factor applied and a severe head sentence was called for, the Court of Appeal considered that her personal circumstances as a victim of domestic violence heavily mitigated her moral culpability and, together with her early guilty plea and remorse, justified an early parole eligibility date.[737]

Stakeholder views

Stakeholders including LAQ, Sisters Inside, and the Royal Australian College of General Practitioners (RACGP) highlighted the need to consider the relationship between section 9(10A) and section 9(10B) as well as other mitigating factors.[738] LAQ commented:

> While aggravating factors in sentencing appear to be applied routinely, LAQ's practitioners report mixed outcomes with respect to the corresponding mitigating provisions (for example, section 9(10B)). This

[726] For example, Subject Matter Expert Interview 1.
[727] *The Ripple Effect* (n 415) rec 3.
[728] 'Crisafulli Government Delivers Major Changes to Restrict 'good Character' Evidence and Prioritise Victims' (n 543).
[729] PSA (n 41) s 9(10B).
[730] See *R v MacKenzie* [2000] QCA 324, [19] (McMurdo P); *R v Fisher* [2022] QSC 189, [36], [42] (Burns J); *R v Birch* [1985] CCA 42, 7 (Justice D.M Campbell), 10 (Macrossan J).
[731] *R v MacKenzie* (n 730).
[732] Ibid [8] (McMurdo P). This included evidence of physical violence, sexual assault and rape, choking, locking her in her house, isolating her from friends, as well as psychological violence and threats.
[733] Ibid [19].
[734] *R v Fisher* (n 730).
[735] Ibid [36], [42] (Burns J).
[736] See, e.g., *R v FAS* [2019] QCA 113, [128] (Ryan J, Fraser and Morrison JJA agreeing).
[737] *O'Sullivan* (n 173) [177]–[178] (Sofronoff P and Gotterson JA and Lyons SJA).
[738] Submission 4 (Royal Australian College of General Practitioners), 10 (Sisters Inside Inc), Submission 18 (Legal Aid Queensland).

> may be impacted by the ability to prepare and provide the supporting material required by the court to confidently mitigate the sentence imposed, particularly in lower court proceedings and where time is of the essence. Anecdotally those provisions are more routinely applied in higher court proceedings.[739]

Sisters Inside reported similar issues, saying that section 9(10B) 'is inconsistently applied and rarely results in mitigation'.[740] They were concerned that submissions made by prosecutors about aggravating features 'are often accepted uncritically by courts' and that this was particularly the case where the person sentenced was 'an Aboriginal woman or otherwise marginalised',[741] resulting in 'unequal application of the law'.[742]

They encouraged the Council to consider the 'rate at which s 9(10B) is raised and meaningfully considered by the court'.[743]

On a related issue, Sisters Inside suggested that the mandatory nature of section 9(10A) was 'in tension with s 9(10B) of the Act, which directs courts to consider whether the aggressor is also a victim of domestic violence', submitting:

> These two provisions operate in conflict, with the aggravating factor often overriding the mitigating one, especially when "exceptional circumstances" is applied narrowly. This results in disproportionately harsh outcomes for criminalised women and limits the ability of courts to achieve just and appropriate sentencing outcomes.[744]

The RACGP's Specific Interest Group Abuse and Violence in Families noted that a 'history of prolonged domestic violence or pre-existing experiences of domestic violence may impact … the quality of evidence taking and assessment' that 'may need to be accounted for in the determination of [sections] 9(10A) and 9(10B)'.[745] The Specific Interest Group further submitted that 'an offender may justify or externalise their offence by claiming a mitigating factor, as a psychological defence process which may also impact on the quality of evidence taking and assessment'.[746]

The Council's view

While outside the scope of this review, the Council is undertaking an analysis of case law to explore how section 9(10B) is being applied and intends to publish our findings once this work has been finalised.

We agree it is important to ensure that information about the sentenced person's background and exposure to domestic violence is available to inform sentencing submissions, as this can assist sentencing courts to understand the context of the offending. We acknowledge that it may be particularly challenging to gather this information and supporting evidence for Magistrates Court proceedings given the volume of matters sentenced and time and funding constraints. Ensuring that practitioners have access to updated case resources to inform practice is particularly important, as is a continued investment in funding for Legal Aid and community legal services. Resources such as the *Bugmy Bar Book*,[747] are likely to continue to be useful to courts and practitioners in the framing of these issues.

We made a similar observation in our final report on Part 1 of this review. In that report, we commented on the importance of both defendants and victim survivors having access to specialist services and supports, including to ensure appropriate evidence is put before a court to inform sentence.[748] In support of this objective, we recommended that the Department of Justice, in consultation with the Heads of Jurisdiction, explore alternative models of professional advice to inform sentence.[749]

---

739 Submission 18 (Legal Aid Queensland).
740 Submission 10 (Sisters Inside Inc). See also, Submission 12 (M. Halliday).
741 Ibid.
742 Ibid.
743 Ibid.
744 Ibid.
745 Submission 4 (Royal Australian College of General Practitioners).
746 Ibid.
747 The Bugmy Bar Book Project Committee, 'The Bugmy Bar Book'.
748 *The Ripple Effect* (n 415), see chapters 12 - 14.
749 See ibid rec 12.

8.2.4 Application of section 9(10A) to offences committed by children

During our consultations, the Council was told that the aggravating factor is being applied to children sentenced in the Children's Court for DV offences in some cases.

The principles that guide the sentencing of children are largely contained in the *Youth Justice Act 1992* (Qld) (YJA).[750] There is no equivalent provision to section 9(10A) of the PSA in the YJA.

The Council's view

In 2024, the Childrens Court of Queensland handed down the decision *of GEPI v The King*[751] *(GEPI).* The Court in this case commented on the fact the applicant had been convicted of a charge of 'wilful damage domestic violence offence' and noted that this was an error 'because the averment that the charge constituted a domestic violence offence does not apply under the *Youth Justice Act 1992* (Qld)', only under the PSA.[752] The wilful damage charge was dismissed. As discussed in section 6.2, there is now a contrary view that offences committed by children in a DV context should be charged and recorded for reporting purposes as DV offences.[753]

The Council does not consider that there is a need for the position that the aggravating factor does not apply to be legislatively clarified given that these cases relate to the charging and recording of offences as DV offences, not to the application of the aggravating factor. However, it may be useful for this issue to be clarified in relevant practice guidelines for prosecutors and any future updates made to the *Youth Justice Benchbook*.[754]

8.3 The use of exceptional circumstances

A court must treat the fact that an offence is a DV offence as aggravating unless the court considers it is unreasonable to do so because of the exceptional circumstances of the case.[755]

The Council reviewed the use of 'exceptional circumstances' to determine how often this is being applied by courts.

8.3.1 Defining what is meant by 'exceptional circumstances'

There is no statutory definition of what might amount to exceptional circumstances. However, the PSA provides 2 examples for section 9(10A):

1. The victim of the offence has previously committed an act of serious domestic violence, or several acts of domestic violence, against the offender ['legislative example 1']
2. The offence is manslaughter under the Criminal Code, section 304B (Killing for preservation in an abusive domestic relationship) ['legislative example 2'].[756]

When the DV aggravating factor was introduced, the intention of moderating its application was to 'avoid unintentional consequences on victims',[757] as reflected in the legislative examples.

---

750 While section 2 of the Act provides that one of its purposes is to establish a code for dealing with children who have, or are alleged to have, committed offences, the Youth Justice Act (n 224) s 150(3)(a) provides that a court must also have regard in sentencing a child to 'the general principles applying to the sentencing of all persons' subject to the other provisions of this Act. This has been interpreted to mean 'such principles as had, prior to the PSA, been worked out by the Judges, and not to any principles stated in the [PSA]': *R v W; Ex parte A-G* (2000) 1 Qd R 460, 462 [7]. See Michael Shanahan, *Youth Justice Benchbook* (Queensland Courts, Department of Justice, updated March 2025, 2020) 250 ('*Youth Justice Benchbook*').

751 *GEPI* (n 458).

752 Ibid [4].

753 *R v JM* (n 460) [4]–[6], [45].

754 Shanahan (n 750).

755 PSA (n 41) s 9(10A).

756 Ibid. For a discussion on 'exceptional circumstances' generally, see: *R v Tootell; Ex parte A-G (Qld)* [2012] QCA 273, [18]–[25] ('*Tootell*') (Holmes and Fraser JJA and Henry J).

757 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill (No. 2)' (n 7) 3.

The Court of Appeal has mentioned 'exceptional circumstances' being found in the context of the DV aggravating factor, but there is limited guidance on its interpretation or application as it has not been a point for determination.[758]

In *R v Gatti*,[759] it was noted that 'mental health may be relevant (together with other matters) in determining if there are "exceptional circumstances" within the meaning of s 9(10A) of the PSA'.[760] However, the Court did not consider this point further because it was not raised by the defence and the prosecution did not seek to distinguish that case from other cases.[761]

Common law on the relevance of mental or cognitive impairment may reduce a person's moral culpability and reduce the relevance of general deterrence for the purposes of sentencing.[762] However, it is not automatically mitigating and other sentencing purposes such as community protection may have greater importance, depending on the circumstances.[763]

Cases such as *O'Sullivan* and *Castel* illustrate that the court must decide the appropriate weight to give to the DV aggravating factor, even if arguments for exceptional circumstances are not advanced or it is not established.[764]

Guidance from other cases

It is not unusual for legislation to 'require courts to find "special reasons" or "special circumstances" as a condition of the exercise of a power'.[765] Courts are familiar with the term 'exceptional circumstances', and it appears in 6 different subsections of section 9 in the PSA.[766]

Most appellate guidance is in the context of whether actual imprisonment should be imposed for an offence of a sexual nature against a child,[767] where the only legislative guidance is that the 'court may have regard to the closeness in age between the offender and the child'.[768] When the provision relating to child sexual offences was introduced, the lack of definition was deliberate:

> 'Exceptional circumstances' is not defined as the phrase is one with which the courts are familiar and the circumstances that may amount to 'exceptional' are best assessed on a case-by-case basis … Justice Chesterman said that 'to qualify as "exceptional" the circumstances of the offender or the offence must be properly identifiable as truly out of the ordinary, or extraordinary' … A corresponding approach to interpretation is intended.[769]

The Court of Appeal has noted that an assessment of exceptional circumstances 'calls for a value judgement as part of the instinctive synthesis', which includes assessing the criminality of the offence as 'the greater the objective seriousness of an offence the more difficult it will be to establish the case is relevantly exceptional'.[770]

---

758 See: *R v Blockey* [2021] QCA 77, [11] (Sofronoff P and McMurdo JA and Boddice J); *R v Solomon* [2022] QCA 100, [35] v (Mellifont J, McMurdo and Bond JJA agreeing).

759 *R v Gatti* [2018] QCA 98 ('*Gatti*').

760 Ibid [33] (Philippides JA, Morrison JA and Brown J agreeing).

761 Ibid.

762 *R v Verdins* 16 VR 269, 276 [32] (Maxwell P, Buchanan and Vincent JJA) restating the principles in: *R v Tsiaras* (1996) 1 VR 398 citied in: *R v Yarwood* (2011) 220 A Crim R 497, [24] (White JA, Fraser JA and North J agreeing).

763 *Bugmy v The Queen* (2013) 249 CLR 571, 595 [45] ('*Bugmy*') (French CJ, Hayne, Crennan, Kiefel, Bell and Keane JJ) quoting R v Engert (1995) 84 A Crim R 67 [68] (Gleeson CJ).

764 *Castel* (n 617) [3] (Sofronoff P) referring to [14], [16], [18] (Mullins JA) cf [49] (Boddice J [in dissent]); *O'Sullivan* (n 173) [177]–[178] (Sofronoff P and Gotterson JA and Lyons SJA).

765 *R v Simpson* 53 NSWLR 704, 717 (Spigelman CJ); cited in *Tootell* (n 756) [22] (Holmes and Fraser JJA and Henry J).

766 PSA (n 41) ss 9(2)(fb), (4)(c) with an example in (5), (9C), (10A), (10B), (10F).

767 Ibid s 9(4)(c).

768 Ibid s 9(5).Ibid s 9(5).

769 Explanatory Notes, Penalties and Sentences (Sentencing Advisory Council) Amendment Bill 2010 7; citing *Tootell* (n 756) [7] (de Jersey CJ); [34] (Chesterman J).

770 *R v BES* [2025] QCA 109, [58] ('*BES*') (Brown JA, Flanagan JA and Ryan J agreeing) quoting: *R v Bredal* [2024] NSWCCA 75, [63] and referring to: *R v TBE* [2024] QCA 2014, [31] (Kelly J). For support that it is part of instinctive synthesis and not a two-stage approach and see also *R v BCX* 255 A Crim R 456, 465 [35] (McMurdo P concurred at [1]; Philippides JA also agreed at [2] that an integrated approach to sentencing is required under; PSA [n 41] s 9(4). Followed in: *R v Theohares* [2016] QCA 51 ('*Theohares*'); *R v Schenk; Ex parte A-G (Qld)* [2016] QCA 131 ('*Schenk*'); and *R v Clark* [2016] QCA 173; cited in *R v HCK* [2023] QCA 65, [40] (Bond JA, McMurdo and Fraser JJA agreeing).

The Court has considered that: 'The assessment of whether there are exceptional circumstances is not one which has one unique right answer'.[771] There can also be different opinions in the Court of Appeal regarding whether exceptional circumstances exist in a particular case.[772]

From a review of appellate guidance from cases involving an offence of a sexual nature against a child, exceptional circumstances will often be a combined consideration of the offending, the sentenced person's personal circumstances, and the need for deterrence,[773] and can include considerations of mental health impairment and intellectual disability.[774]

8.3.2 Previous research on exceptions to domestic violence as an aggravating factor

There have been no previous studies on the DV aggravating factor and exceptional circumstances in Queensland.

In other jurisdictions, the legislative approach to recognising the seriousness of domestic violence varies.

The closest analogous treatment of factors that might constitute exceptional circumstances in the context of domestic violence is the *Sentencing Guideline on Overarching Principles: Domestic Abuse* in the United Kingdom.[775] A 2024 review of the guidelines found it was not applied where a victim of domestic abuse killed or fought back against their abuser.[776] The review recommended that greater clarification was needed to specify what the 'rare circumstances' were, and the Sentencing Council (UK) did not consider the need to revise the guideline in any significant way.[777]

8.3.3 Analysis of higher court sentencing remarks

To understand how exceptional circumstances to the DV aggravating factor are being discussed and applied in the higher courts in Queensland, the Council undertook an analysis of sentencing remarks for matters sentenced in the higher courts.

Sentencing remark transcripts provide an important record of what was said at a sentencing hearing and can be a valuable source of information about the offence, offender and victim, and the reasons for the sentence imposed.

Our approach

The Council reviewed sentencing remarks from both the District and Supreme Courts that mentioned the DV aggravating factor and exceptional circumstances in some way, which were available from the QSIS[778] in the most recent 6 years (2019–20 to 2024–25).[779]

We explored two key questions:

1. In what circumstances have exceptional circumstances been found to exist?
2. In what circumstances have exceptional circumstances been specifically raised, but not found to exist?

---

[771] *BES* (n 770) [56] (Brown JA, Flanagan JA and Ryan J agreeing); citing *R v BCX* (n 770) [33] (Burns J); followed in *R v Atkinson* [2022] QCA 252, [13] (Dalton JA).

[772] *R v Thompson* [2019] QCA 245, [17]: 'A finding that exceptional circumstances exist is one made in the exercise of a discretion and one where reasonable minds may differ'; citing *R v BCX* (n 770) [32], [33]. [1] and [2]; For differences of opinion see *R v GAW* [2015] QCA 166, [66] (Philippides JA in dissent).

[773] See, *Tootell* (n 756) [25]; *Theohares* (n 770) [29]-[31] (Philippides J, Holmes JA and McMurdo JA agreeing).

[774] See, *BES* (n 770) [55] (Brown JA, Flanagan JA and Ryan J agreeing).

[775] Sentencing Council for England and Wales, *Domestic Abuse: Overarching Principles* (Guidelines, 24 May 2018) para 9.

[776] James Thornton et al, *Research Review of the Overarching Principles: Domestic Abuse Sentencing Guideline* (Nottingham Law School, Nottingham Trent University, 2024) 37 ('*Independent Review of Domestic Abuse Guideline*').

[777] 'Response to the Review of the Overarching Principles: Domestic Abuse Guideline', *Sentencing Council for England and Wales* (December 2024) <https://sentencingcouncil.org.uk/html-publications/response-to-the-review-of-the-overarching-principles-domestic-abuse-guideline/>.

[778] Sentencing remarks which were available on QSIS as at 30 June 2025.

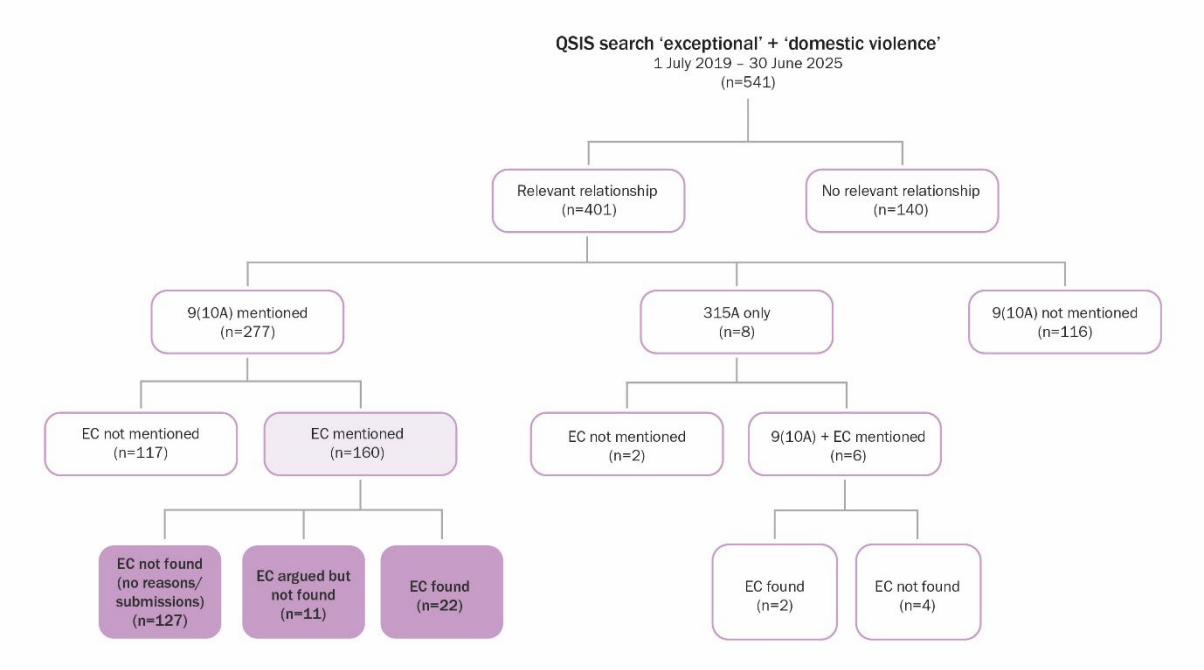
[779] See methodology and codebook at Appendix 11.

Our observations

In total, we identified 160 higher court cases during the period that mentioned the DV aggravating factor and exceptional circumstances. This represents around 2.9 per cent of all cases involving at least one DV flagged offence over this period.[780]

Of the 160 cases, in 22 cases there was a finding of exceptional circumstances, and in 11 cases exceptional circumstances were argued but ultimately not found. In the remaining 127 cases, while no exceptional circumstances were found, the basis upon which this finding was made was unclear.

Figure 8-1: Higher court cases identified from sentencing remarks that mention exceptional circumstances



When are exceptional circumstances discussed and found?

A finding of exceptional circumstances was uncommon (n=22/160, 13.8%).

Where **exceptional circumstances were found** (n=22), the most common circumstance involved a current intimate personal relationship (n=11, see **case study #1**), and of these, all aligned with a legislative example (i.e. 10 involved legislative example 1 and one involved legislative example 2).

For the remaining 11 cases, 3 involved a former intimate personal relationship (see **case study #2**) and 8 involved broader family relationships. For these cases, the reasons varied as to why exceptional circumstances were found, including that the person sentenced suffered from a mental health condition or illness (see **case study #3**), the relationship, while meeting the legal definition of a 'relevant relationship' was no longer of this nature (e.g. where the parties had not been in an intimate relationship for over 10 years), the circumstances of the offending, the circumstances described in legislative example 1, or a combination of these factors.

When are exceptional circumstances discussed and not found?

In most cases, courts referred to the DV aggravating factor and the exceptional circumstances qualification and stated that it was **not found** (n=127/160, 79.4%), although the reason was not often provided. Usually

[780] This was calculated by counting cases in the Courts Database, which involved at least one DV flagged offence and was sentenced in the higher courts between July 2019 and June 2025. However, DV cases were found which did not have a DV flag in the data. There were also DV cases for which the sentencing remarks were not yet available on QSIS so were unable to be included in the search.

this was because there were no submissions made or it was not open on the evidence to make the finding (see **case study #7**).

In 11 cases, exceptional circumstances were explicitly **argued but not found** (see **case studies #4, #5** and **#6)**. In these cases, the most common argument advanced aligned with legislative example 1 (n=8/11):

- Where the sentenced person was female, the court accepted they were the victim of domestic violence in all cases, but this did not amount to exceptional circumstances (n=5).
- Where the sentenced person was male, the court was not satisfied the person was a victim of serious domestic violence (n=3).
- Former intimate personal relationship: where the sentenced person was female, the court accepted that they were the victim of domestic violence in all cases, but this did not amount to exceptional circumstances (n=2). Where the sentenced person was male, the court was not satisfied that the person was a victim of serious domestic violence (n=1).

Where exceptional circumstances were **argued but not found**, there was a discussion about the weight of the DV aggravating factor, which was either reduced or balanced with other factors in just under half of all cases (n=5/11, see **case studies #5 and #6**).

Discussion

The reference to exceptional circumstances and the use of legislative examples

The findings illustrate that higher courts are expressly considering and stating whether exceptional circumstances apply, even in circumstances where no submissions have been made that there are exceptional circumstances. For example, in **case study #7**, an offence of physical violence by a male offender on a child victim (family), the judge said:

> Section 9(10A) of the *Penalties and Sentences Act* requires me, in determining the appropriate sentence, to treat the fact it is a domestic violence offence as an aggravating factor, unless I consider it is not reasonable because of the exceptional circumstances of the case. It was not submitted that the circumstances here are exceptional, nor could it be. It is true you are still young and that your plea of guilty is an early one, but as against that, it is not your first offence, indeed not your first term of imprisonment, and there is nothing particularly exceptional about this offence or your behaviour in the wake of it.

It is clear that sentencing courts are assessing the appropriateness of making a finding of exceptional circumstances on a case-by-case basis and such a finding is rarely made. This aligns with the legislative intention of providing for an exceptional circumstances qualification.[781]

The courts are commonly referring to the legislative examples given in section 9(10A), particularly in intimate personal relationship cases. For example, in **case study #1** wounding (with knife) by a female on a male victim, the judge said:

> The law requires the court to treat domestic violence offence as something that makes the violence more serious, unless the court thinks that there are exceptional circumstances or reasons not to treat it in that way. One example of exceptional circumstances is where the victim has previously committed acts of serious domestic violence against you. That is exactly the situation here … That is something that means the penalty is not as high as it would be if it was an aggravating factor.

This shows that legislative examples can provide courts and legal practitioners making submissions on these issues with useful guidance regarding the legitimate reasons why exceptional circumstances might be found for those types of relationships. It also supports the need for discretion in the application of the DV aggravating factor, so a court can be sensitive to the prior experiences of those who have used force or violence in a domestic violence context and to ensure the consistent application of sentencing factors.

---

[781] See 'Explanatory Notes, Penalties and Sentences (Sentencing Advisory Council) Amendment Bill' (n 769) 7 quoting: *R v Quick; Ex-parte Attorney-General (Qld)* [2006] QCA 477, [7] (de Jersey CJ); [34] (Chesterman J).

A case-by-case assessment, taking into account all of the circumstances

The analysis found examples where a primary victim of domestic violence had been sentenced for a domestic violence offence. Although the court was satisfied that the person was a primary victim, this did not always result in a finding of exceptional circumstances. For example, in **case study #4** (burglary causing property damage – with no weapon, the victim was not home at the time) by a female (and male co-offender) with a male victim (former intimate personal relationship), the judge said:

> [Section 9(10A)] includes some examples of what might be an exceptional circumstance, and they do include where the victim of the offence has previously committed an act of serious domestic violence or several acts of domestic violence against the offender. Now, that is the case here. The unusual factor … is that this offending was itself more in the nature of retribution or vengeance for your grievances as against XXX and not purely in the context of your being a victim of domestic violence … Nonetheless, even in accepting, then, that the fact that this is a domestic violence offence remains an aggravating factor, how aggravating it is is always a matter of weight to be considered in the circumstances of the offending and all the other circumstances as a whole.

This illustrates that exceptional circumstances are assessed on a case-by-case basis, taking all the circumstances of the case into account.

Other considerations

In former intimate personal relationships and family relationship cases, the courts considered circumstances beyond the legislative examples, including relationship dynamics, the nature and circumstances of the offence, personal factors (mental illness), the purposes of the DV aggravating factor and whether exceptional circumstances were found for section 9(4) of the PSA, or a combination of these. For example, in **case study #2** (sexual assault by a male on a female victim – former intimate personal relationship), the court noted:

> You and the complainant otherwise have had a respectful and healthy relationship. [The offending] caused only minimal and temporary emotional impact on the complainant, as she herself says. There is here the reference from the complainant and her father, which I accept. There is also the successful mediation that was undertaken voluntarily. The complainant has said that met her needs and she was satisfied no further action needs to be taken. You have evidenced remorse. I accept that you are a low risk of re-offending, that you have extensive family and social support. You have accepted responsibility at the earliest possible time. You have [made] significant efforts in the past two years at rehabilitation, and the two-year period has already had a personally deterrent effect. I accept here that it is not reasonable to treat the domestic violence offence as an aggravating one.

This supports that exceptional circumstances should not become too prescriptive and a case-by-case approach allows for a more nuanced approach to the application of the DV aggravating factor.

Mental health impairment

Mental health impairment featured among the factors contributing to a finding of exceptional circumstances which is consistent with Court of Appeal guidance that 'mental health may be relevant (together with other matters) in determining if there are 'exceptional circumstances' within the meaning of section 9(10A) of the PSA'.[782] It is also consistent with the common law that mental or cognitive impairment may reduce a person's moral culpability and therefore reduce the relevance of general deterrence for the purposes of sentencing.[783] This was illustrated in **case study #3** (manslaughter by a female offender on her mother (family)):

> Whether the mental illness here amounts to exceptional circumstances … falls to be assessed in light of the obvious purpose underlying section 10A of deterring offending in the context of domestic violence. The cause of general deterrence is of markedly reduced relevance in a case where the crime derives from mental illness. In the present case I conclude, having regard to the absence of previous convictions and the fact the crime was motivated by delusions arising from mental illness so undermines the relevance of general deterrence that it is not reasonable because of those exceptional circumstances to sentence you on the basis of subsection 10A.

---

[782] *Gatti* (n 759) [33] (Philippides JA, Morrison JA and Brown J agreeing).

[783] *R v Verdins* (n 762) 276 [32] (Maxwell P, Buchanan and Vincent JJA) restating the principles in: *R v Tsiaras* (n 762) cited in: *R v Yarwood* (n 762) [24] (White JA, Fraser JA and North J agreeing). This approach has also been adopted in: *R v JAD* [2021] QCA 184, [50]; *R v Goodger* [2009] QCA 377, [19]; *R v Collard* [2019] QCA 105, [3], [48].

However, in **case study #5** (GBH with no weapon by a male on a female victim – current intimate personal relationship), the court was not persuaded that a neurodivergent diagnosis was causal to the offending or on the whole of the case the circumstances were exceptional.

The weight of the DV aggravating factor

The courts are not applying a blanket approach to the DV aggravating factor in all cases. There were examples where the court considered that the circumstances of the case reduced the aggravating weight of the factor, or it was balanced with other factors, even though exceptional circumstances were not found. For example, in **case study #6** (GBH with a knife by a female on a male victim – former intimate personal relationship):

> I accept that you have been the victim of domestic violence and witness to domestic violence as a child and as an adult. In the circumstances, the effect of that domestic violence is a mitigating factor in sentencing you today. However, countering that of course is that this is a domestic violence offence, which is an aggravating factor, and I am not persuaded that there are exceptional circumstances. I consider perhaps in effect that the two counter each other.

Limitations with analysing sentencing remarks

While sentencing transcripts provide an important record of what was said at a sentencing hearing and can be a valuable source of information, analysing remarks available from QSIS and coding for specific expressed 'factors' can have significant shortcomings and limitations. For example, due to administrative and functionality constraints, QSIS does not contain all cases sentenced in the District and Supreme Courts (meaning the collection may not be representative); nor does QSIS contain cases sentenced in the Magistrates Courts.[784]

In addition, sentencing remarks present only certain facts of the case. What judges say in their remarks does not necessarily reflect all the factors considered in determining the sentence and how a factor is expressed may not reflect the actual influence of the court's attitude towards it.[785] The 'instinctive synthesis' approach to sentencing means it is not possible to quantify with precision the extent or weight given to specific purposes and factors and their relevance, it can only be estimated.[786] Therefore, undertaking a search in QSIS for specific language or terminology is necessarily limited.

Despite these limitations, sentencing remarks available on QSIS were the best resource available to the Council to explore the application of exceptional circumstances and provide useful insights.

8.3.4 Stakeholder views

Stakeholders told us that, in their experience, exceptional circumstances were rarely raised.[787]

Practical barriers to raising exceptional circumstances

A major reason cited for why the exceptional circumstances provision is rarely used was the need for supporting information and having the time and resources to obtain it. LAQ told us exceptional circumstances often relies on a 'causative link to the offending [that] is difficult to establish without supporting material/evidence'.[788] In addition, obtaining supporting information within a reasonable time was particularly difficult when representing a client in a duty lawyer setting.[789] QLS gave the example of a person who is a primary victim of domestic violence but has not reported the matter to police and does not have the resources available to obtain evidence to support their experience.[790]

---

[784] A previous review by the Council on sexual assault and rape found that a significant number of transcripts were not available on QSIS: see *The Ripple Effect* (n 415) 62–3.
[785] Ronit Dinovitzer, 'The Myth of Rapists and Other Normal Men: The Impact of Psychiatric Considerations on the Sentencing of Sexual Assault Offenders' 12(Spring) *Canadian Journal of Law and Society* 147, 169.
[786] *Markarian* (n 161) 388–90 [76]–[83] (McHugh J).
[787] For example, Subject Matter Expert Interview 9; Subject Matter Expert Interview 11; Legal service provider, Townsville, 11 June 2025.
[788] Submission 18 (Legal Aid Queensland).
[789] Ibid.
[790] Submission 14 (Queensland Law Society).

SME participants considered that the ability for them to get relevant information depended on the client.[791] It was explained that some clients do not want to talk about their past experience of abuse and domestic violence, even after being told that while this may be personally difficult, providing this information can assist their case and lead to a better outcome.[792] It was also noted that there is often shame associated with disclosing the existence of prior violence or being exposed to this as a child – which may disadvantage a defendant in not having this information put before the sentencing court.[793] Similar concerns were raised by a service provider who was concerned that female defendants felt unable to tell their whole story and just wanted to get the legal process 'over and done with'.[794] LAQ also noted there can be issues with communication, particularly impacting clients who are vulnerable and disadvantaged.[795]

The exceptional circumstances threshold is a high standard

As the courts have recognised, while 'the expression [exceptional circumstances] must be read in its statutory context':

> It describes a circumstance which is such as to form an exception, which is out of the ordinary course, or unusual, or special, or uncommon. To be exceptional, a circumstance need not be unique, or unprecedented, or very rare; but it cannot be one that is regularly, or routinely, or normally encountered.[796]

LAQ considered that the exceptional circumstances threshold impacts 'already vulnerable and disadvantaged' defendants, as well as the 'aggrieved who are subject to cross-orders or who are misidentified' as the primary perpetrators of domestic and family violence.[797]

Stakeholders observed that because of the introduction of section 9(10B), which requires the court to treat the fact that a person is a victim of domestic violence as mitigating,[798] evidence of experiencing domestic violence is more easily argued and accepted as a mitigating factor rather than submitting that there are exceptional circumstances based on legislative example 1 in the DV aggravating factor.[799] However, Sisters Inside considered that where section 9(10B) applies, the DV aggravating factor overrides its mitigating effect, which 'results in disproportionately harsh outcomes for criminalised women and limits the ability of courts to achieve just and appropriate sentencing outcomes'.[800]

Recommendations to clarify exceptional circumstances

An individual submitter and ATSILS were concerned about the application of the exceptional circumstances qualification and the potential unjust outcomes for people who experience multiple forms of vulnerability or disadvantage.[801]

ATSILS recommended defining the term 'exceptional circumstances' or including additional legislative examples to capture broader considerations 'which reflect cultural, systemic and human rights considerations' such as where:

- there was mutual violence/coercive control;
- a person lacks capacity to regulate their emotions because of a disability or mental impairment;
- the sentenced person 'is fulfilling cultural obligations or where kinship roles are implicated'.[802]

---

791 Subject Matter Expert Interview 2.
792 Ibid.
793 Subject Matter Expert Interview 4.
794 Support service provider, Townsville, 13 June 2025.
795 Submission 18 (Legal Aid Queensland).
796 *Tootell* (n 756) [18]–[19] quoting: *R v Kelly (Edward)* (2000) 1 QB 198. See also *R v Ebadi* [2025] QCA 248, [9].
797 Submission 18 (Legal Aid Queensland).
798 Introduced in August 2023, 9(10B) provides: In determining the appropriate sentence for an offender who is a victim of domestic violence, the court must treat as a mitigating factor—(a) the effect of the domestic violence on the offender, unless the court considers it is not reasonable to do so because of the exceptional circumstances of the case; and (b) if the commission of the offence is wholly or partly attributable to the effect of the domestic violence on the offender—the extent to which the commission of the offence is attributable to the effect of the violence.
799 Subject Matter Expert Interview 1; Subject Matter Expert Interview 2; Legal service provider, Townsville, 11 June 2025.
800 Submission 10 (Sisters Inside Inc).
801 Submission 12 (M. Halliday) 5; Submission 9 (Aboriginal and Torres Strait Islander Legal Service).
802 Submission 9 (Aboriginal and Torres Strait Islander Legal Service) .

Sisters Inside recommended the DV aggravating factor and exceptional circumstances be removed 'to ensure victim survivors are not punished further by the system'.[803] In addition, they recommended that any further 'legislative guidance must be developed in consultation with criminalised women and people with lived experience of violence and incarceration'.[804]

The Council's Practitioner Consultative Forum considered that the legislative examples adequately capture the circumstances intended by Parliament to justify not treating the offence as aggravating.[805] It was acknowledged that the legislative examples guide practitioners and that practitioners may not be making submissions for exceptional circumstances because they consider they are constrained by the examples. If a rewording of section 9(10A) were to occur, it should take section 9(10B) into account.

8.3.5 The Council's view

Finding 6: The finding of exceptional circumstances to section 9(10A) is uncommon

The Council's review of sentencing remarks found that it is uncommon for courts to find exceptional circumstances that justify not treating the fact that an offence was a domestic violence offence as an aggravating factor under section 9(10A) of the *Penalties and Sentences Act 1992* (Qld). This was consistent with legal practitioner observations.

Finding 7: Where exceptional circumstances to section 9(10A) are found, they are generally aligned with the legislative examples provided

For intimate personal relationship cases, the circumstances in which exceptional circumstances were successfully argued typically aligned with one of the two legislative examples provided in the *Penalties and Sentences Act 1992* (Qld). For family relationship cases, the circumstances supporting a finding of exceptional circumstances were more varied.

Observation 3: Further legislative clarification of 'exceptional circumstances' under section 9(10A) is not required

The two legislative examples in section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) provide useful guidance when determining whether exceptional circumstances exist, particularly for intimate personal relationship cases.

Further legislative clarification is not required regarding what circumstances might support a finding of exceptional circumstances in section 9(10A).

As discussed above, findings of exceptional circumstances are uncommon. This was supported by stakeholders, who highlighted that exceptional circumstances were rarely raised for reasons such as the need for supporting information and the high threshold required.

The Council's review of matters in which exceptional circumstances are successfully argued found that, for intimate personal relationship cases, the circumstances typically align with the one of the two legislative examples. While the circumstances supporting a finding of exceptional circumstances in other family violence cases were more varied, there is insufficient evidence to support the inclusion of further legislative examples.

In responding to Part 1 of the Terms of Reference on sentencing for rape and sexual assault offences, the Council determined it was not necessary to further define what constitutes 'exceptional circumstances' for the purposes of section 9(4) of the PSA as a reason to depart from the requirement to impose actual imprisonment for a sexual offence against a child under 16 years of age.[806]

Consistent with this position, the Council has determined that further clarification of what circumstances might support a finding of 'exceptional circumstances' for section 9(10A) is not required.

---

[803] Submission 10 (Sisters Inside Inc).
[804] Ibid.
[805] Practitioner Consultative Forum meeting, 14 October 2025.
[806] *The Ripple Effect* (n 415) 269.

In our view, exceptional circumstances are not capable of definition and need to be necessarily broad in scope to fit the varied individual circumstances of each case: 'Whether exceptional circumstances are established on the facts calls for a value judgment forming part of the instinctive synthesis involved in the exercise of the sentencing discretion.'[807] It requires 'a careful consideration of the relevant circumstances to determine whether, alone or in aggregation, they are "exceptional."'[808]

We note the suggestions by some stakeholders for the inclusion of further legislative examples. Over time, as the DV aggravating factor continues to operate, we envisage that further case examples will emerge to assist practitioners in making relevant submissions regarding exceptional circumstances and courts when determining if the threshold for making this finding has been met.

Ensuring that practitioners and judicial officers have access to updated case summaries and other resources in this context is important to support consistency in the application of sentencing principles and the continued development of case law.

The Council made recommendations in our Part 1 final report aimed at enhancing resources available to judicial officers and legal practitioners, as well as improving the functionality of QSIS.[809] While directed at improving the information available in support of the sentencing of sexual assault, rape and other sexual offences, the recommendations – if implemented – would have similar benefits for the sentencing of domestic violence offences.

---

807 *R v Ebadi* (n 796) [10] referring to: *R v TBE* (n 770) [31] (Kelly J, Flanagan and Boddice JJA agreeing) citing: *R v BCX* (n 770) 464 [33] (Burns J, Margaret McMurdo P and Philippides JA agreeing); *R v Bredal* (n 770) [63] (Dhanji J, Harrison CJ at CL and Button J agreeing).

808 *R v Ebadi* (n 796) [10] referring to: *R v BCX* (n 770) 463 [29] citing: *R v Quick; Ex-Parte Attorney-General (Qld)* (n 781) [8]; and *Tootell* (n 756) at [19].

809 *The Ripple Effect* (n 415) rec 28.6.

Chapter 9 – Sentencing outcomes for DV offences

In this chapter, we explore sentencing outcomes, including the proportion of sentences that are custodial and median custodial sentence lengths, for DV offences to which the aggravating factor under section 9(10A) of the PSA applies. We compare sentencing outcomes for DV offences with outcomes for non-DV offences as indicative of how serious these offences are viewed relative to one another.

The information presented is based on sentencing outcomes across an 8-year period since the aggravating factor's introduction – from 1 July 2016 to 30 June 2024, and we present a summary of our approach and findings for this research. Our detailed findings are presented in our 2026 Research Brief.[810]

9.1 Our approach

This chapter reports on our analysis which compares sentencing outcomes for commonly sentenced DV offences with outcomes for non-DV offences of the same kind. It considers both sentence type (for example, the penalty types ordered and whether these are custodial or not) and the length of custodial sentences.

9.1.1 What we have looked at

In determining whether DV offences are being treated as more serious forms of offending than non-DV offences, we looked at the:

- types of penalties imposed at sentence for DV offences compared with those for non-DV offences;
- proportion of custodial sentences (imprisonment, partially suspended prison sentences, wholly suspended prison sentences and intensive correction orders); and
- length and distribution of custodial sentences.

We examined offences sentenced as the most serious offence (MSO)[811] to which section 9(10A) of the PSA applied for offences for which there were at least 30 cases sentenced as a 'DV offence' and at least 30 cases[812] sentenced as a non-DV offence.[813] Cases examined were sentenced in the Queensland Magistrates and higher courts from 1 July 2016[814] to 30 June 2024, involving people sentenced as adults.

In all, 23 offences at the Magistrates Courts level and 20 offences at the higher courts level met our criteria. See our 2026 Research Brief for a more detailed explanation of our methodology.

---

[810] Laura Hidderley and Lauren Banning, *A Wider Look at the Impact of Domestic Violence as an Aggravating Factor on Sentencing Outcomes* (Research Brief No 5, Queensland Sentencing Advisory Council, March 2026).

[811] The most serious offence (MSO) is defined as the offence that received the most serious sentence, as ranked by the classification scheme used by the Australian Bureau of Statistics: See *Criminal Courts, Australia, 2018-19*, Appendix 3, *Sentence Type Classification*, Australian Bureau of Statistics (ABS).

[812] A 'case' is defined as the collection of offences for a single offender finalised on the same day as part of the same court event. Where there are co-offenders dealt with jointly at a court event, the event is recorded as separate cases. A single offender may appear in multiple cases over the reporting period.

[813] A 'domestic violence offence' for the purposes of section 9(10A) of the PSA is an offence against an Act, other than the *Domestic and Family Violence Protection Act 2012* (Qld) (DFVPA), committed by a person where the act done, or omission made, which constitutes the offence is also (a) domestic violence or associated domestic violence under the DFVPA, committed by the person or (b) a contravention of the DFVPA, s 177(2): *Criminal Code* (Qld) (n 12) s 1. This means that section 9(10A) does not apply to DFVPA offences, or as the Court of Appeal has determined to the offence of choking, suffocation or strangulation in a domestic setting because 'all sentences under s 315A will be in respect of domestic violence offences': *R v MCW* (n 59) [35] (Mullins, J, Philippides JA and Boddice J agreeing).

[814] The DV aggravating factor provision commenced operation on 5 May 2016. The period commencing 1 July 2016 is the beginning of the first complete year of data available following its introduction.

9.2 Overview of our findings

Our analysis found that DV offences attracted stronger penalties compared with non-DV offences – generally resulting in a higher proportion of custodial sentences and/or longer median custodial sentence lengths across most categories of offending, including:

- assault offences;
- sexual offences;
- offences involving harm to or endangering persons;
- property damage offences;
- public order offences;
- traffic and vehicle offences; and
- offences against justice procedures and orders.

The WSJ Taskforce was concerned that technology-facilitated coercive controlling behaviours 'do not currently reflect the grave harm that victims suffer from this form of domestic and family violence'.[815] The Taskforce identified that this behaviour includes:

- the use of electronic surveillance, including spyware, monitoring devices, and mobile phone apps, to stalk and monitor victims;
- the use of mobile phones to make excessive phone calls, leave messages, and send text messages;
- online abuse through email or fake social media profiles;
- victims having their image published on sexually explicit websites; and
- the perpetrator arranging meetings between the victim and strangers without consent.[816]

From our analysis, the higher use of custodial sentences was found for 3 offences that the Taskforce said might be charged for such behaviours:

- attempting to pervert justice (*Criminal Code* (Qld), s 140);
- distributing intimate images (*Criminal Code* (Qld), s 223); and
- stalking (*Criminal Code* (Qld), s 359B).[817]

The median sentence lengths were also longer for those offences with sufficient cases to undertake this analysis – attempting to pervert justice and stalking.

We found statistically significant differences in the reverse direction, indicating that non-DV offences are attracting stronger sentences than DV offences, for 2 offences:

- acts intended to cause grievous bodily harm and other malicious acts (malicious acts) (*Criminal Code* (Qld), s 317); and
- burglary and commit an indictable offence (*Criminal Code* (Qld), s 419(5)).

Potential reasons for this finding are explored in section 9.6.

An overarching summary of all our findings is provided in **Appendix 12**, and our 2026 Research Brief provides more detailed results and findings.[818]

---

[815] Women's Safety and Justice Taskforce, Hear Her Voice Report 1 Volume 2: Addressing Coercive Control and Domestic and Family Violence in Queensland (Report No Report 1, Vol 2, Queensland Government, 2021) <https://www.womenstaskforce.qld.gov.au/__data/assets/pdf_file/0014/700601/volume-2-the-mountains-we-must-climb.pdf> 319.

[816] Ibid.

[817] The 5 other offences referred to by the Taskforce did not have sufficient numbers of cases to be analysed. They were: retaliation against or intimidation of judicial officer, juror, witness etc. (section 119B); observations or recordings in breach of privacy (section 227A); distributing prohibited visual recordings (section 227B); threats to distribute an intimate image or prohibited visual recording (section 229A) and threats (section 359).

[818] Hidderley and Banning (n 810).

9.3 Penalty types

The Council considered whether any differences existed in the overall distribution of penalty types imposed for DV offences compared with their non-DV counterparts.

In most cases we found that DV offences were more likely than non-DV offences to receive more serious penalty outcomes. Statistically significant differences were found for 11 of these offences, including for AOBH (both aggravated and non-aggravated) and common assault across both court levels.

9.3.1 Magistrates Courts

Penalty outcomes in the Magistrates Courts

For cases sentenced in the Magistrates Courts, statistically significant differences in the penalty types imposed were found for 7 offences:

- DV offences were more likely to result in imprisonment or other form of supervised order than non-DV offences.
- Non-supervised orders, such as good behaviour orders, monetary orders and wholly suspended prison sentences, or 'convicted not further punished' outcomes, were more common for non-DV offences across most offence types.

For cases sentenced in the Magistrates Court, statistically significant differences in the distribution of the types of penalties imposed were found for 7 offences based on whether the offence was a DV offence:

- AOBH (both aggravated and non-aggravated);
- breach bail condition;
- common assault;
- serious assault of a person 60 years and over;
- stalking (non-aggravated); and
- wilful damage.

Penalty outcomes for offences for which statistical differences were found are presented in Table 9-1.

Table 9-1: Penalty types imposed in the Magistrates Courts by type of offence (MSO) and whether the offence was a DV offence or non-DV offence with a statistically significant difference between groups

		AOBH (aggravated)		AOBH (non-aggravated)	
		Non-DV (n=3,749)	DV (n=1,375)	Non-DV (n=8,483)	DV (n=5,875)
Custodial	Imprisonment	36.5%	64.8%	27.8%	55.9%
	Partially suspended	2.3%	4.1%	1.4%	2.7%
	Wholly suspended	18.1%	11.4%	14.6%	12.8%
Non-custodial	Community service	15.8%	2.5%	5.4%	1.6%
	Probation	15.2%	13.8%	21.8%	18.0%
	Monetary	9.7%	1.8%	24.6%	6.8%
	Good behaviour	1.3%	0.7%	3.2%	1.4%
	Convicted NFP	0.2%	0.1%	0.3%	0.2%

		Breach bail condition		Common assault	
		Non-DV (n=20,717)	DV (n=605)	Non-DV (n=12,330)	DV (n=5,453)
Custodial	Imprisonment	4.1%	8.8%	11.4%	28.7%
	Partially suspended	0.2%	0.3%	0.6%	1.4%
	Wholly suspended	4.1%	7.1%	7.5%	11.7%
Non-custodial	Community service	1.5%	2.8%	9.9%	3.6%
	Probation	4.6%	21.5%	15.5%	25.6%
	Monetary	60.6%	41.8%	40.3%	21.5%
	Good behaviour	2.8%	4.3%	12.1%	6.1%
	Convicted NFP	22.0%	13.2%	2.4%	1.1%

		Serious assault of person 60 years & over		Stalking (non-aggravated)	
		Non-DV (n=1,392)	DV (n=403)	Non-DV (n=667)	DV (n=239)
Custodial	Imprisonment	27.8%	41.9%	21.4%	38.9%
	Partially suspended	1.7%	3.0%	2.4%	4.2%
	Wholly suspended	15.5%	15.6%	15.9%	13.8%
Non-custodial	Community service	5.1%	2.0%	3.6%	1.7%
	Probation	17.2%	23.1%	30.6%	28.9%
	Monetary	24.7%	9.4%	17.8%	9.2%
	Good behaviour	6.2%	4.5%	6.7%	2.5%
	Convicted NFP	1.0%	0.0%	0.9%	0.4%

		Wilful damage	
		Non-DV (n=15,620)	DV (n=4,472)
Custodial	Imprisonment	6.6%	13.1%
	Partially suspended	0.3%	0.7%
	Wholly suspended	4.8%	7.9%
Non-custodial	Community service	10.5%	4.1%
	Probation	8.2%	22.4%
	Monetary	60.8%	43.5%
	Good behaviour	6.2%	6.2%
	Convicted NFP	2.5%	1.9%

Data include adult offenders, MSO, Magistrates Courts cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse). Intensive correction orders and rising of the court are not presented in the table but are included in the calculations. Offences with statistically significant differences in the penalties imposed by DV and non-DV offences are presented in this table – see the appendix of the Research Brief to see this for all offences.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

This shows, in general, that DV offences were more likely to result in imprisonment or other form of supervised order than non-DV offences. Non-supervised orders, such as good behaviour orders, monetary orders and wholly suspended prison sentences, or 'convicted not further punished' outcomes, were more common for non-DV offences across most offence types.

This means people sentenced for DV offences were more likely to be required to comply with supervision, reporting and other requirements as part of their sentence beyond paying a fine, being of good behaviour or not committing another offence. Our findings regarding the use of individual penalty types is explored in more detail in our 2026 Research Brief.

9.3.2 Higher courts

Penalty outcomes in the higher courts

For cases sentenced in the higher courts, statistically significant differences in the distribution of penalties were found for 7 offences:

- For the majority of offences, DV offences were more likely to result in imprisonment compared to non-DV offences, although the use of imprisonment was common across both DV and non-DV offences.
- Fewer non-custodial orders were imposed for DV offences than non-DV offences in most cases.

For the majority of the higher court offences analysed (17 of 20 offences), imprisonment was the most common penalty imposed for both DV and non-DV offences.

Statistically significant differences in the distribution of penalties were found for 7 offences when analysing whether or not the offence was sentenced as a DV offence:

- AOBH (aggravated and non-aggravated);
- attempting to pervert justice;
- common assault;
- grievous bodily harm (GBH);
- acts intended to cause GBH and other malicious acts (malicious acts); and
- rape.

The penalty types imposed for those offences with significant differences are presented in Table 9-2.

For 6 of the 7 offences for which significant differences in penalty outcomes were found, the use of imprisonment was higher and wholly suspended prison sentences was lower for offences sentenced as DV offences compared with non-DV offences. The exception was the offence of acts intended to cause GBH and other malicious acts. For this offence, the proportion of suspended sentences imposed for DV offences was over double that of non-DV offences (DV offences: 19.0%; non-DV offences: 6.8%), with the majority being partially suspended prison sentences (meaning the person was required to serve part of the sentence in custody prior to the remainder of the sentence being suspended).

We examined a sample of 5 cases each for DV and non-DV offences that attracted the highest and lowest custodial penalty outcomes to explore differences further. Our findings are presented in section 9.6.

Table 9-2: Penalty types imposed in the higher courts by type of offence (MSO) and whether the offence was a DV offence or non-DV offence with a statistically significant difference between groups

		Acts intended to cause grievous bodily harm and other malicious acts		AOBH (non-aggravated)	
		Non-DV (n=192)	DV (n=58)	Non-DV (n=693)	DV (n=1,006)
Custodial	Imprisonment	93.2%	81.0%	46.2%	60.6%
	Partially suspended	6.3%	13.8%	4.8%	9.0%
	Wholly suspended	0.5%	5.2%	20.2%	12.9%
Non-custodial	Community service	0.0%	0.0%	5.8%	1.9%
	Probation	0.0%	0.0%	12.7%	8.5%
	Monetary	0.0%	0.0%	7.2%	4.1%
	Good behaviour	0.0%	0.0%	1.4%	1.0%
	Convicted NFP	0.0%	0.0%	0.6%	0.7%

		AOBH (aggravated)		Attempting to pervert justice	
		Non-DV (n=928)	DV (n=338)	Non-DV (n=182)	DV (n=55)
Custodial	Imprisonment	52.4%	69.2%	55.5%	85.5%
	Partially suspended	8.5%	8.9%	10.4%	9.1%
	Wholly suspended	19.3%	10.7%	27.5%	3.6%
Non-custodial	Community service	5.7%	0.9%	1.1%	0.0%
	Probation	10.1%	8.6%	3.8%	1.8%
	Monetary	1.9%	0.6%	0.5%	0.0%
	Good behaviour	0.9%	0.6%	0.5%	0.0%
	Convicted NFP	0.3%	0.0%	0.0%	0.0%

		Common assault		Grievous bodily harm	
		Non-DV (n=311)	DV (n=245)	Non-DV (n=1,051)	DV (n=340)
Custodial	Imprisonment	21.2%	31.0%	62.7%	77.9%
	Partially suspended	1.0%	4.1%	20.8%	14.7%
	Wholly suspended	15.1%	8.6%	15.2%	6.5%
Non-custodial	Community service	8.4%	4.1%	0.9%	0.3%
	Probation	19.0%	21.2%	0.3%	0.6%
	Monetary	16.1%	11.8%	0.0%	0.0%
	Good behaviour	13.2%	9.8%	0.0%	0.0%
	Convicted NFP	4.5%	7.8%	0.0%	0.0%

		Rape	
		Non-DV (n=687)	DV (n=377)
Custodial	Imprisonment	61.9%	71.1%
	Partially suspended	30.4%	25.7%
	Wholly suspended	5.2%	1.6%
Non-custodial	Community service	0.3%	0.0%
	Probation	1.7%	1.3%
	Monetary	0.1%	0.0%
	Good behaviour	0.1%	0.0%
	Convicted NFP	0.1%	0.0%

Data include adult offenders, MSO, higher court cases sentenced between 1 July 2016 and 30 June 2024 (except unlawful stalking, intimidation, harassment or abuse). Intensive correction orders and rising of the court are not presented in the table but are included in the calculations. Offences with statistically significant differences in the penalties imposed by DV and non-DV offences are presented in this table – see the appendix of the Research Brief to see this for all offences.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

9.4 Use of custodial penalties

The Council also considered whether any differences existed in the use of custodial penalties for DV offences compared to non-DV offences. A custodial penalty includes all forms of custodial sentences, including imprisonment, partially suspended prison sentences, wholly suspended prison sentences, and intensive correction orders.[819]

In most cases, we found that DV offences resulted in a higher proportion of custodial penalty outcomes than non-DV offences. Statistically significant differences were found for 12 of these offences, including for AOBH (both aggravated and non-aggravated) across both court levels. See our 2026 Research Brief for more detailed results and discussion.

9.4.1 Magistrates Courts

Data Snapshot

Use of custodial penalties - Magistrates Courts

The **DV offence** was more likely to have a custodial penalty imposed than its non-DV equivalent for 18 of the 23 offences examined:

- 11 offences had statistically significant differences.

The **non-DV offence** was more likely to result in a custodial sentence for 5 of the 23 offences:

- Only 1 offence was statistically significant.

We also examined the number and proportion of custodial penalties imposed for the 23 offences examined, by whether the offence was a DV offence or not.

For 18 of the 23 offences, the DV offence was *more likely* to have a custodial penalty imposed than its non-DV equivalent. For 11 of these offences, the difference was statistically significant. This included offences that did not involve the use or threatened use of physical violence against another person as an element of the offence, including breach of bail, stealing, unlawful stalking (non-aggravated) and wilful damage.

For 5 offences, we found that the non-DV offence was more likely to result in a custodial sentence (burglary and commit an indictable offence, unlawful entry of (non-dwelling) premises and commit offence (both aggravated and non-aggravated forms), deprivation of liberty, and possession of a knife in a public place or a school). This difference was only statistically significant for burglary and commit an indictable offence, where the non-DV offence was significantly more likely to receive a custodial penalty than its DV equivalent (74.7% versus 67.6%).

Stakeholders offered several reasons for the potential higher use of custodial orders for burglary and commit an indictable offence in a non-DV scenario, including the different contexts in which DV offences and non-DV offences typically occur, and the higher likelihood of those sentenced for non-DV offences having a more extensive criminal history and being sentenced for multiple charges than DV offenders. This is discussed further in section 9.6.2.

[819] It also includes a small number of 'rising of the court' sentences (Magistrates Courts: 0.03% of cases analysed; Higher courts: 0.05% of cases analysed).

9.4.2 Higher courts

Data Snapshot

Use of custodial penalties - higher courts

The **DV offence** was more likely to have a custodial penalty imposed than its non-DV equivalent for 15 of the 16 offences examined:

- 2 offences had statistically significant differences.

The **non-DV offence** was more likely to result in a custodial sentence for 1 offence, but was not statistically significant.

Of the 20 offences sentenced in the higher courts (Supreme and District Courts) that met our criteria, 4 offences received only custodial penalties (malicious acts, manslaughter, murder and repeated sexual conduct with a child). For this reason, these offences were excluded from this analysis.

Of the remaining 16 offences, 15 had a higher proportion of custodial penalties imposed for DV offences than their non-DV equivalents. For AOBH (both aggravated and non-aggravated) and arson this difference was statistically significant.

Burglary and commit an indictable offence was the only offence for which DV offences were less likely to receive a custodial penalty, but the difference was not statistically significant.

9.5 Custodial sentence lengths and distribution

Data Snapshot

Sentence lengths

The **DV offence** had significantly longer custodial sentences for 10 offences.

Custodial sentences were longer for 7 **non-DV offences** and was statistically significant for 2 of those.

As a final measure of differences, we considered median custodial sentence lengths and distribution to explore if there were differences between DV offences and non-DV offences. See our 2026 Research Brief for more detailed results and discussion.

Statistically significant differences were found for 10 offences in circumstances where the sentence for the DV offence was longer:

- AOBH (aggravated) (higher courts);
- AOBH (non-aggravated) (sentenced at both the Magistrates Court and higher courts level);
- attempting to pervert justice;
- breach bail condition;

- common assault;
- public nuisance (non-aggravated);
- serious assault of a person 60 years and over;
- sexual assault non-aggravated (higher courts);
- stalking (non-aggravated); and
- wilful damage.

There were 7 offences where the non-DV offence had a longer median custodial sentence; however, a significant difference in the sentence distribution was only found for 2 of those offences – burglary and commit indictable offence and malicious acts.

Our findings regarding the two offences with statistically significant differences are presented in section 9.6.

9.5.1 Offences sentenced in the Magistrates Courts

Of the 19 offences sentenced in the Magistrates Courts on which statistical testing on sentence length could be done,[820] more than half (10 of 19) of DV offences were found to have a longer median custodial sentence compared with the same non-DV offence:

- AOBH (non-aggravated);
- breach bail condition;
- common assault;
- dangerous operation of a vehicle (non-aggravated);
- deprivation of liberty;
- public nuisance (non-aggravated);
- serious assault of a person 60 years and over;
- stealing;
- stalking (non-aggravated); and
- wilful damage.

The difference in median sentence ranged from 0.3 of a month for stalking (or about 9 days), to 3 months for AOBH (non-aggravated) and deprivation of liberty.

Of the 10 offences with longer median custodial sentences, 7 were found to have statistically significant differences in the distribution of custodial sentences for a DV offence compared with the same non-DV offence:

- AOBH (non-aggravated);
- breach bail condition;
- common assault;
- public nuisance (non-aggravated);
- serious assault of a person 60 years and over;
- stalking (non-aggravated); and
- wilful damage.

[820] Four offences had fewer than 10 custodial orders imposed, therefore the sample was too small to be reliably included in statistical tests.

For 6 offences, the same median custodial sentence was found for both DV and non-DV offences:

- AOBH (aggravated);
- burglary (aggravated);
- burglary and commit indictable offence;
- dangerous operation of a vehicle (non-aggravated);
- going armed so as to cause fear; and
- threatening violence (non-aggravated).

A significant difference was found for 3 of these offences – AOBH (aggravated), burglary and commit indictable offence, and threatening violence (non-aggravated). Further analysis of sentences as a proportion of the maximum sentence found that for both AOBH (aggravated) and threatening violence (non-aggravated) the sentence distribution is higher for the DV offence than the non-DV offence, meaning a larger proportion of sentences were at the higher end of the sentencing range. For burglary and commit indictable offence the sentence distribution was lower for the DV offence, with more sentences in the lower end of the sentencing range.

The median custodial sentence length was slightly longer for non-DV offences for 3 offences: unlawful entry of (non-dwelling) premises and commit offence (aggravated and non-aggravated), and unlawful use of a motor vehicle (non-aggravated). However, there were no significant differences in the distribution of custodial penalties for these offences.

Additional summary statistics are presented in our 2026 Research Brief. This includes information on the average, median, mode, lowest and highest custodial penalties imposed, the lower quartile (the lowest 25 per cent of penalty lengths), and the upper quartile (the top 25 per cent of penalty lengths) for each offence by DV and non-DV.

Comparison of median sentence outcomes pre- and post-introduction of the aggravating factor

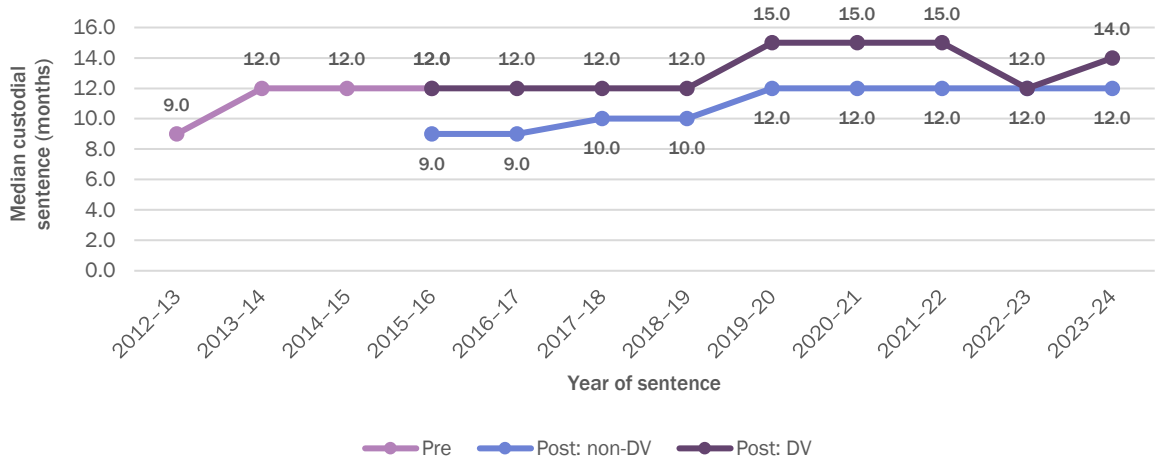
There was no DV 'flag' prior to 1 December 2015 enabling us to compare outcomes for DV offences prior to and following the introduction of the aggravating factor.

However, to identify how median sentence trends may have changed following the introduction of the aggravating factor, we analysed the median sentence for the top 4 offences by volume of DV offences sentenced. The 'pre-' line represents the median based on all offences sentenced (DV and non-DV) noting that these two categories of offences prior to the introduction of the flag cannot be distinguished based on administrative courts data.

Assaults occasioning bodily harm (aggravated)

As shown in Figure 9-1, the median custodial sentence length for DV offences after the introduction of the aggravating factor remained steady, and matched the median sentence prior to the aggravating factor being introduced. Non-DV offences had a lower median sentence. From 2019–20 the median sentence increased for both DV and non-DV offences.

Figure 9-1: Median custodial penalty imposed for aggravated AOBH (MSO) in the Magistrates Courts

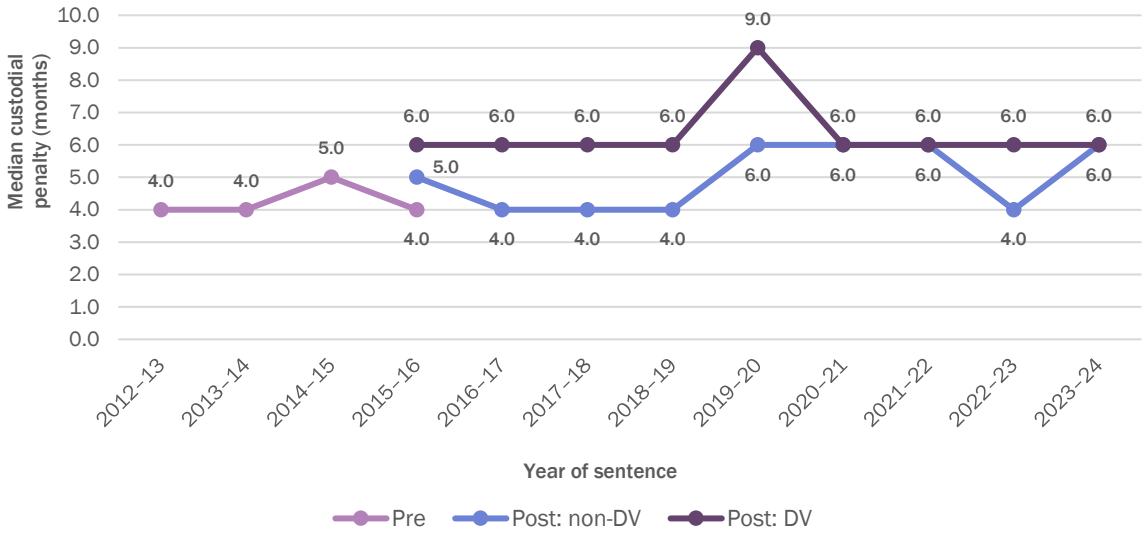


Data include adult offenders, AOBH (aggravated) MSO, cases sentenced to a custodial order in the Magistrates Courts between 1 July 2012 and 30 June 2024.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Common assault

As shown in Figure 9-2, the median custodial sentence for common assault (MSO) remained fairly stable over the data period within categories of offending (DV vs non-DV). However, the median for the DV offence was almost always higher than for the non-DV offence.

Figure 9-2: Median custodial penalty imposed for common assault (MSO) in the Magistrates Courts

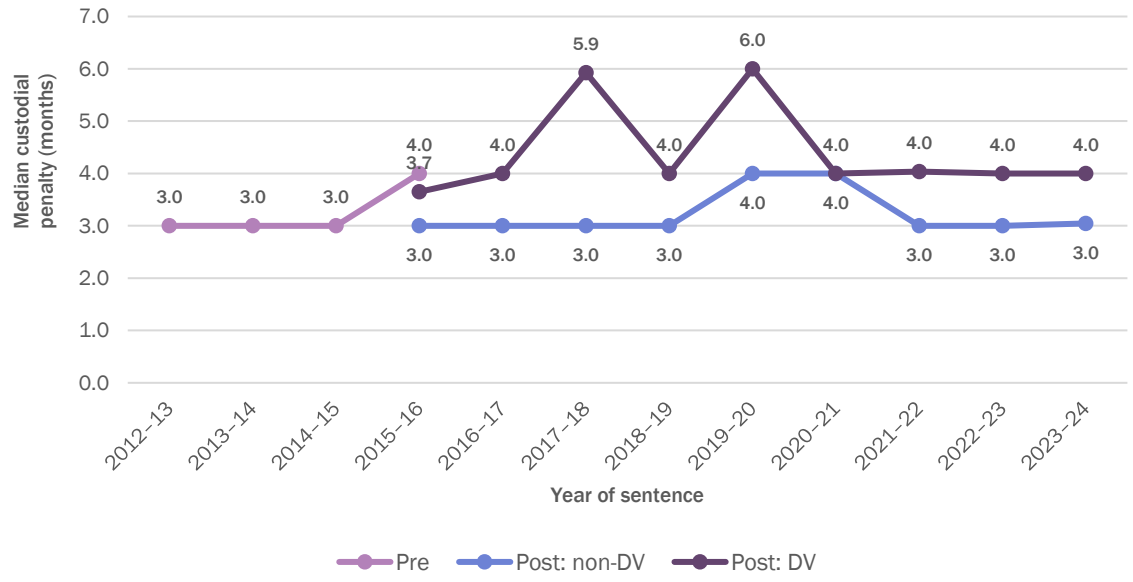


Data include adult offenders, common assault MSO, cases sentenced to a custodial order in the Magistrates Courts between 1 July 2012 and 30 June 2024.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Wilful damage

As shown in Figure 9-3, the median custodial sentence for non-DV wilful damage (MSO) remained consistent with sentence lengths prior to the aggravating factor being introduced. DV wilful damage had consistently higher median sentences than non-DV wilful damage offences.

Figure 9-3: Median custodial penalty imposed for wilful damage (MSO) in the Magistrates Courts

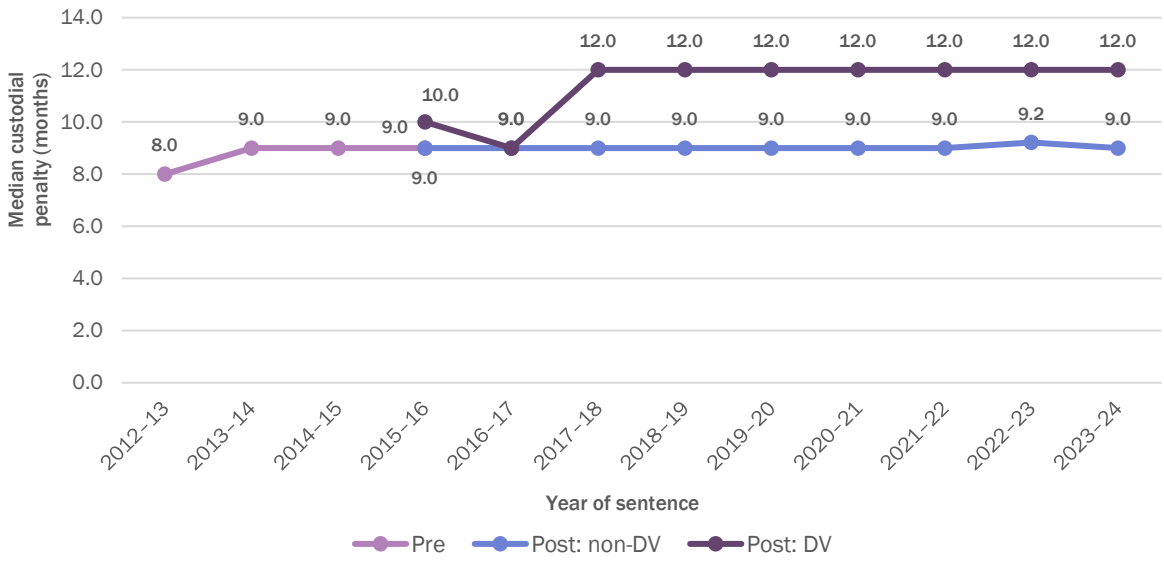


Data include adult offenders, wilful damage MSO, cases sentenced to a custodial order in the Magistrates Courts between 1 July 2012 and 30 June 2024.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Assaults occasioning bodily harm (non-aggravated)

As shown in Figure 9-4, the median custodial sentence for non-aggravated AOBH (MSO) non-DV remained consistent with the median sentence prior to the introduction of the DV aggravating factor. The median sentence for the DV offence was consistently higher from 2017-18 and remained stable at 12.0 months.

Figure 9-4: Median custodial penalty imposed for non-aggravated AOBH (MSO) in the Magistrates Courts



Data include adult offenders, AOBH (non-aggravated) MSO, cases sentenced to a custodial order in the Magistrates Courts between 1 July 2012 and 30 June 2024.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

9.5.2 Offences sentenced in the higher courts

Of the 19 offences sentenced in the higher courts,[821] 9 had longer median custodial sentences for offences sentenced as DV offences compared with non-DV offences:

- AOBH (aggravated);
- AOBH (non-aggravated);
- attempting to pervert justice;
- common assault;
- indecent treatment of children under 16 (aggravated);
- indecent treatment of children under 16 (non-aggravated);
- repeated sexual conduct with a child;
- sexual assault (non-aggravated); and
- unlawful stalking, intimidation, harassment or abuse (aggravated).

A statistically significant difference in the sentence distribution was found for 4 of those 9 offences: AOBH (aggravated), AOBH (non-aggravated), attempting to pervert justice, and sexual assault (non-aggravated).

For 4 offences, non-DV offences had a longer median custodial sentence compared with DV offences:

- acts intended to cause grievous bodily harm and other malicious acts;
- burglary (aggravated);
- burglary and commit indictable offence; and
- threatening violence (aggravated).

However, a statistically significant difference in the sentence distribution was found for only 2 of those offences – burglary and commit indictable offence and malicious acts.

There were 6 offences which had the same median custodial sentence length for both the DV and non-DV offences:

- arson;
- GBH;
- manslaughter;
- rape;
- torture; and
- wounding.

A statistically significant difference in the sentence distribution was found for 3 of these offences – arson, GBH, and rape. Further analysis of sentences as a proportion of the maximum sentence found that for rape and GBH in the context of DV, a larger proportion of sentences were at the higher end of the sentencing range. Additional summary statistics are presented in our Research Brief. This includes information on the average, median, mode, lowest and highest custodial penalties imposed, the lower quartile (the lowest 25 per cent of penalty lengths), and the upper quartile (the top 25 per cent of penalty lengths) for each offence by DV and non-DV.

[821] Murder has a mandatory life penalty which was imposed for all cases. See *Criminal Code* (Qld) (n 12) s 305(1).

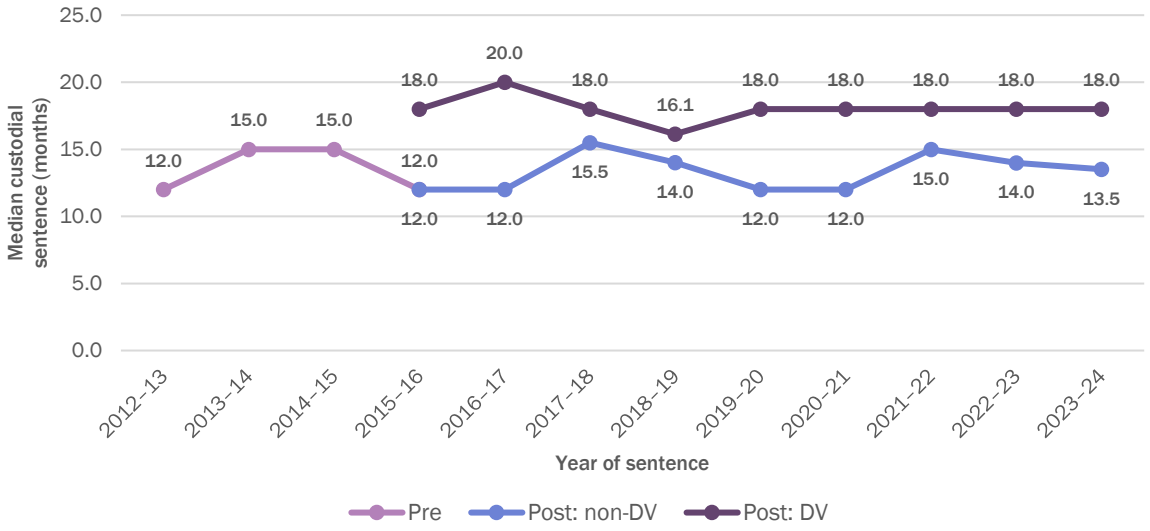
Comparison of median sentence outcomes pre- and post-introduction of the aggravating factor

As for the Magistrates Courts analysis, we looked at the median custodial sentence length for the top 4 offences sentenced in the higher courts by volume of DV offences to compare pre-section 9(10A) median sentence lengths with those post the introduction of the aggravating factor and DV flag. The 'pre' period reports on the median sentence across all offences, noting that DV offences in this pre period could not be identified based on administrative courts data. This analysis was completed for the offences of AOBH (non-aggravated), wounding, rape, and indecent treatment of children under 16 (aggravated). However, due to the small number of cases in some years for the two sexual offences, we have presented data only for the offences of AOBH and wounding.

Assaults occasioning bodily harm (non-aggravated)

As shown by Figure 9-5, the median custodial sentence for non-aggravated AOBH (MSO) non-DV remained consistent with the median sentence prior to the introduction of the DV aggravating factor, with some small fluctuations. The median sentence for the DV offence was consistently higher than for the non-DV offence and remained relatively stable at around 18 months.

Figure 9-5: Median custodial penalty imposed for non-aggravated AOBH (MSO) in the higher courts

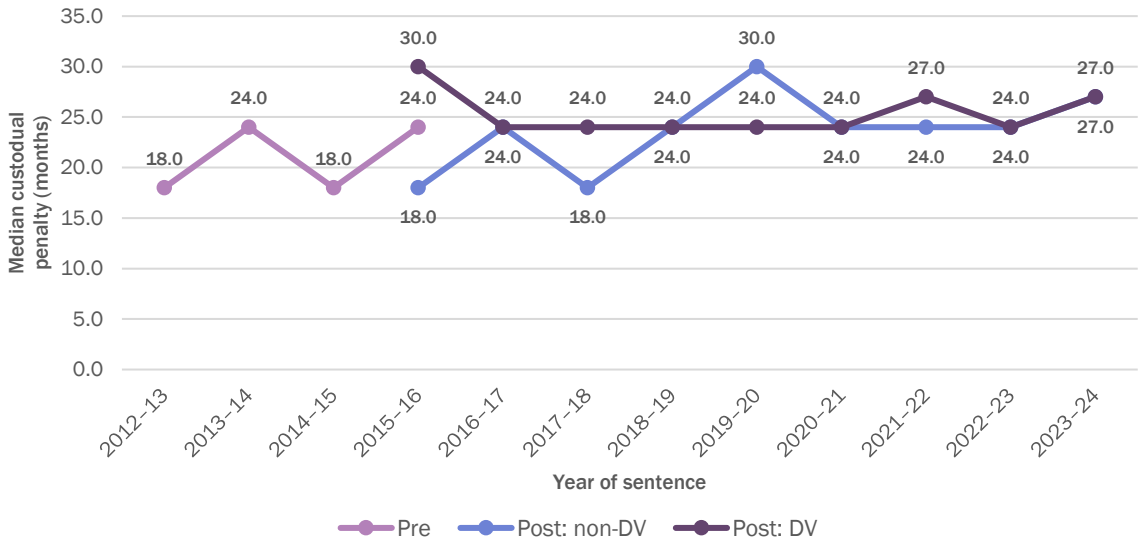


Data include adult offenders, AOBH (non-aggravated) MSO, cases sentenced to a custodial order in the higher courts between 1 July 2012 and 30 June 2024.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

Wounding

As shown by Figure 9-6, the median sentence for wounding (MSO) showed some fluctuations over the data period, particularly for the pre-aggravating factor group and the post-aggravating factor non-DV group. The median custodial sentence for the post-aggravating factor DV group was generally higher than the non-DV group, but not across all years. In 2019–20, the median sentence was highest for the non-DV group, and in other years both groups had the same median sentence.

Figure 9-6: Median custodial penalty imposed for wounding (MSO) in the higher courts



Data include adult offenders, wounding MSO, cases sentenced to a custodial order in the higher courts between 1 July 2012 and 30 June 2024.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2024.

9.6 Understanding why some non-DV offences had longer sentences

9.6.1 Data observations and our approach

There were a small number of offences for which DV offences were less likely to attract a custodial or imprisonment sentence or were more likely to receive a shorter custodial sentence than their non-DV equivalent. Statistically significant differences were found for 2 offences.

Burglary and commit indictable offence

For burglary and commit indictable offences sentenced in the Magistrates Courts, DV offences were less likely than non-DV offences to receive a custodial penalty (67.6% vs 74.7%). A higher proportion of non-DV offences also received penalties at or above 40 per cent of the maximum available penalty (47.3%), compared with DV offences (31.1%) and a higher proportion of non-DV offences resulted in sentences that were 80 per cent or more of the maximum available penalty of 3 years' imprisonment.

For cases sentenced in the higher courts, while there was no statistically significant difference in the proportion of custodial penalties, non-DV offences had a longer median sentence (3.0 years) compared with DV offences (2.3 years). A statistically significant difference was also found in the custodial sentence length distribution.

Acts intended to cause GBH and other malicious acts

While all sentences imposed for the offence of acts intended to cause GBH and other malicious acts were custodial, a difference was found in the custodial penalty type distribution. The median custodial sentence length was also higher for non-DV offences (7.0 years) than for DV offences (6.0 years). A statistically significant difference was found in the custodial sentence length distribution.

In this section, we present possible reasons for these findings based on stakeholders' views and a case analysis based on the 5 DV cases and 5 non-DV cases attracting the longest and shortest custodial

sentences in the higher courts. See **Appendix 11** for more information about the methodology used and a summary of the key features of cases analysed.

The evidence gathered suggests that case-specific factors likely account for the identified differences.

9.6.2 Burglary and commit indictable offence

Stakeholder views

SME interview participants identified the very different contexts of offending for DV offences compared with non-DV offences as potentially explaining the treatment of DV offences as less serious than non-DV offences. For example, in a DV scenario, participants noted that the defendant might normally have been allowed in the home and gone there and broken into the home without having permission to be there, possibly to retrieve their belongings,[822] and caused property damage or taken car keys 'to be a nuisance'. There may have been an ouster condition in place.[823] It was also thought that DV burglaries may be more likely to involve a single offence.[824]

This was in contrast to a non-DV scenario involving someone who had never had a right to be in the home, and had gone in there for a specific criminal purpose, such as to steal. If there were people in the home and there was also violence involved, it would be aggravated and treated very seriously (constituting a 'home invasion'-type offence).[825] One participant provided the example that if a burglary involved entering a home when no one was there, 'as awful as that is it's not going to attract that same level of penalty [as] someone [who has] gone in and violently assaulted or sexually assaulted somebody'.[826] Taking these types of factors into account, the level of criminality involved was likely to be far more serious where the parties were unknown to each other.[827]

For non-DV offences, the person is also likely to be sentenced for a high volume of offences (such as groups of burglaries committed by professionals or semi-professionals),[828] and to have an extensive criminal history. The sentence for one of these burglaries may therefore reflect that they are being sentenced for many offences, resulting in an uplift in the sentence.[829]

Case analysis

Our case analysis for cases sentenced in the higher courts found that the sentencing range for the bottom 5 'low end' cases was higher for the DV offences (3.0 to 12.0 months) than the non-DV offences (2.0 to 4.1 months). Four of the 5 DV cases involved some form of assault, although in two cases, the person sentenced was a party to the offending and did not cause any harm to the victim:

- In one case, a father went with his daughter to the home of the mother of her ex-partner to retrieve a child who the ex-partner and his mother refused to hand over, but was not involved in the assault.
- The second involved a woman who assisted her sister to retrieve a cat from an ex-partner, but again was not directly involved in the assault.

There was greater variability in sentence lengths for the 'high-end' DV cases compared with the 'high-end' non-DV cases, although the highest sentence imposed for both was 7.5 years. Sentences for the 'high-end' non-DV cases ranged from 6.5 to 7.5 years (a difference of one year) compared with those for DV offences, which ranged from 3.5 years to 7.5 years (a difference of 4 years).

---

822 Subject Matter Expert Interview 5. See also Subject Matter Expert Interview 8.
823 Subject Matter Expert Interview 8. See DFVPA (n 16) s 63.
824 Subject Matter Expert Interview 1.
825 Subject Matter Expert Interview 2; Subject Matter Expert Interview 4; Subject Matter Expert Interview 6; Subject Expert Interview 9; Subject Matter Expert Interview 10.
826 Subject Matter Expert Interview 9.
827 Subject Matter Expert Interview 2.
828 Subject Matter Expert Interview 1.
829 Ibid. This is an application of the *Nagy* approach: see *R v Nagy* (2004) 1 Qd R 63.

The circumstances involved in 'high-end' DV cases were diverse, although most involved violence or an assault of some kind. Those sentenced all had criminal histories; however, these ranged from histories described by the court as being of a 'lesser kind' to extensive histories, including for offences of violence.

The longest sentence of 7.5 years in a DV case involved a man who broke into the home of a woman he had met online and dated, but who had ended the relationship. While in the home, he grabbed a knife and lay in wait for her. When she arrived home, he lunged at her and stabbed her 4 times, pulling her into the kitchen in a bear-hug, then slipping on blood. As she was trying to escape, he caught up to her and stabbed her again once in her right thigh. He pleaded guilty and was sentenced for one count of burglary and unlawful wounding and 4 counts of unlawful wounding. On a separate indictment he was charged with unlawful stalking with violence of another woman he had met online prior to this following a similar pattern of offending. The head sentence of 7.5 years was intended to reflect the overall criminality of the offending, not just the burglary count.

In contrast, most of the 'high-end' non-DV cases involved significant property offending. Those sentenced had significant and relevant criminal histories and were often being sentenced for a high number of offences – in one instance, 106 offences.

The exception was a case of a drug-affected man who broke into an elderly woman's home, assaulting her and stabbing her in the eye (burglary and commit GBH) that attracted a 7-year sentence with a serious violent offence declaration meaning he would have to serve 80 per cent of the sentence before being eligible for parole.[830] He had a limited criminal history and had developed a schizophrenia-like syndrome.

Age does not appear to have been a relevant factor, although the offender's age was not stated in all cases. For example, the age of offenders for high-end DV cases at the time of offending ranged from 27 to 44–45 years, compared with the non-DV cases that involved offenders aged from 18 to 55 years.

Although outside of our case analysis range, the most common sentence imposed across both DV offences and non-DV offences was a sentence of 3 years' imprisonment. This coincides with the upper limit of a court's ability to set a parole release date rather than a parole eligibility date,[831] thereby achieving certainty of release with parole supervision.

In the high-end DV cases, reference was made to several Court of Appeal decisions, including about matters of principle. It was not unusual for these to include cases pre-dating the introduction of the aggravating factor with no reference made to distinguishing them on this basis. This included *R v Fitzgerald*[832] and *R v Denham; Ex parte Attorney-General*,[833] both of which pre-dated the introduction of the aggravating factor by more than 10 years.

9.6.3 Acts intended to cause GBH and other malicious acts

Stakeholder views

The higher level of violence and therefore criminality was identified by SME interview participants as a possible explanation why the non-DV offences attracted higher penalties.[834] One participant suggested that non-DV offences may also be likely to involve some degree of planning and premeditation, be drug related, and involve the use of a firearm or other weapon as well as involving multiple offenders who have extensive criminal histories.[835] They might also have resolved from a more serious charge, such as attempted murder.[836] These offences were also, in one participant's view, often committed by young men in circumstances where the sentencing principle of general deterrence is a prominent sentencing consideration.[837]

---

830 *Corrective Services Act* (Qld) s 182(2) ('CSA').
831 PSA (n 41) s 160B. There are some exceptions, including if the person has had a court ordered parole order cancelled during their period of imprisonment.
832 *R v Fitzgerald* [2004] QCA 241.
833 *R v Denham; Ex parte A-G (Qld)* [2003] QCA 74.
834 Subject Matter Expert Interview 2.
835 Subject Matter Expert Interview 15.
836 Subject Matter Expert Interview 14.
837 Subject Matter Expert Interview 13.

In contrast, in a DV context where the perpetrator is female, they may have been reacting to being the victim of prior serious violence by the victim and the effect may be to 'almost [cancel] out that aggravating feature'.[838] The perpetrators may also have a less-extensive criminal history than the non-DV perpetrators.[839]

It also may be easier to establish the intent of the accused in a DV scenario as the offence is 'deeply personal' and the accused may be saying things at the time that are a clear indication of intent to do significant harm, which elevates the offence from a GBH or wounding to a malicious act with intent.[840] Where the case goes to trial, there may be evidence of a history of domestic violence which might establish this intent.[841] The prosecution may also have more success in encouraging pleas due to the breadth of evidence.[842]

Some participants reflected that the main difficulty in comparing outcomes was the scope of the offence because 'it's not one offence' but rather 'three or four different offences' within one (e.g. wounding someone with intent to disfigure, maim or disable, wounding with intent to cause grievous bodily harm and causing grievous bodily harm with intent to cause grievous bodily harm).[843] There is a 'wide gambit of criminality' involved.[844]

Case analysis and other findings

Our findings based on our analysis of cases sentenced at both the high and low end for malicious act offences suggest that the context within which DV offending and non-DV offending occur and the features of the offending are very different.

The 'low range' for DV offences (3 to 4.5 years) was far higher than for non-DV offences (one to 3 years). Once non-declared pre-sentence custody was taken into account across both DV and non-DV offences, the shortest sentence imposed for a DV offence was 4 years compared with 12 months for a non-DV offence.

The longest sentences of imprisonment for DV offences ranged from 8 to 9.5 years. They were imposed in a range of circumstances; however, all 7 involved male perpetrators and in all but one case the victim was the perpetrator's current or former spouse or intimate partner. Most of those sentenced had an extensive criminal history. The offences involved the use of petrol, caustic soda, boiling water, a knife, a baseball bat, and a vehicle, and resulted in significant physical and psychological injuries. Most involved a single victim.

The longest sentences of imprisonment for non-DV offences ranged from 10 to 12 years. These typically were imposed in the context of multiple charges for serious offending involving multiple victims, including over separate episodes of offending. The perpetrators had extensive criminal histories, including for offences of violence. While the types of weapons used were somewhat similar to the DV cases, one involved the use of a firearm.[845] As was the case for the DV offences, significant injuries resulted from this offending. The need to protect the community and the police,[846] was considered to be an important and relevant sentencing consideration alongside other important purposes such as punishment, deterrence, and denunciation.

Four of the 5 'high-end' non-DV cases were appealed by the person sentenced.[847] Of these 4 cases:

- Leave to appeal was refused in 3 cases.[848]
- In the remaining case,[849] the original 11-year sentence was reduced to 9.5 years with the serious violent offence (SVO) declaration retained (it had been automatic at first instance due to the length

838 Subject Matter Expert Interview 14.
839 Subject Matter Expert Interview 15.
840 Subject Matter Expert Interview 12; Subject Matter Expert Interview 15.
841 Subject Matter Expert Interview 12
842 See *R v CDU* [2025] QCA 145 ('*CDU*'). The applicant was originally sentenced for two counts of malicious acts in conjunction with other offences involving physical and sexual violence, as well as torture and deprivation of liberty in the District Court in May 2020.
843 Subject Matter Expert Interview 12.
844 Subject Matter Expert Interview 14.
845 *R v Baker* [2021] QCA 150 ('*Baker*'). This shooting occurred in the context of an unsuccessful drug transaction where the offender also understood the victim was to be a prosecution witness against an associate of his.
846 See *R v Townshend* [2021] QCA 106, [41] ('*Townshend*') (Sofronoff P, Fraser and McMurdo JJA agreeing).
847 *R v Brown* [2020] QCA 69 ('*Brown*'); *R v Spies* [2018] QCA 36 ('*Spies*'); *Townshend* (n 846); *Baker* (n 845).
848 *Brown* (n 847); *Spies* (n 847); *Townshend* (n 846).
849 *Baker* (n 845).

of the sentence).[850] The error found in this case was the sentencing judge's approach in structuring the sentence so that the most serious offence (the malicious act count) was sentenced at a higher level than if sentenced alone but without allowing for the effect of the SVO declaration.[851] The SVO declaration applied to the entire period of imprisonment and the applicant's non-parole period was therefore longer than if cumulative sentences had been imposed.

In a 2025 decision of the Court of Appeal, which also involved a malicious act offence committed in a non-DV context, the Court referred to factors the sentencing judge had concluded made the person's offending particularly serious and demonstrated that they were a danger to the community.[852] These included that the offender had armed themselves with a weapon aimed at a defenceless victim, the offending involved repeated blows of extreme force over a protracted period, no provocation had been offered by that victim, the offending occurred in the victim's home and involved a degree of premeditation as well as significant injuries, and the offending was committed while on bail. Although sentenced outside our data period, the offender in this case was sentenced to 11 years' imprisonment for the malicious act with intent offence, with an SVO declaration. Leave to appeal the sentence was refused.

The sentences in 2 of the 7 'high-end' DV cases were appealed – in one case by the Attorney-General[853] and in the other by the person sentenced.[854] Both were dismissed. The Attorney-General's appeal included a submission that due to the offence being a domestic violence offence, in the context of the objective conduct involved, general deterrence and denunciation should have been given greater significance. The Court, in dismissing the appeal, found that there was no error.[855] This case involved a young offender, aged 17 years at the time of the offending, in the context of doing an act that the sentencing court accepted was not premeditated.

A life sentence was imposed in one case involving two counts of malicious act with intent (both DV offences); however, this was not included in our analysis for this offence.[856] Applying the National Offence Index, the rape offences also sentenced in this case and also receiving life sentences, were ranked the most serious offences sentenced.[857] While excluded from the malicious act analysis, this is evidence that sentencing courts are prepared to impose a life sentence for the most serious forms of DV conduct charged as a malicious act offence where warranted.

All but one of the DV cases analysed at the 'high end' of sentences imposed was decided prior to the Court of Appeal decision of *R v SEB* (delivered in April 2023).[858] *SEB* provided guidance with reference to earlier statements by the Court in *O'Sullivan*[859] that 'account must be taken of s 9(10A) as a true aggravating factor'.[860] This was in the context of an appeal against sentence involving a 7-year sentence with an SVO declaration imposed for one count of malicious act (domestic violence offence) with intent to cause grievous bodily harm. In *SEB, the Court* observed that only one of the relevant comparable cases presented (*Gatti*)[861] was 'decided at a time when s 9(10A) applied'.[862] Further, in *Gatti*, 'The Court of Appeal had no occasion to examine that legislative change, as it refused the application for leave to appeal against sentence.'[863]

---

850 PSA (n 41) ss 161A(a) and 161B(1). Once declared convicted of a serious violent offence, the person must serve a minimum of 80 per cent of their sentence or 15 years (whichever is less) in custody before being eligible for release on parole: see CSA (n 830) s 182.

851 *Baker* (n 845) [20]–[24] (McMurdo JA, Fraser JA agreeing). Henry J dissented. The approach of imposing a higher sentence on the most serious offence to take into account the overall criminality is commonly referred to as 'the *Nagy* approach': see *R v Nagy* (n 829).

852 *R v Edwards* [2025] QCA 189, [29] ('*Edwards*').

853 *R v Lewis; Ex parte A-G (Qld)* [2022] QCA 14 ('*Lewis*').

854 *R v Cobb* [2016] QCA 333. A third case involved an appeal against conviction: *R v WBJ* [2020] QCA 32.

855 *Lewis* (n 853).

856 *CDU* (n 842). Appeal against sentence dismissed.

857 This is due to 5 counts of rape also receiving a life sentence (equal to the sentence for the two counts of malicious act with intent) and being coded higher (as a more serious category of offending) on the National Offence Index: Australian Bureau of Statistics, *National Offence Index (NOI): Australian and New Zealand Standard Offence Classification (ANZSOC)* (2024).

858 *SEB* (n 603). The only 'high end' case involving a sentence imposed after this decision was one occurring two months later in June 2023.

859 *O'Sullivan* (n 173) [91].

860 *SEB* (n 603) [19] (Dalton JA, Boddice JA and Crow agreeing).

861 *Gatti* (n 759).

862 *SEB* (n 603) [16].

863 Ibid. The Court also acknowledged that the Court of Appeal in *Gatti* did note that on the hearing before the sentencing judge, the prosecutor did not 'seek to distinguish the present case from earlier cases on the basis of the operation of s 9(10A) of the PSA': Ibid [33].

The Council also tested SME interview reflections that it may be easier to establish intent for a DV offence, changing the overall seriousness of cases sentenced within the category of malicious acts. There is some evidence that this may be occurring. Of all attempted murder offences sentenced over the data period (1 July 2017 to 30 June 2024), 60 per cent were flagged as being DV offences, compared with a far smaller proportion of malicious act offences (23.2 per cent). This means that some DV offences at the 'high end' of offending may be resulting in successful prosecutions for attempted murder rather than as a malicious act offence. Sentences for attempted murder typically are terms of imprisonment of 9.0 years or longer. While the median sentence might have stayed the same (at 6.0 years) for malicious act had some of these attempted murder cases been sentenced instead as a malicious act offence, the distribution of penalties would have been different. In particular, there would have been more sentences sitting at or above 9 years' imprisonment.

9.7 Challenges and limitations

The analysis in this chapter supports a finding that, generally, DV offences are sentenced as more serious forms of offending than their non-DV equivalents. However, there are several limitations and challenges in drawing conclusions from these findings.

Comparing the seriousness of outcomes by penalty type

We have assessed the seriousness of sentencing outcomes by reference to whether the outcome was a custodial sentence, or not. This approach assumes that a custodial sentence (of any length) is always a more serious sentencing outcome than a non-custodial alternative, although this is not necessarily the case.

The problem with adopting an alternative approach is that there is no direct equivalence between days spent in custody, time spent subject to conditions under a probation order or the dollar value of a fine or other monetary penalty.[864]

Ranking penalties by type also does not account for how they affect the individual subject to them, which can vary based on their personal circumstances.

The way the PSA is framed, factors personal to the individual, and the availability of services and supports, can also limit what sentencing orders are reasonably available to a court. For example, before imposing a fine, the court must consider the person's capacity to pay and how this might impact them.[865] For orders such as probation or community service, the person being sentenced must consent to the making of the order and agree to comply with the conditions.[866] Even if the person is willing to consent to such an order being made, a court may decide that this is not appropriate if it is not confident that the person will comply or that the supervision and support services needed to meet the purposes of sentence will be delivered. These issues are explored further in **Chapter 13**.

The information we present is focused on only certain measures without accounting for these complexities.

Identifying whether sentencing outcomes changed post the introduction of the aggravating factor

To fully understand the impact of the aggravating factor introduced in 2016, a more detailed analysis would be needed, comparing outcomes for offences committed in a DV context before and after the change, as well as contrasting these with outcomes for non-DV offences. This is complicated by DV offences only being 'flagged' as DV offences from 1 December 2015 (see Figure 9-7).[867]

---

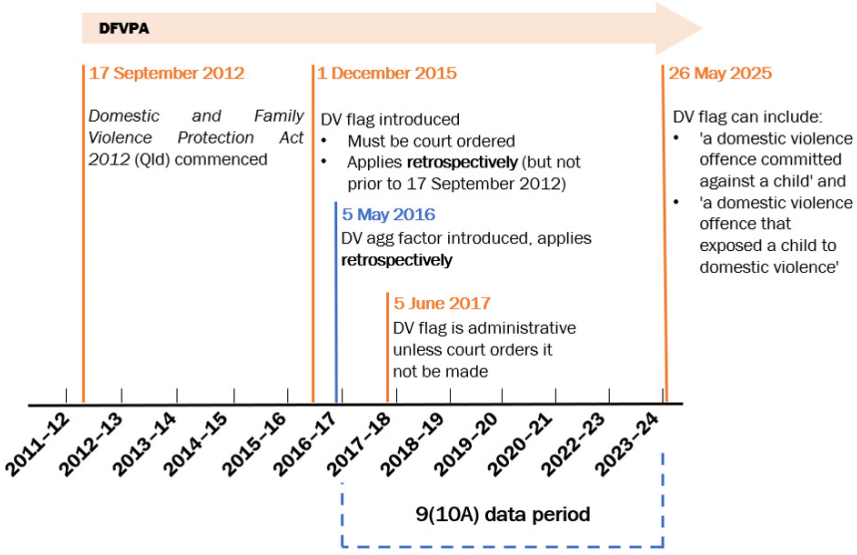
[864] Note, however, that there are some limited contexts in which this is sought to be quantified. See, for example PSA (n 41) s 69 regarding fine option orders, which cap the number of community service hours for each penalty unit, and s 182A regarding imprisonment in lieu of payment of a fine.

[865] Ibid s 48.

[866] Ibid ss 96, 106.

[867] The 'flagging' of offences is now possible with the operation of section 12A of the PSA (n 41). This provides for a charge for an offence of which the offender is convicted to be recorded as being a conviction for a DV offence, or if no conviction is recorded, entered in the offender's criminal history as a DV offence. This provision was inserted by section 18 of the Criminal Law (Domestic

Figure 9-7: Data periods and introduction of the DV flag



To undertake a comprehensive pre- and post-introduction analysis would therefore require the manual coding of cases prior to this date to distinguish between those that were committed in a DV context and those that were not. Given the volume of cases sentenced over the data period, this comparison has not been possible.

What we did to test this approach

The Council examined the impact of section 9(10A) on sentencing outcomes for DV manslaughter offences pre and post introduction in 2016.

Manslaughter was chosen largely because the Council had previously completed a detailed analysis of this offence as part of our review into s*entencing for criminal offences arising from the death of a child*[868] and had already coded a substantial volume of these cases.

We sourced sentencing remarks from the Queensland Sentencing Information System (QSIS) for adults sentenced for manslaughter (MSO) from 1 July 2008 to 30 June 2024. The data period comprised a 'pre period' of 1 July 2008 to 4 May 2016 and 'post period' of 5 May 2016 to 30 June 2024. Cases involving offences of manslaughter committed by a person who was a child at the time of the offence were excluded.

What we found

During the 16-year data period, there were 131 DV-related manslaughter cases sentenced in Queensland, of which 51 were in the pre-reform period and 80 in the post-reform period. In both the pre and post periods, the most common category of manslaughter sentenced was manslaughter by violent act.[869]

All offenders sentenced for manslaughter during the 16-year data period received a custodial penalty. Due to the small sample sizes associated with individual manslaughter categories, significance testing was not undertaken, except for manslaughter by violent act. This section will focus solely on that type of DV manslaughter.

We found that, for DV manslaughter by violent act offences, while median custodial sentence length did not change following the introduction of the DV aggravating factor, the distribution of custodial sentences did. Comparing sentencing outcomes prior to and following the introduction of section 9(10A), the median

---

Violence) Amendment Act (n 41). It came into effect by operation of section 1A of that Act on 1 December 2015. As to the charging of offences as 'domestic violence offences', see: Justices Act (n 41) s 47(9) (summary offences); *Criminal Code* (Qld) (n 12) s 564(3A) (offences dealt with on indictment).

868 See Queensland Sentencing Advisory Council, *Sentencing for Criminal Offences Arising From the Death of a Child* (Final Report, Queensland Sentencing Advisory Council, October 2018).

869 This project categorised the following manslaughter categories: violent act, criminal negligence, criminal negligence by vehicle and on the basis of one of the defences to murder, killing for preservation in an abusive domestic relationship, diminished responsibility and provocation.

custodial sentence of 9.0 years did not change. This may indicate that sentencing courts were already treating DV as an aggravating feature prior to section 9(10A).

However, there was greater variability in sentencing outcomes in the post-reform period compared with the pre period. There were a larger proportion of sentences in the post-period at the higher end of the sentencing range for this type of manslaughter. For this reason, the average sentence for manslaughter by violent act was also higher.

The larger proportion of cases sentenced above previous levels for DV manslaughter by violent act offences in the post-reform period may be due to the introduction of section 9(10A). However, the Council cannot determine whether this observed increase is due to the operation of section 9(10A), other legislative changes,[870] the impact of Court of Appeal decisions,[871] changes in community attitudes to domestic violence reflected by courts in sentencing or other case-specific factors. This change is likely due to a combination of factors.

Our analysis shows the complexity of considering the impact of section 9(10A) on sentencing by comparing outcomes for an offence pre and post this reform. 'Manslaughter is, above all, an offence in which particular circumstances vary so much that it is difficult, and perhaps undesirable, to try to generalise in advance about the appropriate sentence to be imposed.'[872] It 'covers a wide variety of circumstances in which a person has been unlawfully killed' and for this reason 'it is difficult to speak of a range of punishment applicable to the offence'.[873] This analysis did not involve a full analysis of case characteristics that might have influenced sentencing outcomes.

As the Court of Appeal has recognised, the extent to which the DV aggravating factor supports increased sentences is likely to vary depending on the circumstances of the offence and of the offender.

Prior to section 9(10A) being introduced, DV was recognised as an aggravating feature under the common law. It is impossible to say with certainty that DV offences are being sentenced more severely because of the aggravating factor. Since 2015, significant changes in addressing domestic violence have impacted sentencing of these offences. Combined with instinctive synthesis – the sentencing process in Queensland – and the infinite range of case circumstances, these factors make it extremely difficult to measure the impact of the DV aggravating factor.

Individual and case-specific factors have not been accounted for

When comparing sentencing outcomes, it is important to consider individual and case-specific factors known to influence sentencing outcomes. Researchers in this area have noted a failure to take these factors into account is problematic as it 'fails to adjust for other known sentencing correlates, which may vary between domestic and non-domestic violent offenders'.[874]

Our analysis highlights differences between sentencing outcomes for DV and non-DV offences but without accounting for these factors.

In **Chapter 13**, we identify opportunities to improve data capture, matching and reporting in Queensland in support of future research and monitoring of outcomes and improving the evidence base.

Appeal outcomes

The data in this chapter are based on first-instance decisions and sentencing outcomes. This does not account for any changes to the sentence that might have occurred as a result of an appeal against sentence

---

[870] See, e.g., PSA (n 41) s 9(9B) that provides that in determining the appropriate sentence for an offender convicted of the manslaughter of a child under 12 years, the court must treat the child's defencelessness and vulnerability, having regard to the child's age, as an aggravating factor.

[871] See, for example, *O'Sullivan* (n 173); *Hutchinson* (n 15); *R v GBU* (n 627).

[872] *R v Whiting; Ex parte A-G (Qld)* (1995) 2 Qd R 199, 202.

[873] *R v Duong, Nguyen, Bui and Quoc* [2002] QCA 151, [29] (Williams JA).

[874] Christine EW Bond and Samantha Jefferies, 'Similar Punishment? Comparing Sentencing Outcomes in Domestic and Non-Domestic Violence Cases' (2014) 54 *British Journal of Criminology* 849, 852.

or successful appeals against conviction. Given the very low numbers of appeals each year,[875] the impact on sentencing outcomes is likely to be small.

The impacts of other significant reforms and developments

Over the data period, there have been significant reviews and reforms in Queensland impacting the way the justice system responds to domestic and family violence and increased investment in professional development, domestic and family violence services and supports (see section 1.5.1 and Figure 1-2). There has also been increasing community awareness of domestic violence and its impacts.

This changing justice landscape means it is not possible for the Council to identify with a high degree of confidence what changes are attributable to the aggravating factor alone.

9.8 How our findings compare with those for other jurisdictions

9.8.1 The approach in other jurisdictions

In several other jurisdictions, the fact that an offence is a domestic violence offence or occurred in the context of domestic violence is treated as aggravating, either by operation of law or under sentencing guidelines. Additionally, some jurisdictions have legislated the relationship context of the offence as a circumstance of aggravation, thereby increasing the applicable maximum penalty.

These approaches vary in how the higher seriousness of domestic violence offending is expressed and legislated.

See **Appendix 5** for more information about different models.

9.8.2 NSW Sentencing Council 2016 review

The NSW Sentencing Council released a report on the sentencing of domestic violence offences in February 2016 in response to Terms of Reference.[876] Similar to the approach taken for this review, the NSW Council compared sentencing outcomes for DV and non-DV offences but limited to the offences of common assault, assault occasioning actual bodily harm, destroy or damage property (valued at $2,000 or less), contravene an apprehended violence order, or stalk or intimidate.

Sentencing trends varied. For example, the Council reported a small difference in the use of imprisonment and bonds (with or without supervision) with DV offenders more likely to receive these types of sentences than non-DV offenders,[877] but no significant differences in imprisonment length when comparing outcomes for DV and non-DV offenders.[878] Instead, variables found to have a significant relationship with sentence length included assault severity, age, gender, Indigenous status, plea, concurrent offences, prior serious assault court appearances, prior imprisonment and breach of prior orders.[879]

The NSW Council concluded that there was nothing in that data that identified 'a problem with the sentencing of DV offenders'.[880]

9.8.3 NSW Bureau of Crime Statistics and Research findings

In presenting its findings, the NSW Council referred to research by the NSW Bureau of Crime Statistics and Research (BOCSAR). After adjusting for factors know to influence sentencing outcomes, BOCSAR concluded

---

[875] For example, in 2023–24, the Supreme Court reported there had been 274 criminal appeals disposed of: Supreme Court of Queensland, *Annual Report 2023-24* (2024) 6. The District Court reported 270 finalised appeals in this same year: District Court of Queensland, *Annual Report 2023-2024* (2024) 14.
[876] New South Wales Sentencing Council, *Sentencing for Domestic Violence Offences* (Report, February 2016).
[877] Ibid 44, [4.17].
[878] Ibid 45 [4.20].
[879] Ibid 45 [4.21].
[880] Ibid xii [0.10].

that there was no evidence that the Local Court (the equivalent of Queensland's Magistrates Courts) sentenced serious non-DV assault matters more harshly than serious DV assault matters.[881] However, Indigenous offenders sentenced for a serious assault offence committed in a DV context were more likely than non-Indigenous offenders to receive a prison sentence, although there were no significant differences in penalty length.[882]

As discussed in **Chapter 13**, due to data challenges it was not possible for the Council to undertake this same type of multivariate analysis for this review.

BOCSAR also evaluated the impact of sentencing reforms introduced in 2018 that included a requirement, when sentencing a person found guilty of a domestic violence offence (including a sexual offence committed in the context of domestic violence),[883] for a court to impose either a sentence of full-time detention or a supervised order (meaning an intensive correction order (ICO), a community condition correction order (CCO) or a conditional release order (CRO) that includes a supervision condition),[884] unless satisfied that a different sentencing option is more appropriate in the circumstances.[885] The main purpose of this legislative change was to ensure that more domestic violence offenders would be subject to supervision for the whole period of the order rather than receiving unsupervised orders.[886]

At the Local Court level, it found a small decrease in the percentage of DV offenders sentenced to imprisonment, an increase in the use of supervised community orders and a reduction in the proportion of offenders sentenced to an unsupervised order, fine or other penalty.[887] The increased likelihood of DV offenders receiving a supervised order instead of a prison sentence, an unsupervised order, a fine or other penalty was found to be statistically significant.[888]

For cases sentenced in the higher courts, the percentage of DV offenders who received a supervised community order declined and there was an increase in the use of prison sentences, but this change was not statistically significant.[889] The percentage of sentenced persons receiving a prison sentence of 36 months or less also declined and there was an increase in sentences of more than 36 months.[890]

9.8.4 Tasmanian Sentencing Advisory Council 2015 review

Similar to the NSW review, the Tasmanian Sentencing Advisory Council (TSAC) compared sentences imposed for offences committed in a DV and non-DV context.[891]

TSAC was only able to undertake a comparison for the offence of common assault and the offence of assault on a pregnant woman (due to lack of sufficient data for meaningful comparison of other offences).[892] It considered the custodial sentence length from March 2005 to June 2014.

---

881 Neil Donnelly and Suzanne Poynton, *Prison Penalties for Serious Domestic and Non-Domestic Assault* (Issues Paper No 110, NSW Bureau of Crime Statistics and Research, October 2015). Factors found to be significantly related to the likelihood of imprisonment were whether the offence was DV related, the assault severity (actual bodily harm vs grievous bodily harm), offender age, offender gender, Indigeneity, plea, concurrent offences, prior court appearances, prior court appearances for serious assault, prior imprisonment, prior imprisonment for serious assault, prior suspended sentences, breach prior violence/non-violence orders: Table 3.

882 Ibid.

883 A 'domestic violence offence' for this purpose has the same meaning as in the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) ('CDPVA'): *Crimes (Sentencing Procedure) Act 1999* (NSW) s 3. A 'domestic violence offence' is defined in s 11 of the CDPV Act and includes 'an offence committed by a person against another person with whom the person who commits the offence has (or has had) a domestic relationship' which is also a 'personal violence offence'. The definition of a 'personal violence offence' in s 4 of the Act includes a wide range of offences under the *Crimes Act 1900* (NSW). It also includes other offences under the CDPVA such as stalking or intimidation with intent to cause fear of physical or mental harm, and contravention of an apprehended violence order or of a serious domestic abuse prevention order.

884 Crimes (Sentencing Procedure) Act (n 883) ss 4A(1), (3).

885 Ibid s 4A(2).

886 New South Wales, *Parliamentary Debates*, Legislative Assembly, 11 October 2017, 274, 276 (Mark Speakman, Attorney-General).

887 The percentage of DV offenders receiving a prison sentence declined from 14.0 per cent to 11.8 per cent, while the percentage sentenced to supervised community orders increased from 27.4 per cent to 43.6 per cent. The percentage receiving an unsupervised order, fine or other penalty declined from 58.6 per cent to 44.5 per cent: Neil Donnelly, 'The Impact of the 2018 NSW Sentencing Reforms on Supervised Community Orders and Short-Term Prison Sentences' (2020) No 148 *Bureau Brief* 8.

888 Ibid 9.

889 Ibid 14.

890 Ibid. The use of supervised orders, unsupervised orders, fines and other penalties also declined.

891 Sentencing Advisory Council (Tasmania), *Sentencing of Adult Family Violence Offenders: Final Report* (No 5, October 2015).

892 Ibid 22.

Consistent with our 2021 Research Brief findings,[893] TSAC found significant differences in the proportion of assault offences resulting in:

- immediate custodial sentences (12.8% for family violence convictions compared with 8.4% for non-family violence convictions);
- fines (22.4% for family violence convictions compared with 32.5% for non-family violence convictions); and
- probation orders (3.8% for family violence convictions compared with 2.5% for non-family violence convictions).[894]

TSAC concluded that the observed differences suggested 'FV [family violence] assault is treated more severely than non-FV assault', also noting that FV offenders were 'more likely to be subject to post-release supervision.[895]

However, when comparing custodial sentence length, it found that the median terms were the same.[896] It also found the maximum length of imprisonment was longer for non-FV assault (36 months) compared with FV assault (27 months).[897]

Few differences in sentencing practices were found for common assault and assault on a pregnant woman.[898]

9.8.5 Review of the Domestic Abuse Sentencing Guideline (England and Wales)

An independent review in England and Wales in 2024 recommended changes relating to the guideline for sentencing offences committed within a context of domestic abuse, including that the offence occurred in a 'domestic abuse context' be added as an aggravating factor to more offence-specific sentencing guidelines.[899] These changes were accepted by the Sentencing Council for England and Wales.[900]

The review examined the impact the of the guidelines on sentencing practices. It found that, for certain categories of offending, such as harassment and breach of protective orders, the domestic violence context led to an increase in the proportion of sentences attracting a more severe penalty after the guideline's introduction. This increase manifested in several ways, including the courts imposing greater rehabilitation conditions on orders or more severe sentence types (e.g. custody in place of a community order) or more severe sentences of the same type (e.g. a longer custodial sentence).[901]

There were, however, a comparatively high percentage of cases where the domestic abuse context made little or no difference to the sentence for post-guideline offences of criminal damage (63%) and breach of protective order offences (45%).[902] Sentencers offered various reasons for their decisions, including, in cases of criminal damage: 'it being a "low level offence"', 'brief and already made reparation', 'fully admitted guilt and remorseful', 'did not cause significant distress' and 'mental illness'.[903]

---

893 See Hidderley, Jeffs and Banning (n 29).
894 Sentencing Advisory Council (Tasmania) (n 891) 32–3.
895 Ibid 33.
896 Ibid. The median length was 4.0 months across both. The mean was 4.7 months for FV assault offences and 5.0 for non-FV assault offences.
897 Ibid.
898 Ibid 35 and Table 5. The only exception is the higher rate of immediate custodial sentences imposed for convictions for common assault. This compared outcomes for these two offences but without distinguishing between offences committed in a family violence context and those that were not.
899 *Independent Review of Domestic Abuse Guideline* (n 776).
900 'Response to the Review of the Overarching Principles: Domestic Abuse Guideline' (n 777).
901 *Independent Review of Domestic Abuse Guideline* (n 776) 4.3 and Table 7.
902 Ibid.
903 Ibid.

9.8.6 Summary

These findings suggest that courts in other jurisdictions are treating DV offences as being at least as serious as those in a non-DV context. In general, these reviews found that DV assault or serious assault offences may result in a:

- higher proportion of sentences of imprisonment than non-DV offences;
- higher proportion of orders requiring post-sentence supervision than non-DV offences; and
- lower proportion of fines than non-DV offences.

Commonly, however, no difference has been found in custodial sentence lengths.

The research in New South Wales by BOCSAR further highlights the need when undertaking this type of research to control for other important factors, such as offence severity, age, gender, Indigenous status, plea, concurrent offences, prior court appearances, prior imprisonment and breach of prior orders when seeking to understand differences in sentencing outcomes and whether these are significant.

The review of guidelines in England and Wales provides evidence that guidance on the treatment of DV as an aggravating factor can support judicial officers' treatment of DV offences as more serious forms of offending. However, the weight this factor is given will likely vary based on individual case-specific factors.

9.9 The Council's view

Finding 8: The aggravating factor appears to have impacted sentencing outcomes supporting the treatment of domestic violence offences as more serious forms of offending

The Council's analysis of sentencing outcomes shows that domestic violence (DV) offences are being treated as more serious forms of offending than non-DV offences in the Magistrates Courts and higher courts across most offence types compared with non-DV offences, including offences involving non-physical violence.

Exceptions to this pattern were found for burglary and commit an indictable offence (*Criminal Code* (Qld) section 419(5)) and acts intended to cause grievous bodily harm and other malicious acts *(Criminal Code* (Qld), section 317).

Observation 4: Some non-DV offences attracted stronger penalty outcomes and this is likely due to case-specific factors

Case-specific factors likely account for the small number of offences for which stronger penalties were imposed on non-DV offences than those committed in a DV context.

Our analysis of sentencing outcomes in Queensland following the introduction of the DV aggravating factor shows similar patterns to those found in other jurisdictions.

In contrast to those jurisdictions, however, we have found there are differences in median sentence lengths and, in most cases, the median sentence lengths for DV offences are longer. We have also found statistically significant differences in the distribution of custodial sentence lengths across 15 offences where the median sentence for the DV offence was longer or the same as its non-DV equivalent – including both offences involving the use of physical and sexual violence and those involving other forms of coercive and controlling behaviour.

As with our earlier review, our findings suggest that the courts are treating domestic violence offending as a more serious form of conduct.

Across most offence types, we found that there was a significant difference in the distribution of penalty outcomes for DV offences compared with non-DV offences including:

- DV offences were more likely to result in a custodial sentence compared to non-DV offences. This difference was statistically significant for 12 offences:
    1. AOBH (aggravated) (both higher and lower courts);

2. AOBH (non-aggravated) (both higher and lower courts);
3. common assault (both higher and lower courts);
4. serious assault of a person 60 years or over (Magistrates Courts);
5. threatening violence (non-aggravated) (Magistrates Courts);
6. unlawful stalking, intimidation, harassment, or abuse (non-aggravated) (Magistrates Courts);
7. stealing (Magistrates Courts);
8. wilful damage (Magistrates Courts);
9. dangerous operation of a vehicle (non-aggravated) (Magistrates Courts);
10. breach of bail (Magistrates Courts);
11. public nuisance (non-aggravated) (Magistrates Courts); and
12. arson (higher courts).

- Median custodial sentence lengths for DV offences were longer for 17 offences, and for 10 of these offences, a significant difference in the sentence distribution was also found:
  1. AOBH (aggravated) (higher courts only);
  2. AOBH (non-aggravated) (both higher and lower courts);
  3. common assault (Magistrates Courts only);
  4. serious assault of a person 60 years or over (Magistrates Courts);
  5. sexual assault (non-aggravated) (higher courts);
  6. unlawful stalking, intimidation, harassment, or abuse (non-aggravated) (Magistrates Courts);
  7. wilful damage (Magistrates Courts);
  8. public nuisance (non-aggravated) (Magistrates Courts);
  9. attempting to pervert justice (higher courts); and
  10. breach of bail (Magistrates Courts).
- Median custodial sentence lengths were the same when comparing outcomes for DV offences and non-DV offences for 13 offences, although a significant difference in the sentence distribution was identified for 6 of these offences:
  1. AOBH (aggravated) (Magistrates Courts);
  2. GBH (higher courts);
  3. rape (higher courts);
  4. threatening violence (non-aggravated) (Magistrates Courts);
  5. burglary and commit indictable offence (Magistrates Courts); and
  6. arson (higher courts).

The two exceptions to the general trends identified that included statistically significant findings were for the offences of:

- malicious acts: median custodial sentence lengths for non-DV offences were longer, and a statistically significant difference was found in custodial sentence length distributions; and
- burglary and commit an indictable offence: DV offences were less likely than non-DV offences to receive a custodial sentence, and the median sentence length was the same (Magistrates Courts) or shorter (higher courts) with a significant difference found at both court levels regarding custodial sentence length distributions comparing DV and non-DV offences.

Historically, legal commentators may have attributed the reason for this difference as being that violent crimes against strangers are considered more serious, and therefore attract higher penalties than offences

committed against intimate partners, family members and other known persons.[904] However, as the High Court has acknowledged, there have been significant shifts in community attitudes towards domestic violence offending, and recognition that sentencing practices may depart from previous practices for this reason.[905] At the time of introducing legislation to establish the DV aggravating factor, the then government identified community attitudes about the seriousness of domestic violence offending as an important reason for its introduction.[906]

The Council's case analysis illustrates that in the case of the two offences for which sentencing outcomes were in the opposite direction to that expected given the existence of the aggravating factor, rather than a general view that offences against intimate partners and family members are objectively of a less serious nature, there were case-specific factors that contributed to these differences.

Importantly, we have not been able to control for other important case and offender-specific factors that might account for the observed differences. This highlights the potential for Queensland to invest in enhancing its data capabilities to better inform future policy decisions and legislative reforms. We explore this issue and recommend changes in **Chapter 13**.

It has also not been possible to compare outcomes for DV offences pre and post the 2016 change across all offence types, given the absence of a DV 'flag' prior to December 2015.

[904] Carissa Byrne Hessick, 'Violence Between Lovers, Strangers and Friends' (2007) 85(2) *Washington University Law Review* 343.
[905] See *Kilic* (n 165) 267.
[906] 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill (No. 2)' (n 7) 2.

Chapter 10 – The DV aggravating factor and victim satisfaction

This chapter provides an overview of research conducted by the Monash Gender and Family Violence Prevention Centre (MGFVPC) and Griffith University on victim survivor views of the DV aggravating factor in section 9(10A) of the PSA and their satisfaction with the sentencing process for domestic and family violence matters in Queensland courts.

This supports the conclusion that there is limited awareness of section 9(10A) among victim survivors, including its intended role in sentencing. Consistent with other research, we have found that victim satisfaction with sentencing is impacted by several other factors that operate independently of the DV aggravating factor.

10.1 Research into victim survivor views

10.1.1 Findings from the literature

An aggravating factor for the purpose of sentencing domestic violence offences is applied in various ways in numerous jurisdictions, both nationally and internationally (see **Appendix 7** for information about different models). However, research into victim survivor satisfaction with this type of legislative requirement is limited, and there is currently no direct evidence that a legislative DV aggravating factor positively influences satisfaction with the court process, outcomes or perceptions of justice and fairness for victims.

A literature review prepared for the Council by researchers from Griffith University explored research evidence for the sentencing of domestic and family violence offences, and included a summary of research into victim survivor satisfaction during this process.

The review authors highlight that the current evidence base is limited:

- methodologically, through lack of robust study designs, small sample sizes, few available peer-reviewed studies, and limited analysis of data.
- conceptually, due to evidence primarily focusing on female victim survivors with male perpetrators of domestic violence.[907]

With these limitations in mind, the authors reviewed prior research that has focused on exploring victim survivor satisfaction as influenced by aspects of the criminal justice system, namely sentencing outcomes, the operation of specialist domestic violence and Indigenous courts, interactions with judges and magistrates, and the use of restorative justice approaches.

In terms of sentencing outcomes, what constitutes a 'good' outcome varies from an individual victim survivor perspective.[908] Many victim survivors perceive sentences to be too lenient, failing to hold the offender accountable. In particular, the use of fines for breaching protection orders can lead to frustration and a sense of trivialisation for victims. However, evaluations of specialist domestic violence courts and initiatives suggest that when asked about their views of the sentencing process, victims saw court responses as appropriate, or at least, as holding perpetrators to account.[909]

Specialist courts have generally received positive assessments from victim survivors compared with mainstream courts, as they provide enhanced support during court proceedings, making victims feel

[907] *Griffith University Literature Review* (n 18).
[908] Ibid citing: Robyn Holder, 'Catch-22: Exploring Victim Interests in Specialist Family Violence Jurisdiction' 32(2) *International Journal of Comparative and Applied Criminal Justice* 276.
[909] *Griffith University Literature Review* (n 18) 31.

safer.[910] However, the use of fines as punishment may still lead to victim dissatisfaction, even in the context of specialist courts.[911]

Indigenous sentencing courts can offer further support for Aboriginal and Torres Strait Islander victims of domestic violence. These courts have been shown to generally increase participation in the court process, but their influence on DV victim survivor satisfaction has not been explored and more research is needed to better understand their impact.[912]

While evidence suggests that specialist courts have a positive impact on the satisfaction of victim survivors, judicial awareness of domestic violence dynamics is another key contributor. Poor interactions with judges and magistrates can have negative impacts on satisfaction and the likelihood of victims seeking further assistance for domestic violence matters.[913] Due to negative experiences with formal help-seeking via police and court systems, Australian research has indicated that victim survivors, particularly Aboriginal and Torres Strait Islander women, have a strong preference for informal processes instead.[914]

This is further supported by victim survivor desire for alternatives to punitive sentences for offenders. Holding perpetrators to account was a key motivation for victim survivors engaging in the justice system;[915] however, sentencing outcomes for offenders were perceived to fail at this goal, and victim survivors expressed a need for alternatives to incarceration that address the root cause of behaviour.[916]

Restorative justice may be an appropriate alternative for domestic violence cases, but it remains controversial. Research in this field has shown that most victim survivors report feeling safe during the conference and mediation process, leading to feelings of empowerment and vindication.[917] Interview and survey responses from victim survivors of DV and sexual violence highlighted that they value restorative justice as an 'opportunity to voice the impacts of the crime, ask questions, re-establish feelings of safety, repair relationships, and achieve accountability and forgiveness'.[918] However, the main goal of restorative justice is reparation, which may be at odds with victim survivors' primary aim of achieving offender accountability.[919]

As part of a broader research project about victim survivor satisfaction commissioned by the Council, researchers from the MGFVPC conducted a brief review of the literature and observed similar findings to those discussed above.[920] An Australian study observed that victim survivors felt restorative justice gave them the opportunity to have their harm acknowledged.[921]

The researchers also reported that victim survivor satisfaction was shown to be positively impacted by:

- clear procedures;
- respect for lived experience;
- having a voice in judicial processes;
- provision of support;
- judicial acknowledgment of harm;
- perpetrator accountability;
- perceptions of agency in legal and justice processes;

---

910 Ibid 22.
911 Christine Vallely et al, *Evaluation of Domestic Violence Pilot Sites at Caerphilly (Gwent) and Croydon 2004/05* (Final Report, June 2005) 20.
912 *Griffith University Literature Review* (n 18) 25.
913 Centre for Innovative Justice (Victoria), *Opportunities for Early Intervention: Bringing Perpetrators of Family Violence into View* (Report, RMIT, March 2015) 59.
914 *Griffith University Literature Review* (n 18) 31.
915 Ibid 37.
916 Ibid 36.
917 Ibid 23 –24.
918 Siobhan Lawler, *Victim-Survivors' Reflections on Best Practice in Restorative Justice for Domestic, Family and Sexual Violence* (Prepared for the Australian Institute of Criminology, October 2025).
919 Ibid 36.
920 Jasmine McGowan et al, *Victims' Views on the Sentencing of Domestic Violence Offences in Queensland* (Final Report prepared by Monash University for the Queensland Sentencing Advisory Council, 2025) ('*Monash Report*').
921 Ibid 18 citing: Siobhan Lawler, Hayley Boxall and Christopher Dowling, *Restorative Justice Conferencing for Domestic and Family Violence and Sexual Violence: Evaluation of Phase Three of the ACT Restorative Justice Scheme* (AIC Research Report No 33, Australian Institute of Criminology, 2025).

- clear information provision about law and court processes and potential outcomes;
- culturally aware and appropriate practices; and
- balanced sentencing approaches that offer both denunciation and, in some cases, rehabilitative alternatives.[922]

Recent research from the Scottish Sentencing Council investigated victim survivors' experiences with sentencing and the court process.[923] The study found that 'a nuanced understanding of domestic abuse is lacking by those who work within the courts'.[924]

In particular, victim survivors who participated in the study were critical of how courts dealt with domestic violence offences, often feeling they were minimised or framed as single occurrences rather than a pattern of repeated behaviour.[925]

Terminology and jargon used in courts was found to be confusing for victims, and they expressed wanting simpler and more straightforward explanations about what to expect, how the legal system works and what potential outcomes might be.[926]

Further findings from the Scottish Sentencing Council study indicate that victim survivors were not satisfied with the sentencing outcomes and felt they did not reflect the severity of the offender's actions.[927]

The results of this study support the idea that sentencing outcomes can influence victim survivor satisfaction. When harsh penalties were received, victim survivors reported feelings of validation for their experiences. In contrast, when sentences were perceived as inadequate, victim survivors felt this compounded their trauma and minimised their suffering.[928]

Overall, the literature indicates that victim survivor satisfaction is complex and dependent on numerous factors, which may vary from person to person. As mentioned, no research has previously been conducted on whether the legislative requirement to treat DV as an aggravating factor significantly influences victim survivor satisfaction with sentencing outcomes. Therefore, the Council commissioned research to fill this gap and answer a key question of the Terms of Reference.

10.1.2 Monash University's victim survivor research and findings

The Council contracted MGFVPC to undertake research on victim survivor views of the sentencing of domestic and family violence offences, with the aim of specifically assessing satisfaction with the aggravating factor in section 9(10A) of the PSA.[929]

This project involved interviews with victim survivors and victim survivor advocates. Full details of the research conducted, including the methodological approach taken, are available in the research paper '*Victims' Views on the Sentencing of Domestic Violence Offences in Queensland'*.[930]

Participants in this study were victims of a DV offence sentenced in a Queensland court after 2016 (when the aggravating factor was introduced),[931] and excluded the offences of contravention of a domestic violence order and choking, suffocation or strangulation in a domestic setting.

Victim survivor advocates were also included in the research, comprising stakeholders from First Nations legal services, women's legal services and DV specialist court support workers, among others.

---

922 *Monash Report* (n 920).
923 Nancy Lombard and Erin Rennie, *Exploring Views on Sentencing for Domestic Abuse in Scotland* (Prepared for the Scottish Sentencing Council, August 2024).
924 Ibid 4.
925 Ibid.
926 Lombard and Rennie (n 923).
927 Ibid 65–8.
928 Lombard and Rennie (n 923).
929 *Monash Report* (n 920).
930 Ibid.
931 Offences were only included if the aggravating factor could be applied to them. This excludes the offences of contravention of a domestic violence order, and choking, suffocation or strangulation in a domestic setting, as a key component of these offences is that they are committed in a domestic violence context.

Specifically, the research aimed to better understand victim survivor:

- knowledge and awareness of section 9(10A);
- views and perceptions of section 9(10A); and
- experience and satisfaction with the sentencing of domestic violence offences.

The research was conducted in four phases:

1. Advocate Roundtables and Yarn (August to September 2024);[932]
2. Online survey with victim survivors (November 2024 to March 2025);
3. Interviews with victim survivors (November 2024 to March 2025); and
4. Advocate Roundtables including dedicated First Nations Roundtables (March to April 2025).[933]

Phases 1 and 4: Advocate Roundtables

Across the advocate roundtable discussions, a total of 29 participants contributed to Phase 1 and 16 to Phase 4. Overall, advocates reported that they observed a lack of awareness among victim survivors, of section 9(10A). One participant also expressed that some legal services may withhold information about the aggravating factor to manage victim survivor expectations about the court process and the ultimate sentence.

Advocates identified how trauma may impact capacity to retain information about the aggravating factor if it is presented to victim survivors early in the help-seeking process. In terms of satisfaction with the aggravating factor, advocates acknowledged that victim survivors are unlikely to be satisfied with the legislative reform if it is not stopping the violence. They also reiterated the subjective nature of satisfaction for victim survivors during sentencing: 'And we also know there's victim survivors who don't want a jail sentence for the perpetrator, so they may not be satisfied if there's a harsh penalty applied.'[934]

However, it is important to acknowledge that a small number of advocates participated in these roundtables, and the views expressed in this research may not be applicable more broadly.

Phases 2 and 3: Online survey and interviews with victim survivors

The researchers conducted an online survey of victim survivors whose offender had been sentenced. The methodology about recruitment and study design can be found in the report published on the Council's website. Using the survey to assess general satisfaction was considered to be too broad of a focus, so the online questionnaire was designed to assess victim survivor experiences with the court process, based on literature findings about important aspects of victim satisfaction. This included:

- experiences of the court and sentencing process;
- awareness of section 9(10A);
- expectations and awareness of sentencing outcomes; and
- experiences with providing a Victim Impact Statement (VIS).

Online survey of victim survivors

A total of 18 survey responses were collected, comprising all female participants aged 18–60 years. Two participants identified as Aboriginal and Torres Strait Islander, and the majority of participants identified as heterosexual.

---

[932] The purpose of this phase was to seek the expertise of domestic violence advocates and their experiences in supporting victim survivors through the Queensland court system and the sentencing of domestic violence offences. The researchers also consulted these stakeholders to help with the development of survey and interview questions for Phases 2 and 3.

[933] These were conducted to seek advocate views on the early survey and interview findings, and to consider recommendations for victim survivor support mechanisms.

[934] Advocate Roundtable, Phase 4.

The victim survivor and the offender were most often intimate partners or ex-partners (n=15). For the remaining cases, one was an adult child of the victim survivor and two were other family members. Of the sentences given, 9 cases resulted in imprisonment.

Awareness of the aggravating factor varied between victim survivors. Eight participants were aware of the aggravating factor, 4 of them prior to the sentence. Six participants said the magistrate or judge discussed domestic violence as an aggravating feature of the case and 5 of them said they were satisfied with how domestic violence was discussed.

As reported in the survey, participants were made aware of the aggravating factor prior to sentence via:

- police;
- prosecution;
- Legal Aid;
- private legal counsel; and
- support services for victims.

Seventeen participants agreed that the aggravating factor was appropriate, and that domestic violence offences should attract harsher penalties compared with non-DV offences. However, only 11 participants felt the judge or magistrate held the offender accountable and 15 participants disagreed with the statement 'The other person took responsibility for what they did.'[935]

Overall, victims were not satisfied with the sentence their offender received. Seven of the 18 participants said they agreed with the sentence, and 9 said they accepted the sentence. Only a small number of participants reported that they had received 'an honest explanation' for the sentence (n=6).[936]

While all 18 participants indicated that receiving information about what was going to happen at court was important to them, only 8 said they received this information.

Eleven participants reported that they were not told about the aggravating factor at any point in the court process, despite 16 saying this was important to them.

Regarding victim survivor treatment at court, 10 said they were treated with respect during their case, and half the participants said the court process was fair. Additionally, 9 participants had concerns about their safety in coming to court.

Eleven participants reported that they provided a VIS, and all of them reported wanting the VIS to have an effect on the sentence (10 said they expected it to). Through open-ended follow-up questions in the survey, participants who provided a VIS had mixed feelings about doing so.

Participants reported that they wanted to have a voice in the court process, and they wanted the offender to hear and understand the effects of their behaviour. However, some reported that the judge or magistrate did not take their words into account during sentencing, and one participant thought the magistrate 'acted as if he was bored' during the reading of the VIS.[937]

Interviews with victim survivors

After completing the survey, participants were invited to complete a follow-up interview that aimed to source more in-depth insights for awareness of and satisfaction with the aggravating factor. All 11 interview participants also completed the survey, so there is some overlap in results.

Some participants reported not being aware of the aggravating factor until after their case had been settled:

> Yeah, to be honest, prior to this research, I didn't really know a whole lot about it.[938]

---

935 *Monash Report* (n 920) 56.
936 The term 'honest' was not defined to participants during the course of this study, and therefore 'an honest explanation' of the sentence received is subjective and open to participant interpretation.
937 *Monash Report* (n 920) 72.
938 Victim survivor interview, 7 February 2025.

> More this year in 2024 when I had actual court documents, I never had documents before … it was written in the verdict of judgment … I had to request them from the courthouse, okay? And so only got like things from 2020 this year and 2024 and read 'aggravated'.[939]

Of the 2 interviewees who were aware of the aggravating factor prior to sentencing, one was very satisfied with the court process and the other was not satisfied. Of the remaining 9 participants who were not aware, 5 were satisfied and 4 were not.

These findings indicate that satisfaction with court processes does not seem to be related to awareness of the aggravating factor, but the small number of participants limits this data and makes these results difficult to generalise.

Some interviewees agreed that courts should be treating DV more seriously, and that the aggravating factor is appropriate. While all interviewees believed it was very important that the judiciary acknowledge the seriousness of DV, one victim survivor reported that the judge in their case suggested the offence was less serious 'because it happened in my own bed, and it wasn't as bad as, in his words, an assault that would have intruded on a woman's right to feel safe in public'.[940] The researchers observed that the judge's comparison suggested the DV aspect was mitigating rather than aggravating. However, due to instinctive synthesis, the actual weighting of section 9(10A) by the judge is unknown.

The view that assaults occurring in public by a stranger are more serious than assaults occurring in an intimate partnership or family setting has long been criticised.[941] The authors of the Monash study note that the DV aggravating factor was intended to help address this problem.[942]

Experiences with judges and magistrates was a significant contributor to victim survivor satisfaction generally. Greater satisfaction was associated with the judge or magistrate explaining the reasoning for their sentence:

> Well, the judge was awesome … he did talk to me … You'd have to pull up the transcripts of that day because I don't totally remember everything … I think internally I was just so happy that someone just believed and listened to me and that it was going to stop.[943]

> He was just … sort of saying that … domestic and family violence is like a serious offence. And … because of his … history of everything … that there's going to be more severe consequences of what he's done.[944]

Despite this, very few interviewees felt the offender was held accountable by the judge or magistrate. The examples included in the report suggest the interviewees did not feel the penalty was adequate ('he got a little tap on the hand and told he was a bad boy') or the penalty had not deterred the offender from committing further violence ('No [the offender was not held to account] because if they were, they wouldn't still be doing it now').[945]

Factors outside of sentencing were also found to negatively impact victim survivor satisfaction with the court process, such as:

- feelings of secondary victimisation and distress associated with going to court;
- long waits to get to court (particularly when this meant perpetrators were released at sentence due to time already served); and
- a lack of resourcing for men's behaviour-change programs.

Overall, the MGFVPC findings indicate victim survivor awareness of the aggravating factor is not sufficient on its own to influence satisfaction with court processes and sentencing outcomes. This research aligns with earlier studies that victim survivor satisfaction is likely to be low when the harms of DV experiences are not meaningfully acknowledged by the judiciary, or the offender is not held to account.

---

939 Victim survivor interview, 23 December 2024.
940 *Monash Report* (n 920) 53–4.
941 Ibid 54 citing: Silke Meyer, 'Seeking Help for Intimate Partner Violence: Victims' Experiences When Approaching the Criminal Justice System for IPV-Related Support and Protection in an Australian Jurisdiction' 6(4) *Feminist Criminology* 268. See also Hessick (n 904).
942 *Monash Report* (n 920) 54.
943 Victim survivor interview, 13 March 2025.
944 Victim survivor interview, 7 April 2025.
945 Monash Report (n 359) 64.

Limitations and challenges

While this research offers novel insight into victim survivor satisfaction with a domestic violence aggravating factor, there are limitations that should be considered when interpreting the findings.

First, sample sizes of 18 and 11 victim survivors for the survey and interview phases, respectively, are quite small and do not represent saturation of the victim survivor population. This further extends to the limited number of Aboriginal and Torres Strait Islander views that were attained; conclusions cannot be drawn when considering satisfaction with the aggravating factor and sentencing among this population.

Therefore, the results presented here should not be interpreted as generalisable to the entire cohort of victim survivors; rather, they provide some insight to experiences with the criminal justice system and help to identify some factors that could impact satisfaction for victim survivors.

The researchers identified some challenges in recruitment of participants, particularly when using the online survey. Despite 413 attempted responses, only 18 were identified as valid survey participants. The increasing presence of bots in online studies is a challenge facing all fields of research, and may prompt a move towards face-to-face or in-person methodologies.

10.2 Stakeholder views

While the Council did not include a specific question in the Consultation Paper on victim survivor satisfaction with section 9(10A) because it had engaged MGFVPC to undertake research on this matter, some stakeholders commented in submissions on this topic. In consultations run by the Council in regional Queensland, stakeholders were specifically asked about victim survivor experiences with sentencing as well as their awareness of the aggravating factor in sentencing.

10.2.1 Victim survivor satisfaction with the sentencing of DV is complex and diverse

The Office of the Victims' Commissioner for Queensland (OVC) advised that 'many victims feel that sentences inadequately reflect the seriousness of the offending behaviour' and that this 'continues to impact their lives and the lives of those around them'.[946]

This was echoed during the Council's stakeholder consultations in the Wide Bay region, where legal stakeholders shared that victim survivors have expressed dissatisfaction with sentencing outcomes, particularly for stalking and strangulation.

Stakeholders in Bundaberg observed that victim survivors are increasingly aware that domestic violence is being taken more seriously by the courts; however, they told the Council that challenges remain in holding offenders to account and ensuring reporting processes allow for victim safety and privacy.

In contrast, the First Nations Women's Legal Services Queensland (FNWLSQ) told the Council that harsher penalties for domestic violence offences may be leading to under-reporting by Aboriginal and Torres Strait Islander women, which does not align with the goal of the aggravating factor reforms. Fears of consequences such as the offender going to prison, children being removed, or retaliation from the offender's family may be leading to under-reporting, and victims may be 'less likely to report to police or seek other support if reporting will lead to the breadwinner/sole provider being imprisoned'.[947]

The QPU noted that fines may not be an appropriate penalty for domestic violence offenders, as the monetary amount could be taken from the household budget and used to further perpetrate abuse towards the victim by limiting access to money.[948]

The RACGP emphasised in its submission that victim survivor satisfaction and offender desistence should be explored through the use of novel sentencing options when offenders pose a lesser risk of re-offending.

---

946 Submission 15 (Office of the Victims' Commissioner).
947 Submission 17 (First Nations Women's Legal Services Qld).
948 Submission 16 (Queensland Police Union).

They also specified that 'alternative care mechanisms and the interests of the victim survivor' should be considered in light of the 'heterogeneity of presentation … the type of offence, safety with continuing contact, relationships … including potential dependent relationships'.[949]

The Salvation Army emphasised that sentencing reforms should be accompanied by 'strengthened service coordination and information sharing' between the justice system and the domestic violence support sector.[950] Recommendations included:

- 'improved victim survivor liaison with in the justice system to ensure communication and support regarding sentencing outcomes'; and
- 'the need for strengthened service coordination and information sharing between justice and family and domestic violence services to ensure the safety and wellbeing of victim survivors during sentencing processes', including to ensure 'effective identification, assessment and management of risk to victim survivors' and to enable supports required to ensure victim survivor safety and wellbeing.[951]

10.2.2 Victim survivor satisfaction should not be the sole measure of sentencing effectiveness

Some legal stakeholders commented on the difficulty and complexity of measuring victim survivor satisfaction through sentencing outcomes alone.[952]

The QLS cautioned the Council about using 'victim satisfaction as a measure for effectiveness of the sentencing process', noting that the experiences of victims in the criminal justice system is 'extraordinarily broad and depends upon a myriad of factors'.[953] They also stated that given 'the level of complexity, emotion and acrimony that comes with a relationship breakdown … It must be assumed that victim satisfaction in the sentencing process would be low no matter what the penalty imposed'.[954]

The QLS expressed further concerns that other important sentencing considerations, 'such as rehabilitation and the requirement that punishment be just in all the circumstances', will be ignored if attention is only paid to measuring the effectiveness of the reform via victim survivor satisfaction.

LAQ was concerned that it would be 'artificial' to link domestic violence sentencing statistics to victim satisfaction, because:

> Victim satisfaction is inherently tied to the individual's experience, starting with community attitudes and values, experience in reporting to police, the level of support and information provided by prosecuting bodies and victim support services, and delays in court proceedings, which are not attributable to the defendant.[955]

10.2.3 The efficiency of the criminal justice system impacts victim satisfaction

Overall, the Council heard from many stakeholders about how aspects of the criminal justice system impact victim survivor satisfaction with sentencing outcomes.

The impact of court delays was emphasised, as victims may be unwilling or unable to fully participate in a lengthy process.[956] Similarly, court delays can result in offenders being released quickly after conviction. The Red Rose Foundation highlighted that women often feel 'significantly let down by the system' when this occurs.[957]

---

949 Submission 4 (Royal Australian College of General Practitioners).
950 Submission 7 (The Salvation Army).
951 Submission 7 (The Salvation Army) recs 2, 3.
952 Submission 14 (Queensland Law Society); Submission 18 (Legal Aid Queensland).
953 Submission 14 (Queensland Law Society).
954 Ibid.
955 Submission 18 (Legal Aid Queensland).
956 General consultation in Roma, 19 June 2025.
957 Submission 11 (Red Rose Foundation).

Victim survivors in Townsville shared personal insights, and noted that victims are often absent from the sentencing process, as systemic misunderstandings of the legal process are common. The same stakeholder said it was difficult to keep victim survivors informed due to the sheer volume of matters heard per day in the Magistrates Courts.[958]

Stakeholders in Mount Isa highlighted that victim survivors have a lack of trust in the system to protect their safety, and this prevents help-seeking and fully engaging in support services.

The specific physical environment of courts in Mount Isa was highlighted as an issue, as the absence of safety rooms can discourage victims from attending court processes related to their matter. It was raised with us that many victims do not attend hearings. The nature of small communities and the importance of maintaining anonymity for victims highlights the necessity of providing these spaces at court.[959] This consultation was prior to an announcement made in July 2025 by the Queensland Government that a $2.8 million upgrade to the Mount Isa Courthouse was underway to create 'a safer and more functional courthouse environment'.[960]

The OVC discussed the important role of VIS in sentencing proceedings, to inform 'judicial officers of the full extent of the harm caused' and allow victims to 'voice their experience in their own words', which is critical for 'their empowerment and healing'.[961]

10.3 The Council's view

Finding 9: There is limited awareness of section 9(10A) among victim survivors

Victim survivors have low awareness of section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) and its role in sentencing; however, this is unsurprising given the technical nature of the provision.

Finding 10: Victim satisfaction with sentencing is impacted by factors other than section 9(10A) of the *Penalties and Sentences Act 1992* (Qld)

Victim survivors are more satisfied with a sentencing outcome when:

- there is judicial recognition of the domestic violence and the harm caused by the offending;
- they consider the court process is fair;
- they feel respected; and
- they are able to participate in the sentence proceeding.

In conclusion, the Council's examination of section 9(10A) and its impact on victim survivor satisfaction with the sentencing process highlights the complexity and diversity of experiences within the criminal justice system.

While the legislative requirement to treat domestic violence as an aggravating factor is widely regarded as appropriate, the research indicates that victim survivor satisfaction is influenced by a broader range of factors beyond awareness or application of section 9(10A). These include the adequacy of sentencing outcomes, judicial acknowledgement of harm, the treatment of victims during court proceedings and the availability of clear information and support services.

The findings underscore the importance of addressing systemic issues such as court delays, secondary victimisation and the lack of culturally appropriate practices and safe spaces, particularly in regional and remote areas. Additionally, the research highlights the need for alternative sentencing approaches that prioritise perpetrator accountability while considering victim survivor preferences and safety.

---

958 Victim survivor, Townsville, 13 June 2025.
959 Service providers, Mount Isa, 1 May 2025.
960 'Mount Isa Courthouse Upgrades Underway as Budget Delivers Permanent Second Magistrate', *Ministerial Media Statements* <https://statements.qld.gov.au/statements/103133>.
961 Submission 15 (Office of the Victims' Commissioner).

Stakeholder feedback further emphasises that victim satisfaction should not be the sole measure of sentencing effectiveness, as it is inherently tied to individual experiences and broader systemic factors. Instead, a balanced approach that incorporates victim voices, judicial education, and strengthened coordination between the justice system and support services is essential to improving outcomes for victim survivors of domestic and family violence. **Chapter 13** discusses some of these issues in more detail.

Ultimately, while section 9(10A) represents an important step in recognising the seriousness of domestic violence offences, its impact on victim satisfaction remains limited without addressing the underlying challenges within the justice system.

Chapter 11 explores in greater detail the impact of marginalisation and disadvantage for some groups of people, including misidentification of the primary perpetrator of DV and the consequences for victim survivors.

PART D:
Marginalisation, human rights and future directions in enhancing sentencing for domestic violence

Chapter 11

Impacts on marginalised and disadvantaged groups

Chapter 12

Compatibility with the *Human Rights Act 2019* (Qld)

Chapter 13

Policy implications and future directions

Overview: Part D

Part D explores the impact of the domestic and family violence (DFV) reforms on marginalised and disadvantaged groups, and the compatibility of the domestic violence (DV) aggravating factor in section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) (PSA) with the rights protected under the *Human Rights Act 2019* (Qld) (HRA). Lastly, this part considers opportunities for future reform in responding to domestic violence in Queensland.

In **Chapter 11**, the Council explores the impact of DFV on marginalised people, with a particular focus on Aboriginal and Torres Strait Islander peoples and women, and provides an overview of statutory and common law recognition of disadvantage to be taken in account in sentencing DV offences. Due to data limitations, the Council could only present data on the impacts of DV sentencing for two marginalised cohorts: Aboriginal and Torres Strait Islander peoples and women.

The Council observed that Aboriginal and Torres Strait Islander peoples are disproportionately impacted by DFV. They are therefore disproportionately impacted by the operation of the DV aggravating factor and disproportionately represented among people sentenced for contravention of a domestic violence order (CDVO) offences. However, the disproportionate representation for CDVO offences pre-dates the increase to the maximum penalties and is particularly evident for aggravated charges.

Chapter 12 presents the compatibility of the DV aggravating factor in section 9(10A) of the PSA with the rights protected under the HRA. We set out a summary of aggravating factors that have been introduced since the commencement of the HRA which were found to be compatible with human rights because although they may limit the right to liberty,[962] the limitation was considered 'reasonable and demonstrably justifiable'.[963]

Similarly, the Council has concluded that while the DV aggravating factor may limit the right to liberty and the right to equality, the limitation is 'reasonable and demonstrably justifiable'.[964] The DV aggravating factor does not displace the sentencing purpose of section 9(1)(a) of the PSA 'to punish the offender to an extent or in a way that is just in all the circumstances'. Therefore, while it is a mandatory consideration unless there are exceptional circumstances, and may result in an increased sentence, it does not require that a court must impose any greater punishment than previously.[965] An aggravating factor is one of many factors a court must consider in deciding an appropriate sentence. A legislative sentencing consideration of this type is not the only or controlling factor.[966]

Broadening the current discretion in the DV aggravating factor would impact its ability to achieve its intended legislative purposes in signalling to courts the higher seriousness with which such offending is to be viewed thereby reflecting victim harm and community attitudes.

Alternative options, such as introducing a circumstance of aggravation carrying a higher maximum penalty, would be even more restrictive than the current provision.

In **Chapter 13** we consider the policy implications of our observations and findings, drawing on key themes of a literature review prepared by the Griffith Criminology Institute during the initial stages of the review, along with our own research and consultation. We identify several potential areas for reform informed by evidence and recommend changes to data capture and linkage to help improve the evidence base.

---

962 *Human Rights Act 2019* (Qld) s 29 ('HRA').
963 HRA (n 962) s 8.
964 Ibid s 8.
965 *Pham* (n 606) 248 [6] (Keane JA).
966 See *DPP (Vic) v Dalgliesh (A Pseudonym)* (2017) 262 CLR 428, 434 (Kiefel CJ, Bell and Keane JJ) regarding a requirement under the Victorian Sentencing Act that provides a court must have regard to current sentencing practices: *Sentencing Act 1991* (Vic) s 5(2)(b).

Chapter 11 – Impacts on marginalised and disadvantaged groups

Domestic and family violence disproportionately impacts marginalised and disadvantaged groups, including women, Aboriginal and Torres Strait Islander peoples, people with disabilities and LGBTQIA+ people.[967] The Council sought to examine the impact of DFV sentencing on these groups; however, due to limitations with available administrative data, we could only do so in a limited way.

This chapter examines how the sentencing of DFV may disproportionately impact different groups of people, the statutory and common law guidance to judicial officers about taking into account the unique experiences and barriers faced by marginalised groups in sentencing,[968] and our observations from analysing administrative data regarding the impact on women and Aboriginal and Torres Strait Islander peoples.

11.1 Domestic violence impacts on marginalised people

Each person's experience of DFV is different. Certain communities face additional challenges and are at greater risk of violence because of systemic inequalities that marginalise their cultural or social identity or their personal circumstances.[969]

For example, women with disabilities experience higher rates of sexual violence, violence or emotional abuse by a domestic partner and stalking than women without disability.[970]

Intersectionality promotes an understanding of how human beings are shaped by intersections of different identity categories, power relations, structures, processes and experiences.[971] This is particularly important because systemic inequalities and forms of disadvantage can exacerbate the challenges faced by many marginalised individuals when dealing with DFV. These factors can affect the risk, severity, frequency and diverse ways in which a person might experience or perpetrate DFV.

There can also be intersection between being a victim and a perpetrator of DFV.[972]

11.1.1 Women

Domestic violence is a gendered crime: most victims of intimate partner violence are women, and perpetrators are more likely to be male.[973] However, DFV is experienced by people of all genders and ages, in various relationship types and from all cultures, socioeconomic backgrounds and demographic groups.[974]

---

967 The DFVPA (n 16) s 4(2)(d) identifies groups of people who may be vulnerable to domestic violence due to certain characteristics. These include: women, children, Aboriginal and Torres Strait Islander peoples, people from a culturally or linguistically diverse background, people with disability, people who are lesbian, gay, bisexual, transgender or intersex and elderly people.

968 See, for example, PSA (n 41) ss 9(2)(oa) and 9(2)(p).

969 See details about an intersectional approach in 'Fact Sheet 1 - Overview of the Common Risk and Safety Framework' (n 17) 7.

970 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Nature and Extent of Violence, Abuse, Neglect and Exploitation* (Final Report No 3, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, September 2023) 109.

971 The United Nations Inter-Agency Network on Women and Gender Equality, 'Intersectionality Informed Gender Analysis Toolkit' 15.

972 See for example, 'PSA' (n 2) ss 9(2)(gb), 9(10B) commenced August 2013: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 80. See also 9(10A) of the PSA exceptional circumstance examples 1 and 2.

973 'Family, Domestic and Sexual Violence', *Australian Institute of Health and Welfare* (Web Page, 30 July 2025) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/resources/fdsv-summary> (9 November 2022).

974 Janet Phillips and Penny Vandenbroek, 'Domestic, Family and Sexual Violence in Australia: An Overview of the Issues' [2014] *Parliament of Australia* 1.

While the risk profiles of male and female DV offenders are similar in many ways, research has shown that women are:

- more likely to experience certain mental health issues and personality disorders and have histories of trauma and abuse;[975]
- more likely to use weapons, but less likely to strangle, punch or kick their victims, meaning an injury is more likely to occur in the context of weapons use;
- less likely to misuse alcohol or be involved in non-violent offending; and
- less likely to plan or premeditate violence and more likely to experience physical retaliation by male victims.[976]

Although most women who experience DFV do not commit offences, there are 'strong links between women's experience of domestic and sexual abuse and coercive relationships, and their offending'.[977] Studies show women in prison have often experienced a lifetime of victimisation, including DFV, physical and sexual abuse, mental health disorders, drug and alcohol dependency and childhood trauma.[978]

Women who intersect with one or more of the marginalised cohorts have been found to experience DFV at higher rates than women with no intersection.[979]

Misidentification

Accurately identifying the primary perpetrator of DV is a 'basic prerequisite for ensuring victim survivors are protected and perpetrators are held accountable for their use of family violence'.[980] When police are called to a DV incident, one of their tasks is to identify the person most in need of protection.

In 2017, the Queensland Domestic and Family Violence Death Review and Advisory Board recommended that research be undertaken to identify how best to identify and respond to the person most in need of protection when there are mutual allegations of violence and abuse.[981] That research (undertaken by ANROWS) found that 'in Australia, people misidentified as a perpetrator of DFV are also likely to be subject to DFV protection orders'.[982] Researchers noted that, despite extensive research on women's resistance to violence perpetrated against them,

> stereotypical assumptions about women subjected to violence, particularly those subjected to coercive control, persist. Women are assumed to be submissive and powerless so those who use violence in resistance to coercive control are frequently treated as perpetrators.[983]

The ANROWS researchers also noted the disproportionate impact of misidentification on Aboriginal and Torres Strait Islander women, stating that:

> Aboriginal and Torres Strait Islander women very often do not fit the ideal victim stereotype. They are more likely than other women to use weapons and to be uncooperative when police intervene. They are also more likely to have a fraught relationship with police, due to the neo-colonial context in which violence and policing of violence plays out. Throughout Australia's colonial period, police were at the forefront of implementing oppressive policies such as dispersal from traditional lands; denial of

---

975 Queensland Corrective Services has reported that around 9 in 10 women in custody have experienced victimisation from child sexual abuse, physical violence, or domestic violence (87%), with two-thirds of women experiencing all three (66%) Queensland Corrective Services, 'Interim Women's Strategy 2023-2025' 10.

976 Hayley Boxall, Christopher Dowling and Anthony Morgan, *Female Perpetrated Domestic Violence: Prevalence of Self-Defensive and Retaliatory Violence* (Australian Institute of Criminology, 2020) 2.

977 The Prison Reform Trust, *'There's a Reason We're in Trouble' Domestic Abuse as a Driver to Women's Offending* (2017) 4. See also, Jean Corston, *The Corston Report* (March 2007) 19 [2.12].

978 Australian Institute of Health and Welfare, *The Health and Welfare of Women in Australia's Prisons* (November 2020) 6–12. Anti-Discrimination Commission Queensland, *Women in Prison 2019: A Human Rights Consultation Report* (Anti-Discrimination Commission Queensland, 2019) 61.

979 See for example, Hayley Boxall, Anthony Morgan and Rick Brown, *Experiences of Domestic Violence Among Women with Restrictive Long-Term Health Conditions* (Statistical Report 32, Australian Institute of Criminology, 2021) 22.

980 *Monitoring Victoria's Family Violence Reforms: Accurate Identification of the Predominant Aggressor* (Office of the Family Violence Reform Implementation Monitor, December 2021) 4.

981 Domestic and Family Violence Death Review and Advisory Board, *2016-17 Annual Report* (Annual Report, Domestic and Family Violence Death Review and Advisory Board, 2017) 83, rec 16.

982 Heather Nancarrow et al, *Accurately Identifying the "Person Most in Need of Protection" in Domestic and Family Violence Law* (Research Report, Issue 23, ANROWS, November 2020) 31.

983 Ibid 96.

> language and culture, and freedom of movement; control of marriage, employment and wages; and removal of 'half-caste' children, resulting in the stolen generations of Aboriginal and Torres Strait Islander peoples.[984]

Referring to ANROWS research, the Women's Safety and Justice Taskforce (WSJ Taskforce) stated:

> Criminal charges stemming from misidentification have significant flow-on consequences for women, including criminal records, increased likelihood of future charges, and employment, housing, family law and immigration impacts.[985]

This observation was reinforced by the Queensland Commission of Inquiry into Police Responses to DFV (Commission of Inquiry), recommended by the WSJ Taskforce, which concluded:

> The misidentification of domestic and family violence victims as perpetrators compromises the integrity of the police response and significantly heightens the risk to the primary victim. It restricts access to support and protection for those experiencing violence and can embolden the perpetrator, who may use a Protection Order to silence or control the primary victim. The application for a Protection Order in such circumstances may also lead to victim survivors being subjected to criminal proceedings and further adverse outcomes.[986]

In 2025, the Queensland Government announced it would commission new ANROWS research on misidentification in DFV settings.[987] The Government's intention is for the 'first of its kind study in Queensland' to 'give the government an evidenced based picture', as well as 'give the sector, the government and the Queensland Police a broader understanding of the issue'.[988]

The Commission of Inquiry attributed the misidentification of Aboriginal and Torres Strait Islander women by police to 2 key issues: 'stereotypes regarding victims, and the increased likelihood of First Nations women relying on resistive violence including use of a weapon to overcome disparities in physical strength'.[989] Studies have found that Indigenous women are less likely to engage with police or court processes which may 'lead to Indigenous women not disclosing their experiences of domestic violence to police, and any subsequent charges or orders not being contested/defended in court'.[990]

Violent resistance

Research also suggests that the type of violence used by women is different from that used by men in both force and motivation.[991] For example, when men kill an intimate partner, their actions often involve multiple stabbings or instances of violence, but when women kill an intimate partner, they are more likely to inflict only one or two stab wounds.[992] This may go to the differing motivations of men and women who kill in these circumstances.

In one ANROWS study, researchers further noted that

> women who use resistive violence are also likely to use weapons, particularly household items including knives that are accessible in the moment, to counter their physical strength disadvantage. Consequently, it is sometimes victims of DFV that cause more visible injury. Yet police tend to use physical injury to determine the person most in need of protection.[993]

While the research has found there is a prevalence of self-defence and retaliatory violence for female offenders, other research has identified cases where a female offender of domestic violence can have similar

---

984 Ibid 96–97 (references omitted).
985 *Hear Her Voice Report 2* (n 29) vol 2, 455.
986 *A Call for Change* (n 254) 54.
987 'DFV Peak Body Fast-Tracked to Support More Victims Sooner', *Ministerial Media Statements* (2 October 2025) <https://statements.qld.gov.au/statements/103631>.
988 Ibid.
989 *A Call for Change* (n 254) 244.
990 Boxall, Dowling and Morgan (n 976) 12.
991 Susan L Miller, *Victims as Offenders: The Paradox of Women's Violence in Relationships* (Rutgers University Press, 2005) 15 ('*Victims as Offenders*').
992 Law Commission New Zealand, *Understanding Family Violence: Reforming the Criminal Law Relating to Homicide* (Final Report No 139, Law Commission New Zealand, May 2016) 73 [6.7].
993 Nancarrow et al (n 982) 96 (references omitted).

motivations to male-perpetrated domestic violence, such as jealousy and control.[994] Therefore, there is caution against over-simplifying the reasons why females commit domestic violence as it may 'disregard the complexities of women's lives'.[995]

Due to their individual and community history, Aboriginal and Torres Strait Islander women have vastly different experiences of violence than non-Indigenous women and respond to violence in different ways. For example, Indigenous women are more likely than non-Indigenous women to fight back when confronted with violence.[996]

Boxall, Dowling and Morgan analysed 153 police narratives of domestic violence incidents reported in NSW in 2016 involving a female person of interest. They found half the episodes were either self-defence or retaliatory violence, and this was more common for Aboriginal and Torres Strait Islander women.[997]

11.1.2 Aboriginal and Torres Strait Islander peoples

Violence, and in particular, violence against women and children, is not part of traditional Aboriginal and Torres Strait Islander culture.[998] However, structural and institutional discrimination, compounded by the ongoing impact of colonisation and complex intergenerational factors,[999] results in the disproportionate representation of Aboriginal and Torres Strait Islander peoples in all areas of the criminal justice system.[1000]

Violence against Aboriginal and Torres Strait Islander peoples, including DFV, is perpetrated by people of all cultural backgrounds in many different contexts and settings.[1001] Studies have found that Aboriginal and Torres Strait Islander women and children are more likely to experience violence than any other sector of society.[1002]

An Aboriginal and Torres Strait Islander person may have experienced trauma that is unique to their Indigeneity – for example, as a result of being a member of the Stolen Generation and associated displacement from 'country'.[1003] Aboriginal and Torres Strait Islander peoples may also experience intersecting forms of disadvantage, such as disability, poverty, low socioeconomic status, lack of employment and limited education.[1004]

Studies have found disparities between Aboriginal and Torres Strait Islander peoples and non-Indigenous people sentenced for domestic violence. Other factors relating to previous relevant criminal history, offence seriousness and the sentencing court location may not fully account for the disparity, indicating a need for

---

994 Boxall, Dowling and Morgan (n 976) 2 citing multiple studies including: Michelle Carrado et al, 'Ggression in British Heterosexual Relationships: A Descriptive Analysis' (1996) 22(6) *Aggressive Behavior* 401; Poco Kernsmith, 'Exerting Power or Striking Back: A Gendered Comparison of Motivations for Domestic Violence Perpetration' (2005) 20(2) *Violence and Victims* 173; Russel E Ward and John P Muldoon, 'Female Tactics and Strategies of Intimate Partner Violence: A Study of Incident Reports' (2007) 27(4) *Sociological Spectrum* 337.

995 Boxall, Dowling and Morgan (n 976) 2 citing: Shamita Dasgupta, 'Framework for Understanding Women's Use of Nonlethal Violence in Intimate Heterosexual Relationships' (2002) 8(11) *Violence Against Women* 1364, 1373.

996 Heather Douglas and Robin Fitzgerald, 'The Domestic Violence Protection Order System as Entry to the Criminal Justice System for Aboriginal and Torres Strait Islander People' (2018) 7(3) *International Journal for Crime, Justice and Social Democracy* 41, 48, citing: Marcia Langton, 'Medicine Square' in Ian Keen (ed), *Being Black: Aboriginal Cultures in 'Settled' Australia* (Aboriginal Studies Press, 1988) 201.

997 Boxall, Dowling and Morgan (n 976) 1.

998 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2020* (Productivity Commission, 2020) 4.130 citing 'Challenging Misconceptions About Violence Against Aboriginal and Torres Strait Islander Women', Our Watch (web page, 2024) <https://action.ourwatch.org.au/resource/challenging-misconceptions-about-violence-against-aboriginal-and-torres-strait-islander-women/>. *Hear Her Voice Report 2* (n 29) vol 2, 151 citing; Victoria Police, *Policing Harm, Upholding the Right: Victoria Police Strategy for Family Violence, Sexual Offences and Child Abuse, 2018–2023* (2017) 15.

999 Australian Law Reform Commission (n 254) 44, citing Harry Blagg, Vickie Hovane and Dorinda Cox, Submission No 121; See also, *A Call for Change* (n 254) 18.

1000 Australian Law Reform Commission (n 254) see especially: in prison, 93 [3.13]; convicted of an offence, 100 [3.30]; on remand, 102 [3.36]; and women as being over-represented, 105 [3.41].

1001 'Preventing Violence against Aboriginal and Torres Strait Islander...', *Our Watch* <https://www.ourwatch.org.au/preventing-violence/aboriginal-and-torres-strait-islander-women>. See also Jacqueline Fitzgerald and Don Weatherburn, *Aboriginal Victimisation and Offending: The Picture from Police Records, Crime and Justice Statistics* (Issues Paper No 17, NSW Bureau of Crime Statistics and Research, December 2001).

1002 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011* (Productivity Commission, 2011) 4.120.

1003 Australian Law Reform Commission (n 254) 185–6 [6.2].

1004 See Somoray, Jeffs and Edwards (n 192) 4–10.

further research.[1005] A study by Thorburn and Weatherburn found there was 'a significant interaction between Indigenous status, offence type and penalty choice' with Indigenous offenders convicted of assault being 'more likely to receive a prison sentence than non-Indigenous offenders if the assault is domestic'.[1006] They agreed with findings from earlier research[1007] that:

> Australian courts in recent times have been treating domestic violence in Indigenous communities as a fundamental cause of Indigenous community dysfunction and, as a result, imposing tougher penalties on Indigenous offenders convicted of domestic violence offences. We agree, moreover, that imprisoning a higher proportion of Indigenous domestic violence offenders is not likely to do much to improve the safety of Indigenous victims of assault.[1008]

A Queensland study by Douglas and Fitzgerald found that Aboriginal and Torres Strait Islander peoples were disproportionately charged and sentenced for CDVO.[1009] Moreover, Aboriginal and Torres Strait Islander women were disproportionately named as respondents to domestic violence orders (DVOs) and charged with contraventions, and significantly more likely than non-Indigenous people to receive a custodial sentence.[1010]

The Commission of Inquiry also found Aboriginal and Torres Strait Islander peoples were disproportionately named as respondents to a DVO and imprisoned for CDVO at higher rates than non-Indigenous men and women.[1011] In addition, police respond to DFV occurrences at a disproportionate rate in rural and remote locations in comparison to major cities.[1012]

A study by Langerack et al noted that limited research exists on why contravention rates are higher among Indigenous Australians.[1013] Six service providers interviewed on non-compliance factors among Indigenous Australian men found that 'language and understanding, trauma, shame, repercussions and trust' impacted compliance.[1014] Service providers considered that improvements in 'language, specific support for respondents and legal understanding' could improve compliance.[1015]

In a 2021 research report of the Council, we noted concerns of a member of the Council's Aboriginal and Torres Strait Islander Advisory Panel[1016] regarding the ability of people subject to orders to understand the conditions:

> Do they get a copy of the things they can and can't do? Are they actually educated on what [a DVO] looks like?
>
> …when individuals leave prison, are they provided with copies of their DVOs about what they can and can't do? No, they're not. So they may have gone in [to prison] six months ago – the paperwork may have been sent to home, it's probably lost, no-one knows where it is.[1017]

This reflects concerns raised during our more recent consultations and discussions with current Advisory Panel members.

[1005] See, Hamish Thorburn and Don Weatherburn, 'Effect of Indigenous Status on Sentence Outcomes for Serious Assault Offences' (2018) 51(3) *Australian & New Zealand Journal of Criminology* 434; Robin Fitzgerald, Heather Douglas and Lachlan Heybroek, 'Sentencing, Domestic Violence, and the Overrepresentation of Indigenous Australians: Does Court Location Matter?' (2021) 36(21–22) *Journal of Interpersonal Violence* 10588 ('Sentencing, Domestic Violence, and the Overrepresentation of Indigenous Australians').

[1006] Thorburn and Weatherburn (n 1005) 450.

[1007] Samantha Jeffries and Christine EW Bond, 'Taking the Problem Seriously? Sentencing Indigenous and Non-Indigenous Domestic Violence Offenders' (2015) 48(4) *Australian & New Zealand Journal of Criminology* 463 ('Taking the Problem Seriously?').

[1008] Thorburn and Weatherburn (n 1005) 450.

[1009] Douglas and Fitzgerald (n 996) 45–6, Table 1.

[1010] Ibid 47–8.

[1011] *A Call for Change* (n 254) 225.

[1012] *A Call for Change* (n 254).

[1013] Jade Langerak, Claire L Thompson and Grace E Vincent, 'Understanding Indigenous Australian Men's Compliance with Domestic and Family Violence Orders: A Qualitative Study of Service Provider Perspectives' (2025) 77(1) *Australian Journal of Psychology* 2488094, 2 ('Understanding Indigenous Australian Men's Compliance with Domestic and Family Violence Orders').

[1014] Ibid 1, 9.

[1015] Ibid 1, 10.

[1016] The Council appointed an independent Advisory Panel to provide expert advice on how to address disproportionate representation of Aboriginal and Torres Strait Islander peoples in Queensland's criminal justice system. The Advisory Panel was established in 2018 and comprises 8 members.

[1017] Somoray, Jeffs and Edwards (n 192) 24.

11.1.3 People from other cultural backgrounds

Domestic violence can manifest in unique and specific ways within culturally and linguistically diverse (CALD) communities. Specific forms of domestic abuse may be more prevalent in CALD communities, such as visa abuse, dowry abuse, reproductive coercion and forced marriage.

CALD communities are not homogeneous, and cultural diversity itself does not inherently increase the risk of experiencing or perpetrating violence. However, there are distinct factors that can heighten vulnerability and complicate the experiences of individuals within these communities in seeking help or leaving abusive situations.

- **Pre-migration trauma:** For some migrants, particularly refugees, pre-migration trauma caused by war, violence, or disasters can increase their vulnerability to domestic violence.[1018]
- **Cultural norms:** Cultural attitudes towards gender roles and family dynamics can play a significant role. In some cultures, women and girls may be expected to submit to male family members, remain in violent relationships, and avoid actions that could bring shame to their families.
- **Insecure visa status:** When residency status is tied to the person perpetrating the violence it can be difficult for individuals to leave abusive relationships.[1019] For example, temporary visa holders, may face restrictions on work, housing, welfare, and childcare, which intersect with other challenges such as language barriers, financial dependency, and social isolation.[1020]

During its review, the Commission of Inquiry found 'instances where police failed to engage independent interpreters when responding to victim survivors from non-English speaking backgrounds' and instead 'relied on other family members or the perpetrator to inform their assessment of the situation'.[1021]

11.1.4 People with disability and/or mental illness

Around one in 5 adults with a disability in 2016 reported having experienced physical and/or sexual violence from a current or former intimate partner since the age of 15 (21.0%).[1022] However, there is a marked gender disparity for people with disability, as there is with DFV generally, with more women with disability experiencing intimate partner violence from the age of 15 (30% or 892,000) than men with disability (11% or 303,000).[1023]

People with disability can be more likely to experience DFV than people without disability due to a range of factors, including:

- discrimination and marginalisation;
- reliance on the perpetrator of violence – for example, for care, mobility and/or income;
- insufficient safeguards in institutional and group living situations;
- not fully understanding the abuse or its seriousness;
- reduced impulse control and help-seeking behaviour;
- social isolation; and
- community challenges.[1024]

[1018] The Australian Institute of Judicial Administration (n 137) s 4.4.9 People from culturally and linguistically diverse backgrounds.
[1019] Ibid; See also, Stefani Vasil, ''I Came Here, and It Got Worse Day by Day': Examining the Intersections Between Migrant Precarity and Family Violence Among Women with Insecure Migration Status in Australia' (2024) 30(10) *Violence Against Women* 2482 ('I Came Here, and It Got Worse Day by Day').
[1020] The Australian Institute of Judicial Administration (n 137) s 4.4.9; See also, Cathy Vaughan et al, 'ASPIRE: Immigration, Visas and Family Violence [Fact Sheet]' 1.
[1021] *A Call for Change* (n 254) 54.
[1022] 'Family, Domestic and Sexual Violence: People with Disability', *Australian Institute of Health and Welfare* (28 February 2025) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/people-with-disability><accessed 27 October 2025>. There is limited data from the 2021-22 ABS Personal Safety Study that is sufficiently statistically reliable to report on.
[1023] Ibid.
[1024] Ibid.

The literature suggests that a person with neurodevelopmental and cognitive disorders may have an elevated risk of using violence against family members and intimate partners.[1025] However, there has been no research focusing on the implications of coercive control laws on defendants with neurodevelopmental and cognitive disorders and domestic violence.[1026]

11.1.5 Stakeholder views

Stakeholders agreed it was critical for the Council to consider the impacts on the marginalised and vulnerable groups identified,[1027] with many emphasising the unintended consequences of section 9(10A).[1028]

Stakeholders noted that punitive responses 'often exacerbate existing marginalisation'[1029] and that for many of these communities 'expectations of interactions with authorities … can influence behaviour and engagement and experience with the criminal justice system'.[1030]

Legal stakeholders were concerned about the impact of the DFV reforms on vulnerable and marginalised people. Legal Aid Queensland (LAQ) commented that 'criminalised interventions also offer limited opportunity for what will actually end DFV' and that 'caution must be employed where criminal law initiatives are held up as solutions to complex societal issues'.[1031]

The Aboriginal and Torres Strait Islander Legal Service (ATSILS) shared concerns about the effectiveness of laws 'that are focused on increasing punitive outcomes' when 'alleged offenders have disability, mental illness, cognitive impairments, and/or are subject to entrenched disadvantage'.[1032]

Women

The primary concern raised by stakeholders in relation to women was the misidentification of the person most in need of protection, overwhelmingly women and girls.[1033] We were told it can be difficult to determine who the person most in need of protection is.[1034] Another stakeholder advised there is a lack of understanding that female violence is often retaliatory or resistive, while male violence aligns with patterns of power and control.[1035] The same support service provider explained misidentification was particularly concerning for Aboriginal and Torres Strait Islander women and once it occurs, leads to criminalisation and other unintended consequences, including limiting the services available to support her.[1036] Full Stop Australia similarly told us that misidentification was particularly impactful for Aboriginal and Torres Strait Islander women.[1037]

One submission recommended there should not be 'reliance on mandatory or presumptive sentencing for women without thorough risk and trauma assessment'.[1038] The author further noted that short custodial sentences 'for breaching a DVO may result in loss of housing, employment and child custody which can compound risks of future harm and reoffending'.[1039]

[1025] Erin Cowey, Lorana Bartels and Hayley Boxall, 'The Criminalisation of Coercive Control: Implications for Defendants with Neurodevelopmental and Cognitive Disorders' (2025) 50(1) *Alternative Law Journal* 52, 56 ('The Criminalisation of Coercive Control').
[1026] Ibid 55.
[1027] Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); Submission 11 (Red Rose Foundation); and Submission 18 (Legal Aid Queensland).
[1028] Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); Submission 11 (Red Rose Foundation); and Submission 12 (M Halliday).
[1029] Submission 12 (M Halliday). See also, Submission 10 (Sisters Inside Inc).
[1030] Submission 4 (Royal Australian College of General Practitioners).
[1031] Submission 18 (Legal Aid Queensland).
[1032] Submission 9 (Aboriginal and Torres Strait Islander Legal Service).
[1033] Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); Submission 11 (Red Rose Foundation); and Submission 12 (M Halliday); Legal service provider, Roma, 19 June 2025; Support service provider, Cairns, 15 April 2025.
[1034] Support service provider, Mt Isa, 1-2 May 2025.
[1035] Support service provider, Cairns, 15 April 2025.
[1036] Ibid.
[1037] Meeting with Full Stop Australia, 23 July 2025.
[1038] Submission 12 (M Halliday).
[1039] Ibid.

Consistent application of section 9(10B) as a mitigating factor was seen as particularly important for female defendants who are also the victims of DFV.[1040]

Aboriginal and Torres Strait Islander peoples

The impact of the DFV reforms on Aboriginal and Torres Strait Islander peoples was the most commented on cohort in submissions and by Subject Matter Experts (SMEs).[1041] One submission from an Aboriginal victim survivor noted that while Aboriginal and Torres Strait Islander peoples and others from culturally diverse backgrounds experience systemic disadvantage, it was important to 'differentiate between lived experiences – for example, between a remote NT community and urban Brisbane'.[1042] She recommended 'support for cultural needs should happen prior to sentencing' and that a 'person's culture should not reduce a sentence'.[1043] The high number of orders for those living in discrete communities was identified as an issue that had led to the increased criminalisation of behaviour under the umbrella of 'domestic and family violence', with a significant increase in imprisonment for Aboriginal and Torres Strait Islander people.[1044]

Many stakeholders referred to the significantly higher rates at which Aboriginal and Torres Strait Islander women experience DFV than non-Indigenous Australian women. Sisters Inside observed:

> Mandatory responses and harsher penalties for DVO contraventions have resulted in increased incarceration of Aboriginal women, many of whom are themselves victim-survivors. We consistently see women misidentified as perpetrators by police or criminalised for actions taken in self-defence and preservation or in complex contexts of coercive control.[1045]

The First Nations Women's Legal Services Qld (FNWSLQ) emphasised in its submission that, while concerned about 'impact of harsher penalties contributing to the sharp rise in First Nations DV contraventions and prison numbers', it did not 'diminish the seriousness of DV offences'.[1046] The majority of their clients just 'want the DV to stop'.[1047] FNWLSQ also noted that, counterproductively, some Aboriginal and Torres Strait Islander women may not report DFV due to fears of consequences (the perpetrator going to prison, children being removed, retaliation from the perpetrator's family), which is not supporting the aim of the aggravating factor reforms.[1048]

One SME participant noted that the broad definition of 'family' for Aboriginal and Torres Strait Islander persons compared to non-Indigenous people meant a wider group of offending was captured as meeting the definition of 'domestic violence' and suggested that too many orders were too easily obtained, particularly where there are complex relationships between the parties.[1049] A stakeholder in the Torres Strait echoed this concern, arguing sometimes the context matters and there is a need for discretion.[1050] They noted that culturally people might consider themselves to be family and to meet the definition under the DFVPA but there is no inherent intimacy between them. The focus on blame in responding to contraventions left little room for recognition that relationships are complicated and that issues are not all one-sided.[1051] One stakeholder referred to siblings using cultural discipline and was concerned that this culturally accepted practice was being treated as DFV.[1052]

SME interview participants reminded the Council that Aboriginal and Torres Strait Islander defendants (particularly men) are coming from very disadvantaged backgrounds[1053] including having foetal alcohol spectrum disorder (FASD), cognitive issues, substance abuse issues, being exposed to domestic violence or entrenched violence for their whole lives and many 'do not have the toolkit to deal with conflict'.[1054] The

---

[1040] Ibid.
[1041] Submission 4 (Royal Australian College of General Practitioners); Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); Submission 11 (Red Rose Foundation); Submission 12 (M Halliday); Submission 17 (First Nations Women's Legal Services Qld); Submission 18 (Legal Aid Queensland); Subject Matter Expert Interview 1; Subject Matter Expert Interview 2; Subject Matter Expert Interview 4; Subject Matter Expert Interview 5; and Subject Matter Expert Interview 11.
[1042] Submission 13 (name withheld)
[1043] Ibid.
[1044] Subject Matter Expert Interview 5.
[1045] Submission 10 (Sisters Inside Inc) (references omitted).
[1046] Submission 17 (First Nations Women's Legal Services Qld).
[1047] Ibid.
[1048] Ibid.
[1049] Subject Matter Expert Interview 5.
[1050] Community consultation - Torres Strait 22 May 2025
[1051] Subject Matter Expert Interview 5.
[1052] Community consultation - Torres Strait 21 May 2025.
[1053] Subject Matter Expert Interview 2; Subject Matter Expert Interview 4.
[1054] Subject Matter Expert Interview 4.

Council heard concerns from regional stakeholders about Aboriginal and Torres Strait Islander people's understanding of orders and therefore their ability to comply.[1055]

One SME legal practitioner spoke of a worrying trend of Aboriginal and Torres Strait Islander women and girls using knives – often kitchen knives – in offending, sometimes after they have been subjected to coercive behaviour or physical violence.[1056] These offences were often in the context of violence against other family members while intoxicated.[1057]

People from other cultural backgrounds

An individual submitter noted that culturally and linguistically diverse communities 'face language barriers, visa-related vulnerabilities, and cultural stigma around help-seeking, which can affect both offending and victimisation'.[1058] For example, victims may be deterred from reporting due to fears of immigration consequences and defendants may lack appropriate legal support 'affecting plea and sentencing outcomes'.[1059]

LAQ advised understanding and complying with DVO conditions is challenging for people from different linguistic backgrounds.[1060]

One SME participant spoke about the difficulties of explaining what DFV is to those from other cultural backgrounds and said people do not understand that the definition of 'domestic violence' is so broad.[1061]

Another participant told us there were significant challenges in responding to DFV experienced by people from CALD backgrounds due to issues of shame – noting that the conduct involved can include really controlling behaviour.[1062] An example was provided of the breakdown of a relationship with an allegation that he had told her family back home that she was having an affair, meaning she could never go back home because she would be subjected to violence.[1063]

People with disability and/or mental illness

The Royal Australian College of General Practitioners (RACGP) noted that people with 'severe mental illness or neurodiversity (e.g. ADHD with associated impulsivity, emotional dysregulation and sensory sensitivity) are overrepresented … in the justice system'.[1064] Further, 'their specific care needs are often not met which can exacerbate emotional distress resulting in behaviours that would appear violent and aggressive'.[1065] A service provider in Mount Isa spoke about the need for better mental health services and that diagnosis of FASD is very poor, often being misdiagnosed as another condition such as autism.[1066]

Two submissions noted the difficulty people 'who suffer from a disability or mental illness, and those who fall short of a cognitive impairment' experience in complying with DVO conditions.[1067] The Office of the Public Guardian (OPG) told the Council that it is

> concerned that the court may not adequately adjust or turn its mind to the adult's communication needs, impairments and diagnosis, and the benchbook used by the judiciary does not provide for tailored approaches, rather a standardised script that is read to the parties.
>
> OPG also holds concerns about the legal and technical language used in DVOs and associated conditions and subsequently, the accessibility of these documents for adults with impaired decision-making capacity.[1068]

[1055] Cairns stakeholder consultation, April 2025.
[1056] Subject Matter Expert Interview 11.
[1057] Ibid.
[1058] Ibid.
[1059] Submission 12 (M Halliday). See also, Submission 10 (Sisters Inside Inc).
[1060] Submission 18 (Legal Aid Queensland).
[1061] Subject Matter Expert Interview 3.
[1062] Subject Matter Expert Interview 1.
[1063] Ibid.
[1064] Submission 4 (Royal Australian College of General Practitioners).
[1065] Ibid.
[1066] Support service provider, Mt Isa, 2 May 2025.
[1067] Submission 18 (Legal Aid Queensland). See also Submission 8 (Office of the Public Guardian).
[1068] Submission 8 (Office of the Public Guardian)

In relation to women with disabilities or mental illness, Sisters Inside told the Council that many of the women they support

> experience cognitive impairment, have an acquired brain injury, or a psychiatric disability – often directly resulting from sustained violence. The legal system frequently misinterprets behaviours related to trauma or disability as aggression or non-compliance and uses criminalisation in place of care. Rather than trauma-informed, therapeutic approaches, women face incarceration and court-mandated programs they cannot access or complete. This creates a pipeline into deeper entrenchment with the criminal legal system rather than safety or healing.[1069]

A survivor of domestic and family violence told the Council that 'sentencing should be harsher' if having a disability impaired a victim survivor's ability to leave.[1070] Similarly, if a perpetrator targets 'a vulnerability such as a person's disability, sexuality, stay-at-home parenthood, mental health or marginalisation', their 'sentence should reflect the exploitation of that vulnerability'.[1071]

LGBTQIA+ people

An individual submitter noted that 'LGBTQIA+ people experience DFV at similar or higher rates than heterosexual/cisgender populations but face greater barriers to accessing support, including fear of discrimination or outing'.[1072] They were also concerned that 'police and courts may fail to recognise coercive control and non-physical abuse in same-sex relationships or misinterpret protective actions as aggression'.[1073]

The same submission recommended investing in specialised DV services and legal advocacy for LGBTQIA+ people and said there was a need to 'embed inclusive training for judicial officers and law enforcement on queer relationships and abuse dynamics'.[1074]

The RACGP noted that 'people who identify as trans[gender] may find themselves incarcerated in gender inappropriate settings or may have barriers to accessing hormone treatment'.[1075]

One SME participant spoke of the stigma surrounding DFV in the context of LGBTQIA+ relationships and a misconception that this issue does not arise.[1076] There are issues of control in the context where people might be very vulnerable.[1077] The same practitioner noted there are very few specialist services for aggrieved persons or for those using violence.

11.2 Statutory and common law recognition of discrimination and marginalisation

11.2.1 Aboriginal and Torres Strait Islander peoples

Where a person identifies as Aboriginal and Torres Strait Islander, Queensland courts must take into account submissions on 'cultural considerations, including the effect of systemic disadvantage and intergenerational trauma'.[1078]

The court must also consider any submissions from a community justice group (CJG) in the offender's community 'that are relevant to sentencing' such as that person's relationship to their community and any considerations for programs and services.[1079] The Court of Appeal has acknowledged that submissions from a CJG representative should be given great weight.[1080]

[1069] Submission 10 (Sisters Inside Inc) (references omitted).
[1070] Submission 13 (name withheld).
[1071] Ibid.
[1072] Submission 12 (M Halliday).
[1073] Ibid.
[1074] Ibid.
[1075] Submission 4 (Royal Australian College of General Practitioners).
[1076] Subject Matter Expert Interview 1.
[1077] Ibid.
[1078] PSA (n 41) ss 9(2)(oa)–(p) These provisions were inserted/amended on 18 March 2024; Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 83.
[1079] PSA (n 41) s 9(2)(p).
[1080] *R v SCU* [2017] QCA 198, 11–12 [56], 23 [113] (Sofronoff P).

Changes to the PSA, made as a result of the WSJ Taskforce report, now make it clear that if a court is sentencing an Aboriginal or Torres Strait Islander person, any cultural considerations, including the effect of systemic disadvantage and intergenerational trauma on the offender, must be taken into account, even if no submissions are made by a CJG representative.[1081] The implication is that such considerations may be mitigating, although this is not expressly stated.

While submissions and information about 'cultural considerations' may help a court to understand the background of the person in the context of the offending, the courts have acknowledged that this does not excuse the offending. A sentencing court must balance the mitigating factors with all the circumstances of the offence:

> Aboriginal women and children who live in deprived communities or circumstances should not also be deprived of the law's protection … they are entitled to equality of treatment in the law's responses to offences against them, not to some lesser response because of their race and living conditions.[1082]

11.2.2 Care responsibilities

Courts are required to take into account the impact of a sentencing order on any person for whom the offender is a primary caregiver, including informal care arrangements.[1083] This provision is likely to be applied more often to female offenders, given their greater care responsibilities for children and ageing parents. The Court of Appeal has found that, while the hardship to children as a consequence of a parent's behaviour and imprisonment is a 'matter to take into account in mitigation', depending on the factors of the case, it is 'not a determinative factor'.[1084]

11.2.3 Deportation for non-Australian citizens

There is a risk of deportation for perpetrators of domestic violence who are in Australia on a visa when sentenced to a term of imprisonment.[1085] A person is deemed to have a 'substantial criminal record' for migration purposes if sentenced to a term of imprisonment of 12 months or more, or to 2 or more terms of imprisonment adding up to a total of 12 months or more.[1086] A person convicted of a child sex offence may also face deportation.[1087]

The Queensland Court of Appeal has provided guidance that the prospect of deportation of an offender is a factor that may impact an order of imprisonment, both during the currency of the incarceration and upon release.[1088] This is due to the burden of imprisonment being greater for a person where deportation is likely upon release and losing the opportunity to settle permanently in Australia.[1089] However, 'proof that deportation will in fact be a hardship for the particular offending will be required'.[1090]

The Court has recently stated that while the risk of deportation would make a period of incarceration 'more burdensome [than] … someone not subject to that risk', it would 'not be appropriate for a sentencing court to craft a sentence for the purpose of avoiding the consequences of the *Migration Act*'.[1091]

[1081] PSA (n 41) s 9(2)(oa); *Hear Her Voice Report 2* (n 29) 562.
[1082] *R v Daniel* (1998) 1 Qd R 499, 531 (Fitzgerald P).
[1083] PSA (n 41) s 9(2)(fb).
[1084] *R v Stephensen* [2025] QCA 156, [13] (Mullins P, Doyle JA and Cooper J agreeing).
[1085] *Migration Act 1958* (Cth) s 501(3). The Minister may cancel a visa if they reasonably suspect the person does not pass the character test and it is in the national interest. The Minister must cancel if the person has a substantial criminal record or sexually abused a child and is serving a sentence of imprisonment 'on a full time basis in a correctional institution': s 501(3A).
[1086] Ibid s 501(7). For the purposes of the character test, if a person has been sentenced to 2 or more terms of imprisonment to be served concurrently (whether in whole or in part), the whole of each term is to be counted in working out the total term of the terms – for example, a person is sentenced to 2 terms of 3 months imprisonment for 2 offences, to be served concurrently: s 501(7A).
[1087] Ibid s 501(3A); inserted by *Migration Amendment (Character and General Visa Cancellation) Act 2014* (Cth) s 8.
[1088] *R v UE* [2016] QCA 58, [16] (Philippides JA, Morrison JA and North J agreeing).
[1089] Ibid.
[1090] Ibid citing: *Guden v The Queen* (2010) 28 VR 288, 295 [28]-[29]; *Director of Public Prosecutions (Cth) v Peng* [2014] VSCA 128, [23]; *TAN v The Queen* (2011) 109 VR [126].
[1091] *R v Ebadi* (n 796) [24] (Bond, Brown JJA and Ryan J agreeing).

11.2.4 Disability and mental illness

In the case of people with cognitive disability or a mental illness convicted of an offence, a court must balance several factors. The PSA requires a court to take into account the offender's intellectual capacity, 'the extent to which the offender is to blame for the offence'[1092] and other aggravating and mitigating factors.[1093] The court must also consider any hardship the sentence would have on the person due to their disability.[1094]

The Court of Appeal has considered that mental impairment may:

- reduce a person's moral culpability (but not legal responsibility), which may mean the purposes of punishment and denunciation carry less weight;
- influence the type of sentence imposed and its conditions, as the sentence may weigh more heavily on a person with a mental impairment than it would on a person in normal health;
- mean the need for general and specific deterrence may be reduced or eliminated as sentencing considerations based on the nature and severity of the mental impairment and its effect;
- mitigate the punishment if there is a risk that imprisonment would have a significant negative impact on the person's mental health.[1095]

A person's impaired intellectual or mental capacity is also relevant to whether the person is a danger to the community.[1096] This is why the effect of mental disorders on sentencing has been described as a 'double-edged sword'.[1097]

11.2.5 Disadvantaged or deprived background

Queensland case law supports the position that where a person being sentenced has experienced disadvantage or comes from a deprived background, this *may* have a mitigating effect on a sentence.[1098] However, other considerations, such as the seriousness of the offence and community protection, may reduce or eliminate the mitigating effect.[1099]

The High Court has explained that while a disadvantaged background might suggest the person has a lower level of culpability, it equally may elevate the importance of community protection.[1100]

The High Court has also recognised that exposure to, and the experience of, disadvantage is relevant to sentencing[1101] and the impacts of experiencing a deprived background does not diminish over time.[1102] For this to mitigate the sentence being imposed, the person must provide some evidence of that background.[1103]

The High Court recognised Aboriginal and Torres Strait Islander peoples 'as a group are subject to social and economic disadvantage'.[1104] In *R v Fernando*,[1105] the Court expressed 8 principles from a review of earlier cases (known as the *Fernando* principles)[1106] which apply for all offenders, not just Aboriginal and Torres Strait Islander peoples.[1107]

[1092] PSA (n 41) s 9(2)(d).
[1093] Ibid ss 9(2)(f), (g).
[1094] Ibid s 9(2)(fa).
[1095] This is a summary from *R v Yarwood* (n 762) [24] (White JA, Fraser JA and North J agreeing); citing the principles set out in *R v Verdins* (n 762) 276 [32] restating the principles in: *R v Tsiaras* (n 762). This approach has also been adopted in *R v JAD* (n 783) [50]; *R v Goodger* (n 783) [19]; *R v Collard* (n 783) [3], [48].
[1096] *Veen* (n 163) 476–77 (Mason CJ, Brennan, Dawson and Toohey JJ).
[1097] Ibid; cited in *R v Hansen* [2018] QCA 153, [45] (Mullins J, Fraser JA and Bond J agreeing).
[1098] *Bugmy* (n 763) 592-3 at [37]-[39] (French CJ, Hayne, Crennan, Kiefel, Bell and Keane JJ) referring to: *R v Fernando* (1992) 76 A Crim R; *R v MBY* [2014] QCA 17, [67] (Morrison JA, Muir JA and Daubney J agreeing). See also *R v Sprott; Ex parte A-G (Qld)* [2019] QCA 116, [40] (Sofronoff P, Gotterson JA and Henry J agreeing).
[1099] *Bugmy* (n 763) 594–5[43]–[44] (French CJ, Hayne, Crennan, Kiefel, Bell and Keane JJ); *Munda* (n 597) 619 [53] (French CJ, Hayne, Crennan, Kiefel, Gageler and Keane JJ) referring to: *R v KU; Ex part A-G (Qld) [No 2]* (2011) 1 Qd R 475–6 [133].
[1100] *Bugmy* (n 763) 595 [44] (French CJ, Hayne, Crennan, Kiefel, Bell and Keane JJ).
[1101] Ibid 594–595 [43].
[1102] Ibid 595 [44].
[1103] Ibid 594 [41].
[1104] Ibid.
[1105] *R v Fernando* (n 1098).
[1106] Ibid 62–63.
[1107] *Neal v The Queen* (1982) 149 CLR 305326 cited in: *Bugmy* (n 763) [39].

11.2.6 Domestic and family violence victimisation

Under section 9(2)(gb) of the PSA, Queensland courts must take into account:

- whether the offender is a victim of domestic violence;
- whether the commission of the offence is wholly or partly attributable to the effect of the domestic violence on the offender; and
- the offender's history of being abused and victimised.[1108]

In addition, under section 9(10B), courts must treat the effect of the domestic violence on the offender as a mitigating factor unless it is not reasonable to do so because of the exceptional circumstances of the case.[1109] The court must also determine the extent to which the commission of the offence is wholly or partly attributable to the effect of the domestic violence on the offender.[1110]

Both provisions were in response to recommendations from the WSJ Taskforce reports.

The Court of Appeal confirmed that the effect of these reforms was:

> to make express the circumstances in which the Court must treat domestic violence on the offender as a mitigating factor and therefore to ensure consistency in the approach of all judicial officers … There is nothing in s 9(2)(gb) or s 9(10B) or the Explanatory Notes and other relevant extrinsic material relied on by the applicant from the reports of "Hear Her Voice" that alters the process of sentencing which involves instinctive synthesis on the part of a sentencing judge, as explained in *Markarian v The Queen* (2005) 228 CLR 357 at [37].[1111]

The Court further stated that in relation to section 9(10B) the only finding a sentencing judge 'is bound to make … is whether there are exceptional circumstances that justify the Court in **not** treating the effect of the domestic violence on the offender as a mitigating factor'.[1112] Where domestic violence experienced by the offender is accepted, whether the commission of the subject offences is wholly or partly attributable to that experience 'must be treated as a mitigating factor in conjunction with the other factors relevant to the sentencing (subject to the express exception in s 9(10B))'.[1113]

11.2.7 Offender characteristics

Since 2024, a court can take into account 'the hardship that any sentence imposed would have on the offender, having regard to the offender's characteristics, including age, disability, gender identity, parental status, race, religion, sex, sex characteristics and sexuality'.[1114]

11.3 Observations from the administrative data regarding women and Aboriginal and Torres Strait Islander peoples

For this review, the Council analysed administrative data to understand demographic differences in people sentenced for DV offending.

As discussed in **Chapter 5** and **Chapter 9** of this report, demographic data on an offender's gender, age and Aboriginal and Torres Strait Islander status are available from the Courts database; however, neither information on other cultural backgrounds, disability status and sexuality, nor demographic information about the victim survivor, is captured.

[1108] PSA (n 41) s 9(2)(gb)(iii); commenced on 1 August 2023 by the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 80.
[1109] PSA (n 41) s 9(10B)(a); inserted into the PSA by the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act (n 44) s 80.
[1110] PSA (n 41) s 9(10B)(b).
[1111] *R v BEM* [2024] QCA 175, [19] (Mullins P, Boddice JA and Kelly J agreeing).
[1112] Ibid [20] (emphasis in original).
[1113] Ibid.
[1114] PSA (n 41) s 9(2)(fa) commenced on 18 March 2024: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act (n 42) s 83.

11.3.1 Demographics of DFV-related offending

This section focuses on the most current information available in relation to sentencing for DFV-related offending in Queensland and is based on data from 2024–25, although it also looks at how these may have changed over time. We examine all DFV-related offending, which encompasses all the different categories of DV offending sentenced in Queensland.

Proportion of offences that are DFV related

As noted in **Chapter 2**, in 2024–25, DFV-related offences accounted for 15.0 per cent of all offences sentenced in Queensland involving adult defendants (n=46,934/312,669).

For women, 8.5 per cent of all offending was DFV-related, compared with 17.0 per cent for men – a statistically significant difference.[1115]

For Aboriginal and Torres Strait Islander peoples, 22.5 per cent of sentenced offences were DFV-related, being a statistically significantly larger proportion than for non-Indigenous people at 12.8 per cent of all offences.[1116]

When disaggregated by both gender and indigenous status, the differences become more apparent, as shown in Figure 11-1.

For Aboriginal and Torres Strait Islander men, DFV-related offences account for 26.3 per cent of all offences sentenced, while for non-Indigenous men, DFV-related offences accounted for 14.4 per cent of all offences sentenced. For Aboriginal and Torres Strait Islander women, 12.8 per cent of all offences were DFV-related, and for non-Indigenous women, only 6.8 per cent of all offences were DFV-related.

Figure 11-1: DFV-related offences as a proportion of all offences sentenced, by demographic cohort, 2024–25

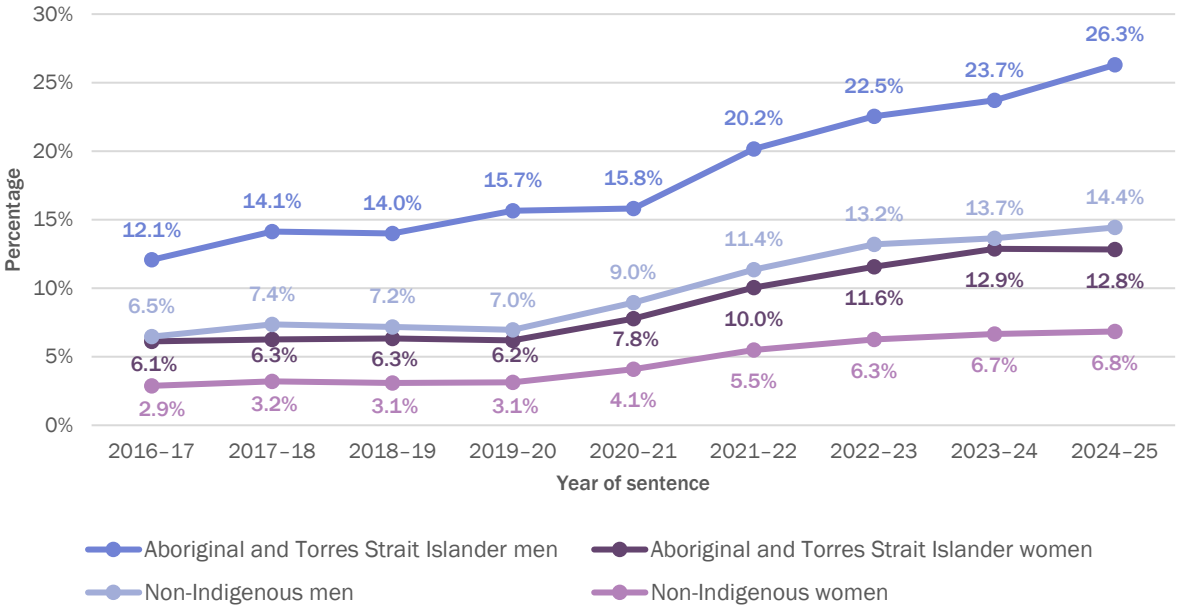
Data include adult offenders, offences sentenced between 1 July 2024 and 30 June 2025, Magistrates Courts and higher courts.
Notes: 1) this analysis counts unique offences, regardless of whether it is the MSO;
2) gender and/or Aboriginal and Torres Strait Islander status was not available for 2,996 offences (1.0%). This cohort has not been presented.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Over time, for all cohorts, the proportion of all offences sentenced that involve DFV-related offences has been increasing. Figure 11-2 shows that since 2016–17, the first full year that DFV-related offences were

[1115] Pearson's Chi-Square Test: X2 (1) = 3100.98, p <.0001, V=0.10.
[1116] Pearson's Chi-Square Test: X2 (1) = 4147.43, p <.0001, V=0.12.

flagged in the administrative data systems, the proportion of cases involving DFV-related offences has more than doubled across all cohorts.

Figure 11-2: DFV-related offences as a proportion of all sentenced offences, by demographic cohort, 2016–17 to 2024–25



Data include adult offenders, DFV offences sentenced between 1 July 2016 and 30 June 2025, Magistrates Courts and higher courts.
Note: This analysis counts unique offences, regardless of whether it is the MSO.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Type of DFV-related offences

As shown by Figure 11-3, overall, CDVO offences made up the majority of all DFV-related offences sentenced in 2024–25 (68.2%, n=31,994/46,934), with DFV offences subject to section 9(10A) accounting for just over a quarter of all DFV-related offences sentenced (25.9%; n=12,160/46,934). The remaining 5.9 per cent of DFV-related offences were either 'other' DFV-related offences (i.e. contraventions of other orders relating to DFV, like police protection notices (PPN)) or DFV offences to which section 9(10A) does not apply (i.e. choking, suffocation or strangulation in a domestic setting).

In 2024–25, more than two-thirds of DFV-related offences were CDVO (68.2%) and one-quarter (25.9%) involved section 9(10A) offences. A higher proportion of Aboriginal and Torres Strait Islander women (34.9%) and Aboriginal and Torres Strait Islander men (28.8%) were sentenced for offences involving section 9(10A). Non-Indigenous women (20.7%) had the smallest proportion of DFV-related offences involving section 9(10A).

Figure 11-3: Type of DFV-related offence as a proportion of all sentenced DFV-related offences, by demographic cohort, 2024–25

Data include adult offenders, DFV-related offences sentenced between 1 July 2024 and 30 June 2025, Magistrates Courts and higher courts.
Notes: 1) this analysis counts unique offences, regardless of whether it is the MSO;
2) gender data and/or Aboriginal and Torres Strait Islander status were not available for 65 DFV-related offences (0.1%). This cohort has not been presented.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

11.3.2 Demographics from CDVO trends

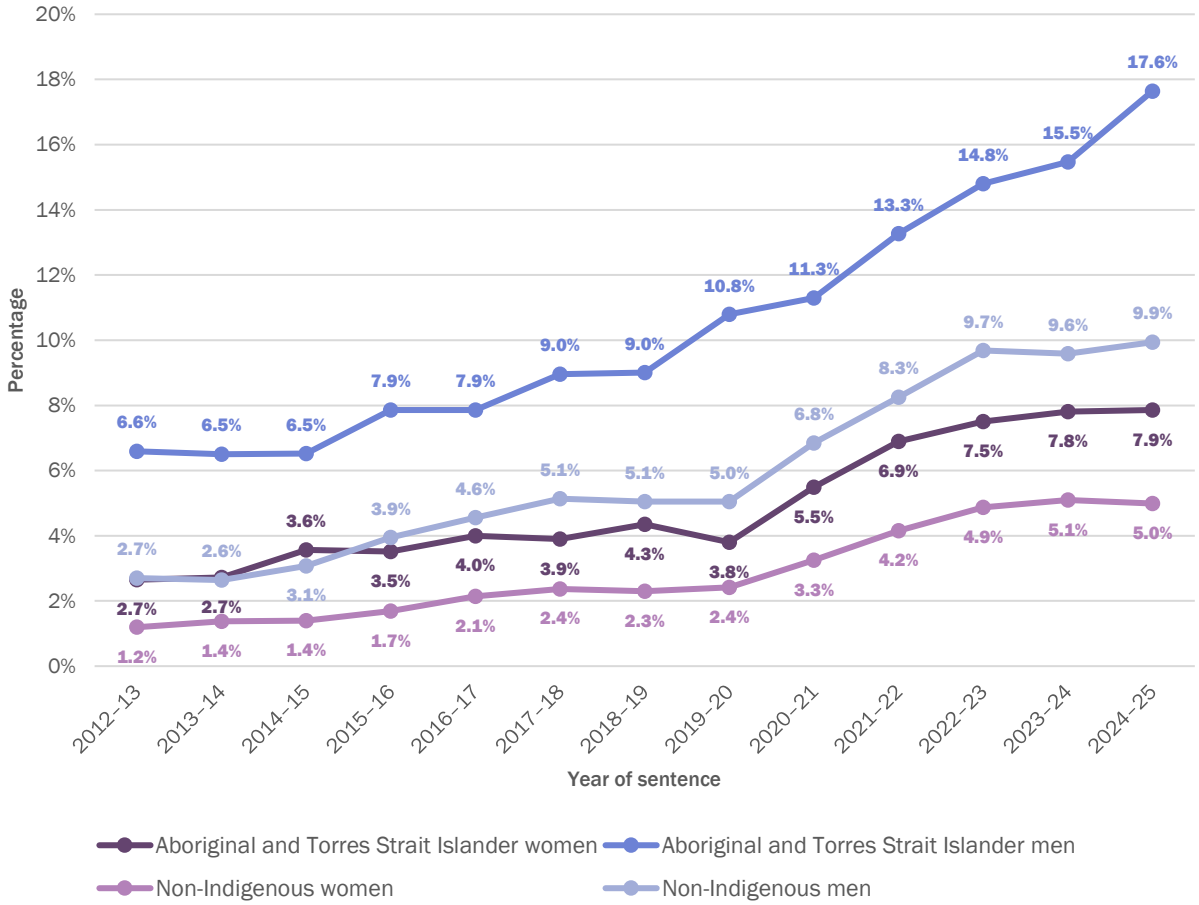
This section presents the Council's analysis of specific sentencing trends for CDVO, for the different demographic cohorts. It includes findings from trends in both offences and cases sentenced for CDVO, either as MSO or not, and trends in the volume of cases involving aggravated and non-aggravated CDVO.

CDVO offences sentenced over time

Overall, we know that CDVO offences made up 68.2 per cent of all DFV-related offences sentenced in 2024–25, and they accounted for 10.2 per cent of all offences sentenced in that year. The proportion of all offences sentenced each year that involved a CDVO offence has, however, varied considerably by demographic cohort and over time.

As shown by Figure 11-4, 17.6 per cent of all sentenced offences involving Aboriginal and Torres Strait Islander men involved CDVO in 2024–25, compared with 9.9 per cent of all sentenced offences involving non-Indigenous men, and for both cohorts the proportion of all offences sentenced involving CDVO has more than tripled since 2012–13. By contrast, for Aboriginal and Torres Strait Islander women, 7.9 per cent of all sentenced offences in 2024–25 involved CDVO, compared with 5.0 per cent for non-Indigenous women; similarly to the men, this proportion has generally tripled since 2012–13.

Figure 11-4: Proportion of all sentenced offences involving CDVO, by demographic cohort, 2012–13 to 2024–25



Data include adult offenders, CDVO offences sentenced between 1 July 2012 and 30 June 2025, Magistrates Courts and higher courts.
Note: This analysis counts unique offences, regardless of whether it is the MSO.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

CDVO cases sentenced over time, by MSO and non-MSO

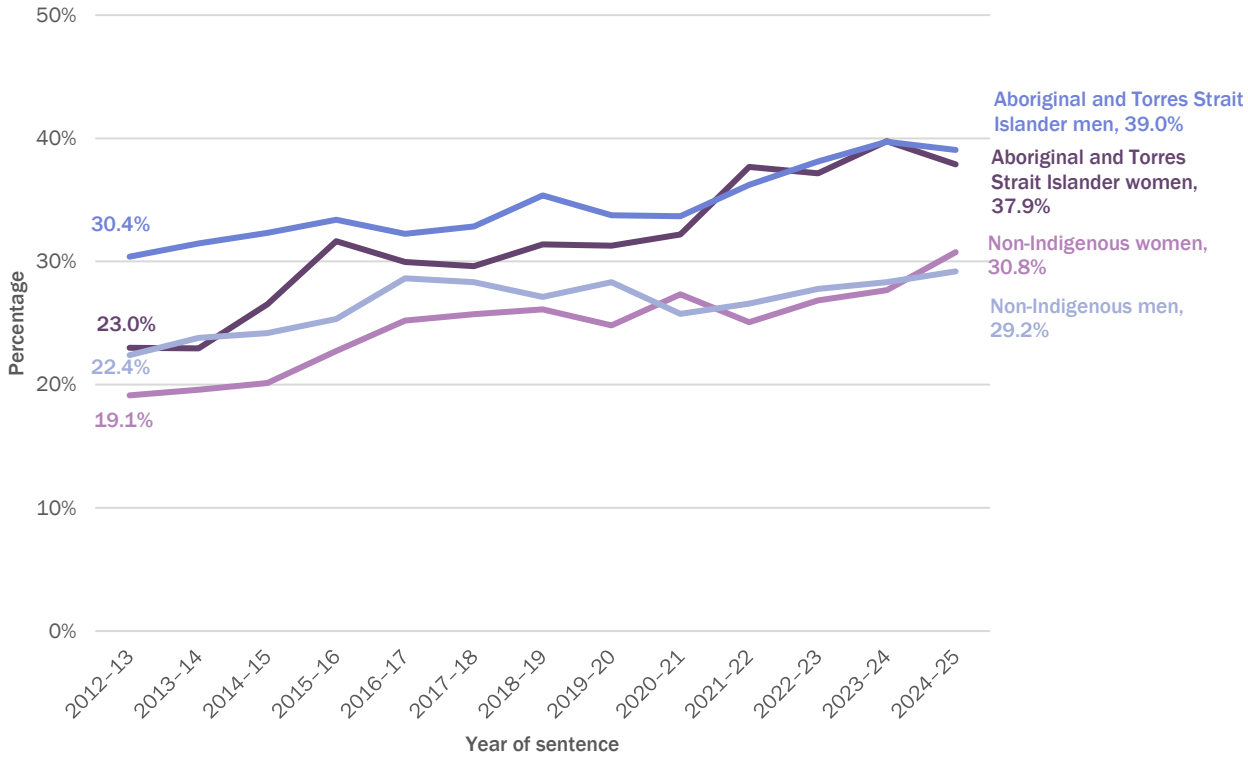
As discussed in **Chapter 5**, there can be multiple CDVO charges sentenced in a single case, and overall, the total volume of cases sentenced involving at least one charge of CDVO has generally been steadily increasing. Also discussed in **Chapter 5**, the proportion of sentenced cases involving a CDVO where there is another more serious charge sentenced as the MSO (referred to as non-MSO) has increased over time.

In 2024–25, across all demographic cohorts, 32.5 per cent of all cases sentenced involved a charge of CDVO where it was sentenced in conjunction with another more serious offence (e.g. an offence subject to section 9(10A)).

Figure 11-5 presents the proportion of all cases sentenced that involved a charge of CDVO (non-MSO) by gender and Aboriginal and Torres Strait Islander status.

Similar to the overall trend, the proportion of non-MSO CDVO cases increased for each demographic group; however, in 2024–25, both Aboriginal and Torres Strait Islander men and women were far more likely than non-Indigenous men and women to have CDVO sentenced in conjunction with another more serious offence (39.0% and 37.9% vs 30.8% and 29.2%).

Figure 11-5: Non-MSO CDVO cases as a proportion of all CDVO cases sentenced, by Aboriginal and Torres Strait Islander status and gender, 2012–13 to 2024–25



Data include adult offenders, CDVO MSO and non-MSO cases sentenced between 1 July 2012 and 30 June 2025, higher and lower courts.
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted September 2025.

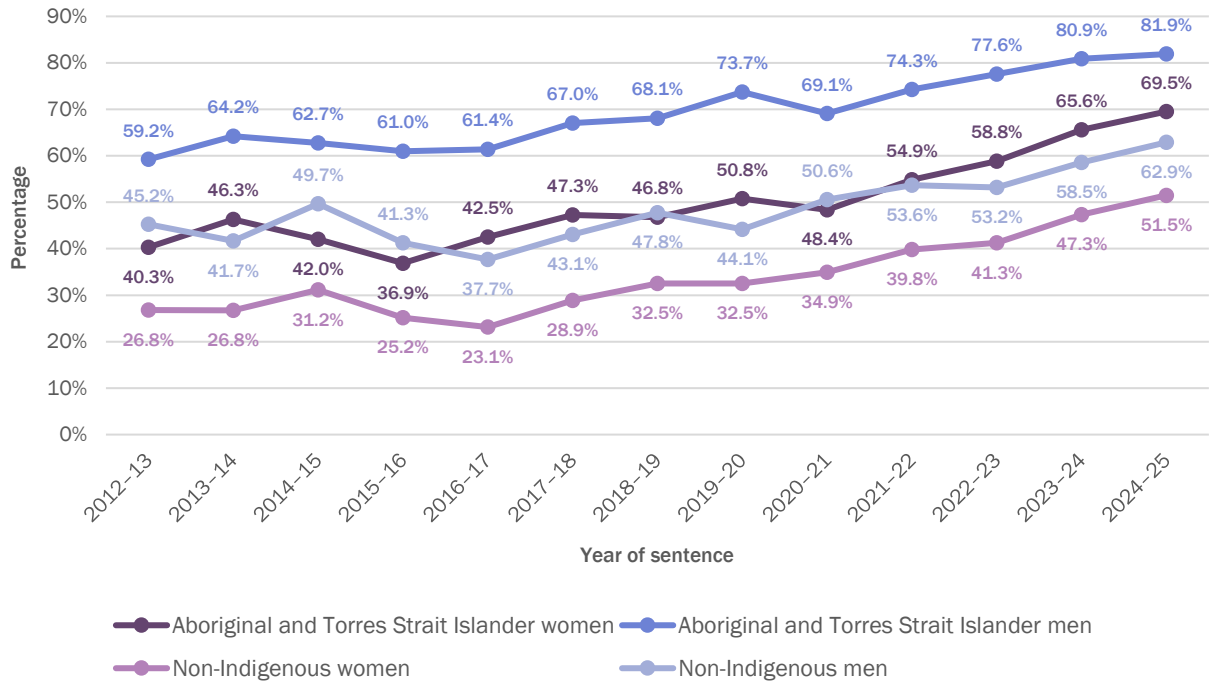
CDVO (MSO) cases sentenced over time, by offence type

In **Chapter 5** we noted that, across all demographics, the proportion of all CDVO (MSO) cases sentenced that involved an aggravated CDVO has increased over time, and in 2024–25 almost two-thirds of CDVO (MSO) cases sentenced were for aggravated offences.

As shown in Figure 11-6, in 2024–25, for Aboriginal and Torres Strait Islander men, 81.9 per cent of CDVO (MSO) cases involved aggravated CDVO, which had steadily increased from just over half in 2012–13. By comparison, 62.9 per cent of CDVO (MSO) cases sentenced for non-Indigenous men in 2024–25 were for aggravated CDVOs, an increase from 45.2 per cent in 2012–13.

For non-Indigenous women, the proportion of aggravated CDVO (MSO) cases sentenced rose from over one-quarter in 2012–13 (26.8%) to over half in 2024–25 (51.5%). By contrast, for Aboriginal and Torres Strait Islander women in 2012–13, around 4 in 10 CDVO (MSO) (40.3%) cases were aggravated, which increased to 7 in 10 in 2024–25 (69.5%).

Figure 11-6: Proportion of CDVO (MSO) cases sentenced for aggravated CDVO, by Aboriginal and Torres Strait Islander status and gender, 2012–13 to 2024–25



Data include adult offenders, CDVO MSO and non-MSO cases sentenced between 1 July 2012 and 30 June 2025, higher and lower courts.
Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted September 2025.

11.3.3 Demographics from DV aggravating factor

This section presents the Council's analysis of sentencing trends for offences subject to section 9(10A) for the different demographic cohorts.

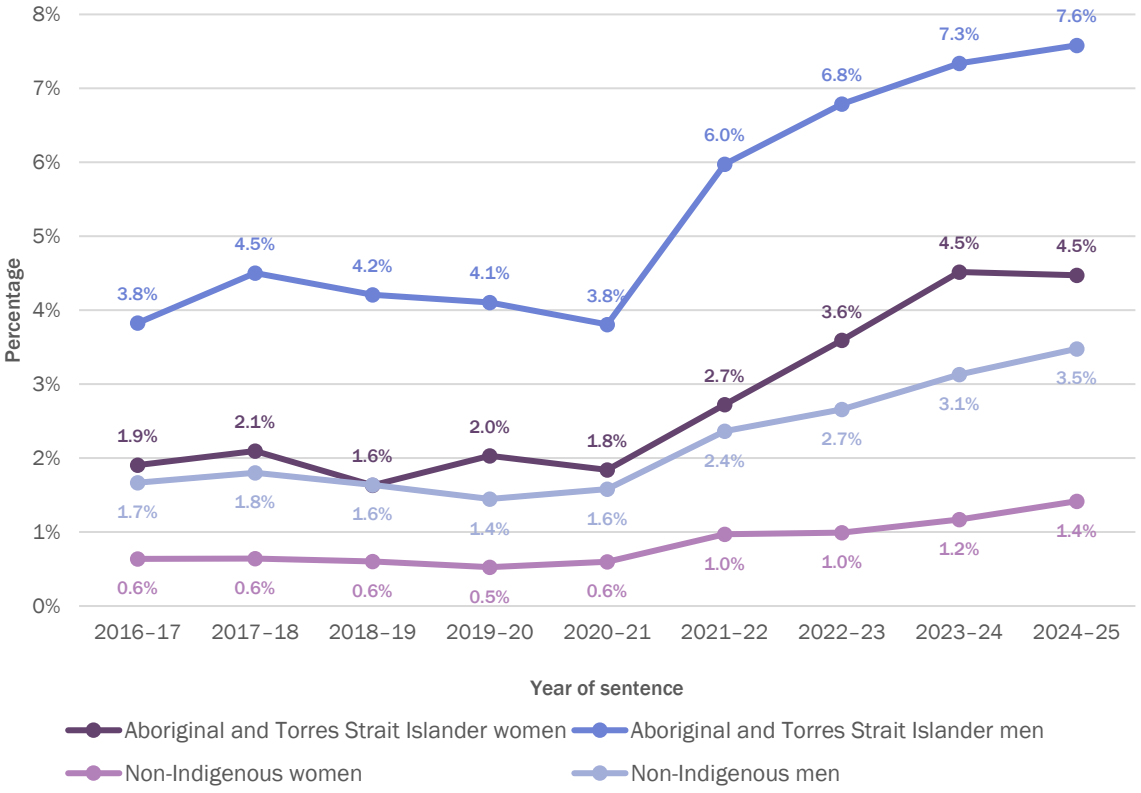
Offences subject to section 9(10A)

Overall, in 2024–25, offences subject to section 9(10A) made up 29.5 per cent of all DFV-related offences sentenced, and they accounted for 3.9 per cent of all offences sentenced in that year. The proportion of all offences sentenced each year that involved a section 9(10A) offence has, however, varied considerably by demographic cohort and over time.

As shown by Figure 11-7, 7.6 per cent of all sentenced offences in 2024–25 involving Aboriginal and Torres Strait Islander men were section 9(10A) offences, compared with 3.5 per cent of all sentenced offences involving non-Indigenous men. For both cohorts, the proportion of all offences sentenced involving a section 9(10A) offence has nearly doubled since 2016–17, and a considerable increase was seen following 2020–21.

By contrast, for Aboriginal and Torres Strait Islander women, 4.5 per cent of all sentenced offences in 2024–25 involved an offence subject to section 9(10A), compared with 1.4 per cent for non-Indigenous women, and for both cohorts this proportion has generally doubled since 2016–17.

Figure 11-7: Proportion of all sentenced offences subject to section 9(10A), by demographic cohort, 2016–17 to 2024–25



Data include adult offenders, offences sentenced subject to s9(10A) between 1 July 2016 and 30 June 2025, Magistrates Courts and higher courts.
Note: 1) this analysis counts unique offences, regardless of whether it is the MSO.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

Top 5 offences sentenced subject to section 9(10A) by demographic cohort

In 2024–25, the 5 most commonly sentenced offences subject to section 9(10A) were similar for all demographic groups – see Table 11-1.

For all cohorts, except non-Indigenous women, common assaults were the most common DV offence sentenced. For non-Indigenous women the most common DV offence sentenced was wilful damage, followed closely by common assault.

For all cohorts, the top 5 offences sentenced in 2024–25 included common assault, wilful damage, assaults occasioning bodily harm (AOBH)[1117] and breach bail condition.

For each cohort, there was one offence in the top 5 that was unique to that cohort. For Aboriginal and Torres Strait Islander women, it was public nuisance, while for Aboriginal and Torres Strait Islander men, it was threatening violence. For non-Indigenous women, serious assaults[1118] made it into the top 5 offences, and for non-Indigenous men, indecent treatment of children under 16 was in the top 5 offences.

[1117] Non-aggravated and aggravated forms combined.
[1118] All cases were for serious assault against a person aged 60 years or more *Criminal Code* (Qld) (n 12) s 340(1)(g).

Table 11-1: Top 5 sentenced offences subject to section 9(10A) (by volume), by demographic cohort, 2024–25

Aboriginal and Torres Strait Islander women

	Offence type	N	% of DFV-related (n=2,694)	% of all offences (n=20,995)
1	Common assault	250	9.3%	1.2%
2	Wilful damage	201	7.5%	1.0%
3	AOBH	192	7.1%	0.9%
4	Public nuisance	63	2.3%	0.3%
5	Breach bail condition	57	2.1%	0.3%

Non-Indigenous women

	Offence type	N	% of DFV-related (n=3,462)	% of all offences (n=50,589)
1	Wilful damage	185	5.3%	0.4%
2	Common assault	138	4.0%	0.3%
3	Breach bail condition	87	2.5%	0.2%
4	AOBH	85	2.5%	0.2%
5	Serious assaults	30	0.9%	0.1%

Aboriginal and Torres Strait Islander men

	Offence type	N	% of DFV-related (n=14,071)	% of all offences (n=53,507)
1	Common assault	1,287	9.1%	2.4%
2	AOBH	1,039	7.4%	1.9%
3	Wilful damage	686	4.9%	1.3%
4	Breach bail condition	264	1.9%	0.5%
5	Threatening violence	141	1.0%	0.3%

Non-Indigenous men

	Offence type	N	% of DFV-related (n=26,642)	% of all offences (n=184,582)
1	Common assault	1,427	5.4%	0.8%
2	AOBH	1,150	4.3%	0.6%
3	Wilful damage	1,052	3.9%	0.6%
4	Breach bail condition	817	3.1%	0.4%
5	Indecent treatment of children under 16	440	1.7%	0.2%

Data include adult offenders, offences sentenced subject to section 9(10A) of the PSA between 1 July 2024 and 30 June 2025, Magistrates Courts and higher courts.
Note: This analysis counts unique offences, regardless of whether it is the MSO.
Source: QGSO, Queensland Treasury – Courts Database, extracted September 2025.

11.4 The Council's view

DFV impacts marginalised and disadvantaged groups in complex and distinct ways, shaped by intersecting factors such as gender, cultural background, disability, mental health and systemic disadvantage.

Women, particularly Aboriginal and Torres Strait Islander women, are disproportionately affected as victim survivors, and are more likely to experience misidentification as perpetrators, criminalisation for self-defensive actions and systemic barriers to justice. Similarly, Aboriginal and Torres Strait Islander people experience higher rates of DFV, compounded by intergenerational trauma and structural inequities.

People from CALD communities, those with disabilities or mental illnesses and LGBTQIA+ individuals also face unique vulnerabilities, including cultural stigma, communication barriers and limited access to specialised support services.

Stakeholders emphasised the need for trauma-informed, culturally sensitive and, in some cases, non-punitive approaches when sentencing marginalised peoples for DV offences. Stakeholders were particularly concerned about the misidentification of the person most in need of protection, noting that this is often women and children, and the disproportionate impact of imprisonment on Aboriginal and Torres Strait Islander peoples as a consequence of DV reforms in Queensland.

We share stakeholder concerns about the impacts of DFV on marginalised people, both as victims and perpetrators, and the importance of judicial discretion for the courts to respond on a case-by-case basis. We note that the Queensland courts can take into account a range of statutory and common law factors relating to discrimination. However, their weighting will vary depending on the facts of the case and the quality of the information presented to the court.

We are mindful that the National Agreement on Closing the Gap (the National Agreement)[1119] sets out 4 priority reforms and has 19 national socioeconomic targets across areas that have an impact on life outcomes for Aboriginal and Torres Strait Islander people. Three of the targets relate to crime and justice.[1120] Queensland, like other States and Territories, including the Commonwealth and the Local Government Association, is a party to the National Agreement. In response to the National Agreement, Queensland has developed the Better Justice Together: Queensland's Aboriginal and Torres Strait Islander Justice Strategy 2024–2031. Responding to the targets of the National Agreement is challenging while also holding DV perpetrators to account, particularly where the offending is serious and only custodial outcomes are appropriate.

Observation 5: Aboriginal and Torres Strait Islander peoples are disproportionately impacted by the increase to maximum penalties for contravention of a domestic violence order

Aboriginal and Torres Strait Islander peoples are disproportionately represented among people sentenced for contravention of a domestic violence order. This disproportionate representation pre-dated the increase to the maximum penalties and is particularly evident for aggravated charges.

Observation 6: Aboriginal and Torres Strait Islander peoples are disproportionately impacted by the operation of section 9(10A) of the *Penalties and Sentences Act 1992* (Qld)

Aboriginal and Torres Strait Islander peoples are disproportionately impacted by domestic and family violence and disproportionately impacted by the operation of the section 9(10A) aggravating factor.

[1119] The Closing the Gap framework is an Australian government strategy that aims to reduce disadvantage among Aboriginal and Torres Strait Islander people. The objective of the National Agreement on Closing the Gap (the National Agreement) is to enable Aboriginal and Torres Strait Islander people and governments to work together to overcome the inequality experienced by Aboriginal and Torres Strait Islander people, and achieve life outcomes equal to all Australians.

[1120] Target 10: Adults are not over-represented in the criminal justice system; Target 11: young people are not over-represented in the criminal justice system; and Target 13: Families and households are safe, Productivity Commission, 'Dashboard - Closing the Gap' (July 2025) <https://www.pc.gov.au/closing-the-gap-data/dashboard/> accessed 10 November 2025.

Our data findings underscore the complex and multifaceted nature of DV for women and Aboriginal and Torres Strait Islander peoples.

In 2024–25, over a quarter of offences for which Aboriginal and Torres Strait Islander men were sentenced were DFV-related (26.3%). This was the highest proportion for any demographic cohort. We found that while 2024–25 was the highest proportion over the 9-year data period examined, Aboriginal and Torres Strait Islander men had the highest proportion of DFV-related offences sentenced every year since offences could be flagged.

This was stark for CDVO offences. Of all offences sentenced, the proportion of CDVO offences sentenced for Aboriginal and Torres Strait Islander men was almost twice that of non-Indigenous men (17.6% compared with 9.9%). This proportion has continued to grow since 2016–17 and, unlike the other cohorts we examined, has not plateaued in recent years.

In 2024–25, 81.9 per cent of CDVO (MSO) cases for Aboriginal and Torres Strait Islander men involved aggravated CDVO, which had steadily increased from just over half in 2012–13. By comparison, 62.9 per cent of CDVO (MSO) cases sentenced for non-Indigenous men in 2024–25 were for aggravated CDVO, which had increased from 45.2 per cent in 2012–13. As discussed in **Chapter 5**, we found that for aggravated CDVO, the use of custodial penalties had increased. Given the higher proportion of aggravated CDVO offences, we have no doubt that the change in maximum penalties has had a disproportionate impact on Aboriginal and Torres Strait Islander peoples.

We know Aboriginal and Torres Strait Islander people are disproportionately represented in custody, including on remand. Penalties for CDVO, in combination with tougher bail laws, contribute to this disproportionate level of representation.

The Council's Aboriginal and Torres Strait Islander Advisory Panel also noted the disproportionate impact of CDVO sentencing on Aboriginal and Torres Strait Islander peoples, particularly women. Given that the average sentence for CDVO is a short sentence of imprisonment, this can have significant consequences for the sentenced person beyond the imprisonment itself. These may include the loss of housing, employment and care of children, while offering limited rehabilitative benefit.[1121] There is a greater need for the over-criminalisation and systemic pressures faced by Aboriginal and Torres Strait Islander peoples to be examined, and the broader impacts of sentencing – particularly on vulnerable groups – to be understood.

We are concerned that Aboriginal and Torres Strait Islander men and women account for a greater proportion of section 9(10A) offences as a proportion of all offences sentenced compared with non-Indigenous men and women. Those figures are particularly stark for Aboriginal and Torres Strait Islander men, with 7.6 per cent of their sentenced offences in 2024–25 involving a section 9(10A) offence. That is over twice that for non-Indigenous men at 3.5 per cent.

We are also concerned that not only were Aboriginal and Torres Strait Islander women sentenced for the second highest proportion of section 9(10A) offences since 2016–17, but in 2024–25, section 9(10A) offences accounted for over a third of their DFV-related offending (34.9%). This was the largest proportion of section 9(10A) DV offences for the four demographic groups examined.

The Council noted that for all demographic groups analysed, 4 of the top 5 section 9(10A) (MSO) offences for 2024–25 were the same, although the order varied. We were surprised, however, that the 5th offence varied for each group.

Lastly, we can only analyse data that exists. We receive demographic data from Queensland courts on an offender's gender, age and Aboriginal and Torres Strait Islander status. Other cultural backgrounds, disability status and sexuality are not captured, nor is the demographic information about a victim survivor. This limits our ability to comment on the disproportionate representation of other marginalised groups impacted by DFV.

[1121] The impact of short sentences on Aboriginal and Torres Strait Islander peoples was explored in Australian Law Reform Commission (n 254) 268–70 [7.151]–[7.159].

As noted elsewhere in this report, improving data collection would better enable the Council to report on sentencing impacts to CALD communities, people with disabilities and mental illnesses. This would better assist individuals who face unique challenges and vulnerabilities that require tailored, culturally sensitive, trauma-informed responses.

We explore future opportunities to improve data collection in **Chapter 13**.

Chapter 12 – Compatibility with the *Human Rights Act 2019* (Qld)

12.1 Human rights considerations

All people in Queensland have rights recognised in the HRA.[1122] The HRA codifies a subset of human rights, in addition to other recognised rights and freedoms including rights under the International Covenant on Civil and Political Rights and the United Nations Convention of the Rights of Persons with Disabilities.[1123]

A statutory provision is compatible with rights if it does not limit a right; or, if it does, that limitation is 'reasonable and demonstrably justifiable'[1124] in a 'free and democratic society based on human dignity, equality, and freedom'.[1125] The HRA includes what factors should be considered if a human right is limited.[1126]

Some rights that are particularly relevant to sentencing DFV-related offences are discussed below.

- **Right to recognition and equality before the law:** Every person is equal before the law and is entitled to the equal protection of the law without discrimination.[1127] The right to equality encompasses both formal equality (like cases are to be treated alike) and substantive equality (requiring the differential treatment of persons whose situations are significantly different).[1128] This may require adjustments to standard rules or procedures, for example, to overcome past disadvantage and to achieve true equality for certain groups.[1129]
- **Rights in criminal proceedings:** A person charged with a criminal offence has the right to be informed of the nature and reason for the charge in a way the person speaks or understands. They are presumed to be innocent until proven guilty and are entitled to minimum guarantees.[1130]
- **Right to privacy and reputation:** This is a broad right protecting a person from having their privacy, family, home or correspondence unlawfully or arbitrarily interfered with and to not have their reputation unlawfully attacked.[1131] This right extends to personal information and data collection and can be relevant to laws about how information is accessed, held, published or shared across agencies. It may also be relevant to mandatory reporting of information such as prior criminal convictions and can extend to treatment requirements without consent.
- **Right to liberty and right not to be subject to arbitrary detention:** Legislation which has a mandatory element in respect of sentencing can be viewed as limiting human rights.[1132]
- **Right to humane treatment when deprived of their liberty:** A person has a right to humane treatment when deprived of their liberty (for example, if held in a watch-house or prison).[1133] The UN Convention on the Rights of People with Disabilities also includes relevant principles, such as accessibility and respect for difference, and acceptance of persons with disabilities as part of human diversity and humanity.[1134]

[1122] HRA (n 962) s 11.
[1123] Ibid s 12.
[1124] Ibid s 8.
[1125] Ibid s 13(1).
[1126] Ibid s 13(2).
[1127] Ibid s 15(3).
[1128] *Thlimmenos v Greece* [2000] ECtHR 34369/97, [44].
[1129] *Victoria Police Toll Enforcement v Taha* (2013) 49 VR 1.
[1130] HRA (n 962) s 32.
[1131] Ibid s 25.
[1132] Ibid s 29.
[1133] Ibid s 30. This right was considered in *Owen-D'Arcy v Chief Executive, Queensland Corrective Services* [2021] QSC 273 in respect of prolonged solitary confinement for a prisoner. *Castles v Secretary, Department of Justice* (2010) 28 VR 141 [113] discussed IVF treatment for a woman in a Victorian prison.
[1134] *Convention on the Rights of Persons with Disabilities, Opened for Signature 30 March 2007, A/RES/61/106* (entered into force 3 May 2008) opened for signature 30 March 2007, A/RES/61/106 (entered into force 3 May 2008).

- **Right not to be tried and punished more than once:** This right is also known as the rule against 'double jeopardy'.[1135] There are some exceptions to this.[1136] It is reflected in the *Criminal Code* (Qld),[1137] which also protects a person from being punished twice for the same act or omission.[1138] The same principle applies if a person is convicted of CDVO and another offence based on the same act or omission. Also, for CDVO, if the person's criminal history includes 'domestic violence offence' convictions, while they are relevant to sentencing and can increase the maximum penalty, the person cannot be punished again for those acts.
- **Right to protection against retrospective laws:** The *Criminal Code* (Qld) protects a person from being punished for an offence unless it was an offence at the time it was committed or cannot be punished to any greater extent than the older law allowed (or that the newer law allows).[1139] This right may be limited when a new offence or a sentencing consideration operates retrospectively. For example, the circumstance of aggravation for a CDVO can be partly retrospective if the person has a previous domestic violence offence that occurred before the increased maximum penalty came into effect.

12.1.1 Rights of victim survivors

Domestic and family violence is one of the most prevalent and serious breaches of human rights in Australia.

Relevant rights set out in the HRA when considering the impact of domestic and family violence on victim survivors include:

- the right to enjoy human rights without discrimination;[1140]
- protection from torture and cruel, inhuman or degrading treatment;[1141]
- the right to privacy and reputation;[1142]
- protection of families and children;[1143] and
- the right to liberty and security.[1144]

The rights of victims of violent crime, including domestic and family violence, in Queensland are recognised in the Charter of Victims' Rights in Schedule 1 of the *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld). These rights, while recognised as not legally enforceable, are relevant to considering the operation of the aggravating factor under the PSA and the increase in the maximum penalty for CDVO. The Queensland Victims' Commissioner is currently reviewing the Charter of Victims' Rights to assess how well it meets the diverse needs of victims of crime.[1145]

[1135] HRA (n 962) s 34. This right protects a person from being repeatedly prosecuted and provides finality of criminal proceedings. It is based on Article 14 of the *International Covenant on Civil and Political Rights, Adopted and Opened for Signature, Ratification and Accession by General Assembly Resolution 2200A(XXI) of 16 December 1966* (entered into force 23 March 1976) ('ICCPR').

[1136] The UN Human Rights Committee states that 'it does not prohibit the resumption of a criminal trial justified by exceptional circumstances, such as the discovery of evidence which was not available or known at the time of the acquittal': 'General Comment No. 32, Article 14, Right to Equality before Courts and Tribunals and to Fair Trial' 16 [56]. See also, *Criminal Code* (Qld) (n 12) sch 1, Ch 68.

[1137] *Criminal Code* (Qld) (n 12).

[1138] Ibid s 16 The exception to this is where the act or omission causes the death of another person. See also s 17.

[1139] Ibid s 11; HRA (n 962) s 35.

[1140] HRA (n 962) s 15(2).

[1141] Ibid s 17.

[1142] Ibid s 25.

[1143] Ibid s 26.

[1144] Ibid s 29.

[1145] See The Office of the Victims' Commissioner, 'Charter of Victims' Rights Review' (24 September 2025) <https://www.victimscommissioner.qld.gov.au/our-work/review-of-the-charter-of-victims-rights>.

12.2 The DV aggravating factor and compatibility with human rights

The HRA came into full effect on 1 January 2020,[1146] after the introduction of the DV aggravating factor. Legislation and amending provisions introduced prior to the HRA had regard to the 'fundamental legislative principles' set out in the *Legislative Standards Act 1992* (Qld).

When the DV aggravating factor was introduced, it was noted that it potentially breached the fundamental legislative principle in respect of the rights and liberties of individuals,[1147] as it would allow courts to impose a penalty at the higher end of the range of appropriate sentences.[1148] However, this limitation was justified 'to protect vulnerable members of our community, denounce this type of offending and provide adequate deterrence to perpetrators of this type of offending'.[1149]

12.2.1 Stakeholder views

There were mixed views from stakeholders on the compatibility of the DV aggravating factor with the HRA.

Stakeholder views on compatibility

Stakeholders acknowledged the responsibility of states to protect people from domestic violence and gender-based violence, which are recognised as human rights issues.[1150]

However, stakeholders were concerned that the DV aggravating factor was not compatible with human rights under the HRA on the basis of the following rights:

1. Right to equality before the law, and substantive equality[1151] – for example, the disproportionate impact of the provision on people who are vulnerable, over-represented in the criminal justice system and/or over-policed. This includes Aboriginal and Torres Strait Islander peoples, people with cognitive and psychosocial disabilities and people of culturally and linguistically diverse backgrounds.[1152]
2. Right to protection from torture and cruel, inhuman or degrading treatment.[1153]
3. Protection of families and children[1154] – for example, the provision may result in a parent receiving sentences involving actual imprisonment for otherwise 'minor' offending, which impacts the family and children.
4. Cultural rights of Aboriginal people and Torres Strait Islander people[1155] – for example, due to the impact of interruption to connection with Country.
5. Right to liberty and security of the person, including the right against arbitrary detention.[1156]
6. Right to fair hearing[1157] – for example, the sentencing judge is bound to consider DV as an aggravating factor, meaning their decision is 'not independent and impartial'.[1158]

[1146] *Proclamation No.224—Human Rights Act 2019 (Commencing Remaining Provisions)* Some provisions commenced on assent (7 March 2019) others on proclamation (1 July 2019) and remaining provisions (1 January 2020).
[1147] *Legislative Standards Act 1992* (Qld) s 4(2)(a).
[1148] 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill (No. 2)' (n 7) 3.
[1149] 'Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill (No. 2)' (n 7).
[1150] See, for example, Submission 14 (Queensland Law Society).
[1151] HRA (n 962) s 15; Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); Submission 14 (Queensland Law Society).
[1152] Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc).
[1153] HRA (n 962) s 17; Submission 9 (Aboriginal and Torres Strait Islander Legal Service).
[1154] Ibid s 28; Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 18 (Legal Aid Queensland).
[1155] Ibid; Submission 9 (Aboriginal and Torres Strait Islander Legal Service).
[1156] Ibid s 29; Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); Submission 14 (Queensland Law Society).
[1157] Ibid s 31; Submission 10 (Sisters Inside Inc); Submission 18 (Legal Aid Queensland).
[1158] Submission 18 (Legal Aid Queensland).

Sisters Inside submitted that the DV aggravating factor raises 'serious concerns' about the compatibility of the provision with human rights because it 'undermines the principle of individualised justice' without 'proper consideration of the complex and often overlapping dynamics of violence and victimhood'.[1159] They were concerned that it perpetuates the frequent misidentification of Aboriginal women, Torres Strait Islander women and women with disabilities as perpetrators of violence because the courts are prevented from adequately considering the resistive context in which force is used.[1160]

The Queensland Law Society (QLS) similarly expressed concerns about whether a victim survivor who is found guilty of an offence involving resistive violence would have the necessary resources to express their narrative and displace the presumption in the DV aggravating factor.[1161]

Sisters Inside and ATSILS both submitted that the 'blanket application' of the DV aggravating factor is likely to be incompatible with principles of equal access to justice and liberty under the UN Convention on the Rights of Persons with Disabilities because of the over-criminalisation of people with cognitive and psychosocial disabilities.[1162]

In contrast, an individual submitter stated that the DV aggravating factor was compatible with the HRA because it upholds the rights of victim survivors to life, protection from violence and equal treatment before the law.[1163] They submitted that the DV aggravating factor recognises the serious nature and long-term harm caused by DV, and that the provision is an example of the state taking positive protective measures under the HRA and the Convention on the Elimination of All Forms of Discrimination Against Women. However, they supported the observations of Sisters Inside regarding such factors perpetuating inequality and recommended that the implementation of the DV aggravating factor must be 'balanced, trauma-informed, and cognisant of intersectional disadvantage to avoid unjust outcomes for vulnerable defendants'.[1164]

The Queensland Police Union (QPU) also submitted that any limitations on the rights of offenders in sentencing laws were justified by the protection of victims' rights. They were of the view that 'the rights of victims should be elevated above those of offenders … when sentencing law is applied to DFV'.[1165]

Stakeholder views on addressing any incompatibility

Stakeholders who viewed the DV aggravating factor as incompatible made various suggestions about addressing incompatibility, all of which involved greater discretion for sentencing judges.

Sisters Inside was of the view that the DV aggravating factor should be repealed in its entirety and any legislative guidance must be developed in consultation with criminalised women and people with lived experience of violence and incarceration.[1166]

ATSILS suggested that the DV context should not be a mandatory aggravating factor.[1167] Alternatively, it suggested that the term 'exceptional circumstances' should be further clarified in legislation with a definition or additional examples, including a lack of capacity to regulate emotions due to a disability or impairment, coercive control, and fulfilling cultural obligations.

The QLS suggested removing the reference to 'exceptional circumstances' and replacing it with a less-onerous exception such as 'not reasonable in the circumstances' or 'it is unjust to do so'.[1168]

LAQ submitted that any incompatibility arises because of the requirement that the sentencing judge 'must' consider domestic violence an aggravating factor and was of the view that the qualifier of exceptional circumstances was not broad enough.[1169] Accordingly, they recommended amending 'must' to 'may' to allow more discretion for the sentencing judge.

[1159] Submission 10 (Sisters Inside Inc).
[1160] Ibid.
[1161] Submission 14 (Queensland Law Society).
[1162] Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc).
[1163] Submission 12 (M. Halliday).
[1164] Ibid.
[1165] Submission 16 (Queensland Police Union).
[1166] Submission 10 (Sisters Inside Inc).
[1167] Submission 9 (Aboriginal and Torres Strait Islander Legal Service).
[1168] Submission 14 (Queensland Law Society).
[1169] Submission 18 (Legal Aid Queensland).

Suggestions were also made for reform to the broader sentencing landscape.[1170]

12.3 HRA compatibility of analogous PSA provisions

Since the introduction of the HRA, 5 other aggravating factors have been introduced in section 9 of the PSA.[1171] All were considered compatible with the HRA.[1172]

Of most relevance are the aggravating factors specifically for DV offences:

- Section 9(10C):

  > In determining the appropriate sentence for an offender convicted of a domestic violence offence that was committed against a child when the offender was an adult, the court must treat the fact that it is an offence against a child as an aggravating factor.

- Section 9(10D):

  > In determining the appropriate sentence for an offender convicted of a domestic violence offence, the court must treat the fact that either of the following circumstances apply as an aggravating factor — (a) during the commission of the offence a child was exposed to domestic violence; (b) the offence committed was also [a contravention of a domestic violence order or] another order of a court or of an injunction.

It was considered that each of these aggravating factors may limit the right of a person to not be deprived of liberty[1173] as they '*may* increase the likelihood of a court imposing a more severe sentence'.[1174] However, as an aggravating factor is but one of many considerations taken into account at sentence, both were considered to be 'reasonable and demonstrably justifiable'.[1175]

12.4 The Council's view

Finding 11: Section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) is compatible with the *Human Rights Act 2019* (Qld)

While section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) may limit a person's right to liberty and the right to equality, the limitation is reasonable and demonstrably justifiable, consistent with the conclusions on compatibility of other similar aggravating factors.

The right to liberty in the HRA protects a person from arbitrary arrest or detention, and ensures they are deprived of liberty only on grounds, and in accordance with procedures, established by law. The DV aggravating factor may impact this right as it may increase a person's sentence which may lead to increased prison sentences or an increased sentence length, thereby directly depriving a person of their liberty.

The right to equality is also potentially engaged as it recognises that every person is equal before the law and entitled to equal protection. In **Chapter 11**, we noted the disproportionate impact of section 9(10A) of the PSA on Aboriginal and Torres Strait Islander peoples. This is because a greater proportion of offences for which Aboriginal and Torres Strait Islander peoples are sentenced are DV offences to which section 9(10A) applies compared with non-Indigenous people. While the issue of disproportionate representation is not unique to section 9(10A), this section arguably limits the ability of courts in deciding the sentence to recognise the past disadvantage faced by Aboriginal and Torres Strait Islander persons or other vulnerable groups, thereby affecting their right to recognition and equality before the law.

[1170] See, for example, Submission 9 (Aboriginal and Torres Strait Islander Legal Service).
[1171] PSA (n 41) ss 9(9BA), (9C), (10C), (10D), 10(F).
[1172] Statement of Compatibility: Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 (Qld); Statement of Compatibility: Justice and Other Legislation Amendment Bill 2023 (Qld); Statement of Compatibility: Respect at Work and Other Matters Amendment Bill 2024 (Qld).
[1173] HRA (n 962) s 29.
[1174] See for example, 'Statement of Compatibility: Respect at Work and Other Matters Amendment Bill' (n 1172) 19 (emphasis in original).
[1175] 'Statement of Compatibility: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Bill 2023 (Qld)' 14.

Prior to the introduction of section 9(10A), the nature of the relationship was a relevant sentencing consideration. The Court of Appeal had commented on the seriousness of DV and that perpetrators of serious acts of DV must know that society will not tolerate such behaviour and 'can expect the courts to impose significant sentences of imprisonment involving actual custody' for the purposes of specific and general deterrence.[1176]

The DV aggravating factor does not displace the sentencing purpose of section 9(1)(a): 'to punish the offender to an extent or in a way that is just in all the circumstances'. Its effect, and the weight it is given, must also be balanced with other legislatively recognised sentencing purposes and factors including, if the sentenced person is Aboriginal or Torres Strait Islander, 'any cultural considerations, including the effect of systemic disadvantage and intergenerational trauma'.[1177]

The Court of Appeal has recognised that aggravating factors in the PSA 'inform the exercise of the sentencing discretion' but it does not mean there *must* be punishment 'to any greater extent than was authorised by the former law'.[1178]

The operation of the DV aggravating factor to limit the right to liberty is reasonable and demonstrably justifiable, taking into account:

- the importance of the objective of the DV aggravating factor to ensure sentences for domestic violence offences reflect community attitudes about the seriousness of offences occurring in a domestic violence context and to make perpetrators more accountable;
- evidence that the DV aggravating factor is achieving its objective by supporting stronger sentences for domestic violence offending;
- that courts retain discretion to apply the DV aggravating factor where there are exceptional circumstances and can determine what weight to afford the DV aggravating factor even if exceptional circumstances are not found; and
- the benefits of protecting vulnerable members of our community, denouncing this type of offending and providing adequate deterrence to perpetrators outweigh any limits placed on rights.

We further acknowledge the need to protect those who are vulnerable and fear or experience domestic violence may disproportionately impact particular groups, including Aboriginal and Torres Strait Islander peoples. Given the importance of protecting vulnerable members of the community, we consider any limitation is reasonable and demonstrably justifiable.

The ability of the DV aggravating factor to achieve its intended legislative purposes in signalling the higher seriousness with which such offending should be viewed may be reduced if the exceptional circumstances threshold was reduced to support more exceptions, or a court was given greater discretion to decide whether to treat the DV context of the offence as aggravating (such as by replacing 'must' with 'may').

While there are also alternatives to recognise the seriousness of DV offences, such as a circumstance of aggravation, or a presumption of actual imprisonment, the alternative options are less compatible with the right to liberty and right to equality protected under the HRA.

The importance of achieving the purpose of the limitation in protecting vulnerable members of our community, denouncing this type of offending and providing adequate deterrence outweighs any limits placed on rights. For these reasons, in the Council's view there is no less restrictive way to achieve the purpose of the DV aggravating factor. The limit to the right to liberty and the right to equality, to the extent these rights are engaged, is reasonable and demonstrably justifiable.

[1176] See for example, *Fairbrother* (n 3) [23] (McMurdo P, Jerrard JA and Cullinane J agreeing); Similar comments were made in *R v Major; Ex Parte A-G (Qld)* (n 315) [53] (Margaret McMurdo P).
[1177] PSA (n 41) s 9(2)(oa).
[1178] *Pham* (n 606) [5] (Keane JA) referring to the effect of changes in the law under the Criminal Code (Qld) s 11(2).

Chapter 13 – Policy implications and future directions

In this chapter, we consider the policy implications of our research findings drawing on key themes of a literature review prepared by the Griffith Criminology Institute during the initial stages of the review,[1179] and our own research.

We identify several potential areas for reform informed by evidence.

Key observations from the data analysis presented in the earlier chapters of this report suggested areas for potential reform to improve sentencing responses to offences committed in the context of domestic violence.

Contravention of domestic violence order trends (Part B)

For CDVO, we observed:

- A growth in CDVO cases sentenced to 2023–24, followed by a small decrease in 2024–25. Most of this growth has been driven by aggravated charges, that now comprise almost two-thirds of sentenced CDVO as the most serious offence (MSO) charges (64.0% in 2024–25, up from 43.2% in 2012–13).
- An increasing proportion of CDVO cases sentenced with a more serious offence (32.5% in 2024–25, up from 24.7% in 2012–13).
- More than 4 in 5 sentenced CDVO cases involve a male perpetrator. In 2024–25, 18.4% of people sentenced for non-aggravated CDVO were women, while 14.5% of people sentenced for aggravated CDVO were women.
- Monetary penalties (fines) for CDVO are still common (56.5% of penalties for non-aggravated CDVO and 25.9% for aggravated CDVO in 2024–25), although their use for aggravated CDVO is decreasing.
- Most sentences of imprisonment for CDVO are for 12 months or less. In 2024–25, the median imprisonment sentence length for both non-aggravated and aggravated CDVO was 6.0 months; and more than 9 in 10 imprisonment sentences were for 12 months or less.

DV offences and the aggravating factor (Part C)

For DV offences to which section 9(10A) of the PSA applies, we observed:

- Across most offence types, including those involving the use of non-physical violence, the DV aggravating factor appears to be operating as intended, supporting stronger sentencing responses including greater use of custodial sentencing orders and longer median custodial sentences.
- The aggravating factor has changed sentencing practices in important ways, including the submissions made on sentence and the treatment of cases pre-dating the introduction of the aggravating factor.
- There is a low awareness by victim survivors of the DV aggravating factor, suggesting a need for a focus on other aspects of sentencing to support victim satisfaction with the sentencing process.

[1179] *Griffith University Literature Review* (n 18).

Short sentences of imprisonment

In a separate research project, we explored the use of short sentences of imprisonment for domestic violence-related offending (including CDVO and DV offences to which the aggravating factor applies). We found:

- Short sentences of imprisonment (6 months or less) represent 3.9 per cent of penalty outcomes across all offences, but 7.6 per cent of all penalty outcomes for DV offences (excluding CDVO), and 12 per cent of all penalty outcomes for CDVO.
- Close to 30 per cent of short sentences of imprisonment are for DV-related offending (22.8% CDVO, and 5.4% DV offence), with CDVO accounting for the largest proportion of short sentences of all offences.
- Aboriginal and Torres Strait Islander peoples were disproportionately represented among those receiving short prison sentences, not accounting for other factors such as prior criminal history and offence seriousness.
- The share of all prison sentences that are short sentences for DV-related offending has increased (from 7.2% to 11.8% for CDVO, and from 1.7% to 3.1% for DV offences).
- The volume of short prison sentences for DV-related offending has increased – almost doubling for both CDVO and DV offences.[1180]
- The majority of people sentenced to short sentences of imprisonment for DV-related offending were released immediately on the day of sentence on court ordered parole (73.9% for CDVO and 75.5% for DV offences).[1181]

Impact on vulnerable and marginalised groups (Part D)

We have identified that Aboriginal and Torres Strait Islander peoples are disproportionately represented across people sentenced for both CDVO and DV offences to which the aggravating factor applies.

We also have acknowledged the particular impacts of the reforms on women and other disadvantaged and marginalised persons.

Other issues

We identified anomalies and complexities related to the 2015 and 2016 reforms, some of which may be addressed through changes to legislation or other practice-related changes.

13.1 Other research findings: Literature review

13.1.1 Key themes

The literature review we commissioned undertaken by Bond and Nash of the Griffith Criminology Institute reviewing current research has helped us develop an approach for assessing which responses have been effective and determining if sentencing reforms are supported by robust evidence. The review summarised the available research evidence for our consideration, and is refenced throughout this chapter.

The review authors identified six themes highlighting promising directions for research, policy and practice.[1182]

[1180] This comparison used 2017–18 as the starting point as the change in maximum penalty for CDVO was not present for the entirety of 2016–17. Note that DV offences also had a much lower base - 248 in 2017–18.

[1181] This is only slightly higher than the rate of immediate release on court ordered parole for all offences (70%). For those who were immediately released on day of sentence and had declared pre-sentence custody, the average number of days spent in custody was higher for DFV offending (excluding CDVO) at 43.8 days. The average number of custody days was only slightly higher CDVO (29.7 days) than for all offences (27.3 days).

[1182] *Griffith University Literature Review* (n 18) i–iii.

1. Measuring the 'effectiveness' of sentencing orders (or sanctions) is complex

The review authors note it is not possible to 'easily disentangle different sentencing purposes'. 'The effectiveness of a sentencing order is typically measured in terms of changes in re-offending behaviour.' However, 'whether this is labelled a deterrent, or a rehabilitative, effect depends on the sanction type, not the judges' reasoning' for imposing that penalty type. In general, custodial sanctions are linked by research to deterrence or incapacitation, and community-based sanctions with rehabilitation.

2. There is no robust consistent evidence to support a deterrent effect

Focusing on deterrence, 'custodial sentences do not appear to reduce domestic and family violence re-offending'. Research overall shows 'no consistent finding that the experience of an imprisonment sentence had a deterrent effect (i.e. reduced DFV-related re-offending)'. Non-imprisonment sentences (such as suspended sentences, probation and fines) were also not associated, on average, with reduced DFV-related re-offending.

3. Some sanctions, when combined with treatment, may have a rehabilitative effect

Bond and Nash report 'a lack of evidence on the impact of court treatment-oriented sanctions, at least partially due to these types of orders being made in combination with other orders'. One study found 'community-based sanctions (such as probation) – when combined with treatment options –may reduce domestic and family violence re-offending'. 'However, trials of the judicial monitoring of mandated perpetrator intervention programs in the United States did not show evidence of an impact on domestic and family violence-related re-offending, although their impact is difficult to disentangle from likely increased detection of offending due to monitoring.' Some victim survivors may prefer rehabilitative-focused sanctions over punitive ones.

4. No strong evidence of punishment and denunciation

There is an argument that 'more severe sentences indicate a stronger denunciation of perpetrators' behaviours': 'For example, from victims' perspective, fines (a common sentence for breaches of domestic violence protection orders) are seen as trivialising the impact of the violation.'

An assessment of the successfulness of achieving this objective, however, relies on evidence that domestic and family violence offences have been sentenced more severely than violent offences committed in other contexts. The research presented in this report provides some evidence of this.

5. Alternative approaches appear promising, but their impact on recidivism is less clear

Restorative justice has been proposed as an alternative approach to responding to some domestic and family violence cases, but 'remains highly controversial due to concerns over victim safety and perpetrator accountability'. Bond and Nash report, 'there has been very few robust evaluations of restorative justice approaches for domestic and family violence cases, making it difficult to determine their effectiveness'. 'However, there is some evidence that it can be a positive experience for victim/survivors.'

There is more evidence and support for specialist domestic and family violence courts. Evaluations of these courts show that they 'provide enhanced support to victim/survivors and perpetrators, improving victim/survivors' satisfaction and confidence with court processes, compared to mainstream criminal courts'. 'However, their impact on recidivism is less clear. In part, this is due to considerable variation in the models and features of individual courts, as well as the lack of long-term evaluations of these courts.'

6. More culturally appropriate court processes for those from Aboriginal and Torres Strait Islander communities suggest these may promote pathways of desistance

Indigenous sentencing courts, such as the Murri Courts in Queensland, 'provide a more culturally relevant process for First Nations' defendants'. 'Although there is very little research on responding to domestic and

family violence offences within Indigenous sentencing courts, there is qualitative evidence Indigenous sentencing courts may promote pathways of desistance.'

13.1.2 Implications for policy and practice

Bond and Nash identify several implications of their findings for the sentencing of domestic and family violence cases,[1183] which can be broadly categorised into opportunities to enhance the sentencing options available, and opportunities to build the evidence base of what works.

Enhancing sentencing options available

- **Positioning courts and sentencing responses as 'part of a coordinated and integrated response**, including service providers, other legal stakeholders, community services and others involved in supporting both victims and perpetrators'.
- **Considering the increased use of community-based sanctions (combined with treatment conditions)** over custodial sanctions, as they 'have a greater opportunity to reduce domestic and family violence re-offending, although a role for incarceration remains'.
- **Providing more flexible sentencing options**, 'especially pre-sentence options to support earlier intervention with perpetrators'.
- **Reducing the use of fines** 'as this type of order minimises [the] harm [caused to victim survivors] and exacerbates financial barriers'.
- **Factoring in the need for broader support services and treatment programs, including culturally appropriate options.** 'Sentencing does not sit in a vacuum but needs to be considered as part of an integrated, coordinated approach.'
- **Considering judicial monitoring as part of targeted community-based orders**, noting that there will be resourcing implications.
- **Considering a 'carefully designed restorative justice approach'**.

Building the evidence base of what works

- **Reframing the** '**measure of success**' **for court interventions** 'in terms of desistance, taking into account that perpetrators' pathways to more prosocial behaviours are inconsistent, and thus not well-measured by a binary contact/re-contact [recidivism] measure'.
- **Building a stronger evidence base** by ensuring '[m]ore robust research and evaluations of courts and sentencing for domestic and family violence offenders' to inform future policy and practice.

[1183] Ibid iii–iv.

13.2 Enhancing sentencing options

13.2.1 Sentencing as part of an integrated response

Summary of research evidence

Increasingly, our responses to domestic and family violence are recognising that there is no single intervention. Instead, courts and sentencing should be viewed as part of a larger integrated response, where the court's legal authority can be used to leverage co-operation and compliance with broader interventions. Similarly, Chung and others (2020) have recognised that to strengthen perpetrator interventions, coordinated, integrated, multi-agency responses, including active engagement with alcohol and other drug services and mental health services, are needed. Courts are a critical part of an integrated response (Centre for Innovative Justice, 2015, p.40; Chung et al., 2020; Bowen et al., 2014). For example, evidence from the United States suggests that perpetrator treatment programs attached to a swift, certain, criminal justice response for non-compliance are effective in encouraging future compliance (especially if heard by the same judge) (Centre for Innovative Justice, 2015).

… to strengthen our capacity to reduce re-offending by domestic and family violence perpetrators, we need to move towards courts and sentencing being part of a broader coordinated and multi-agency response, where the court's legal authority is used to leverage co-operation and compliance with broader interventions.

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) pp. 38, 41.

Sentencing responses alone cannot stop domestic violence

A consistent theme of our consultations has been that we cannot 'sentence our way out' of the problem of domestic and family violence. This is a complex issue requiring complex solutions at a whole-of-system and community level.

Simply increasing maximum penalties, imposing more prison sentences, or reforming the types of orders that can be made are not going to 'fix' this behaviour or stop domestic violence.

This is supported by evidence. Bond and Nash report studies 'do not suggest that, on average, sanctions reduce further offending by perpetrators convicted of domestic and family violence, regardless of sentence type'.[1184] An earlier 2012 systemic review of the crime control effects of criminal sanctions for intimate partner violence similarly found that of 31 studies examined, the majority showed no effect for criminal sanctions on repeat offending.[1185]

Bond and Nash note there are several reasons for the increasing emphasis of criminal justice responses to domestic and family violence, including 'signalling the seriousness of domestic and family violence and holding perpetrators to account for their behaviour':

- 'By treating domestic and family violence as serious matters to be dealt with via criminal justice responses, this clearly moves these behaviours from the private sphere to the public sphere, communicating societal condemnation'.
- 'Criminal justice actions generally represent what justice agencies are doing to hold perpetrators responsible for their behaviour, with increased arrests, increased prosecutions, more severe sentences and swift responses to non-compliance of orders are seen to provide vindication and punishment'.[1186]

Since the late 1990s, across Australia, there has been a 'push to re-engage with the use of criminal justice responses with coordinated responses involving social and criminal justice agencies emerging to better support victims through the police, prosecution and court processes'.[1187] This has included the emergence of specialist DV courts and dedicated court lists.

[1184] Ibid 14.
[1185] Christopher D Maxwell and Joel J Garner, 'The Crime Control Effects of Criminal Sanctions' (2012) 3(4) *Partner Abuse* 469. See also Johan Stjernqvist and Susanne Strand, 'The Effectiveness of Intimate Partner Violence Interventions by the Police, Prosecutors, and Courts' (2024) 51(12) *Criminal Justice and Behavior* 1859.
[1186] *Griffith University Literature Review* (n 18) 8.
[1187] Ibid 10.

In the most recent phase of changes to criminal justice approaches, reforms have focused on expanding definitions of DFV, sentencing enhancements such as the introduction of the section 9(10A) aggravating factor and, in some jurisdictions, including Queensland,[1188] the introduction of legislation criminalising coercive control.[1189]

The important role of sentencing in responding to DV offending

As discussed in **Chapter 1**, the purposes of sentencing are various and include punishment, denunciation, deterrence, community protection, rehabilitation and recognition of victim harm. These are all important objectives in responding to domestic and family violence given the high prevalence of DFV, the harm it causes to individuals, families and communities and the challenges faced in addressing its drivers and contributing factors.

Sentencing plays a pivotal role as part of a broader response to domestic and family violence:

1. The court makes clear through the sentence imposed that this type of behaviour will not be tolerated and there will be serious consequences for engaging in it, thereby achieving the purposes of punishment and denunciation.
2. It reinforces community values and attitudes about what constitutes unacceptable forms of behaviour and shows 'concern for [victims] and their wronged condition' on behalf of the broader community,[1190] thereby recognising victim harm.
3. It provides an opportunity to engage with those who use violence and who are the victims of this violence. Courts can facilitate, or in some cases require, the person to access services and interventions as a condition of an order, including perpetrator programs and individual counselling, to promote the long-term safety of victim and community. The court's legal authority can thus be 'used to leverage co-operation and compliance with broader interventions'[1191] to address the underlying causes of offending.
4. It can ensure those who present an immediate danger to victims or other community members are detained in custody and/or require the person to be under supervision.

In submissions, several stakeholders acknowledged the key role of sentencing in responding to DV offending. Victim support and advocacy organisations, in particular, highlighted the need for there to be serious consequences for those who contravene a domestic violence order as a means of changing attitudes and behaviour,[1192] and protecting victim survivors from future violence.[1193] Ensuring strong sentencing responses for recidivist offenders was viewed as being particularly important as 'when the justice system fails to respond firmly to repeat offenders, it places victims at continued risk and erodes public trust in legal protections'.[1194]

Typically, judges apply a combination of purposes when determining the most appropriate sentence. In the context of domestic violence, as noted earlier in this report, punishment, denunciation and deterrence in particular are prioritised, along with protecting victim survivors from further harm.

Community values as an important aspect of sentencing

Our research suggests there has been a general strengthening of sentencing responses to domestic violence offending, although the extent of any change is difficult to measure. This is likely due to a combination of factors, including the operation of the two legislative reforms we were asked to review.

[1188] *Criminal Code* (Qld) (n 12) s 334C.
[1189] *Griffith University Literature Review* (n 18) 10.
[1190] RA Duff, *Punishment, Communication, and Community* (Oxford University Press, 2000) 61–2 This is described as 'censure'.
[1191] *Griffith University Literature Review* (n 18) 38.
[1192] See, for example, Preliminary Submission 2 (Small Steps 4 Hannah Foundation).
[1193] See, for example, Preliminary Submission 18 (Fighters Against Child Abuse Australia) which supported 'an immediate custodial imprisonment response as a standard'.
[1194] Submission 19 (name withheld).

The strengthening of sentencing responses reflects shifting community attitudes to domestic violence and the increased seriousness with which it is viewed. This was acknowledged by the High Court in *R v Kilic,*[1195] which noted that 'current sentencing practices for offences involving domestic violence [may] depart from past sentencing practices for this category of offence because of changes in societal attitudes to domestic relations'.[1196]

The courts' role in reflecting community values is an important aspect of sentencing. Courts must impose sentences consistent with legitimate community expectations or risk undermining confidence in the administration of justice.[1197] In the context of domestic violence offending, inadequate penalties may signal to victim survivors that it is not worth reporting it to police or putting themselves through what may be a lengthy legal process.

Positioning sentencing as part of an integrated service system response

A continued focus on sentencing in responding to domestic and family violence and the role of courts is therefore important. Bond and Nash suggest that sentencing is best placed to deliver on its objectives with respect to domestic violence, including long-term community protection, where it forms part of an integrated service system response.[1198] This ensures that courts are positioned through the orders they make to support interventions aimed at bringing about behavioural change, while at the same time delivering just punishment, promoting perpetrator accountability, recognising victim harm and prioritising victim safety.

The services required to respond to risk factors for domestic violence go beyond perpetrator programs and men's behaviour change programs. They include, for example, alcohol and other drug services, mental health services, maternal and child health services, and income and housing support.

Many DV perpetrators benefit from ongoing supervision when in the community. This is supported by evidence that 'supervision can reduce general re-offending', although this depends on the nature of the supervision (a support rather than compliance focus) and the skills a supervising officer has to motivate the person.[1199]

The particular challenges posed by high-risk perpetrators make it critical for an ongoing commitment by government to embed integrated service responses in responding to domestic and family violence.

The Queensland Government committed significant additional funding for domestic and family violence initiatives in the 2025–26 Queensland State Budget, including:

- $75.8 million over 5 years to contribute to the National Partnership Agreement for Domestic and Sexual Violence Responses, with matching funding provided by the Australian Government to fund relevant services and initiatives, including perpetrator interventions and men's behaviour change program and early intervention and prevention initiatives;[1200]
- $25.0 million over 5 years and $6.8 million per annum ongoing for delivery of an electronic monitoring pilot for high risk DFV offenders,[1201] which is available for magistrates to impose as a condition of a DVO for eligible high-risk persons in Townsville and Caboolture;[1202]
- $37.0 million over 4 years and $9.6 million per annum ongoing to enhance the response to domestic and family violence.[1203]

[1195] *Kilic* (n 165).
[1196] Ibid 267 [21].
[1197] See *Markarian* (n 161) 389 [82] (McHugh).
[1198] *Griffith University Literature Review* (n 18) 38.
[1199] Ibid 36.
[1200] Queensland Government, *Queensland Budget 2024–25: Budget Measures* (Budget Paper No 4, 2024) 13.
[1201] Ibid 73.
[1202] Department of Families, Seniors, Disability Services and Child Safety, 'DFV Electronic Monitoring', *Department of Families, Seniors, Disability Services and Child Safety* (9 October 2025) <https://www.families.qld.gov.au/our-work/domestic-family-sexual-violence/end-domestic-family-violence/our-progress/strengthening-justice-system-responses/dfv-electronic-monitoring>.
[1203] Queensland Government, *Queensland Budget 2024–25: Budget Measures* (n 1200) 87.

13.2.2 The use of community-based sanctions

Summary of research evidence

Community-based sentences may be more effective in reducing domestic violence. While imprisonment may provide *temporary* community safety, it does not deter future offending nor promote perpetrator accountability or victim/survivor healing. Victim/survivors of domestic and family violence also express a desire for alternatives to incarceration that address the root causes of the problem while holding the perpetrator accountable. (There remains a role for sentences of imprisonment for high-risk offenders, as it can provide obvious benefits in protecting victims from persistent, repeated violence.)

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) p. 39 (emphasis in original).

A diverse range of penalty options is needed

Domestic violence offending covers a broad spectrum of behaviour, ranging in frequency and severity. It can include physical violence, sexual violence, emotional or psychological abuse, economic abuse, threatening behaviour and behaviour that is coercive or in any other way seeks to control or dominate another person causing them to fear for their own safety or wellbeing, or that of another person.

People who commit acts of domestic violence are not a homogeneous group. They are of all ages, genders, and cultural and religious backgrounds. Many offend against current or former intimate partners, some against other family members and others against both. Some individuals who engage in this behaviour may have mental health and substance misuse issues or cognitive impairments, while others may not. They may come from a background of disadvantage and have been exposed to violence in their childhood or other forms of trauma, or not. The reasons why a person engages in this form of behaviour are varied and complex.[1204]

Several stakeholders pointed to the diversity and complexity of domestic violence offending as a reason courts must retain high levels of discretion, and for reforms not to be introduced 'which ties the Court to a particular sentencing outcome solely because the offence is a "domestic violence offence"'.[1205] The QLS presented the following scenarios to illustrate this point:

- Sentencing one party for a trivial breach or standalone offence in a matter where there are cross DV orders in place, during highly contentious and acrimonious family court proceedings and where both parties are equally combative and litigious;
- Sentencing a lifelong victim of DV who finally lashes out at their abuser;
- Sentencing a victim of DV who has been misidentified as a respondent in a protection order, which is subsequently breached; and
- Sentencing vulnerable persons, with mental health issues, intellectual impairments or substance abuse issues who clash with family members attempting to enforce treatment or care or who threaten self- harm.[1206]

The range of offending, the circumstances in which domestic violence is committed and the backgrounds of those who engage in this behaviour reinforce the need for there to be a diverse range of penalty options. The conclusions of an earlier review of evidence for the Council's review of the serious violent offences scheme apply equally in this context: 'A wide range of approaches are required to meet the needs of specific groups of people. A one-size-fits all approach is unlikely to prove particularly effective.'[1207]

[1204] See, for example, Michael Flood et al, *Who Uses Domestic, Family, and Sexual Violence, How, and Why? The State of Knowledge Report on Violence Perpetration* (Queensland University of Technology, 2023).

[1205] Submission 14 (Queensland Law Society). See also Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 10 (Sisters Inside Inc); Submission 18 (Legal Aid Queensland).

[1206] Submission 14 (Queensland Law Society).

[1207] Andrew Day, Stuart Ross and Katherine McLachlan, *The Effectiveness of Minimum Non-Parole Period Schemes for Serious Violent, Sexual and Drug Offenders and Evidence-Based Approaches to Community Protection, Deterrence, and Rehabilitation* (prepared by the University of Melbourne for the Queensland Sentencing Advisory Council, August 2021) 23 ('*University of Melbourne Literature Review*').

Prison sentences will continue to be critical, especially for persistent and serious offending

Prison sentences are required to deliver just punishment and to meet the purpose of denunciation. There is also evidence that, for some victim survivors, the imprisonment of an intimate partner who has used violence can provide 'respite from fear, and a sense of safety, however temporary'.[1208]

However, there are limitations to what a prison sentence can deliver. As many prison sentences for DV offending are short (12 months or less), opportunities for meaningful engagement of the person in programs while in custody and on parole are limited. The high proportion of people sentenced to imprisonment for domestic violence offences who have served periods of pre-sentence custody further limits the time available post-sentence to support real behavioural change. Research further suggests that short prison sentences of 12 months or less may exert no more deterrent effect than comparable community orders,[1209] although the evidence is mixed, and follow-up periods may have a significant influence on reported findings.[1210]

Community-based sentences may provide more opportunity for rehabilitation to reduce reoffending and enhance long-term community safety

Bond and Nash suggest a greater role for community-based sentences. They suggest that these forms of orders 'can provide more opportunity [than prison sentences] for treatment (rehabilitation) and avoid the negative unintended consequences of imprisonment, such as losing employment or housing'.[1211] 'Rehabilitation and reintegration interventions can be delivered more effectively in the community by maintaining family and social relationships, jobs, and accommodation.'[1212]

During consultations, stakeholders shared the view that programs and interventions are more readily available in the community than in custody. LAQ and the FNWLSQ were among those legal service providers that also commented on the lack of programs for prisoners on remand.[1213]

Under its current operating model, Queensland Corrective Services (QCS) 'refers individuals convicted of DFV offences to specialist intervention programs, including men's behaviour change programs, and coordinated supervision through collaborative case management'.[1214] Perpetrator programs offered in the community are run by a range of community service providers. The need to expand on the availability of these programs and other forms of interventions is discussed in section 13.2.5.

[1208] See, for example, Tony McGinn, Brian Taylor and Mary McColgan, 'A Qualitative Study of the Perspectives of Domestic Violence Survivors on Behavior Change Programs With Perpetrators' (2021) 36(17–18) *Journal of Interpersonal Violence* NP9364, 10. However, there is still a risk of domestic violence continuing to be perpetrated while the person is in prison, as well as once the person exits prison: see Preliminary Submission 11 (DV Connect); Preliminary Submission 9 (Parole Board Queensland).

[1209] See Judy Trevena and Don Weatherburn, *Does the First Prison Sentence Reduce the Risk of Further Offending?* (Bureau of Crime Statistics and Research (NSW), 2015).

[1210] *Griffith University Literature Review* (n 18) 15–16.

[1211] Ibid 35.

[1212] Ibid.

[1213] Submission 17 (First Nations Women's Legal Services Qld), Submission 18 (Legal Aid Queensland),

[1214] Queensland Corrective Services, *Annual Report 2024-25* (2025) 19.

13.2.3 Flexible sentencing options

Summary of research evidence

The need for more flexible sentencing options has been well recognised, especially options that allow earlier intervention with perpetrators (Centre for Innovative Justice, 2015). Suggestions have included expanding the availability of pre-sentence orders and creating more flexible community-based order options. The greater use of suspended (partial or full) sentencing options, combined with requirements to attend needed rehabilitation programs, could also provide a valuable mechanism to leverage engagement in interventions.

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) p. 40.

Sentencing options should be flexible to support supervision and engagement in rehabilitative programs

In reviewing the evidence, Bond and Nash support the need for more flexible sentencing options when sentencing for DFV-related offences such as:

- judicial monitoring of perpetrator intervention programs, and particularly for those at high risk of re-offending;
- expanding the availability of pre-sentence orders and partially suspended imprisonment orders as well as increasing flexibility for conditional suspended imprisonment orders (noting that this form of order is not available in Queensland), combined with court-mandated treatment and judicial monitoring;
- more flexible community-based sentencing orders that provide opportunities for offenders to be supervised and to engage in rehabilitative programs.[1215]

Several stakeholders spoke of the importance of individualised justice that responds to factors associated with the person's offending as well as protective factors.[1216] There was support, particularly in responding to people from marginalised and vulnerable groups, for the use of community-based sentencing options 'that reflect lived experience and reduce contact with the criminal [justice] system'.[1217]

The FNWLSQ, in supporting alternative responses, highlighted the negative impacts of imprisonment for individuals, their families and communities. They raised concerns that 'while many of these hardships are intended as punitive outcomes for the person sentenced, [imprisonment] frequently imposes equal or greater hardships on the family (including children) and support people of the imprisoned person'.[1218] These included the loss of family income and impacts on future income, and the burden placed on the remaining partner of raising children alone.

How other jurisdictions have achieved greater flexibility

The introduction of Community Correction Orders (CCOs) is a key reform first introduced in Victoria,[1219] before being legislated in NSW,[1220] Tasmania[1221] and the Northern Territory.[1222] CCOs offer greater flexibility to meet the various purposes of sentence.

CCOs are different to current community-based orders in Queensland as they are a single flexible order with limited mandatory or standard conditions, to which courts can attach a range of conditions. Conditions in Victoria can include reporting and supervision, non-association or residence and place restrictions, curfew

[1215] *Griffith University Literature Review* (n 18) 38–9.
[1216] For example, Submission 9 (Aboriginal and Torres Strait Islander Legal Service), Submission 10 (Sisters Inside Inc), Submission 14 (Queensland Law Society), Submission 18 (Legal Aid Queensland).
[1217] Submission 12 (M Halliday).
[1218] Submission 17 (First Nations Women's Legal Services Qld).
[1219] Sentencing Act (n 966) pt 3A inserted by: *Sentencing Amendment (Community Correction Reform) Act 2011* (Vic) s 21.
[1220] Crimes (Sentencing Procedure) Act (n 883) s 8, pt 7 inserted by: *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017* (NSW) sch 1.
[1221] *Sentencing Act 1991* (Tas) pt 5B inserted by: *Sentencing Amendment (Phasing Out Of Suspended Sentences) Act 2017* (Tas) s 15.
[1222] *Sentencing Act 1995* (NT) pt 3, div 4 inserted by: *Sentencing and Other Legislation Amendment Act 2022* (NT).

requirements, alcohol restrictions, judicial monitoring, electronic monitoring, community work, treatment and rehabilitation conditions, or the payment of a bond.[1223]

The benefits of CCOs are that they can be tailored to the individual needs and circumstances of the person being sentenced, combine punitive and rehabilitative elements and support the person remaining in the community where safe to do so.[1224]

Research on the effectiveness of CCOs

The Victorian Sentencing Advisory Council (VSAC) has released several reports considering the use of CCOs. It released data in 2025 on the numbers of people sentenced for a serious offence committed while serving a CCO.[1225] It found that in 2023–24, out of a total of 81,755 people serving a CCO, 503 (0.6 per cent) had committed a serious offence while on the order. Those on CCOs represented a small proportion of people sentenced for a serious offence (14.8%; n=503/3,405 people). The most common serious offences committed by people serving a CCO were making threats to kill, aggravated burglary and making a threat to inflict serious injury.

In a previous 2017 report, *Swift, Certain and Fair Approaches to Sentencing Family Violence Offenders,*[1226] VSAC recommended a greater role for judicial monitoring conditions as part of the CCO regime (see section 13.2.6) and 'more prompt and targeted responses to family violence offenders on CCOs' to promote greater perpetrator accountability.[1227] In making these recommendations, VSAC referred to an earlier report that found those sentenced to a CCO for breach of a family violence intervention order had a relatively higher rate of contravention than other offenders – the most common form being a further breach of an intervention order.[1228]

The Victorian Government has since made significant additional investments in Community Corrections in that state.[1229] In 2024–25, the proportion of orders not breached (the completion rate) across all types of community corrections orders, including CCOs, was 60.8 per cent – below the national average of 76.4 per cent.[1230] However, the rate of return to corrective services within 2 years of discharge from a community corrections order for those discharged in 2022–23 in Victoria was 10.8 per cent. This was well below the national average of 24.7 per cent.[1231]

CCOs in the context of domestic violence have been evaluated in the context of broader reforms to sentencing in New South Wales, which introduced a requirement when sentencing a person found guilty of a domestic violence offence,[1232] for a court to impose either a sentence of full-time detention or a supervised order unless satisfied that a different sentencing option would be more appropriate in the circumstances.[1233] Supervised orders in New South Wales are defined to mean an intensive correction order (ICO), a CCO or a conditional release order (CRO) that includes a supervision condition.[1234] The main purpose of this legislative change was to ensure that more domestic violence offenders would be subject to supervision for the whole period of the order rather than receiving unsupervised orders.[1235]

[1223] Sentencing Act (n 966) pt 3A.
[1224] See *Boulton v The Queen* [2014] VSCA 342.
[1225] Sentencing Advisory Council (Victoria), *Serious Offending by People Serving a Community Correction Order 2023-24* (21 October 2025).
[1226] Sentencing Advisory Council (Victoria), *Swift, Certain and Fair Approaches to Sentencing Family Violence Offenders* (Report, 2017) ('*Swift, Certain and Fair Approaches to Sentencing Family Violence Offenders*').
[1227] Ibid 39 [4.1].
[1228] Ibid 51 [4.63].
[1229] The total projected spend for community-based offender supervision in 2025–26 in Victoria was $279 million. See, The Hon Enver Erdogan MLC, 'Public Accounts and Estimates Committee: Inquiry into the 2025-26 Budget Estimates'; and Jaclyn Symes MP, *Focused on What Matters Most: Service Delivery Budget Paper No. 3* (Budget Paper, Victorian Government, 2025) 162.
[1230] Australian Productivity Commission, 'RoGS 2026: Part C, 8 Community Services Datasets' Table 8A.21. The equivalent Queensland figure was 82.1%.
[1231] Australian Productivity Commission, 'RoGS 2026, Part C, Justice Datasets' Table CA.5 The equivalent Queensland figure was 23.7% which has been relatively stable since 2010-20.
[1232] A 'domestic violence offence' for this purpose has the same meaning as in the CDPVA (n 883) s 11: Crimes (Sentencing Procedure) Act (n 883) s 3. It includes offences that meet the definition of being a 'personal violence offence' under s 4 of the CDPVA, including several offences under the Crimes Act (n 883).
[1233] *Crimes (Sentencing Procedure) Act (NSW) 1999* s 4A.
[1234] Ibid s 4A(3).
[1235] New South Wales (n 886) 274, 276 (Mark Speakman, Attorney-General).

The 2018 NSW domestic violence sentencing reforms were evaluated by the NSW Bureau of Crime Statistics (BOCSAR) in 2020 alongside other sentencing reforms. BOCSAR found some shifts in sentencing practices and the impact on supervised community-based orders was found to be even greater for DV and Aboriginal offenders sentenced in the Local Court (the equivalent of Queensland's Magistrates Courts).[1236]

At the Local Court level, there was a significant increase in the use of supervised community orders from 14.6 per cent to 22 per cent after the reforms commenced. For DV offenders, that increase was pronounced (27.4% to 43.6%), while there was a small decrease in the percentage of short term imprisonment sentences (8.3% to 6.7%).[1237] There was also a reduction in the proportion of offenders sentenced to an unsupervised order, fine or other penalty.[1238]

For cases sentenced in the higher courts, the percentage of DV offenders who received a supervised community order declined (20.1% to 16.4%) and there was an increase in the use of prison sentences (from 79.9% to 83.6%), but this change was not statistically significant.[1239] The percentage of sentenced persons receiving a prison sentence of 36 months or less also declined and there was an increase in sentences of more than 36 months.[1240]

A subsequent evaluation by BOCSAR in 2022 found that the increased use of supervised community sentences, including for domestic violence offenders, did not appear to have resulted in reduced short-term reoffending rates.[1241] The study concludes that:

> The abundance of evidence to support the effectiveness of community supervision in reducing recidivism suggests that further research into the extent and quality of supervision following the sentencing reforms may be worth pursuing.[1242]

In the years since, the NSW Government has invested significantly in the corrections system, including in support of the supervision of and service delivery to those being managed in the community.[1243]

The Council's previous review of community-based sentencing orders, imprisonment and parole options

In 2019, the Council undertook a comprehensive review of community-based sentencing, imprisonment and parole options,[1244] and explored opportunities to improve intermediate sentencing options and deliver better sentencing outcomes in Queensland. We made 74 recommendations, including to:

- introduce a CCO model with a maximum term of 3 years to replace probation, community service, graffiti removal and eventually ICOs;[1245]
- retain suspended sentences, but enable a court to combine a suspended prison sentence with a CCO when sentencing a person for a single offence (currently a suspended prison sentence can only be ordered with a probation order or community service order when sentencing a person for two or more offences).[1246]

[1236] Donnelly (n 887) 16.
[1237] Ibid.
[1238] The percentage of DV offenders receiving an unsupervised order, fine or other penalty declined from 58.6% to 44.5%: Ibid 8 Figure 3.
[1239] Ibid 14. The total number of DV offenders sentenced in the higher courts was very small over the study period (n=634) and only 26 received the less serious penalty of an unsupervised order, fine or other penalty.
[1240] Donnelly (n 887) The use of supervised orders, unsupervised orders, fines and other penalties also declined.
[1241] Neil Donnelly et al, *Have the 2018 NSW Sentencing Reforms Reduced the Risk of Re-Offending?* (No 246, NSW Bureau of Crime Statistics and Research, 2018) 19.
[1242] Ibid 20.
[1243] A total of $100.5 million was committed as part of the 2024–25 State Budget to address rising demand in the corrections system, driven by an increase in alleged offenders (including domestic violence) both in custody and in the community. This funding was also committed to sustain Corrective Services NSW supervision and service delivery to support rehabilitation and community safety: NSW Treasury, NSW Government, *NSW Budget 2025-26 - Overview: Our Plan for New South Wales* (2025) 37. Funding of $33 million was announced in 2021 to increase the supervision of offenders in the community and enable greater access to rehabilitation programs: NSW Department of Communities and Justice, 'Investing in Community Supervision and Safety', *Communities and Justice* (13 April 2023) <https://dcj.nsw.gov.au/dcj/news-and-media/media-releases-archive/2021/investing-in-community-supervision-and-safety.html>.
[1244] Queensland Sentencing Advisory Council, *Community-Based Sentencing Orders, Imprisonment and Parole Options* (n 23).
[1245] Ibid recs 4–7, 9, 11.
[1246] Ibid recs 17, 35.

A fundamental principle guiding our 2019 review was that community-based sentencing orders and the services delivered under them must be adequately funded and administered.[1247] We noted the observations by the Australian Law Reform Commission that the adoption of a Victorian CCO approach would likely have additional resourcing requirements due to issues of remoteness because 'there are no remote communities in Victoria'.[1248]

Pre-sentence approaches

Bond and Nash also suggest a potential enhanced role for pre-sentence programs.[1249]

The Court Link program[1250] and Domestic and Family Violence Diversion program established in May 2025[1251] are examples of models operating in Queensland that may address underlying factors associated with DFV-related offending conduct. While not specific to DV offending, the Court Link program has been evaluated and found to have positive outcomes.[1252] These include improving defendants' understanding of drivers of their offending behaviour and strategies to address these, and reducing rates of reoffending as well as the frequency and seriousness of offending and time to reoffend.[1253]

There are also examples of other forms of pre-sentence orders that might be considered for introduction in Queensland, such as deferral of sentencing established under legislation in Victoria,[1254] and England and Wales.[1255] Further investigation of these models in the context of domestic violence offending may be beneficial.

13.2.4 The use of fines

Summary of research evidence

From the perspective of both victims and stakeholders, fines are viewed as inappropriate for domestic and family violence offending. Despite this, fines remain a common sentence for breaches of domestic violence protection orders (e.g. Sentencing Advisory Council (Victoria), 2022).

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) p. 39.

Monetary penalties (fines)[1256] constitute more than half of all penalties for non-aggravated CDVO (MSO) and one in 4 penalties for aggravated CDVO (MSO) as well as a significant proportion of penalty outcomes for some other DV offences.

The maximum fine for non-aggravated CDVO is $20,028 (120 penalty units) and for aggravated CDVO it is $40,056 (240 penalty units).[1257] A fine can be ordered in addition to, or instead of, any other sentence with or without a conviction being recorded.[1258]

[1247] Ibid 59, section 4.10.
[1248] Ibid 60, section 4.10.
[1249] *Griffith University Literature Review* (n 18) 40.
[1250] For a description of the Court Link program, including the locations where it operates, see 'Court Link', *Queensland Courts* (6 January 2026) <https://www.courts.qld.gov.au/services/court-programs/court-link>.
[1251] See Queensland Courts, 'Domestic and Family Violence Diversion', *Queensland Courts* (24 December 2025) <https://www.courts.qld.gov.au/services/court-programs/domestic-and-family-violence-diversion>.
[1252] Deloitte Access Economics, *Evaluation of Court Link - Department of Justice and Attorney-General: Final Outcomes and Evaluation Report* (June 2023).
[1253] Ibid 8.
[1254] The Magistrates' and County Courts have the power to defer sentence for up to 12 months: Sentencing Act (n 966) s 83A. A 2024 evaluation found one-third of deferral cases in Victoria involve family violence offending (35%) – more than triple the rate of family violence indicators across all Magistrates' Court cases (11%): Sentencing Advisory Council (Victoria), *Reforming Sentence Deferrals in Victoria: Final Report* (Final Report, Sentencing Advisory Council (Victoria), May 2024) 5. While Queensland courts have the power to adjourn sentencing, adjournments for the sole reason of enabling the person to demonstrate they are taking steps to address their offending behaviour may be less likely than in jurisdictions with a formal power to do so.
[1255] *Sentencing Act 2020* (UK) pt 2, ch 1 ('Deferment of sentence').
[1256] A very small number of these involved compensation orders or restitution orders (0.1%) - From 2012–13 to 2024–25 there were 33 compensation orders and 15 restitution orders imposed for CDVO (MSO). Most of these were imposed for non-aggravated CDVO (MSO): 25/33 compensation orders and 12/15 restitution orders.
[1257] PSA (n 41) ss 5A, 45. The current value of a penalty unit is $166.90 (effective from 1 September 2025): The current value of a penalty unit is $166.90 (effective from 1 September 2025): *Penalties and Sentences Regulation 2025 (Qld)* s 4.
[1258] PSA (n 41) ss 44-5.

The primary purposes of a fine are punishment and deterrence.[1259]

For some commentators, fines are considered the 'ideal penal measure'[1260] because they:

- can easily be adjusted to reflect different levels of offence seriousness and culpability,[1261] and to meet relevant sentencing principles, such as proportionality, consistency, parity, totality and deterrence;[1262] and
- are non-intrusive and do not involve supervision or loss of a person's time[1263] and costs associated with supervision.[1264]

When imposed, a fine must be proportionate and take into account the person's ability to pay.[1265]

Do fines work?

Bond and Nash note there is no robust evidence that fines reduce domestic and family violence-related offending.[1266]

They refer to suggestions by Australian law reform bodies that fines may be inappropriate for domestic violence offending due to the potential impact on the victim if the parties are still in a relationship, and that this may 'exacerbate the risk of further violence if the offender is already aggrieved about financial matters'.[1267]

Some studies also report victims' 'frustration (and sense of trivialisation of their harm) with the use of fines for breaches of domestic violence protection orders'.[1268]

The appropriateness of fines for Aboriginal and Torres Strait Islander peoples has been particularly questioned due to concerns that they 'have a disproportionately harsh impact'.[1269]

Yet another concern about fines is that they lose their punitive 'bite' and ability to function as a deterrent as many remain unpaid.

Data provided to the Council by the State Penalties Enforcement Registry (SPER)[1270] shows referrals of fines to them for DV-related matters have increased considerably since 2017–18. Based on 2023–24 data:

- more than 26,000 DV-related fines referred to SPER resulted in almost two-thirds (64.0%) being finalised;
- of those fines finalised, most were finalised by being paid (96.2%), with a small proportion (3.8%) finalised through a Work and Development Order (WDO)[1271] or fine option order;[1272] and

---

[1259] *Sgroi v The Queen* (1989) 40 A Crim R 197, 200–1 ('*Sgroi*').
[1260] Andrew Ashworth, *Sentencing and Criminal Justice* (Cambridge University Press, 5th ed, 2010) 327.
[1261] Ibid 327–8.
[1262] Geraldine Mackenzie, Nigel Stobbs and Jodie O'Leary, *Principles of Sentencing* (Federation Press, 2010) 152.
[1263] Ashworth (n 1260) 328.
[1264] Mackenzie, Stobbs and O'Leary (n 1262) 152.
[1265] PSA (n 41) s 48; *Sgroi* (n 1259) 200.
[1266] *Griffith University Literature Review* (n 18) 35.
[1267] Ibid 32; referring to Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws* (Final Report No Project No 104, June 2014); and Sentencing Advisory Council (Victoria), *Family Violence Intervention Orders and Safety Notices: Sentencing for Contravention Monitoring Report* (2013). Law Reform Commission of Western Australia 141 citing; Sentencing Advisory Council (Victoria), *Family Violence Intervention Orders and Safety Notices: Sentencing for Contravention Monitoring Report* 47.
[1268] *Griffith University Literature Review* (n 18) 31.
[1269] Ibid 32; citing Melanie Schwartz, 'Low-End Penalty, Big-Time Impact: The Effect of Fines on Indigenous People' 8(29) *Indigenous Law Bulletin*.
[1270] Email to Director, Sentencing Advisory Council by Manager - Engagement, State Penalties Enforcement Registry, Queensland Revenue Office, 20 November 2025.
[1271] A work and development order is a way for people experiencing hardship to reduce their SPER debt by participating in courses, attending counselling and treatment programs or completing unpaid community work. Approved community organisations or financial or health practitioners called 'hardship partners' provide assistance to debtors under this program. See 'Work and Development Orders', *Queensland Government* (18 February 2025) <https://www.qld.gov.au/law/fines-and-penalties/overdue-fines/sper-work-order>.
[1272] A court may order that a fine be converted into a fine option order that allows a person to perform unpaid community service instead of paying their fine. See PSA (n 41) pt 4, div 2.

- more than one-third (36.1%) of DV-related fines were yet to be discharged;[1273] of these, more than 80 per cent (81.9%) of debtors were not compliant (meaning they person was failing to comply with a collection notice or other order, such as a WDO or fine option order).

This means that 29.6 per cent of debtors overall had not discharged their fine and were non-compliant.

The percentage of unpaid fines varies by year. For fines referred to SPER in 2016–17, 12.1 per cent were unpaid, increasing to 47.8 per cent in 2024–25 – but noting that, given these fines were referred in the most recent year, the debtors may not have had time for these to be fully paid.

Stakeholder views

SME interview participants, while noting that there had been a general strengthening of penalties, observed that the use of fines and community-based orders was still common for a first contravention offence.[1274]

Generally, options such as fines and good behaviour bonds were viewed as reserved for cases involving a CDVO charge where there had been contact outside what was required or permitted in the order, where this was at the lower end of the seriousness scale, and where the person had no or negligible prior criminal history, and no prior domestic violence matters and did not require supervision.[1275] The person might have acknowledged that they should not have done the act and committed to not doing it again.[1276] A fine might also be used where the relationship is at an end and the parties do not have children – noting that a fine may otherwise impact the children and family.[1277]

Participants gave examples of scenarios where a fine might be used, including:

- where the contact might be a text message about the couple's children outside of what is permitted under the order, and with no use of derogatory language or 'negative commentary'.[1278]
- where the act involved approaching the aggrieved or going to their home but 'without any malicious intent' in circumstances where the person did not understand the conditions of the order;[1279]
- where the person had spent time in pre-sentence custody exceeding that which they would have otherwise been liable to serve and the sentencing judge or magistrate may not want the person to serve a term of actual imprisonment if they consider they have served enough time but still want to impose some form of punishment.[1280]

The availability of services in regional and remote locations was raised as were the different consequences of orders in terms of the person's ability to comply with the conditions of the order – for example, if a person has lost their licence and are unable to get to get to a probation office. So, the court may be left with the option of a significant fine, for example.[1281]

Two participants referred to a fine not being appropriate if there was physical violence involved, or more than one breach or it was protracted[1282] – in which case, you would be 'going into probation territory'.[1283]

For people who came from a disadvantaged background, fines were considered a problem as they may not have capacity to pay and it may expose them through referral of the debt to SPER to the suspension of their driver's licence, making it more difficult for them to retain or find employment.[1284] One participant noted that fines are generally used only where it will act as a deterrent (and will be paid).[1285]

[1273] As at 20 November 2025.
[1274] Subject Matter Expert Interview 6.
[1275] Subject Matter Expert Interview 3; Subject Matter Expert Interview 11; Subject Matter Expert Interview 12; Subject Matter Expert Interview 14; Subject Matter Expert Interview 15; Subject Matter Expert Interview 17.
[1276] Subject Matter Expert Interview 17.
[1277] Subject Matter Expert Interview 4.
[1278] Subject Matter Expert Interview 17. Similar comments were made in Subject Matter Expert Interview 3.
[1279] Subject Matter Expert Interview 16.
[1280] Subject Matter Expert Interview 14.
[1281] Subject Matter Expert Interview 3.
[1282] Ibid; Subject Matter Expert Interview 8.
[1283] Subject Matter Expert Interview 3.
[1284] Subject Matter Expert Interview 4.
[1285] Subject Matter Expert Interview 8.

For people who have capacity to pay a fine, courts have the option (although this is rarely used) to make an order that the person be imprisoned if they fail to pay it within the time allowed.[1286]

In its submission, the QPU raised concerns about the unintended impacts of fines on victims and their children. They were concerned that fines may impact the household budget, 'often not impacting the perpetrator's use of money, but rather reducing the victim's access to money and be used as a further means of controlling and demeaning the victim'.[1287] They noted 'these unintended outcomes and the fear of them, can have the negative impact of reducing the likelihood of DFV being reported'.[1288]

The RACGP were of the similar view that 'fines are not recommended as they may impact and increase risk to the victim survivor in the case of DFV'.[1289]

13.2.5 Broader support services and treatment options

Summary of research evidence

Sentencing needs to be seen as part of a broader network of integrated and coordinated responses to domestic and family violence offending. For example, without available and accessible perpetrator interventions as well as other treatment programs (such as drugs and alcohol) that are culturally appropriate, then flexible sentencing options that support perpetrator engagement in rehabilitative programs will not be effective. This is particularly an issue in regional and remote locations, where treatment options are often limited or unavailable.

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) p. 40.

The causes of domestic and family violence are multifaceted and complex. As discussed in **Chapter 2** and **Chapter 11**, there are many factors and intersecting forms of marginalisation and disadvantage that can increase the likelihood of a person becoming a perpetrator of domestic and family violence.[1290]

During our consultations, several stakeholders commented on the importance of adopting a more holistic perspective of the interventions required to support behavioural change and reduce the risk of violence. Full Stop Australia commented that legal sanctions alone are insufficient to reduce offending. They told us men's behaviour change programs are critical to reducing offending, and these programs need to be evidence-based and evaluated, properly resourced, target behaviour and have a clear relationship with sentencing outcomes.[1291]

The RACGP cited 'strong evidence that offenders may have themselves had traumatic experiences'; therefore, 'addressing why patterns of behaviour may persist may be important to reduce the use of violence'.[1292] This was seen as having positive benefits, 'especially where children are involved' in 'modelling desistence of behaviours and recovery' in addressing 'the intergenerational cycle of violence'.[1293]

While programs and interventions seeking to support behavioural change were universally supported, several stakeholders commented on the lack of program availability in some regions of the state and the need for more culturally safe programs.[1294]

For example, ATSILS submitted in the case of Aboriginal and Torres Strait Islander offenders:

> [T]o have the best chance of success, rehabilitation programs must be delivered by community-controlled organisations preferably within the local community that the individual belongs, to provide the cultural safety required to promote engagement by the individual.[1295]

[1286] Subject Matter Expert Interview 4.
[1287] Submission 16 (Queensland Police Union).
[1288] Ibid.
[1289] Submission 4 (Royal Australian College of General Practitioners).
[1290] See generally 'Factors Associated with FDSV', *Australian Institute of Health and Welfare* (30 July 2025) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/understanding-fdsv/factors-associated-with-fdsv>.
[1291] Meeting with Full Stop Australia, 23 July 2025.
[1292] Submission 4 (Royal Australian College of General Practitioners).
[1293] Ibid.
[1294] For example, Submission 9 (Aboriginal and Torres Strait Islander Legal Service); Submission 17 (First Nations Women's Legal Services Qld).
[1295] Submission 9 (Aboriginal and Torres Strait Islander Legal Service).

The FNWLSQ similarly identified a link between efficacy of programs for Aboriginal and Torres Strait Islander peoples, particularly those in discrete communities, and the extent to which they were culturally competent: 'Ideally, co-design with the community of origin will ensure that language, expectations and programming are tailored to the person attending the program.'[1296]

ATSILS referred to the protective factors for individuals participating in programs run by local community-controlled organisations, such as those addressing underlying trauma through healing programs, and the potential for these to be used as an alternative to incarceration.[1297] It submitted that 'this as an area where there needs to be additional funding to empower local community-controlled organisations to expand delivery of such programs'.[1298]

LAQ identified that the availability of behavioural change programs in some areas of Queensland 'is less of an issue, but in others there can be a 3–4 month wait before being able to commence a course'.[1299] This view was shared by The Salvation Army, which noted that its frontline services reported this was particularly an issue in regional and remote areas of the state, with 'no other options for immediate service linkage, continuity of services following engagement in behaviour change programs, or accountability measures for persons using violence on bail following sentencing'.[1300]It recommended

> the need for significant investment into the availability and development of a broad range of programs to support behaviour change, continuity of service for persons using violence post release, and accountability for persons using violence who encounter the justice system.[1301]

LAQ and the QLS also raised concerns about the lack of availability of DV programs and support services for remand prisoners.[1302]

No to Violence advocated for greater use of mandated programs based on an assessment of risk. It suggested this approach was needed 'to achieve the sentencing purposes of rehabilitation and deterrence (by ensuring offenders' participation in such programs as part of serving their sentence or parole)' and in support of protecting victim survivors and the broader community.[1303]

Another concern raised by regional service providers was the need for orders, such as probation, to be of a sufficient length to enable the completion of programs prior to the expiry of these orders to promote greater perpetrator accountability, with the suggestion that a minimum of 9 months[1304] or 12 months was required.[1305] Concerns were raised that 8 to 16-week programs are not long enough to support real behavioural change, and should be replaced by longer programs of 12 to 18 months.[1306]

The QPU favoured a sentencing model that would

> encourage perpetrators to genuinely engage in rehabilitative efforts (for example by considering any programs genuinely engaged in whilst on remand or completion of courses such as drug and alcohol control or management and reductions in violent and aggressive behaviours).[1307]

They suggested 'completion of courses of this nature should be encouraged through "credits" which lead to reductions in penalty'.[1308]

Relevant to the QPU's proposal, the early termination of CCOs[1309] and 'step down' from an 'intensive compliance period' with more onerous conditions to compliance with general conditions[1310] is a feature of

---

[1296] Submission 17 (First Nations Women's Legal Services Qld).
[1297] Submission 9 (Aboriginal and Torres Strait Islander Legal Service).
[1298] Ibid.
[1299] Submission 18 (Legal Aid Queensland).
[1300] Submission 7 (The Salvation Army).
[1301] Ibid.
[1302] Submission 18 (Legal Aid Queensland); Submission 14 (Queensland Law Society).
[1303] Preliminary Submission 8 (No to Violence).
[1304] Criminal Justice Service Provider 1, Roma, 19 June 2025; Criminal Justice Service Provider 2, Roma, 19 June 2025.
[1305] Domestic Violence Service Provider 1, Wide Bay region, 25 June 2025.
[1306] Service Provider 1, Cairns, 15 April 2025.
[1307] Submission 16 (Queensland Police Union).
[1308] Ibid.
[1309] Sentencing Act (n 966) s 48M(2). The court may vary or cancel the order, or cancel, suspend, vary or reduce a condition for reasons including that: (d) the rehabilitation and reintegration of the offender would be advanced by the making of the decision to deal with the order; or (e) the continuation of the sentence is no longer necessary in the interests of the community or the offender': Ibid ss 48M(1)(d)-(e).
[1310] Sentencing Act (n 966) s 39.

the Victorian CCO model (discussed in section 13.2.3). Incentives for compliance could be accommodated should a similar CCO scheme be established in Queensland.

Positive pre-sentence engagement with services and programs, whether the person is on remand in custody or in the community, can already be taken into account by courts in determining sentence, although not explicitly referenced as a relevant sentencing consideration under the PSA. Existing pre-sentence options discussed in section 13.2.3 include the Court Link program. Courts in Victoria (discussed in section 13.2.3) also have a formal power to defer sentence for up to 12 months.[1311] The reasons the court may defer sentencing an offender in Victoria include to allow the offender to participate in programs aimed at addressing the underlying causes of offending and to demonstrate that rehabilitation has taken place.[1312]

An individual submitter noted the 'availability of behaviour change programs and therapeutic interventions for perpetrators may impact whether courts feel custodial penalties are justified or rehabilitative alternatives are viable'.[1313] They supported investment in and prioritisation of 'Indigenous-designed justice responses, including healing programs, on-Country diversion options, and family violence prevention initiatives'.[1314]

QCS faces particular challenges in delivering programs to people in custody. They told us their operations have been heavily impacted by continued overcrowding and long-term growth in prisoner numbers, which has placed increasing pressure on correctional infrastructure, staffing, programs and service delivery, including rehabilitation, with a sustained shortfall in the investment needed to match this demand.[1315]

The need for services to address domestic and family violence is high, with 5,111 prisoners (45.3%) subject to an imprisonment or remand warrant with a domestic violence offence indicator as at 30 June 2025.[1316]

In the 2024–25 Budget, QCS was allocated limited life funding of $14.8 million over 2 years to deliver domestic and family violence perpetrator programs that support rehabilitation and re-entry to the community.[1317]

For eligible sentenced moderate risk prisoners, QCS currently delivers the medium-intensity Disrupting Family Violence Program (DFVP) aimed at reducing violence and abusive behaviours in intimate partner relationships and strengthening the safety of victim survivors. The program model includes a dedicated Intelligence Advisor and a contracted Victim Advocacy service supporting partners or ex-partners and other family members of those engaged in the program.[1318]

In 2024–25, QCS delivered the DFVP at Woodford, Maryborough, Wolston and Capricornia correctional centres, and established specialised teams to expand delivery to Borallon Training and Correctional Centre and the Townsville Correctional Complex.[1319]

The participation numbers reported by QCS to date are modest. In response to a Question on Notice in September 2025, the Minister reported that participation numbers for the DFVP for the period November 2024 to September 2025 by correctional centre and month were:

> Capricornia CC 11, Borallon TCC 34, Woodford CC 22, Townsville MCC 33. The following participation numbers are reported separately by month: Nov 24 11, Dec 24 11, Jan 25 34, Feb 25 34, Mar 25 35, Apr 25 47, May 25 47, Jun 25 47, Jul 25 35, Aug 25 54.[1320]

QCS advised that: 'Operational constraints associated with growing prisoner numbers and workforce challenges have impacted delivery of the DFVP' and that:

[1311] Ibid s 83A. This power currently exists only in the Magistrates' Court and County Court. The Victorian Sentencing Advisory Council has recommended this power be extended to the Supreme Court: Sentencing Advisory Council (Victoria), *Reforming Sentence Deferrals in Victoria: Final Report* (n 1254) 51, rec 6.
[1312] Sentencing Act (n 966) s 83A(1A).
[1313] Submission 12 (M Halliday).
[1314] Ibid.
[1315] Email from Strategy and Performance Command, Queensland Corrective Services to Director, Queensland Sentencing Advisory Council, 23 January 2026 ('QCS email, 23 Jan 2026').
[1316] Ibid.
[1317] Queensland Government, *Queensland Budget 2024–25: Budget Measures* (n 1200) 118.
[1318] QCS email, 23 Jan 2026 (n 1315).
[1319] Queensland Corrective Services (n 1214) 19.
[1320] B Asif, 'Question on Notice No. 1112: Asked on 18 September 2025' to Minister for Youth Justice and Victim Support and Minister for Corrective Services (Hon L Gerber).

> Strategies are currently underway to stabilise the program delivery workforce and maximise program delivery resources in the current operating environment to ensure rehabilitation remains a core focus for domestic and family violence offenders under QCS supervision.[1321]

Given the significant numbers of prisoners in custody due to domestic violence and/or who are subject to existing protection orders, increasing capacity and delivery to more prisoners should remain a government priority, as should investing in programs in the community.

While the delivery of these programs is important, as Bond and Nash acknowledge, the evidence suggests 'perpetrator programs *alone* have limited impact on repeat offending'.[1322] For this reason, other researchers have argued that they 'should be implemented as part of a more integrated response – a response in which courts and probation play a strong supervisory and monitoring role'.[1323]

A literature review prepared for ANROWS focused on the role of men's behaviour change programs reaches a similar conclusion that these programs 'are only one piece of the response to domestic, family and sexual violence' and that they need to be:

- 'operationalised as part of a fully integrated 'system', which is yet to occur;
- 'better funded to provide tailored, holistic and timely services that can support meaningful behaviour 'change'; and
- 'embedded collaboratively within the broader domestic, family and sexual violence ecosystem so they can work together with other services towards improved outcomes for victims and survivors, including children, as well as improved outcomes for meaningful behaviour change, accountability, increased visibility and risk management.'[1324]

13.2.6 Judicial monitoring as part of targeted community-based orders

Summary of research evidence

Judicial supervision of sentences has been linked to offender accountability and rehabilitation, at least in drug courts (Cissner et al, 2013; KPMG, 2014). Although there is little evidence on its effectiveness in the case of domestic and family violence offenders, stakeholders have identified it as particularly promising. Consequently, a trial of judicial monitoring would be worthwhile. (The judicial monitoring of community correction orders for family violence offenders was recommended by the Sentencing Advisory Council (Victoria), 2017). In implementing a trial, key considerations include: the type of community-based sentence or group of perpetrators to be targeted; the principles for its use; the resourcing of its management; and the evaluation requirements.

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) p. 40.

Judicial monitoring requires the person sentenced to reappear before the court at a time or times directed, for a review of compliance with the order (for the period of the order or a lesser period). The purpose of judicial monitoring 'is to encourage compliance with the court's orders and to enable swift and effective responses to non-compliance or changes in the offender's circumstances'.[1325]

Judicial monitoring can be ordered as a condition of CCOs in Victoria,[1326] in addition to conditions such as participation in treatment and rehabilitation, to undertake unpaid community work, to be supervised by a community corrections officer, not to associate with particular people, not to enter or remain in licensed premises, to comply with a curfew, to be subject to electronic monitoring and to pay a bond that may be forfeited for non-compliance.[1327]

[1321] QCS email, 23 Jan 2026 (n 1315).
[1322] *Griffith University Literature Review* (n 18) 27 (emphasis in original).
[1323] Ibid citing: Donna Chung et al, *Improved Accountability: The Role of Perpetrator Intervention Systems* (Research Report, Issue 20, ANROWS, June 2020); Phil Bowen, Arsheen Qasim and Lauren Tetenbaum, *A Snapshot of Domestic Violence Courts in 2013* (Centre for Justice Innovation, 2014); Centre for Innovative Justice (Victoria) (n 913) 40.
[1324] Nicola Helps et al, *The Role of Men's Behaviour Change Programs in Addressing Men's Use of Domestic, Family and Sexual Violence* (An Evidence Brief, Application/pdf, ANROWS, February 2025) This brief was prepared for the Domestic, Family and Sexual Violence Commission Roundtable: Engaging Men and Boys – What's Next? held on 12 November 2024.
[1325] Law Reform Commission of Western Australia, *Court Intervention Programs: Final Report* (2009) 5.
[1326] Sentencing Act (n 966) s 48K.
[1327] Ibid pt 3A, div 4.

While noting limited evidence, Bond and Nash suggest judicial monitoring is particularly promising in the context of domestic violence offending and suggest a trial of this approach in Queensland would be worthwhile.[1328]

Following a 2017 review of responses to domestic violence, VSAC recommended greater use of judicial monitoring for domestic violence offenders.[1329] In doing so, it noted 'strong potential for the increased use of judicial monitoring for family violence offenders, in order to increase the courts oversight of family violence offenders on CCOs and promote offender accountability'.[1330] Recommendations included:

- requiring pre-sentence reports for offences involving family violence, where ordered, to include consideration of the relevance and appropriateness of a judicial monitoring condition;
- the Director of Public Prosecutions and Victoria Police developing policy guidance on sentencing submissions regarding judicial monitoring for family violence in appropriate cases;
- judicial officers giving particular consideration to attaching a judicial monitoring condition when sentencing a family violence offender to a CCO.[1331]

VSAC also recommended that the court have discretion to attach a condition requiring the person to attend a judicial monitoring hearing as directed by Corrections Victoria, in addition to complying with a direction to do so issued by a court.[1332] VSAC considered this ability might be beneficial where the 'risk of family violence may be seen to escalate', such as where the person has:

> - impending family law proceedings;
> - an emerging pattern of non-attendance at appointments (falling short of non-attendance that would trigger the initiation of contravention proceedings); or
> - concerning information about them coming from a men's behaviour change program that undertakes ongoing communication with victim survivors or affected family members.[1333]

Other recommendations included that the Judicial College of Victoria 'should develop an evidence-based model for judicial monitoring of family violence offenders', and deliver judicial education and training on applying this judicial monitoring model.[1334]

Judicial monitoring does not just signal a change in court practices. It requires additional court hearings and preparation time for those required to give progress updates, such as Corrective Services and defence practitioners. In recognition of this, VSAC recommended that the Victorian Government provide additional resources to agencies and organisations affected by the increased number of judicial monitoring hearings and the development of an evaluation framework.[1335]

A 2022 monitoring report noted that a judicial monitoring condition was attached to 16.3 per cent of CCOs overall.[1336] For CCOs imposed for family violence-related breaches,[1337] there were slightly higher rates of supervision and judicial monitoring, as well as assessment and treatment[1338] VSAC concluded this suggested 'a prioritisation of conditions that facilitate protection of the victim and the community over primarily punitive conditions, such as community work'.[1339]

[1328] *Griffith University Literature Review* (n 18) 40.
[1329] *Swift, Certain and Fair Approaches to Sentencing Family Violence Offenders* (n 1226) xii.
[1330] Ibid 47 [4.41].
[1331] *Swift, Certain and Fair Approaches to Sentencing Family Violence Offenders* (n 1226) recs 3-5.
[1332] Ibid rec 7.
[1333] Ibid xiv.
[1334] *Swift, Certain and Fair Approaches to Sentencing Family Violence Offenders* (n 1226) rec 9.
[1335] Ibid recs 10 and 11.
[1336] Sentencing Advisory Council (Victoria), *Sentencing Breaches of Family Violence Intervention Orders and Safety Notices: Third Monitoring Report* (May 2022) 70 ('*Third Monitoring Report*') [5.46].
[1337] Breaches of family violence safety notices and family violence intervention orders.
[1338] *Third Monitoring Report* (n 1336) 71 [5.47] citing: Sentencing Advisory Council (Victoria), *Sentencing Breaches of Personal Safety Intervention Orders in Victoria* (February 2022) 58.
[1339] *Third Monitoring Report* (n 1336) 71 [5.47].

13.2.7 Restorative justice approaches

Summary of research evidence

There is 'theoretical promise' in restorative justice approaches to domestic and family violence cases, but the risks are 'real' (Edwards & Sharpe, 2004, p.22). Consequently, a restorative justice approach needs to be designed in consultation with victim/survivors and stakeholders from support services (Ptacek, 2017), and may result in a hybrid model, mixing elements of restorative justice and existing justice practices (Stubbs, 2007). For example, New Zealand's use of conferences in family violence cases is underpinned by the development of restorative justice standards, which highlight the process is oriented around victim choice and control (Ministry of Justice (New Zealand), 2019).

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) p. 40.

Restorative justice approaches have been proposed as an alternative to traditional justice responses to DFV for over two decades.[1340] There is no single definition, but restorative justice typically involves face-to-face meetings between the victim, offender, a trained facilitator, and other relevant parties. The aim is to create 'an agreement on the actions that the offender will take to "repair the harm" and work towards preventing the behaviour from re-occurring'.[1341] The three types of restorative justice models used in DFV contexts are mediation, conferencing and restorative circles.[1342]

Cultural mediation is a form of restorative justice that operates in the Torres Strait Islands, facilitated by Community Justice Group members. It is described as involving the person receiving 'instruction in cultural protocols' that may result in a charge being withdrawn if the process has been successful and the prosecution consents.[1343]

The appeal of restorative justice approaches is that, in theory, they give a stronger voice to DFV victim survivors and centre their concerns and interests more than traditional justice processes.[1344] Two studies from New Zealand and Canada evaluating the effectiveness of restorative justice approaches reported that:

- most victim survivors report positive experiences with restorative justice initiatives, including feeling safe and that it helped them improve their relationships with family or friends;
- victim survivors may feel vindicated or empowered;
- there was no significant difference in DFV-related re-offending between restorative circles and perpetrator intervention programs
- there was a reduction in child maltreatment for families who participated in a conferencing process.[1345]

Research from New Zealand suggested DFV victim survivors are open to restorative justice and consider that it may be appropriate in DFV cases.[1346] This aligns with the finding that alternative approaches to sentencing, such as specialised DFV courts and restorative justice approaches, appear to enhance victim survivors' satisfaction with and confidence in the criminal justice process. Victim survivors wanted outcomes that addressed the root cause of behaviour; this did not necessarily involve imprisonment.[1347] 'Accountability (via denunciation) was seen in the courts' guilty finding, with a preference for treatment-based options.'[1348]

Despite this evidence, 3 broad concerns have been expressed regarding restorative justice:

1. It is highly controversial because of concerns for victim safety, the potential for the process to minimise the harms suffered by the victim survivor and difficulties in ensuring that victim survivors

[1340] *Griffith University Literature Review* (n 18) iii.
[1341] Ibid 23.
[1342] Ibid.
[1343] John Scott, Zoe Staines and James Morton, 'Crime Rates and Justice Innovations in the Torres Strait Islands' [2020] (5) *QUT Centre for Justice Briefing Paper* 3.
[1344] *Griffith University Literature Review* (n 18) 36.
[1345] Ibid 23–24.
[1346] Ibid iii.
[1347] Ibid 31.
[1348] Ibid 37.

can assert their interests in the process. Whether the process adequately recognises harm and gives victim survivors the ability to advance their interests is tied to whether perpetrators are willing to take genuine accountability for their actions, as this is overwhelmingly the main motivation for victim survivors to engage in restorative justice. The aim of restorative justice, however, is often reparation which research suggests is not the key goal for victim survivors.[1349]

2. There have been very few robust evaluations of restorative justice approaches for DFV cases, making it difficult to determine their effectiveness. The evidence of the impact on reoffending is mixed. This could be, in part, because restorative justice practices have not been adapted properly or designed specifically for DFV cases.[1350]

3. Existing restorative justice may not meaningfully engage with Aboriginal and Torres Strait Islander communities by adequately considering the consequences of colonisation, intergenerational trauma and diversity across communities. For Aboriginal and Torres Strait Islander peoples and for First Nations communities in other countries, restorative justice may have a broader conception and emphasise 'community-wide healing'. Research in Canada has found that First Nations women believe the restorative justice process fails to offer sufficient perpetrator accountability.[1351]

Overall, in informing future policy and practice, the 'theoretical promise' of restorative justice approaches to DFV cases needs to be carefully evaluated in light of the real risks.[1352]

Because DFV victim survivors do consider restorative justice to be appropriate in some cases, Bond and Nash suggest that a carefully designed restorative justice approach should be considered. In designing any model, they propose victim survivors and DV support services should be consulted and that restorative justice standards focused on victim choice and control should be developed.[1353]

One study found that after participation in a perpetrator intervention program combined with a restorative justice intervention, there was a significant reduction in the likelihood of a new arrest in the two-year follow-up period .[1354]

Bond and Nash note, however, that their evidence base was methodologically limited because of a lack of impact evaluations of court interventions.[1355] Their evidence base was also conceptually limited because research is overwhelmingly based on female victim survivors with male perpetrators, meaning any conclusions from the evidence may not be generalisable to relationships outside this dynamic.[1356]

The Adult Restorative Justice Conferencing team in Queensland trialled a limited expansion of their program based on temporary funding for 2 years, ending in June 2025.[1357] This means that high-risk/more complex referrals, including cases involving domestic violence, gender-based violence, and CDVOs are no longer being accepted.[1358]

13.2.8 The Council's view

Observation 7: The sentencing options available to courts are limited and could be enhanced to provide more flexibility

There is a lack of flexibility in the mix and range of sentencing and parole options that impacts the ability of sentences for domestic and family violence to meet the objectives of sentencing.

[1349] Ibid 36.
[1350] Ibid 37.
[1351] Ibid 24.
[1352] Ibid 40.
[1353] Ibid.
[1354] Ibid 24.
[1355] Ibid i, 28.
[1356] Ibid.
[1357] Adult Restorative Justice Conferencing, Dispute Resolution Branch, Department of Justice, *ARJC Update Newsletter* October 2025.
[1358] Ibid.

Consistent with the findings of our previous review of sentencing for sexual assault and rape, we remain of the view that expanding the range of penalty and parole options will lead to better tailored and more appropriate sentencing outcomes consistent with principles of individualised justice.

In our 2019 *Community-Based Sentencing Orders, Imprisonment and Parole Options Final Report*, we recommended:

- introducing a new CCO model to replace existing community-based orders with a broad range of conditions that can be tailored to meet the purposes of sentence and address identified needs associated with the person's offending (Chapter 8 - recommendations 9–33); and
- enabling a court to combine a suspended prison sentence with a CCO when sentencing a person for a single offence (recommendation 17).

Should such a model be introduced, a person could be required to complete a behaviour-change program, attend counselling or engage in cultural mediation – with the option of ending the order once the person has satisfactorily engaged with or completed the required program or intervention. For those individuals whose offending is more serious, but not so serious as to require a significant period of imprisonment post-sentence, a CCO might be ordered alone or in combination with a partially or wholly suspended prison sentence. In this case, a CCO might include more onerous conditions such as community work, electronic monitoring, curfew conditions and/or program conditions with an option of judicial monitoring. This option may be more effective in addressing the underlying causes of offending than short sentences of imprisonment, of which a substantial proportion may already have been served in pre-sentence custody with no capacity for the person to complete any programs before the completion of their sentence.

The former Queensland Productivity Commission,[1359] and the WSJ Taskforce, both recommended the CCO model as recommended by the Council be implemented, with the WSJ Taskforce also supporting the other recommendations made by the Council in that previous report.[1360]

The main barrier to implementation is funding. To be effective, government must appropriately fund and resource community-based sentencing orders. This extends not only to QCS staff overseeing the management and supervision of those under sentence, but also to other treatment services, interventions and supports. Some conditions, such as judicial monitoring, impact courts and other legal service providers.

Queensland's reported spend on community corrections (on a per offender[1361] per day basis) for 2024–25 was $26.51, well below the national average of $31.18.[1362] Caseloads in Queensland are higher than the national average, with the community corrections offender-to-operational staff ratio being 23.6, compared with the national average of 18.6.[1363] A CCO model may result in cost savings in the longer term, where used as an alternative to imprisonment, and if more effective in reducing recidivism. The cost of custodial corrections (on a per prisoner[1364] per day basis) in Queensland for 2024–25 was $295.84.[1365]

Given the significant promise of CCOs, the Council continues to support the introduction of the CCO and other recommendations made in its 2019 *Community-based Sentencing Orders, Imprisonment and Parole Options* report, so that courts have more flexible options at sentence. We remain of the view this model should not be introduced until such a time as:

[1359] Queensland Productivity Commission, *Inquiry into Imprisonment and Recidivism* (Final Report, 2019) rec 9. The Commission also recommended a version of this order with a residential supervision option for offenders with cognitive impairment, mental illness, drug problems or other relevant circumstances (rec 10). In Victoria, a court can attach a 'justice plan condition' to a CCO if the person being sentenced has an intellectual disability, This requires the person to participate in the services under the plan: Sentencing Act (n 966) s 80.

[1360] *Hear Her Voice Report 2* (n 29) rec 127.

[1361] Australian Government, Productivity Commission, *Report on Government Services 2026* (No Part C, 2026) 143. An 'offender' is defined as 'an adult person subject to a non-custodial order administered by corrective services, which includes a bail order if those orders are subject to supervision by community corrections'.

[1362] Australian Productivity Commission (n 1230) Table 8A.20.

[1363] Ibid Table 8A.9.

[1364] Australian Government, Productivity Commission (n 1361) 144, a prisoner is defined as 'a person held in full time custody under the jurisdiction of an adult corrective services agency. This includes sentenced prisoners serving a term of imprisonment and unsentenced prisoners held on remand, in both public and privately operated prisons'.

[1365] Australian Productivity Commission (n 1230) Table 8A.20.

(a) work has been undertaken to identify the packages of conditions available under the new scheme, appropriate service delivery models for services linked to these conditions, and required resourcing and staffing levels;

(b) infrastructure needs, including changes to IT systems, have been considered and scoped; and

(c) any new funding required has been secured and staff recruited and trained.[1366]

The adoption of our recommendations not only has potential to provide courts with a broader suite of options for DFV-related offending, but also to deliver broader benefits across the system in responding to other forms of offending.

The further enhancement of existing pre-sentence options, such as the Court Link program, and investigation by government of other models, such as deferral of sentence as an incentive to engage in the process of behavioural change, as part of a suite of responses to respond more effectively to DV offending, may also be beneficial.

13.3 Building the evidence base of what works

13.3.1 Reframing measures of success for court interventions

Summary of research evidence

The conventional measure of effectiveness is binary: a perpetrator either succeeds (no recontact with the justice system) or fails (re-contact). However, this does not recognise that desistance is a process, in which perpetrators may make some progress (such as less severe re-offending) or inconsistent progress towards prosocial behaviour. Instead, we should reframe measures of effectiveness (or success) in terms of: increased time to re-offending; reduction in frequency of re-offending; and reduction in severity of re-offending. Qualitative analyses of pathways to desistance would also provide valuable insights into the processes by which perpetrators change their offending trajectories.

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) p 40–1.

Measuring the 'success' of justice interventions is complex. As noted in section 1.6, assessing 'effective' sentencing responses may involve measuring outcomes against many different objectives. They include whether sentences deliver just punishment and are effective in deterring the person and other people from offending, recognising victim harm and supporting the person's rehabilitation.

A key focus of justice evaluations typically is whether a program or intervention has reduced reoffending. While this is an important measure, Bond and Nash note that 'the process of change toward prosocial behaviour is complex and gradual' and 'not all or nothing'.[1367] They suggest measures of success or effectiveness in reducing reoffending be reframed as:

- increased time to reoffending;
- reduction in frequency of reoffending; and
- reduction in severity of reoffending.[1368]

Other justice commentators have also cautioned against relying on rearrest or reconviction data as this only identifies whether a person has been rearrested or convicted. It does not measure whether the violence within the relationship has reduced in its seriousness or frequency.[1369] Official rearrest or reconviction data also rely on victims reporting the violence in the context of high rates of under-reporting, particularly by those who do not want to be involved with formal systems.[1370]

[1366] Queensland Sentencing Advisory Council, *Community-Based Sentencing Orders, Imprisonment and Parole Options* (n 23) rec 13.
[1367] *Griffith University Literature Review* (n 18) 25, citing: Elena Marchetti and Kathleen Daly, 'Indigenous Partner Violence, Indigenous Sentencing Courts, and Pathways to Desistance' (2017) 23(12) *Violence Against Women* 1513.
[1368] *Griffith University Literature Review* (n 18) 41.
[1369] Leigh Goodmark, 'Innovative Criminal Justice Responses to Intimate Partner Violence' in CM Renzetti (ed), *Sourcebook on Violence Against Women* (Sage, 2018) 260.
[1370] Ibid.

In the case of perpetrator programs, measures of success or effectiveness suggested by researchers include:

- whether there has been a reduction in the person's use of controlling or coercive behaviours; and
- whether victim survivors feel safer.[1371]

A 2018 rapid review of the evaluation literature on criminal justice responses to DFV by Mazerolle et al, funded by the Queensland Domestic and Family Violence Death Review and Advisory Board, similarly recommended a broader examination of the 'impact of programs beyond physical violence' and 'official recidivism to include clear outcome measures of coercive behaviour and control (such as respectful communication, control and the well-being of children)'.[1372]

Improving justice responses to victim survivors of domestic violence to better meet their needs is another useful area of focus. This too carries challenges, given the diverse needs of victim survivors.[1373] Speaking of the US experience of reforms impacting intimate partner violence, Goodmark suggests:

> For those victims of intimate partner violence who want their partners arrested and prosecuted and who have positive interactions with police, prosecutors, and courts, the changes to the criminal justice system have undoubtedly been positive. For those who do not equate accountability with punishment, who want more control over the response to their abuse, or who are interested in continuing their relationships with their partners, those innovations have been less helpful.[1374]

During this review, stakeholders identified the same types of challenges apply in assessing the efficacy of DV reforms in Queensland. DFV service providers said safety and the person changing their behaviour are important considerations for victim survivors but this will mean different things for different people.[1375] While the assumption is that all victim survivors want the relationship to end, that is not always the case.[1376] DV Connect therefore supported 'exploration of how the justice system can achieve other outcomes at the point of sentencing … directed by the voice of the victim/survivors'.[1377] An individual submitter similarly called for justice responses that 'not only address the letter of the law but also the lived experiences of victims who face continuous fear and trauma'.[1378] Several stakeholders also told us that the extension of DV laws non-intimate partner family and kinship relationships contributed to this high level of complexity, as did the particular impacts of these laws on marginalised and disadvantaged groups.[1379]

Reducing the incidence and seriousness of domestic violence and improving victim safety clearly must remain priorities beyond meeting the objectives of punishment and denunciation. As discussed in section 13.2.1, this is best achieved where courts are part of a broader integrated response.

Another way the justice system can better respond to victims' needs is by enhancing the information and support it provides to victims.[1380] In the report on our review of sentencing for rape and sexual assault offences, we commented extensively about the types of information and supports victim survivors might find beneficial.[1381] The same observations can be applied equally to victims of DV offences that involve the use of non-sexual violence.

As discussed in **Chapter 10**, while the needs of victims vary, many victim survivors have a need for:

- acknowledgement, validation and vindication;

[1371] See, for example Faraj A Santirso et al, 'Motivational Strategies in Interventions for Intimate Partner Violence Offenders: A Systematic Review and Meta-Analysis of Randomized Controlled Trials' (2020) 29(3) *Psychosocial Intervention* 175, 185–6 citing: Karin Arbach and Antonella Bobbio, 'Intimate Partner Violence Risk Assessment in Community Health Facilities: A Multisite Longitudinal Study' (2018) 27 *Psychosocial Intervention* 105 ('Intimate Partner Violence Risk Assessment in Community Health Facilities'); RP Dobash et al, 'A Research Evaluation of British Programmes for Violent Men' 28(2) *Journal of Social Policy* 205; M Hester and N Westmarland, *Tackling Domestic Violence: Effective Interventions and Approaches* (Home Office Research, Development and Statistics Directorate, 2005).

[1372] Lorraine Mazerolle, et al, *Criminal Justice Responses to Domestic and Family Violence: A Rapid Review of the Literature* (2018) vii ('*Criminal Justice Responses to Domestic and Family Violence*').

[1373] Goodmark (n 1369) 260.

[1374] Ibid 261.

[1375] For example, DFV Service Provider, 23 June 2025.

[1376] Ibid.

[1377] Preliminary Submission 11 (DV Connect).

[1378] Submission 19 (name withheld).

[1379] Subject Matter Expert Interview 1; Subject Matter Expert Interview 5.

[1380] Goodmark (n 1369) 261–2.

[1381] *The Ripple Effect* (n 415) see chapter 13.

- participation and voice;
- fairness in processes and outcomes;
- safety and healing; and
- a sense of control over their situation and life.[1382]

The Office of the Victims' Commissioner in Queensland has a central role in supporting Queensland justice agencies to ensure these needs are met. This includes 'identifying and reviewing systemic issues relating to victims … conduct[ing] research into matters affecting victims … [and] provid[ing] advice to the Minister on issues affecting victims and making recommendations about improvements to government policy, practices, procedures and systems in support of the rights of victims'.[1383]

A strong continued focus on victims' perspectives and experiences is an important mechanism for government to assess whether current responses are 'working', for whom they are working and in what way they are working. As recommended by DV Connect, this might usefully extend to victim survivors who 'do not engage with the system … as there may be beliefs about sentencing that deter people using the justice response'.[1384]

Speaking with support agencies and practitioners who deliver services and programs to people who use violence also is critical to ensure that any interventions are best designed and structured to support behavioural change.

13.3.2 Building the evidence base

Summary of research evidence

To build a robust evidence-base around court responses to domestic and family violence, we need (although not only):

- more quality evaluations of interventions, using robust designs. We need to understand how interventions work, for whom and in what contexts;
- analyses that provide a better understanding of the sentencing of breaches of domestic and family violence;
- further research on the sanctions that promote deterrence from future domestic and family violence offending; this should incorporate both recidivism analyses, but also analyses of processes of desistance to provide a more nuanced understanding of the impact of different sanctions and interventions; and
- explorations of court responses for [a] broader range of relationships as well as vulnerable communities.

Source: Christine Bond and Caitlin Nash, *Sentencing Domestic and Family Violence: A Review of Research Evidence* (Literature Review prepared for the Queensland Sentencing Advisory Council, 2023, Griffith Criminology Institute, Griffith University, September 2023) p 40–1.

Understanding what sanctions work in preventing domestic violence offending and for whom

There is a general lack of evaluative evidence for the types of sanctions that are most effective in promoting long-term community safety, whether by deterring the person from reoffending or helping them to change their behaviour in other ways, including through access to programs and services.

As discussed earlier in this chapter, a range of measures are needed to respond to domestic violence offending, given differences in the scope and severity of offending conduct, differences in individual needs, risk factors and personal circumstances.

The limited evidence about the efficacy of specific sanction types suggests a need for more research that explores differences in outcomes for different sanction types (such as imprisonment, suspended prison sentences, supervised community orders and fines). This research should consider a broad range of

[1382] Gillian M Pinchevsky, Susan L Miller and Leigh Goodmark, ''Stop Giving Us What You Think We Need. Come to Us and Ask Us What We Need': Justice Perceptions Among Survivors of Domestic Abuse' (2025) 31(10) *Violence Against Women* 2661.
[1383] Submission 15 (Office of the Victims' Commissioner).
[1384] Preliminary Submission 11 (DV Connect).

outcomes as discussed above, including (but not limited to) frequency, severity and time taken to reoffend, use of controlling behaviours, victim survivors' feelings of safety, system complexity, impact on marginalised and disadvantaged groups, and victim survivors' needs.

The research should also examine what factors may influence these outcomes. This includes taking into account offender-related characteristics, such as age, gender, cultural background, prior criminal history and DV history, as well as undertaking research to identify and control for additional factors when assessing how successful such approaches are in meeting their intended objectives. In order to support ongoing evaluative efforts, it is essential that researchers have access to relevant data and information, although challenges exist about the types of information collected routinely, and how the information is collected (see discussion below).

The need to build the evidence base on the efficacy of programs and interventions

The adoption of evidence-based or evidence-informed practices, programs and interventions is important to improve responses to DFV and address challenges in the criminal justice system.[1385]

Mazerolle et al identified 36 studies of DFV court-focused interventions in their rapid review of research evidence.[1386] These included evaluations of specialised DFV courts, judicial monitoring of perpetrator interventions, and mandatory and specialised prosecution policies.[1387]. The authors note that while many interventions were promising, the results were mixed .[1388] There are few long-term studies evaluating the sustained impact of court-related interventions on DFV outcomes. Most existing research focuses on short-term effects, such as immediate victim satisfaction or recidivism rates within a limited timeframe.[1389] Most studies used official recidivism data, self-reported victimisation, victim psycho-social indicators and court processing measures, and very few were from Australia.[1390] There is also an absence of evidence about what might be effective for Aboriginal and Torres Strait Islander peoples, with a recommendation that: 'Robust evaluations of interventions with minority group representation (e.g., Aboriginal and Torres Strait Islander people) should be prioritised.'[1391]

Beyond court-based interventions, there is a continuing need to evaluate the efficacy of behaviour change intervention programs to build on this evidence base. ANROWS will continue to play a pivotal role in this regard.[1392] The focus should be on broader interventions that concentrate not just on intimate partner violence but also effective interventions to reduce the incidence of family violence. Given the disproportionate impact of domestic and family violence on Aboriginal and Torres Strait Islander peoples and communities, investing in appropriate and targeted evaluations of programs and services is important. Such evaluations should adopt a strengths-based approach and consider a range of measures of effectiveness beyond rearrest and reconviction data.

Understanding how effective DVOs are in protecting aggrieved persons

One measure of whether domestic violence orders are achieving their objective to 'provide protection against further domestic violence'[1393] is the likelihood of a person breaching a DVO (DVO breach rate).

Understanding the rate and characteristics of CDVOs, and monitoring this over time, may assist in the development of future domestic and family violence interventions.

A DVO breach rate may be calculated in a number of ways. Ideally, it would be calculated by analysing for each DVO made, whether it is breached during its operational period and, if so, how many times it was

---

1385 *Criminal Justice Responses to Domestic and Family Violence* (n 1372) 3-4 [1.3].
1386 Ibid 27 [2.5].
1387 Ibid 47 [4.1]. Mandatory prosecution policies are systems where prosecution proceeds regardless of victims' preferences and does not require their compliance. Specialised prosecution programs sought to fully engage victims in the court process.
1388 Ibid 137 [7.2].
1389 Ibid.
1390 Ibid 139.
1391 Ibid vii, 141, rec 8.
1392 ANROWS established a Perpetrator Interventions Research Stream in 2016 'Perpetrator Interventions Research', *ANROWS - Australia's National Research Organisation for Women's Safety* <https://www.anrows.org.au/perpetrator-interventions-research/>.
1393 DFVPA (n 16) s 3(2)(a).

breached. Breaches would be measured by a charge and conviction for CDVO linked to the originating DVO and be specific to the defendant and the victim.[1394]

It would be beneficial to consider analysing breaches relative to the specific condition(s) of the original order, as well as the nature of the behaviour that resulted in the breach.

Calculating these rates in Queensland is currently difficult, as in the Queensland-Wide Interlinked Courts (QWIC) database, a CDVO charge is not administratively linked to the specific DVO that was breached, nor is it linked to the specific condition of the order that was breached. Therefore, while Queensland data can report that a DVO was made, and that a breach of a DVO has been charged and sentenced, it is not possible to administratively link the order with a sentenced CDVO to accurately calculate the rate of DVO breaches – at least, not at scale.

Two Queensland research projects have aimed to calculate a DVO breach rate in Queensland using different datasets and methodologies.

Southport Specialist Domestic and Family Violence Court evaluation

An evaluation was conducted of the Southport Specialist Domestic and Family Violence Court that linked contravention charges between 1 July 2017 and 31 March 2020 in the criminal QWIC dataset to the specific DVO made in 3 court locations in 2017–18 in the civil QWIC dataset.[1395] They were only able to match 64 per cent of contravention charges (n=878) to a DVO made.[1396]

As not all contravention charges could be matched, the calculated breach rate was only indicative.[1397] Despite the limitations, the evaluation found relatively consistent breach rates for DVOs made from Southport (11%), Caboolture (9%) and Cleveland Magistrates Courts (10%).[1398]

QGSO Crime Research Report

The QGSO analysed linked data on DVOs imposed by a court and DVO breaches charged by the police between 2008–09 and 2015–16.[1399]

The QGSO found the majority of DVOs were not breached during the period examined, with fewer than one in 5 DVOs breached during their operational period (18.1%).[1400] However, the proportion of protection orders being breached was increasing each year.[1401]

They also found that most often a DVO was breached only once, but the number being breached more than once was increasing over time (referred to as 'rebreaching').and the time to first breach was shortening.[1402] In particular, DVO rebreaching was most common in remote and very remote locations compared with major cities (4.5 or 5 times higher than other locations for the entire state).[1403] DVO rebreaching was also more common among those living in the most socioeconomically disadvantaged communities.[1404]

Given that this research only looked at breaches up to 2015–16, and that DVOs generally are in place for a considerably longer period, this rate may no longer be representative.

Further research is required to update this analysis to identify current rates of breach as a basis for future policy.

[1394] See, Suzanne Poynton et al, *Breach Rate of Apprehended Domestic Violence Orders in NSW* (Crime and Justice Statistics Bureau Brief No 119, NSW Bureau of Crime Statistics and Research, September 2016).
[1395] ARTD Consultants, *Southport Specialist Domestic and Family Violence Court - Process and Outcomes Evaluation 2017-21* (Final Report, December 2021) 117 Details of the analysis and methodology are in Appendix 1, 168–9.
[1396] Ibid 169. Of the contravention charges which could not be matched, 97% (n=427/439) matched the date and location of the DVO order but the respondent/defendant identifiers did not match.
[1397] Ibid 117.
[1398] Ibid 117–8 Table 22.
[1399] Queensland Government Statistician's Office, Queensland Treasury, *Breaches of Domestic Violence Orders in Queensland, 2008–09 to 2017–18* (Crime Research Report, 2021) 3, 42.
[1400] Ibid 42.
[1401] Ibid 43, Figure 19.
[1402] Ibid 44–5, Figure 20.
[1403] Ibid 60, Figure 35.
[1404] Ibid 60–1, Figure 36.

Other areas for research

There may also be benefit in research exploring the language used during sentencing, including in submissions made on sentence and sentencing remarks, and what courtroom approaches best promote perpetrator accountability,[1405] recognition of victim harm and behavioural change.

Research has found, for example, that how victim survivors are treated in the courtroom can make a substantial difference, just as the treatment of offenders can also increase the likelihood of them complying with court orders and with the law.[1406]

13.3.3 Addressing the lack of data capture and linked information

Challenges of this review

In addition to the evidence gaps and the challenges noted by other researchers in evaluating sentencing interventions, several gaps in information have made assessing the impacts of DV sentencing reforms on sentencing outcomes difficult for the Council.

Data not captured in structured ways

Important information about the **nature of conduct** involved in CDVO cases is not captured in a structured way within the QWIC administrative data system, making it impossible for the Council to assess how this conduct may have changed over time, without undertaking labour intensive manual coding of sentencing transcripts, supplemented by QPS case file information.

This information is important because the seriousness of conduct (encompassing both harm caused and offender culpability) varies considerably and has a substantial impact on sentencing outcomes. Without being able to fully account for the seriousness of an offence, it is challenging to draw meaningful conclusions about changes in sentencing outcomes over time.

To ensure a representative sample of files to support rigorous evaluation efforts, manual coding in this way at such a scale, given the volume of these offences, was prohibitive. Additionally, as noted above, the QWIC database is structured in such a way that it is impossible to administratively link the **original DVO**, and any associated conditions, to the breach itself.

Similarly, because information about the **victim–offender relationship** is not captured in the QWIC system, we were not able to distinguish outcomes occurring in the context of a family relationship – for example, involving an adult child offending against a parent, a parent against a child or a sibling against another sibling – from those occurring in the context of a current or former intimate personal relationship.

Further, while critical factors known to influence sentencing outcomes, such as **prior criminal history** (including for offences of violence) and prior imprisonment, are captured administratively in the QWIC data, challenges with the structure of the QWIC database and internal linking limitations make this data difficult to report on and use for the purposes of analysis. This meant we were unable to fully account for these factors when reporting on outcomes.

Other information, such as undeclared **pre-sentence custody**,[1407] is also not routinely recorded. This means we have been unable to accurately report on time spent in custody prior to sentence using administrative data because any pre-sentence custody that has been taken into account but not declared is not recorded.

[1405] See, for example, Marguerite Schinkel, 'Punishment as Moral Communication: The Experiences of Long-Term Prisoners' (2014) 16(5) *Punishment & Society* 578 ('Punishment as Moral Communication').

[1406] Centre for Innovative Justice (Victoria) (n 913) 59–61. The importance of the words used by judges and magistrates to victims survivors in validating their experiences was also raised in submissions – see, for example, Preliminary Submission 21 (North Qld Women's Legal Service).

[1407] See PSA (n 41) s 159A. The PSA only permits pre-sentence custody to be declared for imprisonment of more than 1 day that is not wholly suspended. This means any pre-sentence custody cannot be declared, for example, if the prison sentence is wholly suspended, if the court sentences the person to a community-based order, such as probation, or imposes a fine.

Appeal outcomes are also recorded in a separate administrative data system and are difficult to link to first-instance decisions noted in the QWIC system.

In our previous review of sentencing for sexual assault and rape, we also found that sentencing data and information in Queensland is limited and can be enhanced.[1408] We recommended changes to improve data capture and included a recommendation that all criminal justice agencies work collaboratively to improve data-collection processes to capture enhanced information about the demographics of and nature of any relationship between the parties, and the types of information being relied upon at sentence.[1409]

[1408] *The Ripple Effect* (n 415) Finding 20.
[1409] Ibid rec 28.

The Council's view

Finding 12: Non-declared pre-sentence custody is not captured in administrative data

It is not possible to accurately report on time spent in custody prior to sentence using administrative data because any pre-sentence custody that has been taken into account but not declared is not routinely recorded.

Recommendation 1: Pre-sentence custody not declared but taken into account should be routinely recorded to support monitoring and evaluation efforts

In support of improving the evidence base for sentencing reform, the effective administration of justice and promoting community understanding of sentencing, the Queensland Government should appropriately fund and prioritise work led by the Department of Justice to ensure Queensland Courts capture undeclared pre-sentence custody in a form that can be linked to sentencing outcomes.

In the context of sentencing for DFV, we continue to support our previous recommendation to enhance and improve the data capture of sentencing information.

Specifically for this review, the inability to accurately report on time spent in custody prior to sentence using administrative data has been limiting.

We recommend that efforts be made to address this shortcoming and enable Queensland Courts to consistently capture undeclared pre-sentence custody in a form that can be linked to sentencing outcomes. This may need to be supported by a legal requirement or other mechanism to require the recording of this information across both custodial and non-custodial orders.

Data across systems is not consistently linked and made available to support evaluation and monitoring efforts

Due to the siloed nature of our criminal justice administrative data systems, to understand and evaluate the impact of these reforms, the Council was required to link various administrative data sources, both within systems (i.e. linking within the QWIC system) and across systems (i.e. linking QWIC data with QCS and QPS data).

Challenges with the granularity of detail, and the absence of quality individual, case and offence specific identifiers both within and across systems, meant that data linkage to understand concepts such as reoffending, was particularly challenging[1410].

While person-level identifiers, such as the Single Person Identifier (SPI) created by police, generally flow through to each agency's system, there are limitations. Mapping specific charges across systems remains problematic. Linking specific charges prosecuted by police to charges sentenced in Queensland courts is difficult due to the absence of charge-level identifiers.

Further complexity arises from differences in how data are recorded across systems. For example, QCS records information about episodes of custody, which may encompass multiple sentenced charges or cases. This can make it challenging to distinguish between sentences for separate offences, such as differentiating a sentence for a CDVO from a pre-existing concurrent sentence for an unrelated offence.

These issues have resulted in the need for the Council to create bespoke, linked data sets to support consideration of different outcomes, such as reoffending. As a result, these data sets are not necessarily consistent with any other data sources.

[1410] This also included data presented in Queensland Sentencing Advisory Council, *Spotlight on Contravention of a Domestic Violence Order* (May 2025).

The position in Queensland contrasts with jurisdictions such as New South Wales, which have developed standardised data sets, linking criminal justice administrative data across systems that makes analysing these types of variables and undertaking multivariate analyses possible. These de-identified linked datasets are made available, under strict conditions, via BOCSAR, for the purpose of research and evaluation.[1411]

Making these de-identified datasets available in this way facilitates robust research and evaluation of criminal justice policies and programs within New South Wales and enables policy and program evaluations to be undertaken using consistent sources and metrics, particularly in relation to reoffending.

In our previous review of sentencing for sexual assault and rape, the Council found that the lack of integration between relevant justice administrative data systems inhibits the ability to build the evidence base upon which reform decisions are made.[1412] We recommended changes to support linking across and between systems by ensuring any changes made to the SPI are available to downstream agencies to enable more accurate tracking of individuals through the criminal justice system.[1413]

The Council's view

Recommendation 2: Standardised linked data sets should be developed for the purpose of supporting research and evaluation

The Queensland Government should support the development of standardised linked criminal justice data sets for the purpose of research and evaluation and establish processes for making the linked data available for such purposes. This work should include the establishment of a reoffending database.

We continue to support our previous recommendation to support linking across and between systems.

Building on that earlier recommendation, we recommend that the Queensland Government support the development of standardised linked criminal justice data sets for the purpose of research and evaluation.

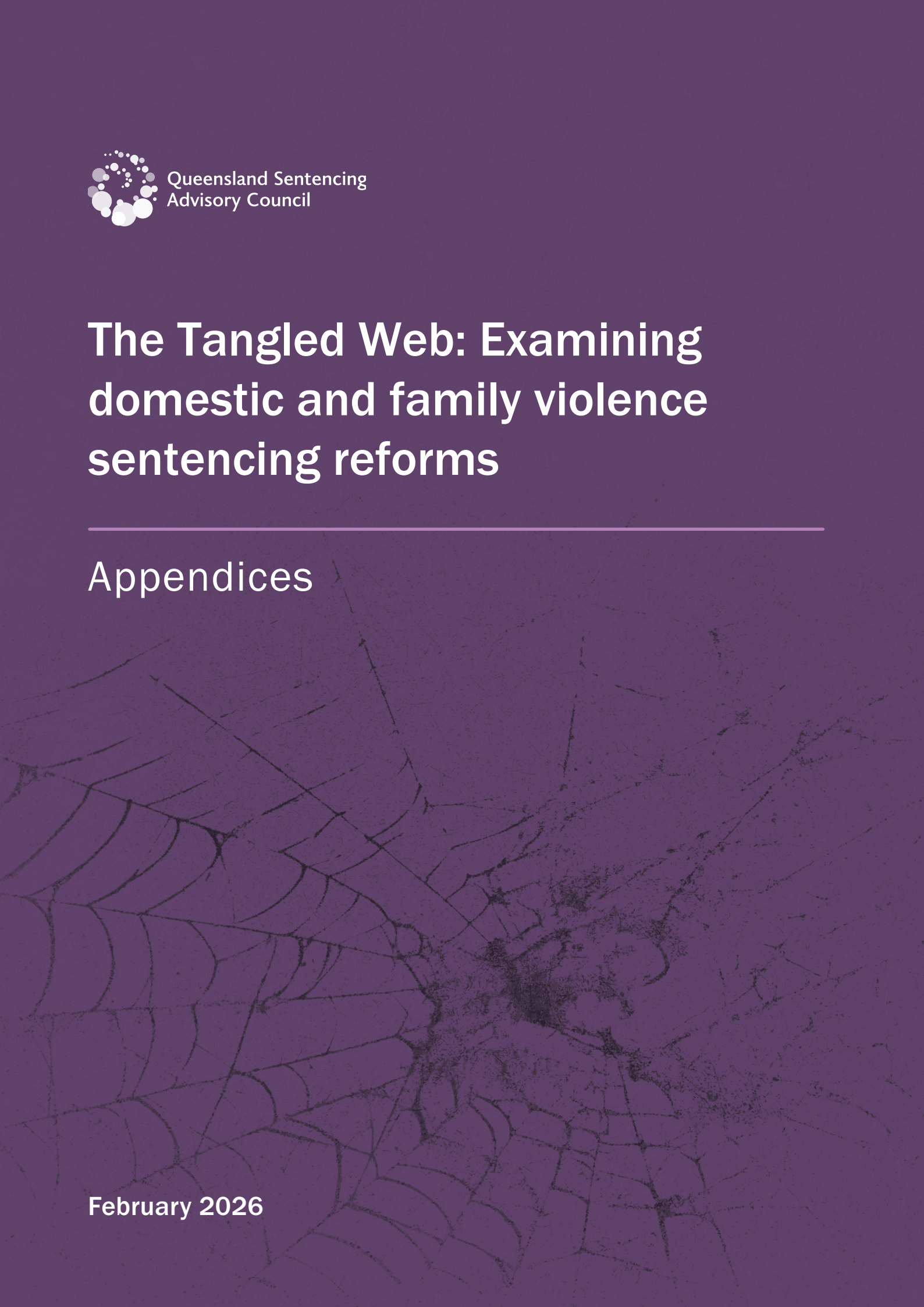
Collectively, these changes are suggested to address the lack of both data capture and linked information in relation to Queensland criminal justice initiatives. These changes are important to improve the evidence base and to support community knowledge and understanding of sentencing.

[1411] See, NSW Bureau of Crime Statistics and Research, 'Information Service Policy'.
[1412] *The Ripple Effect* (n 415) Finding 20.
[1413] Ibid rec 28.3.

Queensland Sentencing Advisory Council

The Tangled Web: Examining domestic and family violence sentencing reforms

Appendices



February 2026

Contents

List of tables

Appendix 1: Terms of Reference

TERMS OF REFERENCE

QUEENSLAND SENTENCING ADVISORY COUNCIL

SENTENCING FOR SEXUAL VIOLENCE OFFENCES AND AGGRAVATING FACTOR FOR DOMESTIC AND FAMILY VIOLENCE OFFENCES

I, Shannon Fentiman, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, having regard to:

- the report of the Special Taskforce on Domestic and Family Violence *Not Now, Not Ever: Putting an end to domestic and family violence in Queensland;*
- amendments made in the *Criminal Law (Domestic Violence) Amendment Act 2015* to the *Domestic and Family Violence Protection Act 2012* to increase the maximum penalties for contravening a domestic violence order and to the *Penalties and Sentences Act 1992* to provide for notations to indicate the domestic and family violence context of criminal offending;
- further amendments made in the *Criminal Law (Domestic Violence) Amendment Act 2016* to the *Penalties and Sentences Act 1992* making domestic and family violence an aggravating factor on sentence;
- the Queensland Sentencing Advisory Council research brief No.1, May 2021, *The impact of domestic violence as an aggravating factor on sentencing outcomes;*
- the report of Women's Safety and Justice Taskforce, *Hear her voice: Report one,* including recommendation 73 of that report;
- the report of Women's Safety and Justice Taskforce, *Hear her voice: Report two;*
- commentary expressing that penalties currently imposed on sentences for sexual assault and rape offences may not always meet the Queensland community's expectations;
- the maximum penalties provided in the Criminal Code for sexual assault and rape offences;
- the general expectation of the Queensland community that penalties imposed on offenders convicted of domestic and family violence offences and sexual assault and rape offences are appropriately reflective of the nature and seriousness of domestic and family violence and sexual violence;
- the need to protect victims from domestic and family violence and sexual violence;
- the need to hold domestic and family violence and sexual violence offenders to account;
- the sentencing principles and purposes of sentencing as outlined in the *Penalties and Sentences Act 1992*
- the need to maintain judicial discretion to impose a just and appropriate sentence in individual cases; and
- the need to promote public confidence in the criminal justice system.

refer to the Queensland Sentencing Advisory Council, pursuant to section 199(1) of the *Penalties and Sentences Act 1992*, a review of sentencing practices for sexual assault and rape offences and the operation and efficacy of section 9(10A) of the *Penalties and Sentences Act 1992*.

1

Scope

In undertaking this reference, the Queensland Sentencing Advisory Council will:

- review national and international research, reports and publications relevant to sentencing practices for sexual assault and rape offences and in sentencing adult offenders for domestic violence offences;

i. Sentencing practices for sexual assault and rape offences

- examine the penalties currently imposed on sentences under the *Penalties and Sentences Act 1992* for sexual assault and rape offences and review sentencing practices for these offences including the types of sentencing orders, duration and (any) time ordered to be served in custody prior to the offender being released into the community or being eligible for release on parole;
- determine whether penalties currently imposed on sentence under the *Penalties and Sentences Act 1992* for sexual assault and rape offences adequately reflect community views about the seriousness of this form of offending and the sentencing purposes of just punishment, denunciation and community protection;
- identify any trends or anomalies that occur in sentencing for sexual assault and rape offences;
- assess whether the existing sentencing purposes and factors set out in the *Penalties and Sentences Act 1992* are adequate for the purposes of sentencing sexual assault and rape offenders and identify if any additional legislative guidance is required;
- identify and report on any legislative or other changes required to ensure the imposition of appropriate sentences for sexual assault and rape offences;
- advise on options for reform to the current penalty and sentencing framework to ensure it provides an appropriate response to this type of offending;
- examine relevant offence, penalty, and sentencing provisions in other Australian and international jurisdictions to address offending behaviour relating to sexual assault and rape and any evidence of the impact of any reforms on sentencing practices;

ii. Operation and efficacy of section 9(10A) of the Penalties and Sentences Act 1992 and impact of increase in maximum penalties for contravention of a domestic violence order

- review sentencing practices for domestic violence related offences following changes to the *Penalties and Sentences Act 1992* by the *Criminal Law (Domestic Violence) Amendment Act 2016* to make the fact a person is convicted of a domestic violence offence an aggravating factor for the purposes of sentencing, except if it is not reasonable because of the exceptional circumstances of the case;
- advise on the impact of the operation of the aggravating factor in section 9(10A) of the *Penalties and Sentences Act 1992* on sentencing outcomes for all domestic violence related offences including for charges involving non-physical violence and coercive control;
- identify any trends or anomalies that occur in application of the aggravating factor in section 9(10A) of the *Penalties and Sentences Act 1992* or in sentencing for domestic violence-related conduct generally that create inconsistency or constrain the sentencing process;
- examine whether section 9(10A) of the *Penalties and Sentences Act 1992* is impacting victims' satisfaction with the sentencing process and if so, in what way;
- consider how sentencing trends and outcomes for contravention of a domestic violence order may have changed following the 2015 increase in the maximum penalties following amendments by the *Criminal Law (Domestic Violence) Amendment Act 2015* (Qld);

Consultation

- consult with key stakeholders, including but not limited to the judiciary, victims/survivors of domestic and family violence and sexual violence, the legal profession, key First Nations community representatives and organisations, domestic and family violence services, sexual violence advocacy groups, community legal centres and relevant government departments and agencies (e.g. Queensland Police Service and Director of Public Prosecutions);

Impact of recommendations and other matters

- advise on the impact of any recommendation on the disproportionate representation of Aboriginal and Torres Strait Islander people in the criminal justice system;
- advise whether the legislative provisions that the Queensland Sentencing Advisory Council reviews in the *Penalties and Sentences Act 1992*, and any recommendations are compatible with rights protected under the *Human Rights Act 2019*; and
- advise on any other matters relevant to this reference.

The Queensland Sentencing Advisory Council is to provide to the Attorney-General and Minister for Justice, Minister for Women, and Minister for the Prevention of Domestic and Family Violence a report on its examination of:

(i) sentencing practices for sexual assault and rape offences by **16 September 2024**; and
(ii) the operation and efficacy of section 9(10A) of the *Penalties and Sentences Act 1992* and impact of increase in maximum penalties for contravention of a domestic violence order by **30 September 2025**

Dated the 17th day of May 2023

SHANNON FENTIMAN MP
Attorney-General and Minister for Justice, Minister for Women, and Minister for the Prevention of Domestic and Family Violence

* Extension granted to reporting date for (ii) to 27 February 2026: Letter from Attorney-General and Minister for Justice, Minister for Integrity, Deb Frecklington MP, to Ann Lyons AM, Chair, Queensland Sentencing Advisory Council, 7 May 2025.

Appendix 2: Project Board Membership

Kristy Bell

Project Sponsor (from August 2025)

Julie Dick SC

Senior User (until January 2026)

Matt Jackson

Senior User (until January 2026)

Professor Elena Marchetti

Project Sponsor (until August 2025)

Debbie Kilroy OAM

Senior User (until August 2025)

Jo Bryant

Senior User (until August 2025)

Ann Lyons AM

Observer (until September 2025)

April Chrzanowski

Senior Supplier

Appendix 3: Stakeholder consultation and submissions

Individuals, agencies and organisations consulted (29 May 2023 - February 2026)

Date	Individual/Agency/Organisation
20 June 2023	Aboriginal and Torres Strait Islander Panel Meeting
11 July 2023	Practitioner Consultative Forum Meeting
12 July 2023	Research Consultative Forum Meeting
19 July 2023	Meeting with Queensland Corrective Services (QCS) at Arthur Gorrie Correctional Centre and Wolston Correctional Centre
24 August 2023	Aboriginal and Torres Strait Islander Panel Meeting
2 February 2024	Meeting with Parole Board Queensland
11 February 2025	Practitioner Consultative Forum Meeting
27 February 2025	Aboriginal and Torres Strait Islander Panel Meeting
12 March 2025	Research Consultative Forum Meeting
8 April 2025	Aboriginal and Torres Strait Islander Panel Meeting
15 - 17 April 2025	Meetings with stakeholders in Cairns, including the Cairns Regional Domestic Violence Service, Remote Area Aboriginal and Torres Strait Islander Child Care (RAATSIC), QCS, Cairns High Risk Team, Amaroo Justice Group, Department of Justice
1-2 May 2025	Meetings with stakeholders in Mount Isa, including High Risk Team, Young People Ahead, QCS, Queensland Police Service (QPS), Northwest Queensland Indigenous Catholic Social Services, 54 Reasons
19 - 23 May 2025	Meetings with stakeholders in the Torres Strait, including Community Justice Group Thursday Island, Tagai State College, Lena Passi Women's Shelter, NPA Family & Community Services (Women's Shelter), NPA Community Justice Group, QPS First Nations Group, Queensland Indigenous Family Violence Legal Service (QIFVLS), QCS, Mura Kosker Sorority, community session in Badu
30 May 2025	Meeting with Women's Safety and Violence Prevention Unit, Department of Justice
11 - 13 June 2025	Meetings with stakeholders in Townsville, including Townsville Justice Group, QIFVLS, Yumba-Meta, QPS, North Queensland Women's Legal Service (NQWLS), Relationships Australia, First Nations Women's Legal Services Queensland Inc. (FNWSLQ), Legal Aid Queensland, Sisters Inside Inc., Elders for Change, women with lived experience of being victim/survivors and person sentenced for use of violence
12 June 2025	Meeting with Mackay Community Justice Group
18 - 20 June 2025	Meetings with stakeholders in Roma, including QPS, QCS, Lifeline
25 - 27 June 2025	Meetings with stakeholders in Wide Bay region, including Community Action Inc., Maryborough Community Justice Group, QCS, Aboriginal and Torres Strait Islander Legal Service, Fraser Coast Domestic and Family Violence Alliance
26 June 2025	Aboriginal and Torres Strait Islander Panel Meeting
15 July 2025	Meeting with QCS at Brisbane Women's Correctional Centre
23 July 2025	Meeting with Full Stop Australia
21 August 2025	Research Consultative Forum Meeting
14 October 2025	Practitioner Consultative Forum Meeting
28 August 2025	Aboriginal and Torres Strait Islander Panel Meeting
30 October 2025	Aboriginal and Torres Strait Islander Panel Meeting
28 November 2025	Aboriginal and Torres Strait Islander Panel Meeting

Subject Matter Expert (SME) interview participants

Participant Group	Number of interviews
Legal Practitioner (including from private defence, Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Service practitioners and public prosecutors from Queensland Police Service and Director of Public Prosecutions)	10
Judicial Officer (Magistrates Courts and District Court)	7

Preliminary submissions

No	Organisation
1	Name withheld
2	Small Steps 4 Hannah Foundation
3	The Public Advocate
4	Justice Reform Initiative
5	Queensland Sexual Assault Network (QSAN)
6	Brisbane Rape and Incest Survivors Support Centre (BRISSC Collective)
7	Aboriginal and Torres Strait Islander Legal Service (Qld) (ATSILS)
8	No to Violence
9	Parole Board Queensland
10	Queensland Indigenous Family Violence Legal Service (QIFVLS)
11	DVConnect
12	Queensland Family and Child Commission (QFCC)
13	Not published
14	The Salvation Army Australia
15	Not published
16	Legal Aid Queensland (LAQ)
17	Fighters Against Child Abuse Australia (FACAA)
18	Not published
19	Not published
20	North Queensland Women's Legal Service
21	Women's Legal Service Queensland
22	Relationships Australia Queensland (RAQ)
23	Full Stop Australia
24	Not published
25	Queensland Corrective Services (QCS)
26	Australian Psychological Society (APS)
27	Name withheld
28	Sisters Inside Inc.

Submissions in response to Consultation Paper

No	Organisation
1	Name withheld
2	Not published
3	N Murphy
4	Royal Australian College of General Practitioners (RAGCP)
5	TASC Legal and Social Justice
6	Name withheld
7	The Salvation Army
8	Office of the Public Guardian (OPG)
9	Aboriginal and Torres Strait Islander Legal Service (Qld) (ATSILS)
10	Sisters Inside Inc.
11	Red Rose Foundation
12	M Halliday
13	Name withheld
14	Queensland Law Society (QLS)
15	Office of the Victims' Commissioner
16	Queensland Police Union
17	First Nation's Women's Legal Services Qld (FNWLSQ)
18	Legal Aid Queensland (LAQ)
19	Name withheld

Appendix 4: Protection orders and relevant relationships under the *Domestic Family Violence Protection Act 2012* (Qld)

As shown in Table A-1, 4 types of orders may be made under the *Domestic and Family Violence Protection Act 2012* (Qld).

Table A-1: Types of protection orders in Queensland

Type of order	Description
Police protection notice (PPN)	A temporary order until a domestic violence order is made. If police reasonably believe the respondent has committed domestic violence, that a PPN is necessary or desirable to protect the aggrieved, there is no current PPN or domestic violence order between the respondent and the aggrieved, and the respondent should not be taken into custody, they can issue a PPN to the respondent.[1] Sometimes police must issue a PPN.[2] Police must prepare, file and serve supporting material in court, which will be considered by the court within 14 days.[3] The PPN requires the respondent to be of good behaviour towards the aggrieved or any named individual and to not commit any further domestic violence.[4] It can include further conditions deemed necessary by police.[5]
Release with conditions	If it is not reasonably practicable for a police officer to bring the respondent to court for the hearing of a protection order, and the police officer has not obtained a temporary protection order, and the respondent is in custody and must be released, the police officer can release the respondent with release conditions.[6] Conditions are similar to those in a police protection notice.
Domestic violence order	A court order that is either temporary or final, requiring an individual to be of good behaviour and not commit domestic violence against the aggrieved or any named person and comply with any other conditions imposed by the court for a set period of time.[7]
Police protection direction (PPD)	A direction issued by police when it would not be appropriate to bring the matter before a court.[8] A PPD can be for up to 12 months.[9] Police can issue a PPD to the respondent if they reasonably believe the respondent has committed domestic violence, that a PPD is necessary or desirable to protect the aggrieved and it is not more appropriate for the action taken to include an application to a court for a DVO.[10] There are circumstances where a PPD cannot be issued, including if: the respondent or aggrieved is a child or a police officer; if the respondent is taken into custody (as the court can make an order); a DVO or interstate order is or has been in force; or the respondent has been convicted of a domestic violence offence in the previous 2 years or there are charges ongoing.[11]

1 *Domestic and Family Violence Protection Act 2012* (Qld) s 101 ('DFVPA').
2 Ibid s 101A.
3 Ibid s 105(2)(a). However, if the local Magistrates Court for the respondent does not sit during this period, then the matter will be heard at the court's next sitting date: Ibid s 105(2)(b).
4 DFVPA (n 1) s 106. From 26 May 2025, it also prohibits the person from organising, encouraging, asking, telling, forcing or engaging another person to do something that, if done by the respondent, would be domestic violence against the aggrieved or named person or, if the named person is a child, that would expose the child to domestic violence: Ibid ss 106(b), (c)(iii), (d)(iv)–(v) inserted by: Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 (Qld) s 50 commencing by proclamation (2024 SL No. 146 item 3).
5 DFVPA (n 1) s 106A. These additional conditions can include a cool-down condition, a no-contact condition and an ouster condition.
6 Ibid s 125(1)-(2).
7 Ibid ss 23, 28, 37, 42, 44, 50.
8 Ibid s 100A.
9 Ibid s 100R.
10 Ibid s 100B.
11 Ibid s 100C. See also s 100D(2) that contains further exceptions.

Table A-2: 'Relevant relationships' under the *Domestic and Family Violence Protection Act 2012* (Qld)

Intimate personal relationship[12]	Family relationship	Informal care relationship
Spousal relationship[13] A spouse includes a de facto partner, a former spouse of the person; and a parent, or former parent,[14] of a child of the person.	A **family relationship**[15] exists between 2 persons if 1 of them is or was the relative of the other, whether connected either by blood or marriage.[16] Examples of an individual's relatives given in the Act are: an individual's spouse child (including a child over 18 years) stepchild parent step-parent sibling grandparent aunt nephew cousin half-brother mother-in-law aunt-in-law. Examples of former relatives include the person's former mother-in-law, a former step-parent, or step-siblings in circumstances where the parent they do not have in common has died. A **relative**[17] also includes a person whom the person regards or regarded as a relative, especially where the concept of a relative may be wider for some people than others.	An **informal care relationship**[18] exists between 2 persons if 1 of them is or was dependent on the other person (the carer) for help in daily living. For example: dressing or other personal grooming meal preparation or eating shopping for a person's groceries telephoning a specialist to make a medical appointment for a person An informal care relationship does not exist between a child and a parent of a child. An informal care relationship does not exist if a person helps the other in an activity of daily living under a commercial arrangement (for example a nurse who attends each day to help with bathing). A commercial arrangement may exist even if a person does not pay a fee (for example – help from a voluntary organisation). An arrangement is not a commercial arrangement if 1 person receives a pension or allowance, or reimbursement for the purchase price of goods, for the help provided under the arrangement. An arrangement is not a commercial arrangement if 1 person pays a fee for the help provided under the arrangement because of domestic violence committed by the other person.
Engagement relationship[19] An engagement relationship exists between 2 persons if the persons are or were engaged to be married to each other, including a betrothal under cultural or religious tradition.		
Couple relationship[20] A couple relationship exists between 2 persons if the persons have or had a relationship as a couple.		

[12] Ibid s 14.
[13] Ibid s 15.
[14] A 'parent' of a child, means the child's mother or father; and anyone else, other than the chief executive (child protection), having or exercising parental responsibility for the child: Ibid s 16. It also excludes foster and kinship carers or other person standing in the place of a parent on a temporary basis.
[15] Ibid s 19.
[16] Relatives of a de facto couple, including former de facto spouses, have a family relationship under ibid; DL v MD & Queensland Police Service [2022] QDC 228.
[17] DFVPA (n 1) s 19.
[18] Ibid s 20.
[19] Ibid s 17.
[20] Ibid s 18.

Appendix 5: Changes to the definition of domestic violence

In force at 2 April 2012	In force at 17 September 2012	In force at 1 August 2023:
Domestic violence is any of the following acts that a person commits against another person if a domestic relationship exists between the 2 persons	Domestic violence means behaviour by a person (the first person) towards another person (the second person) with whom the first person is in a relevant relationship that	Domestic violence means behaviour, or a pattern of behaviour by a person (the first person) towards another person (the second person) with whom the first person is in a relevant relationship that
(1)(a) wilful injury; (b) wilful damage to the other person's property; *Example of paragraph (b)—* *wilfully injuring a de facto's pet* (c) intimidation or harassment of the other person; *Examples of paragraph (c)—* *1 following an estranged spouse when the spouse is out in public, either by car or on foot* *2 positioning oneself outside a relative's residence or place of work* *3 repeatedly telephoning an ex-boyfriend at home or work without consent (whether during the day or night)* *4 regularly threatening an aged parent with the withdrawal of informal care if the parent does not sign over the parent's fortnightly pension cheque.* (d) indecent behaviour to the other person without consent; (e) a threat to commit an act mentioned in paragraphs (a) to (d).	(1) (a) is physically or sexually abusive; or (b) is emotionally or psychologically abusive; or (c) is economically abusive; or (d) is threatening; or (e) is coercive; or (f) in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.	(1) (a) is physically or sexually abusive; or (b) is emotionally or psychologically abusive; or (c) is economically abusive; or (d) is threatening; or (e) is coercive; or (f) in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.
	(2) Without limiting subsection (1) domestic violence includes the following behaviour— (a) causing personal injury to a person or threatening to do so; (b) coercing a person to engage in sexual activity or attempting to do so; (c) damaging a person's property or threatening to do so; (d) depriving a person of the person's liberty or threatening to do so; (e) threatening a person with the death or injury of the person, a child of the person, or someone else; (f) threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed; (g) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed, so as to control, dominate or coerce the person;	(3) Without limiting subsection (1) or (2), domestic violence includes the following behaviour— (a) causing personal injury to a person or threatening to do so; (b) coercing a person to engage in sexual activity or attempting to do so; (c) damaging a person's property or threatening to do so; (d) depriving a person of the person's liberty or threatening to do so; (e) threatening a person with the death or injury of the person, a child of the person, or someone else; (f) threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed; (g) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed, so as to control, dominate or coerce the person;

In force at 2 April 2012	In force at 17 September 2012	In force at 1 August 2023:
	(h) unauthorised surveillance of a person; (i) unlawfully stalking, intimidating, harassing or abusing a person.	(h) unauthorised surveillance of a person; (i) unlawfully stalking, intimidating, harassing or abusing a person.
		(2) Behaviour, or a pattern of behaviour, mentioned in subsection (1)— (a) may occur over a period of time; and (b) may be more than 1 act, or a series of acts, that when considered cumulatively is abusive, threatening, coercive or causes fear in a way mentioned in that subsection; and (c) is to be considered in the context of the relationship between the first person and the second person as a whole.
(2) The person committing the domestic violence need not personally commit the act or threaten to commit it. A person who counsels or procures someone else to commit an act that, if done by the person, would be an act of domestic violence is taken to have committed the act.	(3) A person who counsels or procures someone else to engage in behaviour that, if engaged in by the person, would be domestic violence is taken to have committed domestic violence.	(4) A person who counsels or procures someone else to engage in behaviour that, if engaged in by the person, would be domestic violence is taken to have committed domestic violence.
	(4) To remove any doubt, it is declared that, for behaviour mentioned in subsection (2) that may constitute a criminal offence, a court may make an order under this Act on the basis that the behaviour is domestic violence even if the behaviour is not proved beyond a reasonable doubt.	(5) To remove any doubt, it is declared that, for behaviour mentioned in subsection (3) that may constitute a criminal offence, a court may make an order under this Act on the basis that the behaviour is domestic violence even if the behaviour is not proved beyond a reasonable doubt.

Appendix 6: Significant DFV reforms, reviews and events (2009 - 2025)

Name of activity	Date/Time	Type of activity	Description
For our sons and daughters: a Queensland Government strategy to reduce domestic and family violence 2009–2014 released	2009	 Systems	This strategy aimed to prevent domestic and family violence through a coordinated approach involving prevention, early intervention and support for victims. It focused on raising awareness, improving service responses, holding perpetrators accountable and fostering community partnerships to create a culture of non-violence and respect.
Consultation paper for the Review of the *Domestic and Family Violence Protection Act 1989* released	Mar 2010	 Reviews	The consultation paper invited public input on changes to improve the Act to better protect victims and hold perpetrators accountable. It explored key issues such as enhancing the safety of victims, improving the effectiveness of protection orders, addressing the needs of vulnerable groups, and ensuring the legal framework aligned with contemporary understandings of domestic and family violence.
Australian Law Reform Commission, in association with the New South Wales Law Reform Commission, Family Violence — *A National Legal Response* report released	Nov 2010	 Reviews	This report provided a comprehensive review of legal frameworks addressing family violence in Australia. The report made 187 recommendations aimed at improving the legal system's response to family violence, focusing on better integration between federal, state, and territory laws, enhancing victim protection, and ensuring a consistent and holistic approach to tackling family violence across jurisdictions.
***Domestic and Family Violence Protection Act 2012* (DFVPA) enacted**	Feb 2012	 Legislation	The DFVPA replaced the *Domestic Violence (Family Protection) Act 1989* (Qld). It introduced a range of measures to address DFV in Queensland. Changes included: • expanding the definition of 'domestic violence' to encompass behaviour that is physically or sexually abusive, emotional, psychologically or economically abusive, threatening or coercive or in any other way controls or dominates another person causing fear; • increasing maximum penalties for contravening a domestic violence order (DVO) or a police protection notice (PPN); • establishing a new statutory requirement for police to investigate every report of DFV.
Maximum penalties for contravention of a domestic violence order (CDVO) increase on commencement of DFVPA	17 Sept 2012	 Sentencing	Change to increase the maximum penalty for CDVO from 2 to 3 years imprisonment commenced.
Definition of domestic and family violence expanded on commencement of DFVPA	17 Sept 2012	 Legislation	'Domestic violence' now defined as physical or sexual abuse, emotional or psychological abuse, threatening or coercive behaviour. For a complete list of behaviours captured, see **Appendix 5**.
Special Taskforce on Domestic and Family Violence in Queensland releases its report, *Not Now, Not Ever: Putting an end to domestic and family violence in Queensland*	28 Feb 2015	 Reviews	The Special Taskforce delivered its report on improving responses to domestic and family violence to the Queensland Government. The report made 140 recommendations, including Rec 118: DV circumstance of aggravation and Rec 121: review of sufficiency of penalties for repeat CDVO.

Name of activity	Date/Time	Type of activity	Description
Queensland Government response to Special Taskforce report	Aug 2015	 Systems	The Queensland Government released its response to the Special Taskforce's report, accepting all 121 of the recommendations directed at government, including the establishment of specialist DFV courts, the implementation of high-risk teams in key regions and making strangulation a stand-alone criminal offence.
Trial of Specialist Domestic and Family Violence Court commences in Southport	Sep 2015	 Systems	The first specialist DFV court was established in Southport with a dedicated magistrate with expertise in domestic and family violence issues, specialist prosecutors, court support workers for the aggrieved and respondent and access to domestic and family violence perpetrator programs. The trial ran for 22 months – from 1 September 2015 to 30 June 2017.
Criminal Law (Domestic Violence) Amendment Act 2015 **commenced**	22 Oct 2015	 Legislation	Changes implemented under this Act included: • expanding the definition of an aggravated CDVO offence to include prior convictions for *any* DV offence (not just an offence under Part 7 of the DFVPA); and • reclassifying aggravated CDVO as an indictable offence, meaning it can be dealt with by the higher courts if certain criteria are met.
Coroners (Domestic and Family Violence Death Review and Advisory Board) Amendment Act 2015 **commenced**	22 Oct 2015	 Legislation	The Act established the statutory framework for the Domestic and Family Violence Death Review and Advisory Board (DFVDRAB) in response to recommendations made in the Special Taskforce's *Not Now, Not Ever* report.
Maximum penalties for CDVO increase	22 Oct 2015	 Sentencing	Maximum penalties for CDVO increased: • for non-aggravated CDVO, from 2 years imprisonment or 60 penalty units to 3 years imprisonment or 120 penalty units; and • for aggravated CDVO, from 3 years imprisonment or 120 penalty units to 5 years imprisonment or 240 penalty units.
DV flag scheme commences	1 Dec 2015	 Sentencing	Changes made to allow for the recording of an offence as a 'domestic violence offence' meaning a person can be charged with a DV offence and a conviction recorded as being for a DV offence in their criminal history.
Domestic Violence Implementation Council established	Dec 2015	 System	The Domestic Violence Implementation Council was established to monitor and advocate for recommendations made in the Special Taskforce's *Not Now, Not Ever* report.
Domestic and Family Violence Death Review and Advisory Board commenced	4 Dec 2015	 Systems	The DFVDRAB is responsible for undertaking research to identify trends and risk factors relating to domestic and family violence deaths; produce reports on the elements of good practice in preventing domestic and family violence deaths and make recommendations to the minister regarding ways to prevent or reduce domestic and family violence deaths.
Domestic and Family Violence Prevention Strategy 2016-2026 **and** ***First Action Plan of the DFV Prevention Strategy 2015-2016*** **released**	Feb 2016	 Systems	Developed by the Queensland Government with feedback from service sector providers and community members, the Strategy's long-term objective was that all Queenslanders feel safe in their home homes and children can grow and develop in safe and secure environments. A stronger justice system response that will prioritise victim safety and hold perpetrators to account was 1 of 3 foundational elements underpinning the strategy.

Name of activity	Date/Time	Type of activity	Description
Changes to legal practice in response to Special Taskforce report	2016	 Systems	Several practice changes took place following the delivery of the Special Taskforce's *Not Now, Not Ever* report.
***Criminal Law (Domestic Violence) Amendment Act 2016* enacted**	5 May 2016	 Legislation	In response to recommendations made by the Special Taskforce, this Act was passed to introduce: • a new DV aggravating factor in section 9(10A) of the *Penalties and Sentences Act 1992* (PSA); and • a new offence of choking, suffocation or strangulation in a domestic setting.
Offence of choking, suffocation or strangulation in a domestic setting commences	5 May 2016	 Legislation	A new offence of choking, suffocation or strangulation was established in the *Criminal Code* to reflect the inherent dangerousness of the behaviour and because it is a predictive indicator of escalation in domestic violence offending. It carries a maximum penalty of 7 years imprisonment.
DV aggravating factor in s 9(10A)) of the *Penalties and Sentences Act 1992* (PSA) commences	5 May 2016	 Sentencing	Section 9(10A) of the PSA commenced operation requiring a court to treat the fact a person has been convicted of a DV offence as an aggravating factor, unless the court thinks it is not reasonable because of the exceptional circumstances of the case.
Domestic and Family Violence Death Review and Advisory Board membership finalised	July 2016	 Systems	Following a state-wide recruitment process, the Attorney-General announced the appointment of Board members. The Board comprised 12 members, both government and non-government. The State Coroner, Mr Terry Ryan, was appointed as the inaugural Chair.
Integrated service response pilots in Logan/Beenleigh (urban), followed by Mount Isa (regional) and Cherbourg (remote Indigenous community) commences	July 2016	 Systems	In response to recommendations made by the Special Taskforce, the integrated service response trials brought multiple DFV service systems together to provide a high quality, cohesive response to victim survivors, their children and persons using violence.
***Domestic and Family Violence Best Practice Guidelines* released**	July 2016	 Systems	Developed by the Queensland Law Society (QLS) to assist legal practitioners in dealing with legal matters where DFV is identified. and published in response to the Special Taskforce's *Not Now, Not Ever* report.
***National Domestic and Family Violence Bench Book* launched**	Aug 2016	 Systems	The bench book was developed to provide a central resource for judicial officers considering legal issues relevant to DFV-related cases. It provides background information supported by research, links to legal and related resources, and practical guidelines for courtroom management.
***Domestic and Family Violence Protection and Other Legislation Amendment Act 2016* enacted**	20 Oct 2016	 Legislation	Amendments to the DFVPA, the *Police Powers and Responsibilities Act 2000 (Qld)* and other legislation were enacted : • enhancing responses to the DFV protection system, including providing victims with access to earlier and more tailored protection; • requiring police to consider the immediate protection of victims before applications for DVOs are heard by the court; and • broadening the discretion of a court to determine the appropriate duration of protection orders, and increasing the standard duration from 2 to 5 years.

Name of activity	Date/Time	Type of activity	Description
High Risk Teams commence in Logan/Beenleigh, Mt Isa and Cherbourg	Jan 2017	 Systems	High risk teams for domestic and family violence cases coordinate service delivery from police, health, corrections, and domestic violence services. First trial site was Logan/Beenleigh (urban), followed by Mt Isa (regional) and Cherbourg (remote Indigenous community).
Evaluation of the Specialist Domestic and Family Violence Court Trial in Southport **report released**	Feb 2017	 Reviews	Undertaken by Griffith University, the evaluation found that overall the Southport Specialist DV Court had made strong progress on its short and medium-term process outcomes. Researchers made 16 recommendations for the Southport court, as well as rolling out a specialist approach state-wide.
Bail (Domestic Violence) and Another Act Amendment Act 2017 **enacted**	30 Mar 2017	 Legislation	As a result of changes made by the *Bail (Domestic Violence) and Another Act Amendment Act 2017*: • the presumption of bail was reversed where the person is charged with domestic violence, including breaches; and • the wearing of a GPS tracking device could be ordered as a bail condition for domestic violence offences.
Standard duration of DVOs increases to 5 years, and new mandatory conditions commence	30 May 2017	 Legislation	Changes made by the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2016* came into effect including: • increasing the standard duration of protection orders from 2 years to 5 years, unless the court is satisfied there are reasons for setting a shorter period; and • requiring courts to consider whether any additional conditions are necessary or desirable.
Rollout of additional specialist Domestic and Family Violence Courts	Jul 2017 onwards	 Systems	Specialist DFV courts were established in Beenleigh, Mount Isa, Townsville and Palm Island (as a circuit of the Townsville specialist court), Brisbane and Cairns.
Magistrates Courts Domestic Violence Benchbook **launched**	2018	 Systems	For Magistrates Courts, the Benchbook reflects current and domestic family violence jurisprudence in Queensland and follows the DFVPA provisions. It is to be read with the National Bench Book.
Statewide polices for addressing DV against Aboriginal and Torres Strait Islander people and people with disability released	May 2019	 Systems	Queensland Government released: • *Queensland's Plan to Respond to Domestic and Family Violence Against People with Disability*; and • *Reshaping Our Approach to Aboriginal and Torres Strait Islander Domestic and Family Violence: Framework For Action*.
Domestic and Family Violence Prevention Council established	2019	 Systems	The Domestic and Family Violence Prevention Council replaced the Domestic Violence Implementation Council.
Implementation of online domestic and family violence reporting tool for police	Apr 2020	 Systems	The police online domestic and family violence reporting tool was introduced during the initial stages of the COVID-19 pandemic to support people being able to report incidents to the police while containment measures were in place.
Updates to legal practice guidelines, ***Domestic and Family Violence: Best Practice Framework for Legal and Non-Legal Practitioners***	Oct 2020	 Systems	The Queensland Law Society (QLS) and Legal Aid Queensland (LAQ) collaborated to develop a framework to guide and help legal and non-legal practitioners deliver services to people affected by DFV. This new framework built on earlier versions.

Name of activity	Date/Time	Type of activity	Description
Establishment of QPS' Domestic and Family Violence and Vulnerable Persons Command	Mar 2021	 Systems	The Domestic, Family Violence and Vulnerable Persons Command within QPS leads the enhancement of the Queensland Police Service's capability to prevent, disrupt, respond to and investigate incidents of domestic and family violence and those involving vulnerable persons (including children, elders, people with disability and people with mental health issues).
Changes made to how police record domestic and family violence offences	Jul 2021	 Systems	A change in recording practices was implemented by the Queensland Police Service, requiring police officers to record within their administrative system (QPRIME) all criminal offences associated with domestic and family violence. This has resulted in an increase in the number of assault offences officially recorded.
Women's Safety and Justice Taskforce delivers its first report, *Hear Her Voice - Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland*	Dec 2021	 Reviews	The first of 2 reports by the Women's Safety and Justice Taskforce examining ways to address coercive control and DFV in Queensland was delivered. The report made 89 recommendations including the criminalisation of coercive control, raising community awareness about DFV, improving support service and police responses to DFV, as well as for the Queensland Sentencing Advisory Council to consider the impact of the DV aggravating factor on all offences.
***Southport Specialist Domestic and Family Violence Court: Process and Outcomes Evaluation 2017-21* released**	Dec 2021	 Reviews	The second evaluation of the Southport Specialist DFV Court found the specialist court had been successfully implemented and integrated its civil and criminal responses and was able to respond to DFV in diverse relationship types. The report made 7 recommendations to strengthen the model and inform rollout to other locations.
The Queensland Government response to *Hear Her Voice – Report One*	10 May 2022	 Systems	The government's response to the first report of the Women's Safety and Justice Taskforce supported or supported-in-principle all 89 recommendations.
Women's Safety and Justice Taskforce delivers second report, *Hear Her Voice – Report Two: Women and Girls' Experiences Across the Criminal Justice System*	Jul 2022	 Reviews	The second of 2 reports by the Women's Safety and Justice Taskforce included 188 recommendations to improve Queensland's criminal justice system for women and girls who are victim survivors of sexual violence, or who are accused persons or offenders.
Video Recorded Evidence-In-Chief pilot commenced	Sep 2022	 Systems	The Video Recorded Evidence-in-Chief pilot commenced on 12 September 2022 in Ipswich and Southport Magistrates Courts. The pilot ran for 12 months for adult domestic and family violence related criminal procedures.
The Queensland Government response to *Hear Her Voice – Report Two*	Dec 2022	 Systems	The government's response to the second report of the Women's Safety and Justice Taskforce supported 103 recommendations in full, 71 recommendations in principle, and noted 14 recommendations. Recommendations included those relating to legislative reform, placing victim-survivors at the centre of interventions, working with Aboriginal and Torres Strait Islander communities, changing community attitudes, supporting victims through the court process, rehabilitating female offenders and to support measuring and monitoring justice system performance.
Commission of Inquiry into Police Service responses to domestic and family violence delivers its final report, *A Call for Change*	10 Nov 2022	 Reviews	The Commission of Inquiry made 78 recommendations to address significant systemic issues in the QPS and improve its responses to addressing domestic and family violence.

Name of activity	Date/Time	Type of activity	Description
Queensland Government response to *A Call for Change*	Nov 2022	 Systems	The government's response to the Commission of Inquiry report accepted all 78 recommendations in principle.
***Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023* enacted**	28 Feb 2023	 Legislation	The Act was passed and included several reforms, including: • a requirement for police to provide courts with a respondent's criminal and domestic violence history (including orders made against a person in Queensland or interstate); • providing for a court's consideration of a respondent's DV history when making decisions regarding protection order applications and determining an offender's character; • requiring courts to consider the effect of DV experienced by the person being sentenced as a mitigating factor, unless this is not reasonable; • changing the definitions of 'domestic violence', 'emotional or psychological abuse' and 'economic abuse' in the DFVPA to include reference to a 'pattern of behaviour'; and • modernising the offence of unlawful stalking to create a new circumstance of aggravation when committed in a domestic relationship.
Expanded definition of 'domestic violence' commences	1 Aug 2023	 Legislation	Introduced by the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023.* The changes clarify that domestic violence can include a pattern of behaviour that may occur over a period of time and may be more than 1 act, or a series of acts, that when considered cumulatively is abusive, threatening coercive or causes fear and is to be considered in the context of the relationship between the first person and the second person as a whole. See further **Appendix 5**.
Changes to police and court responses to DV, including a legislative requirement for courts to consider DV as a mitigating factor at sentence	1 Aug 2023	 Sentencing	Introduced by the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023.*
New unlawful stalking offence with a circumstance of aggravation when committed in a domestic relationship established	1 Aug 2023	 Legislation	Introduced by the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023.* The new offence has a maximum penalty of 7 years imprisonment.
Office of the Victims' Commissioner established and the interim Victims' Commissioner appointed	Sep 2023	 Systems	Interim Victims' Commissioner appointed.

Name of activity	Date/Time	Type of activity	Description
Additional sentencing considerations included in PSA commence, including a defendant's history of being abused or victimised.	Mar 2024	 Sentencing	Introduced by the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023.* New amendments to the PSA require courts to take into account a number of factors including: • the hardship that any sentence imposed would have on the offender; and • a defendant's history of being abused or victimised and the probable effect any sentence would have on a person to whom the offender is the primary caregiver, or person they are in an informal care relationship with, or on the child if the defendant is pregnant.
Victims' Commissioner and Sexual Violence Review Board Act 2024 **enacted**	9 May 2024	 Legislation	The Victims' Commissioner has the power to conduct systemic reviews of key matters relating to victims of crime and review the state's Charter of Victims' Rights.
Permanent Victims' Commissioner to promote and protect victims' rights appointed	29 Jul 2024	 System	Inaugural Victims' Commissioner appointed.
Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 **enacted**	18 Mar 2024	 Legislation	Reforms introduced by this Act included: • introducing an affirmative model of consent for sexual violence offences; • establishing a new coercive control offence; • introducing new aggravating factors for sentencing; • making changes to DV averments.
Independent Domestic and Family Violence Advisory Panel established	May 2025	 System	A Domestic and Family Violence Advisory Panel was established to provide independent advice to government on reforms to address domestic and family violence in Queensland. It has experts from various backgrounds including policing, legal, academic and support services.
New offences of coercive control and engaging in domestic violence or associated domestic violence to aid respondent commence	26 May 2025	 Sentencing	New offences introduced by the *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024,* including coercive control, established. The offence of coercive control, which carries a maximum penalty of 14 years imprisonment, criminalises a course of conduct that occurs in a domestic relationship, consisting of 1 or more occasion of physically, emotionally or economically abusive or isolating behaviour that is intended to coerce or control a person and is reasonably likely to cause harm.

Name of activity	Date/Time	Type of activity	Description
Commencement of DV-related sentencing reforms including new aggravating factors, a court-based DV diversion scheme for adults, and new standard conditions for DVOs	26 May 2025	 Sentencing	Other reforms under the *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024* come into effect including to: • introduce new statutory aggravating factors in section 9 of the PSA if a person commits a DV offence against a child, or has exposed a child to DV, or if an offence also constitutes a contravention of an order or release conditions under the DFVPA; • establish a DV court-based perpetrator diversion scheme; • include as a new standard condition of DV orders that the respondent 'not organise, encourage, ask, tell, force or engage another person to do something that, if done by the respondent, would be domestic violence against the aggrieved'.
***Domestic and Family Violence Protection and Other Legislation Amendment Act 2025* enacted**	4 Sep 2025	 Legislation	Reforms introduced by this Act included: • the establishment of a framework for police protection directions (PPDs) to improve efficiencies for police responding to DFV; • changes to allow a court to impose an electronic monitoring device condition on a domestic violence order as part of a pilot GPS monitoring scheme for high-risk perpetrators; • changes to simplify, streamline and expand the video-recorded evidence-in-chief framework statewide to support victim survivors of DFV.
Police Protection Directions (PPDs) commence	1 January 2026	 System	PPDs commence as a new form of order that can be issued by police. A PPD is a 12-month direction requiring the respondent to not commit domestic violence against the aggrieved and any other named persons on the PPD. The maximum penalty for contravening a PPD is 120 penalty units or 3 years' imprisonment.

Appendix 7: Approach to sentencing domestic violence offences in other jurisdictions

Other Australian states and territories and common law jurisdictions, such as Canada, England and Wales, and New Zealand have adopted different approaches to the sentencing of domestic and family violence offences.

Maximum penalties for contravention of a domestic violence order

As shown in Table A-3, maximum penalties for contravention of a domestic violence order (and equivalent orders) vary as do circumstances of aggravation for jurisdictions in Australia and New Zealand.

Table A-3: Maximum penalties for contravention of a domestic violence order (or equivalent) in Australia and New Zealand

State/Territory	Offence	1st instance	2nd instance	3rd instance	4th instance
QLD – *Domestic and Family Violence Protection Act 2012* (Qld) s 177(2)	Contravention of domestic violence order	120 penalty units ($20,028)[21] or 3 years' imprisonment	240 penalty units ($40,056)[22] or 5 years' imprisonment (If within 5 years has committed a domestic violence offence)		
ACT – *Family Violence Act 2016* (ACT) s 43(2)	Offence–contravention of family violence order	500 penalty units ($80,000)[23] and/or 5 years' imprisonment			
NSW – *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 14(1)	Contravention of apprehended violence order	50 penalty units ($5,500)[24] and/or 2 years' imprisonment 100 penalty units ($11,000) and/or 3 years' imprisonment[25]	150 penalty units ($16,500) and/or 5 years' imprisonment[26] (if on at least 2 occasions in 28 days prior to the contravention, the person breach another order against the same person, the same order or an apprehended DVO against a different person and the breach conduct is likely to cause physical or mental harm)		

[21] The value of a penalty unit from 1 July 2025 is $166.90: Penalties and Sentences Regulation 2025 (Qld) s 4.
[22] Ibid.
[23] The value of a penalty unit as at 16 November 2025 is $160: Legislation Act 2001 (ACT) s 133(2)(a).
[24] The value of a penalty unit as at 24 November 2025 is $110: Crimes (Sentencing Procedure) Act 1999 (NSW) s 17.
[25] Where the person knowingly contravened a prohibition or restriction specified in the order with the intention of causing the protected person (a) physical or mental harm, or (b) to fear for their safety or the safety of another person: *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 14(1A) ('CDPVA').
[26] Ibid s 14(1C).

State/Territory	Offence	1st instance	2nd instance	3rd instance	4th instance
NT – *Domestic and Family Violence Act 2007* (NT) s 121	Contravention of DVO [domestic violence order]	200 penalty units[27] ($37,800)[28] or 2 years' imprisonment[29] 5 years' imprisonment if involved harm or threat of harm[30]	3 years' imprisonment (and no harm or threat of harm involved)[31]	3 years' imprisonment: (If at least 3 offences committed within a 28 day period, dealt with together and involve no harm or threat of harm)[32]	
SA – *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s 31	Contravention of intervention order Basic: non-aggravated Aggravated: where offence occurs in presence of child. Violent: physical violence or threat of physical violence	'Intervention order' breach: $2,000 or 2 years imprisonment. Basic: 3 years' imprisonment Aggravated: 5 years' imprisonment Violent: 7 years' imprisonment Aggravated & violent: 10 years' imprisonment	Basic: 7 years' imprisonment Aggravated: 10 years' imprisonment (If contravention committed within 5 years)		
Tas – *Family Violence Act 2004* (Tas) s 35	Contravention of FVO [family violence order] or PFVO [police family violence order]	20 penalty units ($4,100)[33] or 12 months imprisonment	30 penalty units ($6,150) or 18 months imprisonment (If there has been any previous contravention)	40 penalty units ($8,200) or 2 years' imprisonment (If there has been 2 of any previous contravention)	5 years' imprisonment (If there has been 3 of any previous contravention)

[27] Sentencing Act 1995 (NT) s 28.
[28] The value of a penalty unit from July 2025 to June 2026 is $189: *Penalty Units Act 2009* (NT); Northern Territory Government, 'Penalty Units' (1 July 2025) <https://agd.nt.gov.au/attorney-general-and-justice/units-and-amounts/penalty-units>.
[29] *Domestic and Family Violence Act 2007* (NT) s 121(1).
[30] Ibid s 121(5). The court must sentence a person to actual imprisonment if they are found guilty of a breach of a DVO offence and the offence involved harm or threat to commit harm: Ibid s 122.
[31] *Domestic and Family Violence Act* (n 29) s 121(4). The court must sentence a person to actual imprisonment if they are found guilty of a breach of a DVO offence and they have been found guilty previously of breach of a DVO: Ibid s 122.
[32] *Domestic and Family Violence Act* (n 29) s 121(2). The court must sentence a person to actual imprisonment if they are found guilty of a breach of a DVO offence and they have been found guilty of at least 3 DVO breaches, the conduct of these offences took place in a period of 28 days and the person is being sentenced for the offences at the same time and the offences did not involve harm or threat of harm to the aggrieved: Ibid s 122.
[33] The value of a penalty unit from July 2025 to 30 June 2026 is $205: *Penalty Units and Other Penalties Act* (Tas); 'Penalty Units Indexed Amounts | Department of Justice' <https://www.justice.tas.gov.au/about-us/legislation/penalty-units-indexed-amounts>.

State/Territory	Offence	1st instance	2nd instance	3rd instance	4th instance
Vic – *Family Violence Protection Act 2008* (Vic) ss 123(2), 123A, 125A(1)	Contravention of family violence intervention order	240 penalty units[34] ($48, 842.40)[35] and/or 2 years' imprisonment			
	Contravention of order intending to cause harm or fear for safety	5 years' imprisonment and/or 600 penalty units[36] ($122, 106). [37]			
	Persistent contravention of notices and orders			5 years' imprisonment and/or 600 penalty units[38] ($122, 106) [39]	
WA – *Restraining Orders Act 1997* (WA) ss 61, 61A	Breach of restraining order[40]	$10,000 and/or 2 years' imprisonment			
	Penalty for repeated breach of restraining order			$10,000 and/or 2 years' imprisonment Must impose imprisonment, unless 'unjust' and no safety concerns[41] (If at least 2 previous relevant offences within 2 years)[42]	
NZ – *Family Violence Act 2018* (NZ) s 112	Offence to breach protection order (or related property order)	3 years' imprisonment			

[34] Sentencing Act 1991 (Vic) s 110.
[35] The value of a penalty unit from July 2025 to June 2026 is $203.51: *Monetary Units Act 2004* (Vic) s 5; Department of Justice and Community Safety Department of Justice and Community Safety Victoria, 'Penalties and Values' (General) <https://www.justice.vic.gov.au/justice-system/fines-and-penalties/penalties-and-values>.
[36] *Sentencing Act* (n 34) s 110.
[37] The value of a penalty unit from July 2025 to June 2026 is $203.51: *Monetary Units Act* (n 35) s 5; Department of Justice and Community Safety Victoria (n 35).
[38] *Sentencing Act* (n 34) s 110.
[39] The value of a penalty unit from July 2025 to June 2026 is $203.51: *Monetary Units Act* (n 35) s 5; Department of Justice and Community Safety Victoria (n 35).
[40] Where the person is bound by a Family Violence Restraining Order: *Restraining Orders Act 1997* (WA) pt 1B, s 61(1).
[41] Ibid s 61A(6).
[42] Previous offences must have been committed before or after the qualifying relevant offence or have been counted at sentence for a different relevant offence: Ibid s 61A(2A). However, 2 or more previous relevant offences committed on the same day are to be treated as a single conviction: Ibid s 61A(2B).

Aggravating factors and circumstances of aggravation

Domestic violence context of offence as aggravating

Similar to Queensland, in the Northern Territory it is an express aggravating factor at sentence if the person and victim were in a domestic relationship and the offence involved domestic violence in the nature of conduct that was physically or sexually abusive, coercive control of the victim, or exposed a child to domestic violence.[43] In addition, the Act expressly provides that a purpose of sentencing a person for any offence can be for the 'protection of any person who is in a family relationship or a domestic relationship with the offender'.[44]

In New Zealand, the sentencing legislation requires a court to treat as aggravating that the offence was a family violence offence committed—

(i) while the person was subject to a protection order; and

(ii) against a person who, in relation to the protection order, was a protected person (as so defined).[45]

This is similar to the aggravating factor that came into effect in Queensland on 26 May 2025 (see section 6.6). While there is no direct equivalent to section 9(10A) of the PSA, other general aggravating factors apply that include elements of this, such as if the person is found to have been abusing a position of trust in relation to the victim, where the offence involved actual or threatened use of violence or a weapon, if the offence involved particular cruelty, or the victim was particularly vulnerable because of any factor known to the offender.[46]

In Canada, evidence that the person being sentenced, in committing the offence, abused that person's intimate partner or a member of the victim or the offender's family is a relevant aggravating factor.[47] This is listed alongside other factors that can also be aggravating in the context of domestic violence offending, such as that the person abused a position of trust in relation to the victim, or that the offence had a significant impact on the victim considering their age and personal circumstances.[48]

In England and Wales, which has formal sentencing guidelines developed by the Sentencing Council that courts must follow,[49] there is a general guideline that applies to domestic violence offences – *Overarching Principles: Domestic Abuse Guideline*.[50] The guideline states that: 'The domestic context of the offending behaviour makes the offending more serious because it represents a violation of the trust and security that normally exists between people in an intimate or family relationship'.[51] It further notes: 'there may be a continuing threat to the victim's safety, and in the worst cases a threat to their life or the lives of others around them'.[52] The guideline not only recognises the offending is more serious, but also lists aggravating and mitigating factors 'of particular relevance to offences committed in a domestic context'.[53] The fact an offence occurred in a domestic context is also listed in several offence-specific guidelines as an aggravating factor.[54]

In Scotland, an offence is aggravated where it involved abuse of a partner or ex-partner[55] by the offender.[56] An offence is aggravated if the offender intended to cause their partner or ex-partner to suffer physical or

---

43 *Sentencing Act* (n 27) s 6A(1)(fa).
44 Ibid s 5(1)(e) Note for subsection (1)(e).
45 Sentencing Act 2002 (NZ) s 9(1)(ca)..
46 Ibid ss 9(1)(a), (e), (f), (g)..
47 Criminal Code 1985 (RSC c C-46) s 718.2(a)(ii).
48 Ibid ss 718.2(a)(iii), (iii.1).
49 See *Sentencing Act 2020* (UK) pts 2–13, pt 4, s 59 ('*Sentencing Code* (UK)').
50 Sentencing Council for England and Wales, *Domestic Abuse: Overarching Principles* (Guidelines, 24 May 2018).
51 Ibid [9].
52 Ibid.
53 Sentencing Council for England and Wales (n 50)'Aggravating and mitigating factors'.
54 See, for example, the guidelines for the offences of: Arson (effective from 1 October 2019), Assault occasioning actually bodily harm (effective from 1 July 2021), Causing grievous bodily harm with intent to do grievous bodily harm/Wounding with intent to do GBH (effective from 1 July 2021), Harassment (fear of violence)/Stalking (fear of violence) (effective from 1 October 2018), Attempted murder (effective from 1 July 2021) Unlawful act manslaughter (effective from 1 November 2018).
55 Abusive Behaviour and Sexual Harm (Scotland) Act 2016 s 1(6). Defined as spouses or civil partners of each other, living together as spouses or in an intimate personal relationship and the references to person's ex-partner are to be construed accordingly.
56 Ibid s 1.

psychological harm or is reckless to causing their partner or ex-partner to suffer physical or psychological harm.[57] It is immaterial if the offence does not in fact cause physical or psychological harm to the victim survivor.[58] When this provision is applied the court must:

- state on conviction that the offence is aggravated;
- record the conviction in a way that shows that the offence is aggravated;
- take the aggravation into account in determining an appropriate sentence; and
- state how the sentence would have been different had the offence not been aggravated and the extent of and reasons for that difference, or the reasons why there is no difference.[59]

Other aggravating factors, including repeated domestic violence offending

In Tasmania, there is no aggravating factor that applies generally to all offences on the basis the offence was also a family violence offence. However, when determining sentence for a family violence offence,[60] a court or a judge must consider as aggravating the fact that the person being sentenced: knew, or was reckless as to whether, a child was present or on the premises at the time of the offence; knew, or was reckless as to whether, the affected person was pregnant; or is a serial family violence perpetrator.[61]

A 'serial family violence perpetrator' declaration is made by a court and recorded on the person's criminal history.[62] The court must make a declaration if the person is 18 years or older in certain circumstances, including if the person has been convicted (counting the current offence) of at least 2 indictable family violence offences with at least 2 being committed on different days, or at least 3 family violence offences, whether indictable or summary, with at least 3 of those offences committed on different days, provided the court is of the view the making of the declaration is warranted.[63] This also applies if the person has been convicted of the offence of persistent family violence.[64]

This new serial perpetrator designation was introduced by the Tasmanian Government in 2022 'to identify perpetrators who repeatedly commit family violence offences' and 'aims to provide for a heightened justice response … through the imposition of certain restrictions, facilitating rehabilitation or providing for enhanced supervision'.[65] In addition to this being an aggravating factor at sentence, it is also relevant to decision-making relating to parole applications.[66]

Other legislative guidance for domestic violence offences regarding aggravation or mitigation

In the Australian Capital Territory (ACT), in deciding how an offender should be sentenced for a family violence offence, a court must consider the nature of family violence and the context of the offending, including:

- the matters listed in the preamble to the *Family Violence Act 2016* (ACT);
- whether the offending occurred at the home of the victim, offender or another person;
- whether the offending occurred when a child was present; and
- if the offence is a serious family violence offence (defined as a family violence offence punishable by imprisonment for 5 years or more)[67] – whether the offender has 1 or more other convictions for serious family violence offences.[68]

This same section provides that a court must not reduce the severity of a sentence it would otherwise have imposed because the offence is a family violence offence or a family violence order is in force against the

---

[57] Ibid s 1(2); Psychological harm includes fear, alarm or distress: Ibid s 1(7).
[58] *Abusive Behaviour and Sexual Harm (Scotland) Act* (n 55) s 1(3).
[59] Ibid s 1(5).
[60] Defined to mean 'any offence the commission of which constitutes family violence'
[61] Family Violence Act 2004 (Tas) s 13.
[62] Ibid s 13A.
[63] Ibid s 29A(2).
[64] Ibid s 29A(2)(b)(iii).The offence of persistent family violence is established under s 170A of the Criminal Code (Tas).
[65] Department of Justice (Tasmania), 'Family Violence Reforms Bill 2021 - Fact Sheet'.
[66] Ibid.
[67] Crimes (Sentencing) Act 2005 (ACT) s 34B(3).
[68] Ibid s 34B(1). 'Family violence offence' is defined in the Family Violence Act 2016 (ACT) dictionary..

offender in relation to the family violence offence.[69] This requirement was originally enacted in response to a recommendation made by the Australian and NSW Law Reform Commissions.[70]

General aggravating factors - not specific to domestic violence offences

In New South Wales (NSW), while the fact the person is convicted of a domestic violence offence is not expressly aggravating, statutory aggravating factors include several factors that could apply to such offences including that:

- the offence: involved the actual or threatened use of violence or a weapon; was committed in the home of a victim or any other person, involved gratuitous cruelty or a grave risk of death to another person or persons;
- the injury, emotional harm, loss or damage caused by the offence was substantial; and
- the person abused a position of trust or authority in relation to the victim, and the victim was vulnerable.[71]

Relationship between the person being sentenced and victim as a circumstance of aggravation

Both South Australia and Western Australia have introduced circumstances of aggravation which can apply in domestic violence contexts and increase the maximum penalty for those offences to which they apply.

In South Australia, aggravating circumstances include where the person 'committed the offence knowing that the victim of the offence was a person with whom the offender was, or was formerly, in a relationship (as defined)', as well as 'if the offender was, at the time of the offence, acting in contravention of' a court order by engaging in conduct the order was designed to prevent.[72] Aggravating circumstances apply to a wide range of offences including unlawful threats to kill/endanger life or cause harm,[73] assault and assault occasioning bodily harm;[74] causing serious harm intentionally or recklessly;[75] or causing harm intentionally or recklessly;[76] endangering the life of another;[77] do an act/make an omission likely to cause serious harm with intent, or recklessly;[78] do an act/make an omission likely to cause harm;[79] theft;[80] serious criminal trespass - place of residence;[81] and criminal trespass – place of residence.[82] They also apply to several sexual offences, increasing the maximum penalty, including compelled sexual manipulation, indecent assault and procuring a child to commit an indecent act.[83]

In Western Australia, circumstances of aggravation apply to a wide range of offences involving physical violence including grievous bodily harm;[84] suffocation and strangulation;[85] wounding,[86] common assault;[87] assault occasioning bodily harm;[88] and assault with intent.[89] Circumstances of aggravation include that the offender is in a family relationship with the victim of the offence, a child was present when the offence was committed, or the conduct of the person constituted a breach of an order (excluding one made or registered

---

69 *Crimes (Sentencing) Act* (n 67) s 34B(2).
70 Explanatory Statement, Family Violence Bill 2016 (ACT) referencing: Australian Law Reform Commission and New South Wales Law Reform Commission, Family Violence—A National Legal Response (Final Report No 114 (ALRC); 128 (NSWLRC), 2010) vol 1, rec 13–3. This provision was formerly located in section 34(2) of the *Crimes (Sentencing) Act* (n 67).
71 *Crimes (Sentencing Procedure) Act* (n 24) ss 21A(2)(b)–(c), (eb), (f), (g), (ib), (k), (l).
72 Criminal Law Consolidation Act 1935 (SA) ss 5AA(1)(g), (l), (4a)..
73 Ibid s 19.
74 Ibid ss 20(3)–(4); This increases to 4 years (common assault) and 5 years (AOBH) if the persons uses, or threatens to use, an offensive weapon: Ibid ss 20(3)(c) and 20(4)(c).
75 *Criminal Law Consolidation Act* (n 72) ss 23(1), (3).
76 Ibid ss 24(1)–(2).
77 Ibid s 29(1).
78 Ibid s 29(2).
79 Ibid s 29(3).
80 Ibid s 134.
81 Ibid s 170(1)(b).
82 Ibid 170A(1)(b).
83 Ibid ss 48A, 56, 63B.
84 *Criminal Code Act 1913* (WA) sch, s 297(3) ('*Criminal Code* (WA)').
85 Ibid s 298.
86 Ibid s 301.
87 Ibid s 313(1)(a).
88 Ibid s 317(1)(a).
89 Ibid s 317A(d).

under Part 1C of the *Restraining Orders Act 1997*).[90] The first 2 circumstances of aggravation do not apply if the offender was a child at the time of committing the offence.[91]

Guidance on penalty types and preconditions

Some jurisdictions provide further guidance on the types of penalties that are appropriate for a domestic violence offence. For example, in NSW when a court finds a person guilty of a domestic violence offence, there is a presumption that a court must impose:

- a sentence of full-time detention; or
- a supervised order (being an intensive correction order (ICO), community correction order (CCO) or conditional release order (CRO) that includes a supervision condition);

unless satisfied a different sentence is more appropriate in the circumstances and the court gives reasons for reaching that view.[92]

Additionally:

- an ICO cannot be ordered unless the court is satisfied the victim of the domestic violence offence, and any other person with whom the offender is likely to live, will be adequately protected by the conditions of the order or for some other reason;[93]
- a home detention condition cannot be ordered if the court reasonably believes the offender will live with the victim of the domestic violence offence;[94]
- before making either a CCO or CRO for a domestic violence offence, the court must consider the victim's safety.[95]

In Western Australia, the sentencing legislation requires a court to impose an electronic monitoring requirement if a court makes a community-based order, an intensive supervision order or a conditional suspended imprisonment order and an offence to which that order may apply is a family violence offence meeting certain additional criteria,[96] unless the court is satisfied there are exceptional circumstances.[97]

In the Northern Territory, when sentencing an offence that involves domestic violence, a court must consider 'whether there is an unacceptable risk that the offender may commit domestic violence against a person' and whether the making of an order, including a condition of the order, would mitigate that risk.[98] The court must also ensure that the sentence is consistent with the conditions of a DVO.[99] The same requirements apply when making specific types of orders, such as a CCO or ICO.[100]

Non-legislative guidance

In addition to legislative forms of guidance, case law in many jurisdictions supports the treatment of offences occurring in a domestic-violence context as being more serious. In some jurisdictions, case law is the primary form of sentencing guidance.

---

90 Ibid ss 221(1)(a)–(c).
91 Ibid ss 221(1)(a)–(b), (1A).
92 *Crimes (Sentencing Procedure) Act* (n 24) s 4A.
93 Ibid s 4B(1).
94 Ibid s 4B(2).
95 Ibid s 4B(3).
96 There are either that: (a) an offence in respect of which a community-based order ('CBO') intensive supervision order ('ISO') or order of conditional suspended imprisonment ('CSI') may apply is a family violence offence (category A) and —(i) the offender is bound by a family violence restraining order; and (ii) the person against whom the family violence offence (category A) was committed is protected by the family violence restraining order; or (b) an offence in respect of which a CBO or ISO may apply is a family violence offence (category B) and the offender is a 'serial family violence offender' (a declaration which can be made at the time the person is sentenced, or which can have been made earlier by another court): Sentencing Act 1995 (WA) ss 67A, 76A, 84CA. See s 124E regarding the making of a serial family violence offender declaration.
97 Ibid ss 67A(3), 76A(2C), 84CA(3C).
98 *Sentencing Act* (n 27) ss 5(5)–(6).
99 Ibid ss 5(6)(c)–(d).
100 Ibid ss 34, 48. These considerations also apply in breach of a community correction order or intensive correction order proceedings if the offender breached a condition because they committed domestic violence: Ibid ss 39B(4), 48G(3).

For example, sentencing legislation in Victoria does not specify particular aggravating or mitigating factors. This means that there is 'no specific guidance' as to how domestic violence cases should be treated, 'other than general statements made from the higher courts'.[101]

The *Victorian Sentencing Manual*[102] sets out some common law principles which underpin sentencing in Victoria, including in relation to domestic and family violence (referred to as family violence in the manual).[103] It highlights that:

- breaching a domestic violence order will increase the seriousness of the offending;[104] and
- the gravity of the offending 'is not to be measured solely by the physical consequences' and the whole context must be considered.[105]

The Victorian Sentencing Advisory Council has also published 'Guiding Principles for Sentencing Contraventions of Family Violence Intervention Orders' which set out several factors that may be present and increase its seriousness such as the presence of children, offending taking place in or in the vicinity of the victim's home, and an abuse of power by a person the victim has ongoing emotional, legal and/or financial ties to (such as the joint care of children).[106] In contrast to the guidelines in England and Wales,[107] these have no formal legal status.

[101] Sentencing Advisory Council (Victoria), Sentencing Practices for Breach of Family Violence Intervention Orders (Final Report, 2009) 35 [3.5].
[102] Judicial College of Victoria, Victorian Sentencing Manual (Judicial College of Victoria, 4th ed, 2025)..
[103] Ibid 5.2.8.3'Family violence'.
[104] Ibid citing: Filiz v The Queen [2014] VSCA 212, [21]; Marrah v The Queen [2014] VSCA 119, [20], [25]; Baker v The Queen [2021] VSCA 158, [32]; Skeates (a pseudonym) v The King [2023] VSCA 226, [60].
[105] Judicial College of Victoria (n 102) 5.2.8.3 citing: *Skeates (a Pseudonym) v The King* (n 104) [77].
[106] Sentencing Advisory Council (Victoria), Guiding Principles for Sentencing Contraventions of Family Violence Intervention Orders (Report, 2009) 4.
[107] Sentencing Act 2020 (UK) pts 2 to 13 ('Sentencing Code') s 59. The court must follow any relevant sentencing guidelines, 'unless the court is satisfied that it would be contrary to the interests of justice to do so'.

Appendix 8: Key statistical terms

Statistical Terms used within this report

Median: a measure used to describe the central value of a dataset. It is the middle value (or the half-way point) of an ordered dataset. Half of the values lie above the median, and half below. The advantage of using the median, is that, compared with the mean, it is relatively unaffected by extreme scores at either end of the distribution. Medians are most often used to describe sentence lengths, or order durations.

Average (also referred to as the mean): a measure used to describe the central position of a dataset. The average is calculated by adding all the values in a dataset and dividing the sum by the total number of values. The average is affected by outliers — extreme values at either end of the distribution can cause the average to shift significantly.

Pearson's Chi-squared Test: a statistical test used to compare proportions between groups. For example, whether the likelihood of receiving a custodial sentence is significantly different for CDVOs sentenced pre-2015 compared with post-2015; or for DV offences compared with non-DV offences.

Wilcoxon rank-sum test: a statistical test used to compare continuous values between 2 groups. In this report, we use it to compare sentence lengths or amounts. For example, whether there is a statistical difference in the distribution of sentences imposed for CDVOs sentenced pre-2015 compared with post-2015; or for DV offences compared to non-DV offences.

Interpreting a box plot

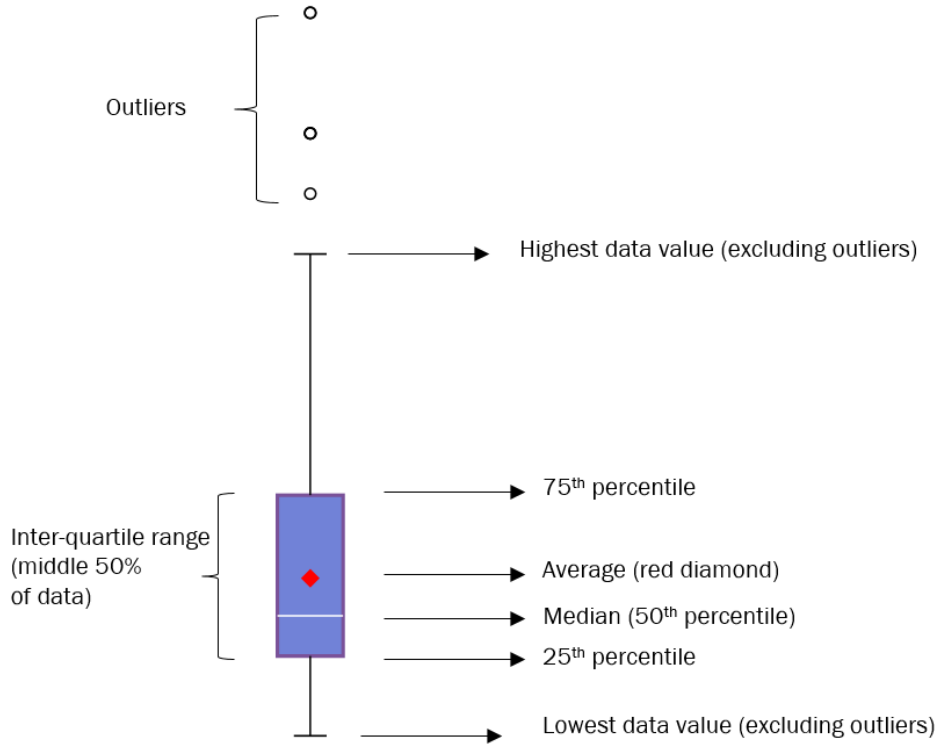
A box plot (or a box-and-whisker plot) is a type of graph that summarises data using a number of different statistics.

The 'box' represents the middle half of the data (the interquartile range). A quarter of the observations in the data are greater than this box, and a quarter of the observations are smaller than this box.

The median (as described above) is represented by the white line inside the 'box' (the middle value) and the red diamond indicates the average (or mean).

The T-shaped whiskers that extend from the box represented the last point in the data that is still within 1.5 times the interquartile range. This can sometimes be referred to the highest (or lowest) data value, excluding outliers.

The circles are outliers. Those are single data points or values that are more than 1.5 times away from the interquartile range. These values are considered to be 'extreme'.


Outliers
Highest data value (excluding outliers)
75th percentile
Inter-quartile range (middle 50% of data)
Average (red diamond)
Median (50th percentile)
25th percentile
Lowest data value (excluding outliers)

Appendix 9: Methodology for investigating trends in non-MSO CDVO cases

Where a single sentencing event involves multiple offences, the Council usually reports on the most serious offence ('MSO'). The MSO is the offence that received the most serious penalty (or sentence) based on the classification scheme used by the Australian Bureau of Statistics (ABS).[108]

Some cases include a CDVO charge that is not the MSO because another offence in the case received the most serious penalty. In **Chapter 5**, we examined these cases to better understand how CDVO offences are sentenced when they are not the MSO.

Aim

This analysis aimed to explore the relationship between the penalty type given for a CDVO (non-MSO) offence and the penalty type given for the MSO in the same sentenced case, where the MSO was not a CDVO offence.

Approach

This research examined all sentenced cases involving at least one charge of CDVO sentenced in the Queensland Magistrates and higher courts over the period 1 July 2012 to 30 June 2024. The analysis only included people sentenced as adults.

Methodology

The data used for this analysis was obtained from the Courts Database as maintained by the Queensland Government Statistician's Office (Queensland Treasury). The Courts Database contains information collected by the Department of Justice through the Queensland Wide Inter-linked Courts (QWIC) system, which is used to manage court operations across the state. The data used in this report was extracted from the Courts Database in August 2024.[109]

Each case was grouped into one of two categories:

1. **CDVO (MSO):** cases where a CDVO charge was the offence that received the most serious penalty. If multiple CDVO charges were sentenced in the same case, the offence with the most serious penalty and the longest sentence length was categorised as the primary CDVO (MSO).
2. **CDVO (non-MSO):** cases where a CDVO charge was sentenced, but another offence received the most serious penalty. If multiple non-MSO CDVO charges were sentenced, the CDVO charge with the most serious penalty and the longest sentence length was categorised as the primary CDVO (non-MSO).

For CDVO (non-MSO) cases, the analysis looked at the penalty type given for the CDVO offence and compared it to the penalty type given for the MSO where the MSO was not a CDVO offence.

[108] See Australian Bureau of Statistics, Criminal Courts Australia, 2018-19 (2020) Appendix 3, Sentence Type Classification.
[109] The Queensland Courts Database is continually updated as more information is entered into administrative systems. The information presented in this report may vary from data published elsewhere due to differences in the dates data were extracted.

Appendix 10: Pilot methodology to determine the conduct involved in CDVO offences

The methodology described here refers to preliminary work undertaken by the Council to test a proposed methodology for a large-scale representative study. The study aims to explore the types of conduct involved in cases sentenced for contravention of a domestic violence order (CDVO). It also seeks to ensure an adequate sample size to address specific research questions.

The information in this report is based on the results of the pilot study, which looked at the first 200 coded cases out of a total of 1,395 cases.

Aim

The pilot project aimed to lay the groundwork for a large-scale representative research project to:

1. Explore the different types of conduct that are sentenced for CDVO,[110] when it is sentenced as the MSO;
2. Examine how frequently each type of conduct is sentenced, and the types of sentences given for different types of conduct; and
3. Examine whether the type of conduct sentenced for CDVO have changed over time, comparing a periods before and after the legislative increase in the maximum penalties for CDVO on 22 October 2015.[111]

The pilot study involved identifying and selecting relevant information sources, determining the appropriate sample size for the full project to ensure representative results, and developing an initial coding frame to generate initial, general descriptive information to guide the future project.

Approach

There are limited administrative data sources available to explore the nature and seriousness of the behaviour that constitutes a CDVO offence as sentenced in the courts. The 4 primary administrative sources include:

- The Queensland Wide Inter-linked Courts system (QWIC): administratively records the offence of CDVO, including the date of the offence and the fact that a DVO condition has been breached. However, it does not record the specific DVO condition breached or the type of conduct that led to the breach.
- Court brief: a paper file containing documents tendered to the court, such as a statement of facts.
- Queensland Police – Bench Charge Sheet (QP9): a written summary of the police version of the facts, available to the defendant when they first appear in court.[112] While it may describe the nature of CDVO conduct, the facts contained may not be presented in its entirety to the court at sentence. They may also contain facts that may otherwise be considered not in contention.
- Sentencing submissions and remarks: the record of what was said at a sentencing hearing by all parties. They contain valuable information about the offence, offender and victim survivor, as well as the reasons given by the judge or magistrate for the sentence imposed. However, they do not include any documents tendered but not read out aloud in court, such as a statement of facts.

[110] DFVPA (n 1) s 177.
[111] Criminal Law (Domestic Violence) Amendment Act 2015 (Qld).
[112] See, Legal Aid Queensland, 'Criminal Law Duty Lawyer', *Legal Aid Queensland* (10 March 2025) <https://www.legalaid.qld.gov.au/Find-legal-information/Criminal-justice/Criminal-court-process/Criminal-law-duty-lawyer>.

Methodology

While sentencing submissions and remarks have shortcomings and limitations, it was determined that they would provide the most reliable source of information considered by a court as being relevant to the sentencing outcome.

A content analysis of sentencing submissions and remarks was chosen as the most appropriate approach. These records were considered to be an accurate source of details presented to court about the conduct that constituted the CDVO offence.

This information could then be supplemented with administrative data from both the QWIC system and the QP9 records regarding non-contestable facts, such as the sentencing outcome, offender and victim survivor demographics, and the relationship between the parties.

Sampling methodology

The Council identified 2 financial years for sampling:

- 2014–15: The last complete year of data before the maximum penalties for CDVO increased, reflecting sentencing practices before the change, and
- 2023–24: The most recent financial year available at the time this methodology was developed. This year would best reflect current sentencing practices.

In criminology, content analysis of sentencing remarks and similar materials often use a census sampling approach[113] where all eligible cases that meet the study criteria are coded. However, due to the high volume of CDVO (MSO) offences sentenced in the data periods (n=11,831 in 2023–24 and n=5,529 in 2014–15 respectively), a census approach to sampling was not feasible.

To account for the changes in maximum penalties, which affected both aggravated and non-aggravated CDVO, calculations were undertaken to determine the minimum sample size required to detect statistically significant differences in sentencing outcomes for these two categories.

A random selection of sentencing submissions and remarks was determined to be required as follows:

- For 2014–15: 674 (of 5,529) cases, made up of:
  - aggravated CDVO (MSO): 333 cases; and
  - non-aggravated CDVO (MSO): 341 cases.
- For 2023–24: 721 (of 11,831) cases, including:
  - aggravated CDVO (MSO): 366 cases; and
  - non-aggravated CDVO (MSO): 355 cases.

As 99.9 per cent of CDVO (MSO) cases during the period were sentenced in the Magistrates Courts,[114] recordings of proceedings need to be requested from Courts and Tribunals Recording and Transcription Services (RTS) within the Department of Justice.

For the large-scale project, recordings of proceedings were requested for all 1,395 cases. However, due to delays in obtaining these records, only 200 cases were available in time for the pilot project. This subset was used to test the coding frame and identify areas for future refinement.

Coding frame

A test coding frame was developed for a qualitative content analysis. The coding included:

- physical/non-physical violence;

---

[113] William L Benoit, 'Content Analysis in Political Communication' in *The Sourcebook for Political Communication Research* (Routledge, 2011).

[114] Queensland Sentencing Advisory Council, Sentencing Spotlight on Contravention of a Domestic Violence Order (May 2025) 8.

- nature of conduct (physical harm, threats to physical harm - in position to carry out, threats to physical harm - not in a position to carry out, contacting, verbal abuse, property damage, threat/attempt to hit with object, self-harm, physical force not related to personal violence, other);
- condition/s breached;
- victim/perpetrator relationship;
- victim age;
- most serious behaviour (where there is more than one type of behaviour this is identified by a ranking system where there is more than one type of behaviour);[115]
- whether the act is a course of conduct (or if it was charged as one act).

For the pilot project, the coded data was then matched with administrative QWIC data on sentencing outcomes. The data was analysed using the R statistical programming language to identify patterns or changes in sentencing outcomes and conduct types over time.

Limitations

Due to the small and non-representative nature of the 200-case sample, the pilot study was only able to provide general descriptive findings.

[115] An approach of ranking the most serious of the behaviours involved in the contravention offence was adopted for the pilot coding project, this approach will not be continued in the coding of the full sample. The reason for moving away from this approach was the concern that by analysing sentencing outcomes based on a single primary conduct, all other conducts that the magistrate may have considered would be missed. This approach may have also introduced unintentional bias to the analysis as by ranking the seriousness of conduct we immediately assume this will attract a higher penalty than other conducts on the case which may not accurately reflect how magistrates view these behaviours.

Appendix 11: Methodology for analysis of exceptional circumstances to section 9(10A) of the *Penalties and Sentences Act 1992* (Qld)

Aim

This analysis aimed to explore how exceptional circumstances are applied when domestic violence is an aggravating factor for the purpose of sentencing. Specifically, it examined:

1. The circumstances in which exceptional circumstances have been found to exist.
2. The circumstances in which exceptional circumstances have been raised but not found to exist.

Approach

The Council reviewed sentencing remarks from the District and Supreme Courts. These remarks were available from the Queensland Sentencing Information Service (QSIS).[116]

Methodology

A free-text keyword search was conducted of the QSIS website using the terms 'exceptional' and 'domestic violence.' The search covered sentencing remarks from the most recent 6 years (1 July 2019 to 30 June 2025).

Cases were included if they met the following criteria:

1. the case involved an adult sentenced for a 'domestic violence offence' as defined in *Criminal Code* (Qld) sch 1, s 1);
2. the term 'exceptional' was mentioned in the context of section 9(10A) of the PSA;
3. the court made one of the following findings about whether exceptional circumstances existed:
    - exceptional circumstances were discussed and found; or
    - exceptional circumstances were discussed but not found.

The following information was coded for each case:

1. the MSO offence type and whether a weapon was used;
2. the gender of the person sentenced and the victim survivor;
3. the type of relationship between the person sentenced and the victim survivor:
    - intimate personal relationship (current or former); or
    - family relationship; or
    - informal care relationship;[117]
4. the reasons given by the court for finding or rejecting exceptional circumstances, including whether these reasons differed from the 2 legislated examples.

[116] Sentencing remarks which were available on QSIS as at 30 June 2025.
[117] DFVPA (n 1) s 13.

To ensure confidentiality, all cases analysed were deidentified using the below format:

> Case study # (Offence (weapon used), gender of offender/gender of victim, relationship type).

Limitations

This analysis was designed to provide examples of how exceptional circumstances are being applied in domestic violence offences. It does not consider whether section 9(10A) of the PSA is achieving its policy aims, is operating as intended, or whether a finding of exceptional circumstances in any way impacted the outcome when compared to other cases where it was not found.

The data in this report is based solely on sentencing remarks from the District and Supreme courts and does not consider Magistrates Courts sentencing remarks. This is because QSIS does not include Magistrates Courts sentencing remarks which are not routinely transcribed. Obtaining these would require a prohibitively large and costly sample of domestic violence cases sentenced in the Magistrates Courts. Based on our District Court and Supreme Court data, exceptional circumstances are raised in only a very small proportion of cases, suggesting that a substantial sample would be required to determine how often exceptional circumstances are successfully raised.

The findings are not representative of all sentenced cases. The Council's research relied on the availability of searchable transcripts for cases sentenced in the District and Supreme Courts. However, previous research by the Council[118] has found that sentencing remarks for some cases are not contained within QSIS.

Another limitation is the reliance on specific words or terms, for example, the 'exceptional circumstances' search phrase. What judges say when delivering their remarks does not necessarily reflect all the factors they considered when deciding on a the sentence. Judicial officers are required to satisfy a range of often contradictory purposes and audiences' (e.g. victim survivors, the person being sentenced, prosecution and defence lawyers, other judicial officers, the appeal court and the media), which may influence what is expressly mentioned, making it hard to know exactly what influenced the sentencing decision.[119] The information in the sentencing transcripts – the type, level and detail of information – often varied by judicial officer and court level, rendering them an inconsistent source of data.[120]

[118] Queensland Sentencing Advisory Council, *Sentencing of Sexual Assault and Rape: The Ripple Effect* (Final Report, December 2024) ('*The Ripple Effect*').
[119] Cyrus Tata, Sentencing: A Social Process – Re-Thinking Research and Policy (Palgrave Macmillan, 2020) ch 3, 69; ch 7, 147..
[120] *The Ripple Effect* (n 118).

Appendix 12: Summary table - sentencing outcomes for section 9(10A) offences vs non-9(10A) offences

Offences are categorised based on the Australian and New Zealand Standard Offence Classification, 2023. An asterisk indicates a statistically significant difference.

Offence	Total cases (MSO)	DV cases n (%)	Penalty type distribution	% custodial	Median custodial sentence
01 Homicide					
Manslaughter (HC)	223	54 (24.2%)		–	=
Murder (HC)	118	31 (26.3%)	–	–	–
02 Assaults					
Acts intended to cause GBH and other malicious acts (HC)	250	58 (23.2%)	*	–	↓*
Assaults occasioning bodily harm (aggravated) (MC)	5,124	1,375 (26.8%)	*	↑*	=*
Assaults occasioning bodily harm (aggravated) (HC)	1,266	338 (26.7%)	*	↑*	↑*
Assaults occasioning bodily harm (non-aggravated) (MC)	14,358	5,875 (40.9%)	*	↑*	↑*
Assaults occasioning bodily harm (non-aggravated) (HC)	1,699	1,006 (59.2%)	*	↑*	↑*
Common assault (MC)	17,783	5,453 (30.7%)	*	↑*	↑*
Common assault (HC)	556	245 (44.1%)	*	↑	↑
Grievous bodily harm (HC)	1,391	340 (24.4%)	–	↑	=*
Serious assault of a person 60 years and over (MC)	1,795	403 (22.5%)	*	↑*	↑*
Torture (HC)	112	30 (26.8%)		↑	=
Wounding (HC)	916	430 (46.9%)		↑	=
03 Sexual offences					
Distributing intimate images (MC)	162	34 (21.0%)		↑	–
Indecent treatment of children under 16 (aggravated) (HC)	965	353 (36.6%)	–	↑	↑
Indecent treatment of children under 16 (non-aggravated) (HC)	460	45 (9.8%)		↑	↑
Rape (HC)	1,064	377 (35.4%)	*	↑	=*
Repeated sexual conduct with a child (HC)	557	237 (42.5%)		–	↑
Sexual assault (non-aggravated) (HC)	468	54 (11.5%)	*	↑	↑*
04 Harm or endanger persons					
Deprivation of liberty (MC)	143	65 (45.5%)		↓	↑
Going armed so as to cause fear (MC)	2,082	184 (8.8%)	–	↑	=
Threatening violence (aggravated) (HC)	126	54 (42.9%)		↑	↓
Threatening violence (non-aggravated) (MC)	981	241 (24.6%)	–	↑*	=*
Stalking (aggravated) (HC)	423	319 (75.4%)		↑	↑
Stalking (non-aggravated) (MC)	955	251 (26.3%)	*	↑*	↑*
06 Burglary					
Burglary (aggravated) (MC)	973	66 (6.8%)	–	↑	=
Burglary (aggravated) (HC)	896	124 (13.8%)	–	↑	↓
Burglary and commit indictable offence (MC)	5,863	281 (4.8%)	–	↑*	=*
Burglary and commit indictable offence (HC)	461	48 (10.4%)		↓	↓*
Trespass (of a dwelling) (MC)	3,081	53 (1.7%)	–	↑	=
Unlawful entry and commit offence (aggravated) (MC)	4,965	30 (0.6%)	–	↑	↓
Unlawful entry and commit offence (non-aggravated) (MC)	4,308	34 (0.8%)	–	↓	↓
07 Theft					
Stealing (MC)	34,554	151 (0.4%)	–	↑*	↑
Unlawful use of a motor vehicle (non-aggravated) (MC)	8,531	48 (0.6%)	–	↑	↓

Offence	Total cases (MSO)	DV cases n (%)	Penalty type distribution	% custodial	Median custodial sentence
10 Weapons and explosives offences					
Possession of a knife in a public place or a school (MC)	11,619	50 (0.4%)	–	↓	–
11 Property damage					
Arson (HC)	516	94 (18.2%)		↑*	=*
Wilful damage (MC)	20,092	4,472 (22.3%)	*	↑*	↑*
12 Public order offences					
Public nuisance (aggravated) (MC)	6,593	62 (0.9%)	–	↑	–
Public nuisance (non-aggravated) (MC)	22,085	431 (1.9%)	–	↑*	↑*
13 Traffic and vehicle offences					
Dangerous operation of a vehicle (aggravated) (MC)	2,013	56 (2.8%)	–	↑	↑
Dangerous operation of a vehicle (non-aggravated) (MC)	4,469	290 (6.5%)	–	↑*	=
14 Offences against justice procedures and orders					
Attempting to pervert justice (HC)	237	55 (23.2%)	*	↑	↑*
Breach bail condition (MC)	21,322	605 (2.8%)	*	↑*	↑*

Data include adult offenders, MSO, Magistrates Courts and higher court cases sentenced between 1 July 2016 and 30 June 2024.
Notes: * indicates a significant difference
a blank cell indicates a significant difference was not found
- indicates that significance testing was not undertaken
↑ indicates that the result was higher for the DV offence
↓ indicates that the result was lower for the DV offence
= indicates the median sentence was the same for DV and non-DV
Source: QGSO, Queensland Treasury — Courts Database, extracted September 2024

Appendix 13: Analysis of non-DV offence exceptions to DV aggravating factor analysis

Aim

In **Chapter 9**, we compared outcomes for DV offences with those for non-DV offences between 2016 and 2024 as part of our assessment of the impact of section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) (PSA) on sentencing outcomes.

In most cases we found DV offences were treated as more serious forms of offending being more likely to attract a custodial sentence and resulting in longer custodial sentences.

There were 2 offences for which the reverse trend was true for which our findings were statistically significant:

1. Burglary and commit indictable offence (*Criminal Code* (Qld), s 419(5)):
    - For offences sentenced in the Magistrates Courts, DV offences were less likely than non-DV offences to receive a custodial penalty (67.6% vs 74.7%). A higher proportion of non-DV offences also received custodial penalties at or above 40 per cent of the maximum available penalty (47.3%), compared to DV offences (31.1%), and a higher proportion of non-DV offences resulted in sentences that were 80 per cent or more of the maximum available penalty of 3 years.
    - For cases sentenced in the higher courts, while there was no statistically significant difference in the proportion of custodial penalties, non-DV offences had a longer median sentence (3.0 years) compared to DV offences (2.3 years). A statistically significant difference was found in the custodial sentence length distribution.
2. Acts intended to cause grievous bodily harm (GBH) and other malicious acts (*Criminal Code* (Qld), s 317) (malicious acts):
    - While all sentences imposed were custodial, a difference was found in the custodial penalty type distribution. The median custodial sentence length was also higher for non-DV offences (7.0 years) than for DV offences (6.0 years). A statistically significant difference was found in the custodial sentence length distribution.

The aim of this research was to explore case-specific factors that might help to explain the reasons for this finding.

Approach

The Council reviewed sentencing remarks from both the District and Supreme Courts available from the Queensland Sentencing Information Service (QSIS).

Methodology

Sentencing remarks for the 5 DV cases and 5 non-DV cases with the lowest and highest custodial sentences for burglary and commit indictable offence and malicious act offences sentenced in the higher courts were analysed.

The 5 lowest and highest outcomes were identified in the administrative data. Sentencing remarks were then located on the Queensland Sentencing Information System ('QSIS') or requested where these were not available on QSIS.

A manual review of the remarks was undertaken by the Council to identify key case, offence and defendant-related factors that might have influenced the sentence. Due to several sentences being imposed at the same level, more than 5 cases were examined in some instances.

The findings are summarised in Table A-4 and Table A–5 below.

Table A-4: Sentence outcome and case characteristics for non-DV cases and DV cases resulting in the shortest and longest 5 custodial sentences – Burglary and commit indictable offence

Case characteristics	Non-DV cases	DV cases
1. SENTENCING RANGES		
'High end' cases	6.5 to 7.5 years	3.0 to 7.5 years
'Low end' cases	2.0 to 4.1 months	3.0 to 12 months
2. CONDUCT		
'High end' cases	**Burglary and stealing:** D stole a safe at private residence with Vs' wedding and engagement rings and one of V's mother's engagement ring (26 offences, including other offences of burglary and stealing). **Burglary and stealing:** D convicted of 61 counts involving 3 series of offences, including 13 counts of burglary and stealing, while employed as a grounds person at several residential complexes. Also offended outside of this context. **Burglary and stealing:** D committed a 'home invasion' with others as part of a 6-week 'crime spree' involving stealing, driving dangerously and crashing cars, assaulting people to get cars and stealing petrol. Multiple offences charged. **Burglary and commit GBH:** D broke into the home of the V, an elderly woman living by herself, at night. He attacked her, punched and kicked her and stabbed her in the eye with a butter knife. **Burglary and stealing:** D offended as part of a 'one man crime spree' - mostly involving breaking or entering houses, stealing car keys and property, and stealing cars. More than 100 offences charged. **Burglary and stealing:** D committed numerous offences including breaking into a property and into a secure gun safe stealing rifles. More than 80 offences charged.	**Burglary and unlawful wounding:** D entered V's home (ex-girlfriend) armed himself with a knife and lunged at the V when she got home stabbing her 4 times. **Burglary and common assault:** D turned up at V's house and managed to get inside, knocking a saucepan and splashing her eye - also firing 2 shots with a gun outside the house. **Burglary and commit assault occasioning bodily harm (AOBH):** D came looking for V at her unit and looked through a window. D ripped off the screen, reached through the window and stuck her with a window screen to the head and tried to take a machete V had. **Burglary and commit common assault:** D went to V's home late at night holding a hammer up threatening her - also pushing her against a wall causing her to fall (separate charge of common assault). **Burglary and stealing:** D broke into V's (his ex-partner's) house (DVO in place), stealing money and vandalising her laptop.
'Low end' cases	**Burglary and stealing:** D took a 'significant amount of property', including jewellery and knives as well as house and car keys (stealing) and took 3 cars (unlawful use of a motor vehicle) (with 2 co-offenders) **Burglary and stealing:** D's offences committed 8 years prior. No one at home. **Burglary and common assault:** 'Vigilante' action by neighbour, D, who spoke to V's partner about a disagreement the V had with V's partner and daughter. D punched V in the chest (common assault) running out and asking V to come out to fight him.	**Burglary and commit AOBH:** D1 was a party to an offence committed by D2 who was upset about information on social media posted about her. **Burglary and common assault:** D1 restrained the V, his daughter's former partner, while his daughter retrieved her young daughter who her mother-in-law and the V refused to hand over. **Burglary and commit AOBH:** D1 smashed a window trying to get D2 out who was retrieving her cat from the V's house (ex-partner). D1 spat at V during incident. D2 tackled V. **Burglary and commit wilful damage:** D broke into ex-partner's home and made holes in the wall, threw furniture and broke things while V and her family were out.

Case characteristics	Non-DV cases	DV cases
	Burglary and common assault: D stepped inside V's unit and threw a lemon at her brushing her hair (common assault). **Burglary and stealing:** D took mobile phone and sunglasses (stealing) while in V's premises where they had just shared a drink as 'security' for personal property he wanted back.	**Burglary and commit AOBH while armed:** Principal offender in second case above. D1 punched and slapped the V (ex-partner) several times and struck him on the collarbone with a clay statue trying to retrieve her daughter.
3. INJURIES/HARM/VALUE OF GOODS		
'High end' cases	Various including: • Financial losses, including loss of money (incl. in excess of $100,000), credit and debit cards, • loss of property and jewellery, such as wedding and engagement rings; • physical injuries including extensive haemorrhaging, cognitive issues, speech and short-term memory problems, loss of sight in one eye, could no longer live independently, significant medical costs; • psychological harm including complex PTSD, paranoia, depression and anxiety, and distress.	In addition to psychological harm: • wounds to abdomen and right flank and thigh; • bruising and swelling and strike to the head, cuts; • distress and cramping; • damage to property, such as a laptop being vandalised; • $4,000 stolen; and • paranoia.
'Low end' cases	Various including: • property loss, including 50 knives carved by V; • property loss; • unspecified physical injury due to being punched in the chest; and • unspecified, but reference to the need to give evidence at trial as 'traumatic'.	Various including: • slight bruising • abrasions and property damage (in 1 case, by principal offender, not D) • injured shoulder, property damage (but from co-offender's actions), anxiety; and • property damage to home, fear and concern about involvement of family.
4. WEAPONS/OTHER AGGRAVATING FEATURES		
'High end' cases	4 cases involved offences committed while on bail or parole 1 involved use of a knife	1 involved the use of knife (wounding) [D found with a knife in another, but involved property offending] 1 involved a threat with a hammer with children present and another, having a loaded gun also with a child present 1 committed on parole, 1 while D on bail and 1 while D subject to a DVO
'Low end' cases	1 case involved offence committed on parole and 1 while D subject to a suspended sentence	1 committed while principal offender (D1's sister) subject to an interim protection order
5. PERSONAL CIRCUMSTANCES OF OFFENDER AND CRIMINAL HISTORY		
'High end' cases	Issues included: • heavy drug and alcohol use/dependence (particularly methylamphetamine); • significant psychological conditions including schizophrenia and schizophrenia-like syndrome; • gambling problems; • disadvantaged childhood; • witnessing DV; and • victim of sexual abuse as a child.	Issues included: • drug and alcohol use/dependence (including amphetamines / methylamphetamine); • psychological conditions,; • neurodevelopmental conditions including, Autism Spectrum Disorder, ADHD and foetal alcohol syndrome; • childhood disadvantage; • death of grandparents; • relationship breakdown; and • exposure to DV as a child.

Case characteristics	Non-DV cases	DV cases
	Criminal histories ranged from limited to substantial and significant (e.g. in one case, over 100 prior burglaries). All Ds pleaded guilty.	Some had either good employment or employment prospects. Criminal histories ranged from 'offences of a lesser kind' to 'extensive', including offences of violence. All Ds pleaded guilty.
'Low end' cases	Issues included: • drug and alcohol use/dependence; • schizophrenia; • significant childhood disadvantage; • Homelessness; • relationship breakdowns; and • death of parent. Criminal histories ranged from limited to lengthy. All but 1 D pleaded guilty (1 at a late stage following a trial).	Circumstances mentioned mostly in mitigation including: • caregiver for 3 children; • employed; • good work history; • compliance with DVO; • addressing drug and alcohol issues; • attending counselling; and • making an apology. Criminal histories, but mostly limited, 'dated' or 'largely irrelevant'. All Ds pleaded guilty.

Table A-5: Sentence outcome and case characteristics for non-DV cases and DV cases resulting in the shortest and longest 5 custodial sentences – Malicious acts

Case characteristics	Non-DV cases	DV cases
1. SENTENCING RANGES		
'High end' cases	10 to 12 years	8.0 to 9.5 years
'Low end' cases	1.0 to 3.0 years[1]	3.0[2] to 4.5 years
2. CONDUCT		
'High end' cases	Typically element of pre-planning with high levels of violence. Examples included: • 'sustained beating' involving an attack on 3 people, including the V, in their home; • shooting the V in the knee demanding money (drug related); • planned attack on V involving persistently beating him about the head after an argument; • pouring lighter fluid on V's genitals in the context of torturing the V over 7 days; • driving at the V, a police officer, at speed resulting in him being flung to the ground while car travelling at 60km per hour.	High level of violence. While some offending involved a high level of pre-planning, other cases were characterised as involving more spontaneous acts. Examples included: • D throwing a bottle filled with petrol at V (his girlfriend), splashing her and flicking a lighter causing fumes to ignite; • stabbing V in the stomach while pregnant; • pouring caustic soda over V (then partner) while zip tied to a tree in the bush at night (also charged with torture); • driving over V and reversing over her causing her to fall and driving over her a second time; • striking V (wife with whom D separated) in the skull with a baseball bat as she was sleeping; • throwing boiling water over a V (former partner) after punching her; • driving at ex-partner's mother and father who were on the footpath, hitting them.
'Low end' cases	Wide range of behaviour involved with very different factual circumstances. Examples included: • D swinging a knife at the V's stomach (no contact made); • D 'surgically' removing another man's testicle (at the victim's request); • D throwing a brick towards a police officer to prevent the lawful arrest of her daughter causing a laceration to a police officer's head; • D driving at a police officer at speed, hitting the officer's car (no injury to officer); • D stabbing a V in the neck after he entered the victim's home trying to get the keys to his car.	Most commonly involved stabbings by family members or ex-partners in circumstances where, in several cases, the D had significant mental health issues or had experienced violence or abuse perpetrated by the D. Examples included: • D stabbing the V, his daughter-in-law, 8 times in lower torso and shoulder; • D stabbing the V, her father, twice in the shoulder; • D stabbing the V, his adult sister, 10 times; • D stabbing V, her ex-partner twice (once in the arm and chest); • D driving at V, an ex-partner, hitting her and causing injury to an ankle and hip; • D striking the V, his wife, with a cricket bat in the forehead causing a laceration.
3. INJURIES/HARM TO VICTIM		
'High end' cases	Various (all including both physical and psychological harm) including: • gunshot wound to thigh, compound fracture of femur and metallic fragments requiring surgery; • wounds and significant and multiple fractures requiring surgery (including injuries requiring victim to be put into a coma);	Various (all including both physical and psychological harm) including: • significant burns to neck, chest arms and upper thigh (21% of body), scarring and hospitalisation, mental and emotional harm; • shoulder dislocation, fractured ribs, collapsed lung and fractured right femur;

Case characteristics	Non-DV cases	DV cases
	• significant fractures to skull, severe damage to eye socket, brain damage, sight issues and memory loss; • burns to 15 per cent of body (other offences caused subdural haemorrhage, shoulder dislocation, brain damage, memory loss, dislocated jaw); • multiple skull fractures and brain injury, eye socket facture, ruptured eardrum, broken teeth, chronic pain, psychological injury.	• skull fracture and subdural haematoma, brain damage, epilepsy and seizures, inability to work, fatigue, loss of hearing in one ear; • permanent scarring, PTSD, pain and memories of pain.
'Low end' cases	Various from no harm/reported benefit by victim to his health and wellbeing, to emotional harm and distress, laceration/wound, PTSD and nerve damage.	Various including collapsed lung and bleeding and other injuries (some requiring surgery) as a result of stabbings, anger, sadness and PTSD.
4. WEAPON/FLUID		
'High end' cases	Firearm, shifting spanner, lighter fluid (earlier attempt to use a knife) and vehicle (to evade police)	Petrol, knife, caustic soda, boiling water, vehicle, baseball bat
'Low end' cases	Knife (no contact), surgical instrument, brick (thrown at police officer), vehicle (no contact - police vehicle), knife, bottle (thrown at police officer)	Knives, cricket bat, vehicle
5. PERSONAL CIRCUMSTANCES OF OFFENDER AND CRIMINAL HISTORY		
'High end' cases	Issues included drug misuse, mental health. Generally extensive criminal history, including for offences of violence. 4 pleaded guilty, and 1 was convicted following a trial.	Issues included drug and alcohol misuse and mental health. Criminal history ranged from no or limited prior history to extensive. 4 pleaded guilty (1 initially pleaded not guilty and was convicted at trial, but his original conviction was overturned on appeal). 3 were found guilty following a trial.
'Low end' cases	Issues included: • drug and alcohol misuse; • autism spectrum disorder; • testosterone treatment; • significant mental health issues; and • disadvantaged background. Criminal histories ranged from no criminal history to 'street' or minor offending, to 'more significant histories. All 7 pleaded guilty.	Issues included: • mental health issues including borderline personality disorder and depression; • intellectual disability with autism spectrum disorder; • being subjected to 'significant' domestic violence (female offender); and • caring responsibilities. Most of those sentenced had no or a limited criminal history. 1 female D had an 'extensive' history but not a significant history of violence. All 6 pleaded guilty.

Notes: 1. All 3 offenders sentenced to 3 years' imprisonment had significant pre-sentence custody that was not declared ranging from 2.5 years (902 days) to 3 years. 2. Of the 2 DV cases that attracted a 3-year custodial sentence, both involved extensive period of pre-sentence custody not declared as time served under the sentence ranging from 20 months to 3 years, 11 months and 2 days (1,432). The shortest custodial sentence taking non-declared time into account was 4 years' imprisonment.

www.sentencingcouncil.qld.gov.au

Queensland Sentencing
Advisory Council