

SENTENCING
SPOTLIGHT ON

choking, suffocation
or strangulation in a
domestic setting

Sentencing Spotlight on... choking, suffocation or strangulation in a domestic setting

This *Sentencing Spotlight* examines sentencing outcomes for the offence of choking, suffocation or strangulation in a domestic setting under s 315A of the *Criminal Code* (Qld) finalised in Queensland courts between 2015–16 and 2022–23.

Summary of offences 2015–16 to 2022–23

Adults



98.7%

sentenced received a
custodial penalty



2.5 years

was the average
imprisonment length

All ages



1.7%

pleaded not guilty



1,818

cases in which choking, suffocation or
strangulation in a domestic setting
was the most serious offence (MSO)



2.0%

repeat offenders



32.5 years

was the average age
of offenders



98.3%

of offenders were male



44.5%

of cases had a co-sentenced
charge of contravention of a
domestic violence order

All offences sentenced in Queensland

0.2%

of cases sentenced in Queensland involved a charge of choking, suffocation or
strangulation in a domestic setting

Source: Department of Justice and Attorney-General's Queensland Wide Inter-linked Courts (QWIC) database, as maintained by the Queensland Government Statistician's Office (QGSO).

Warning to readers

This report contains subject matter that may be distressing to readers.

Material describing the offence of choking, suffocation, or strangulation in a domestic setting are included in this report.

Strangulation is a life-threatening assault. It is important that people who have experienced strangulation talk to their doctor, a health worker or a specialist medical service as soon as possible. If your life is in danger, call 000 (ambulance or police) or 131 444 for non-urgent police assistance.

If you need to talk to someone, support is available:

DV Connect: 1800 811 811

Lifeline Australia: 13 11 14

Mensline: 1800 600 636

Queensland Sexual Assault Helpline: 1800 010 120

Victim Assist Queensland: 1300 546 587 (business hours) or email: VictimAssist@justice.qld.gov.au

Women's Legal Service Queensland: 1800 957 957

Choking, suffocation or strangulation in a domestic setting

Section 315A of the *Criminal Code* (Qld) provides that a person commits a crime if they unlawfully choke, suffocate or strangle another person, without the other person's consent and either:

- they are in a domestic relationship with the other person;¹ or
- the choking, suffocation or strangulation is associated domestic violence under the *Domestic and Family Violence Protection Act 2012*, being domestic violence committed against a child of an aggrieved (or a child who usually lives with that person), a relative or an associate of an aggrieved.²

In this *Sentencing Spotlight*, the offence of choking, suffocation or strangulation in a domestic setting will be referred to as 'strangulation'.

The offence of strangulation was introduced on 5 May 2016 following a recommendation made by the Special Taskforce on Domestic and Family Violence in Queensland.³ The Special Taskforce found strangulation was an indicator for increased risk of harm and a key predictor of domestic homicide. It recommended that a standalone offence be established with an appropriate penalty applied to account for this increased risk.⁴

The maximum penalty for strangulation is 7 years imprisonment.

Number of cases

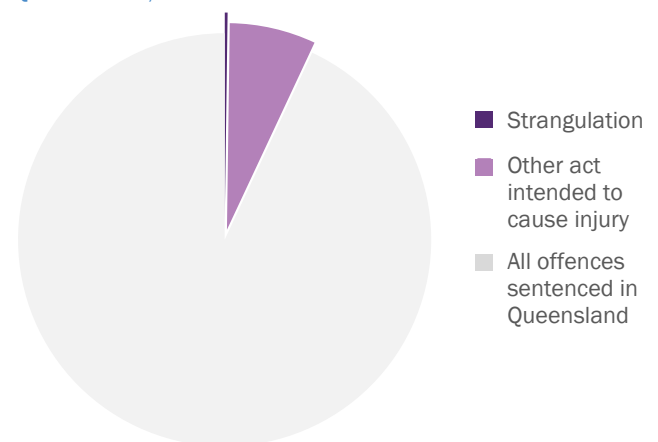
A total of 1,971 unique individuals were sentenced for 2,012 cases involving strangulation between 2015–16 and 2022–23. These cases involved a total of 2,551⁵ charges for the offence of strangulation.

For 1,818 (90.4%) of those cases, strangulation was the most serious offence (MSO). For the remaining 194 cases where strangulation was not the MSO, the MSO was most commonly assault occasioning bodily harm (AOBH) (23.2%), followed by rape (15.5%), burglary (12.9%), grievous bodily harm (7.7%) and torture (7.2%).

This *Sentencing Spotlight* focuses primarily on the 1,818 sentenced cases where strangulation was the MSO.

Since 2016–17*, there were 923,698 cases sentenced in Queensland's criminal courts. Cases falling into the offence category of 'acts intended to cause injury' accounted for 7.0% of cases sentenced (n=64,376). The offence of strangulation, which is classified within this offence category, was sentenced in 2,012 cases, representing 3.1% of acts intended to cause injury cases, but only 0.2% of all matters dealt with from 2016–17 to 2022–23.

Figure 1: Number of strangulation cases sentenced in Queensland, 2016–17 to 2022–23



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

* Since only 1 case was sentenced in 2015–16, the comparator period for this analysis started from 2016–17.

Note:

This is version 2 of the *Sentencing Spotlight on choking, suffocation or strangulation in a domestic setting*. It updates the previous version published in May 2019 and has been revised and updated to present five years of additional data.

There are some differences in counting rules between the versions, including the way the MSO is determined for statistical purposes.

1. Previously, the offence of strangulation was classified as 0213 'common assault' in the Australian and New Zealand Standard Offence Classification (ANZSOC, [ABS, 2011](#)) with a National Offence Index (NOI, [ABS, 2018](#)) ranking of 30. In this version, we reclassified strangulation to 0211 'serious assault resulting in injury' which has a more serious NOI ranking of 25. This change reflects the objective seriousness of the offence of strangulation and aligns with offences with a similar maximum penalty (such as assaults occasioning bodily harm (AOBH)).
The effect of this change was to include an additional 201 MSO charges of strangulation in this *Sentencing Spotlight* that would otherwise have been excluded from analysis (in most of these cases, the MSO was previously AOBH).
2. Previously, a charge that received a penalty of imprisonment was determined to be more serious than other types of penalties. In this version, partially suspended sentences have been ranked at the same level as imprisonment. This has led to an increase in the number of partially suspended sentences as the MSO compared to version 1.

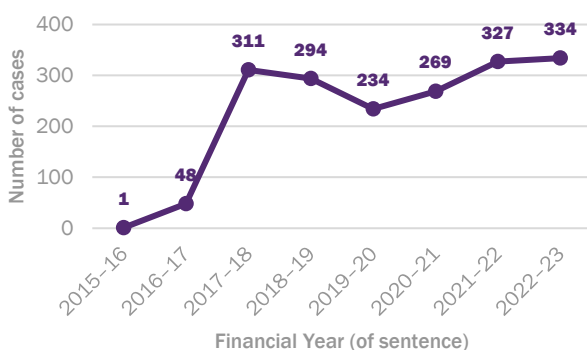
Figure 2 shows the number of strangulation cases sentenced (MSO) during the 7-year data period.

The offence of strangulation was introduced on 5 May 2016. Between 5 May 2016 and 30 June 2016, 1 case was sentenced. In 2016-17, the first full year the offence was available, 48 cases were sentenced. This may reflect the length of time required for a charge of strangulation to progress to sentence in the higher courts.

In 2017-18, 311 strangulation (MSO) cases were finalised. The number of strangulation cases decreased in 2019-20, which was likely due to the impact of the COVID-19 pandemic and its aftereffects. Fewer offences were occurring and/or being detected over this period, and fewer cases were prosecuted and sentenced due to restrictions on court sittings.

The number of cases sentenced returned to pre-pandemic levels in 2021-22 (n=327) and remained at a similar level in 2022-23 (n=334).

Figure 2: Number of strangulation cases (MSO), 2015-16 to 2022-23



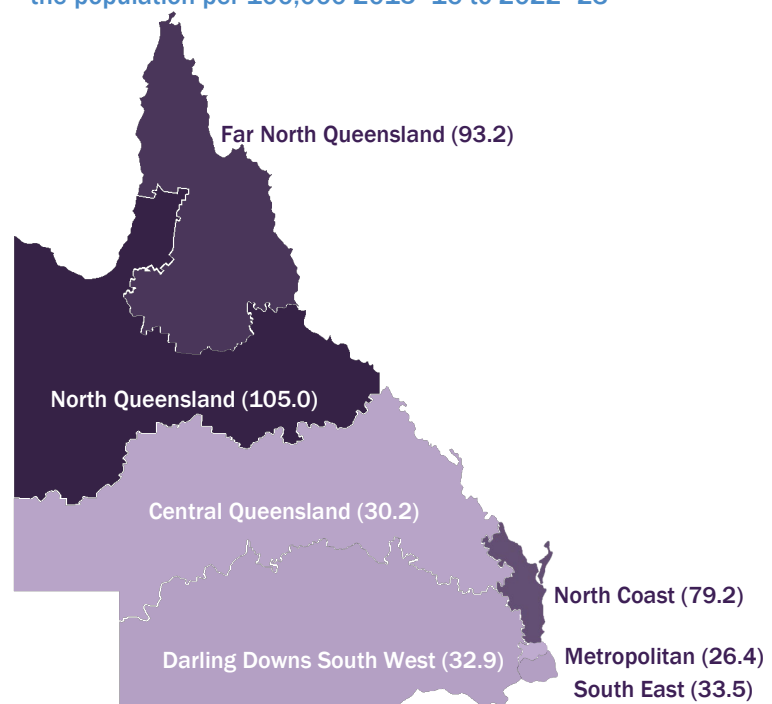
Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

Regions

Figure 3 shows the distribution of strangulation offences by region in Queensland by rate per 100,000 population based on the location of the court in which they were sentenced.

This shows that the northern regional areas of Queensland had the highest proportional rate of sentenced strangulation (MSO) cases. The rate of strangulation offences in North Queensland (105.0) was nearly four times the rate of the Metropolitan region (26.4) and Far North Queensland (93.2) was over three times as high. The North Coast region also had a particularly high rate compared to the rest of the state (79.2).

Figure 3: Strangulation (MSO) cases by region by rate of the population per 100,000 2015-16 to 2022-23



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

Demographic characteristics

This section compares the age, gender and Aboriginal and Torres Strait Islander status of people sentenced for strangulation (MSO) from 2015–16 to 2022–23.

Note: any comparisons to 'all offences' includes cases sentenced for any offence in Queensland between 2016–17 and 2022–23. Cases sentenced in 2015–16 were not included as only 1 strangulation case was sentenced in this period.

Gender

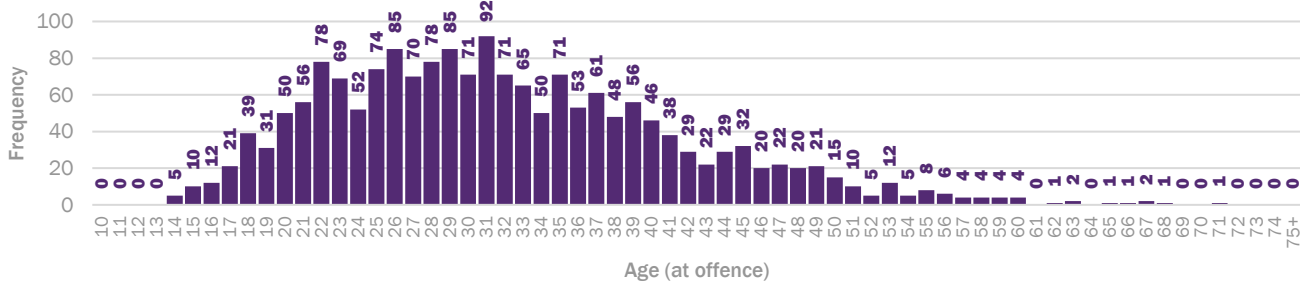
Over the 7-year data period, the overwhelming majority of people sentenced for strangulation (MSO) in Queensland were male (98.3%, n=1,788), with only 30 women sentenced for strangulation over the data period.

This is considerably higher compared to all offences sentenced in Queensland, where 74.0% of people who are sentenced are male.



Note: 'All offences' includes cases sentenced between 2016–17 and 2022–23, as only 1 strangulation case was sentenced in 2015–16.

Figure 4: Number of people sentenced for strangulation (MSO) by age, 2015–16 to 2022–23



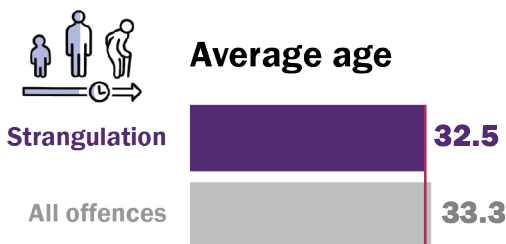
Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

Age

On average, people sentenced for strangulation (MSO) were slightly younger at the time of committing the offence (32.5 years) than the average age of all people sentenced in Queensland (33.3 years). The youngest person sentenced for strangulation was 14 years old at the time of the offence, and the oldest was 71 years old, with a median age of 29.1 years. Figure 4 shows age at the time of offence of the person sentenced.

Although people who identify as Aboriginal and Torres Strait Islander represent approximately 4.6% of Queensland's population (aged 10 years and over),⁶ they accounted for 26.5% (n=482) of people sentenced for strangulation (MSO) during the 8-year data period. Most people sentenced for strangulation (MSO) were non-Indigenous (n=1,333, 73.3% of people sentenced).⁷

The Council recognises that Aboriginal and Torres Strait Islander peoples are not only disproportionately represented among those sentenced for strangulation but are disproportionately represented as the victims and survivors of domestic and family violence offences. In 2021–22, Aboriginal and Torres Strait Islander victims of domestic and family violence offences in Queensland were far more likely to have been offended against by someone they were in a family or domestic relationship with compared to non-Indigenous victims (64.6% compared to 40.4%).⁸



Note: 'All offences' includes cases sentenced between 2016–17 and 2022–23, as only 1 strangulation case was sentenced in 2015–16.

Aboriginal and Torres Strait Islander people

In Queensland, Aboriginal and Torres Strait Islander peoples are disproportionately represented in a range of offence categories. This is a result of multiple, complex current and historical factors that continue to impact on the lives of Aboriginal and Torres Strait Islander peoples.

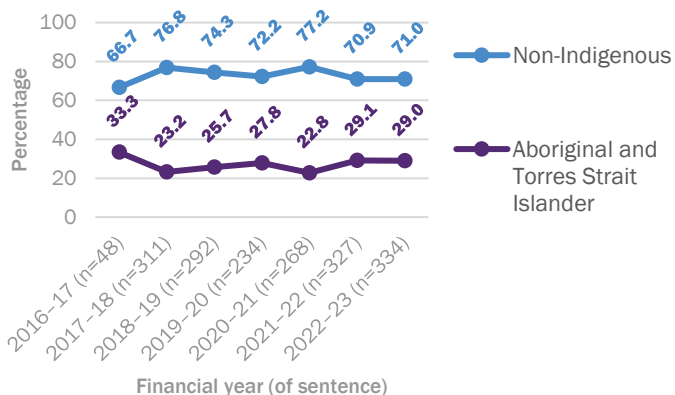
Aboriginal and Torres Strait Islander offenders



Note: 'All offences' includes cases sentenced between 2016–17 and 2022–23, as only 1 strangulation case was sentenced in 2015–16.

The proportion of people who are sentenced for strangulation and identify as Aboriginal and Torres Strait Islander has remained relatively unchanged over the past 5 years.

Figure 5: Proportion of people sentenced for strangulation (MSO) by Aboriginal and Torres Strait Islander status, 2016–17* to 2022–23



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

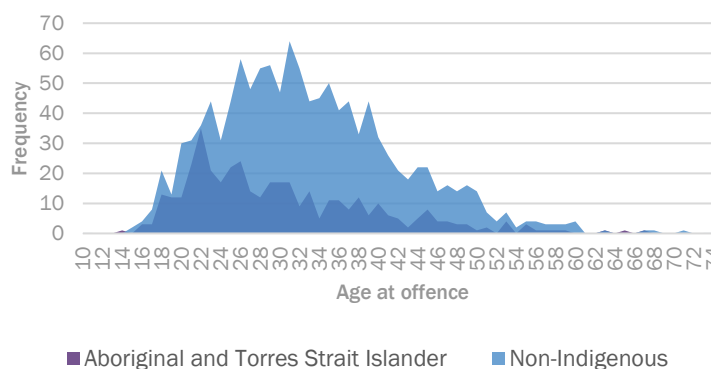
Note: 3 cases (MSO) were excluded as the person's Aboriginal and Torres Strait Islander status was unknown.

* since only 1 case (MSO) was sentenced in 2015–16, this year was not displayed.

Aboriginal and Torres Strait Islander people sentenced for strangulation (MSO) were significantly younger (30.2 years) at the time they committed the offence than their non-Indigenous counterparts (33.2 years).⁹ For those who identified as Aboriginal and Torres Strait Islander, offending peaked at the age of 22; whereas for non-Indigenous people, it peaked at the age of 31 — see Figure 6.

While the analysis found that Aboriginal and Torres Strait Islander offenders were younger than non-Indigenous offenders, it is important to note that the average age of the Aboriginal and Torres Strait Islander population is younger in comparison to the non-Indigenous population. For more details, see the Australian Bureau of Statistics publication titled *Estimates of Aboriginal and Torres Strait Islander Australians*.

Figure 6: Proportion of people sentenced for strangulation (MSO) by Aboriginal and Torres Strait Islander status and age, 2015–16 to 2022–23

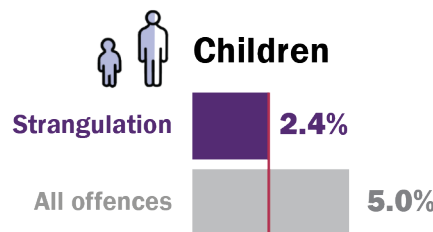


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

Note: 3 cases (MSO) were excluded as the person's Aboriginal and Torres Strait Islander status was unknown.

Sentenced children

Across all cases sentenced in Queensland, 5.0% involved the sentencing of a child. In comparison, the offence of strangulation (MSO) had a much lower proportion of sentenced children, with 2.4% of these cases involving offences committed by children (n=44). Prior to February 2018, 17-year-olds were dealt with as adults rather than as children.



Note: 'All offences' includes cases sentenced between 2016–17 and 2022–23, as only 1 strangulation case was sentenced in 2015–16.

The average age at the time of sentence for children was 16.4 years (median=16.4 years).

All children sentenced for strangulation (MSO) were boys.

There was a relatively even split of Aboriginal and Torres Strait Islander boys (n=23) and non-Indigenous boys (n=21).

Victim Characteristics

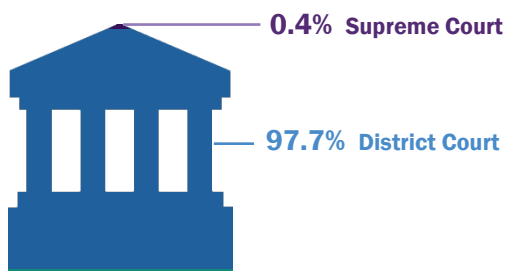
Due to the limitations of the administrative data collected by Queensland Court Services, information about the victims of these offences is not able to be presented.

The Council is unable to reliably report the gender, Aboriginal and Torres Strait Islander status, or specific nature of the relationship between the victim and the offender.

Sentencing court

A charge of strangulation for an adult offender must be dealt with on indictment (and cannot be dealt with summarily under Chapter 58A of the *Criminal Code*).¹⁰ Indictable offences may take longer to proceed to sentence, as the accused has the right to have the matter heard before a judge and jury in a higher court.

Almost all strangulation cases (MSO) were sentenced in the District Court (n=1,777, 97.7%), with only a few matters finalised in the Supreme Court (n=8, 0.4%).¹¹

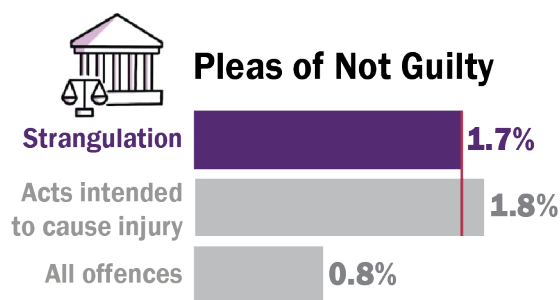


Cases involving child defendants are dealt with by special courts established to deal with charges involving children at the Magistrates Courts and District Court level.¹² As discussed above, only 44 children were sentenced for this offence during the data period. Of these, 17 were sentenced in the Children’s Court of Queensland (District Court level), and 27 were sentenced in the Children’s Court (Magistrates Courts level).

Type of plea

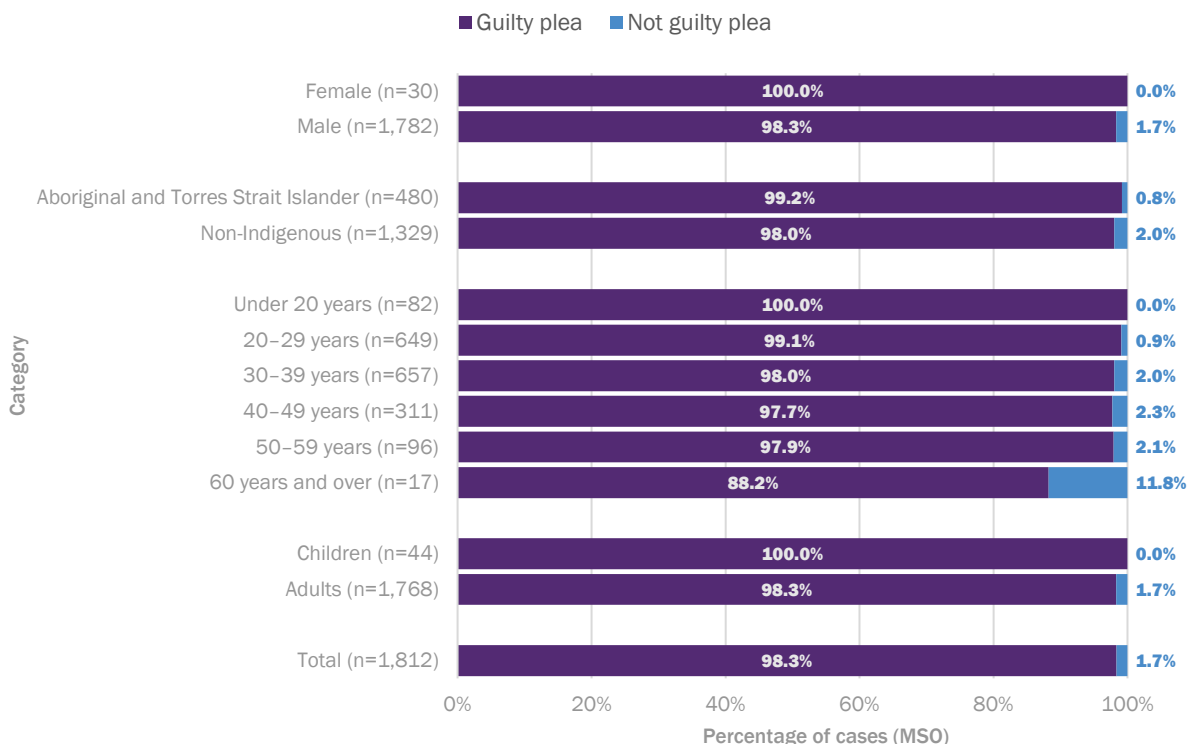
Generally, only 0.8% of defendants enter a plea of not guilty across all offences sentenced in Queensland. This is slightly higher for offences of ‘acts intended to cause injury’, in which case 1.8% of defendants plead not guilty. The offence of strangulation falls slightly below this, with 1.7% of defendants pleading not guilty.

There were no significant differences in the type of plea entered based on gender,¹³ or Aboriginal and Torres Strait Islander status.¹⁴ However, there was a difference by age group¹⁵ – people aged 60 years or over had a very high rate of not guilty pleas (11.8%) although there are only a small number of cases sentenced in this age group (n=17) – see Figure 7.



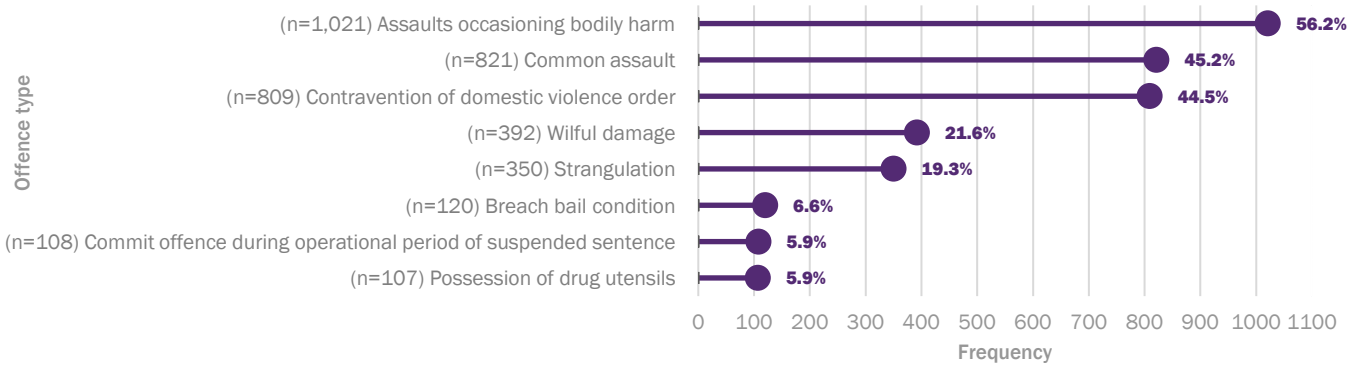
Note: ‘All offences’ includes cases sentenced between 2016–17 and 2022–23, as only 1 strangulation case was sentenced in 2015–16. ‘Acts intended to cause injury’ refers to all cases sentenced under that ANZSOC division (03).

Figure 7: Plea type of people sentenced for strangulation (MSO) by demographics, 2015–16 to 2022–23



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023. 6 cases were excluded as the type of plea was unknown. 3 cases were excluded from various breakdowns as the demographic attribute was unknown.

Figure 8: Top eight most common offences co-sentenced with strangulation (MSO), 2015–16 to 2022–23



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023.

Co-sentenced offences

A court will sometimes sentence a person for more than one offence at the same court event. This does not necessarily mean that the offences were committed as part of the same incident or even that the offences were committed on the same day. Analysis of offences that are sentenced together can provide context about the type of offending that is commonly associated with strangulation.

There were 194 cases involving a charge of strangulation where it was not the MSO. In these cases, the MSO was most commonly AOBH (23.2%), followed by rape (15.5%), burglary (12.9%), grievous bodily harm (7.7%) and torture (7.2%).

The remainder of this section will discuss the 1,818 cases in which strangulation was the MSO.

There were 1,646 cases (MSO) with co-sentenced offences (90.5%). Of these, 87.2% involved a co-sentenced offence within the offence category of ‘acts intended to cause injury’ (n=1,436).

There were 9.5% cases which did not have any co-sentenced offences (n=172); 15.5% had one co-sentenced offence (n=281), and 75.1% had more than one (n=1,365).

Figure 8 shows the top eight most common co-sentenced offences. In almost one-fifth of cases (19.3%), there was more than one sentenced charge of strangulation (n=350).

For cases of strangulation (MSO) with a co-sentenced offence, over half involved a co-sentenced charge of AOBH (56.2% of cases, n=1,021), followed by common assault (45.2% of cases, n=821) and contravention of a domestic violence order (44.5% of cases n=809).

The number of sentenced offences per person per court event ranged from 1 to 79, with an average of 5.9 sentenced offences per event (median=4.0).

There were no significant differences in the number of co-sentenced offences based on gender¹⁶ or Aboriginal and Torres Strait Islander status.¹⁷

Table 1: Number of sentenced offences per court event, by demographics, 2015–16 to 2022–23

Category	N	Single offence (%)	2 to 4 offences (%)	5 to 10 offences (%)	11+ offences (%)	Number of offences			
						Avg	Median	Min	Max
Female	30	23.3	40.0	26.7	10.0	4.8	3.0	1	17
Male	1,788	9.2	42.9	35.7	12.2	5.9	4.0	1	79
Aboriginal or Torres Strait Islander	482	6.8	42.3	38.4	12.4	5.9	5.0	1	31
Non-Indigenous	1,333	10.4	43.1	34.5	12.1	5.9	4.0	1	79
Total	1,818	9.5	42.8	35.5	12.2	5.9	4.0	1	79

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023.

Note: 3 cases (MSO) were excluded as the person’s Aboriginal and Torres Strait Islander status was unknown.

Recidivism

Of the 1,971 unique people sentenced for strangulation from 2015–16 to 2022–23 (not necessarily as their MSO), 2.0% were repeat offenders (n=39). This means that they were sentenced for strangulation on at least two separate occasions over the 8-year period.

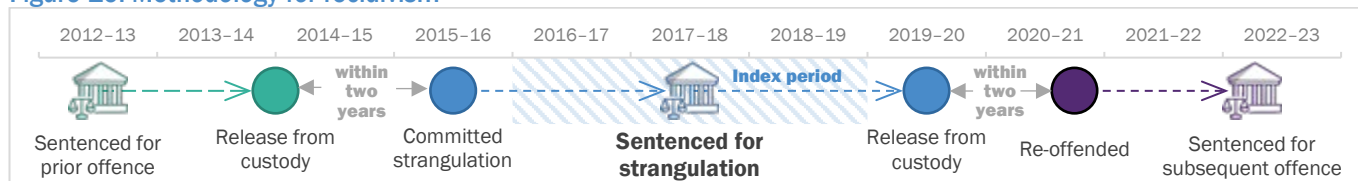
2.0% repeat strangulation offenders

People sentenced for strangulation between 2016–17 and 2018–19 were examined in more detail to determine whether they had committed any other offences before or after being sentenced for strangulation. Recidivism was operationalised as any criminal offence committed within two years of the date of sentence for those sentenced to a non-custodial penalty (or within two years of a person’s expected release from custody for those sentenced to a custodial penalty) – see Figure 10.¹⁸

There were 729 unique people sentenced for strangulation in the index period (2016–17 to 2018–19), regardless of whether strangulation was their MSO. Of these, two-thirds had previously offended (n=488, 66.9%), and over half committed a new offence after being sentenced for strangulation (n=390, 53.5%) – see Figure 9.

Almost one-third of people sentenced for strangulation in the index period had no prior offending recorded (n=241, 33.1%), and most of those had not been convicted of a subsequent offence (n=162, 67.2%). Over 40 per cent of people (n=311, 42.7%) had committed both prior offences and subsequent offences. There were 79 people (10.8%) who had not previously committed an offence but did reoffend.

Figure 10: Methodology for recidivism



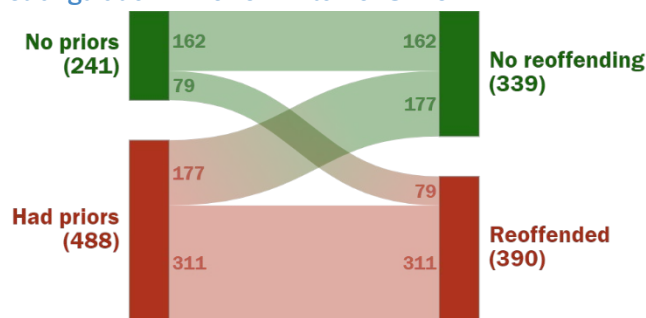
Nearly one-quarter of people with prior sentenced offences did not reoffend after being sentenced for strangulation (24.3%, n=177).

Table 2 shows that there were no differences in the average number of prior¹⁹ or subsequent²⁰ offences based on gender. However, Aboriginal and Torres Strait Islander people were sentenced for more prior²¹ and more subsequent²² offences compared to non-Indigenous people.

Of the 729 unique people sentenced within the index period, one-third (33.1%) had no sentenced court events in the two years prior to being sentenced for strangulation. The number of prior sentences ranged from 0 to 18. The average number of prior court events was 1.8.

Almost half (46.5%) did not have any subsequent offending in the two years following being sentenced for strangulation. The number of subsequent sentences ranged from 0 to 10. Only 2.6% were sentenced on more than five occasions during the two-year follow-up period.

Figure 9: Recidivism of people sentenced for strangulation in 2016–17 to 2018–19



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023.

Table 2: Prior and subsequent sentences for sexual assault in 2016–17 and 2018–19

Offender type	N	No court events (%)	1 to 4 court events (%)	5+ court events (%)	Number of court events			
					Average	Median	Min	Max
Prior offending	729	33.1	57.5	9.5	1.8	1.0	0	18
Female	10	30.0	60.0	10.0	1.7	1.5	0	6
Male	719	33.1	57.4	9.5	1.8	1.0	0	18
Aboriginal or Torres Strait Islander	185	18.9	67.0	14.1	2.4	2.0	0	18
Non-Indigenous	542	37.8	54.2	7.9	1.6	1.0	0	10
Subsequent offending	729	46.5	50.9	2.6	1.1	1.0	0	10
Female	10	80.0	10.0	10.0	0.9	0.0	0	5
Male	719	46.0	51.5	2.5	1.1	1.0	0	10
Aboriginal or Torres Strait Islander	185	31.9	65.4	2.7	1.3	1.0	0	7
Non-Indigenous	542	51.3	46.1	2.6	1.0	0.0	0	10

Note: Totals may not add to 100% due to rounding.

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023.

Note: 3 cases (MSO) were excluded as the person’s Aboriginal and Torres Strait Islander status was unknown.

Prior offending

Almost two-thirds of the 729 people sentenced for strangulation had been sentenced for prior offences (66.9%, n=488). Figure 11 shows the top 8 most common offences people were sentenced for prior to committing a strangulation offence in 2016–17 to 2018–19.

The most common prior offence was contravention of a domestic violence order. Of all the people sentenced in the index period for strangulation, over one-quarter (28.3%; n=206/729) had previously been sentenced for this offence.









Apart from the offence of contravention, the prior offences for this cohort reflect the types of offences that are most commonly sentenced in Queensland, such as unlicensed driving, drink (or drug) driving, drug possession offences, and disorderly conduct such as obstructing or assaulting police.

Subsequent offending

Over half of people sentenced for strangulation in the index period (53.5%) were sentenced for a subsequent offence (n=390).









Similar to prior offending, the most common subsequent offence was contravention of a domestic violence order, with 21.1% of people subsequently being sentenced for this offence – see Figure 12.

Figure 11: Most common 8 prior offences for people sentenced for strangulation, 2016–17 and 2018–19

Offence	Sentenced cases	Unique people
 Contravention of domestic violence order <i>Domestic and Family Violence Protection Act 2012 (Qld) s 177</i>	301	206 (28.3%)
 Unlicensed driving <i>Transport Operations (RUM) Act 1995 (Qld) s 78</i>	188	142 (19.5%)
 Possessing dangerous drugs <i>Drugs Misuse Act 1986 (Qld) s 9</i>	162	136 (18.7%)
 Possessing drug utensils <i>Drugs Misuse Act 1986 (Qld) s 10</i>	159	132 (18.1%)
 Drink or drug driving <i>Transport Operations (RUM) Act 1995 (Qld) s 79</i>	128	111 (15.2%)
 Assault or obstruct police officer <i>Police Powers and Responsibilities Act 2000 (Qld) s 790</i>	127	108 (14.8%)
 Contravene direction or requirement of police officer <i>Police Powers and Responsibilities Act 2000 (Qld) s 791</i>	109	94 (12.9%)
 Breach of bail – failure to appear <i>Bail Act 1980 (Qld) s 33</i>	121	90 (12.3%)

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023.

Figure 12: Most common 8 subsequent offences for people sentenced for strangulation, 2016–17 and 2018–19

Offence	Sentenced cases	Unique people
 Contravention of domestic violence order <i>Domestic and Family Violence Protection Act 2012 (Qld) s 177</i>	208	154 (21.1%)
 Possessing dangerous drugs <i>Drugs Misuse Act 1986 (Qld) s 9</i>	133	103 (14.1%)
 Possessing drug utensils <i>Drugs Misuse Act 1986 (Qld) s 10</i>	103	85 (11.7%)
 Drink or drug driving <i>Transport Operations (RUM) Act 1995 (Qld) s 79</i>	85	74 (10.2%)
 Assault or obstruct police officer <i>Police Powers and Responsibilities Act 2000 (Qld) s 790</i>	79	74 (10.2%)
 Unlicensed driving <i>Transport Operations (RUM) Act 1995 (Qld) s 78</i>	83	72 (9.9%)
 Breach of bail – failure to appear <i>Bail Act 1980 (Qld) s 33</i>	48	44 (6.0%)
 Wilful damage <i>Criminal Code (Qld) s 469</i>	46	43 (5.9%)

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023.

Note:

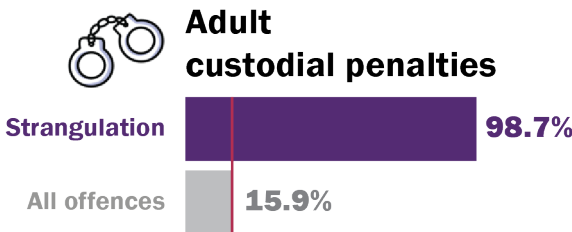
As there were only 44 children sentenced for strangulation, it was not possible to do in-depth analysis of this cohort for this offence. Detention orders were given to 12 children (5 of whom were released immediately on a supervised order known as a conditional release order). There were 24 probation orders, 2 community service orders, 1 restorative justice order, 4 court diversion referrals, and 1 formal reprimand issued for child defendants.

The remainder of this section will discuss adults only.

Penalties and sentencing

In Queensland, the maximum penalty for strangulation is 7 years imprisonment.

From 2015–16 to 2022–23, almost all cases sentenced for strangulation (MSO) received a custodial penalty (98.7%, n = 1,751). This is much higher than the 15.9% of adults who were sentenced to a custodial penalty across all offences in Queensland (since 2016–17).



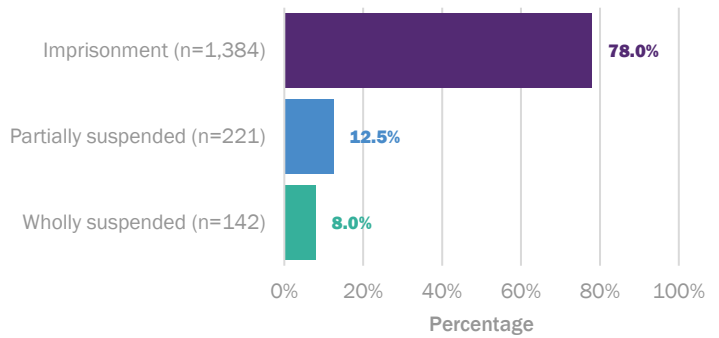
Note: 'All offences' includes cases sentenced between 2016–17 and 2022–23, as only 1 strangulation case was sentenced in 2015–16.

Very few non-custodial orders were imposed on adults for strangulation (1.3%, n=23). Most were probation orders (n=17), ranging from 6 months to 2.5 years.

Table 3 shows the types of penalties given to adults who were sentenced for strangulation (MSO). There are three types of custodial penalties which will be discussed in this section: imprisonment, partially suspended sentences, and wholly suspended sentences.²³ For more information about these sentencing orders, see the *Queensland Sentencing Guide*.²⁴

A sentence of imprisonment was the most common penalty imposed for strangulation (MSO) (78.0%). Partially suspended sentences were ordered in 221 cases (12.5%), and wholly suspended sentences in 142 cases (8.0%).

Figure 13: Custodial penalties for strangulation (MSO), 2015–16 to 2022–23



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023.

Table 3: Penalties for strangulation (MSO) sentenced as an adult by demographics, 2015–16 to 2022–23

Penalty type	Total %	Male %	Female %	Aboriginal and Torres Strait Islander %	Non-Indigenous %
Custodial penalties (n=1,751)	98.7	98.8	93.3	99.8	98.3
Imprisonment (n=1,384)	78.0	78.2	66.7	86.7	75.1
Partially suspended (n=221)	12.5	12.6	3.3	7.4	14.2
Wholly suspended (n=142)	8.0	7.7	23.3	5.7	8.8
Intensive correction order (n=4)	0.2	0.2	0.0	0.0	0.3
Non-custodial penalties (n=23)	1.3	1.2	6.7	0.2	1.7
Total	100% n=1,774	100% n=1,744	100% n=30	100% n=459	100% n=1,312

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted September 2023.

Note: excludes children. People with unknown characteristics are excluded from each subgroup.

For those who were sentenced to imprisonment for strangulation (MSO), the average sentence was 2.5 years (median=2.5 years). The longest sentence of imprisonment was 6.5 years, and the shortest was 2 months. There were no significant differences in average imprisonment length based on Aboriginal and Torres Strait Islander status.

The average partially suspended sentence was 2.4 years (median=2.3 years) for those sentenced for strangulation (MSO). The longest partially suspended sentence was 5 years. On average, people serving suspended sentences were required to serve 8.4 months of their sentence in custody before release.

Wholly suspended sentences had an average length of 1.7 years (median=1.5 years). These sentences ranged from 0.8 years to 4.5 years in duration.

Figure 14: Average custodial sentence lengths for strangulation (MSO), 2015–16 to 2022–23



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

Table 4: Sentence lengths for strangulation (MSO) by gender and Aboriginal and Torres Strait Islander status 2015–16 to 2022–23

Offender type	N	Avg	Median	Min	Max
Imprisonment (years)					
Female	20	2.0	2.0	0.2	3.3
Male	1,364	2.5	2.5	0.2	6.5
Aboriginal or Torres Strait Islander	398	2.5	2.5	0.5	5.0
Non-Indigenous	985	2.4	2.5	0.2	6.5
Total	1,384	2.5	2.5	0.2	6.5
Partially suspended (years)					
Female†	1	-	-	-	-
Male	220	2.4	2.3	0.7	5.0
Aboriginal or Torres Strait Islander	34	2.6	2.5	1.5	4.5
Non-Indigenous	186	2.4	2.0	0.7	5.0
Total	221	2.4	2.3	0.7	5.0
Wholly suspended (years)					
Female	7	1.6	1.5	0.8	2.5
Male	135	1.7	1.5	0.8	4.5
Aboriginal or Torres Strait Islander	26	1.8	1.5	0.8	4.5
Non-Indigenous	115	1.7	1.5	0.8	4.0
Total	142	1.7	1.5	0.8	4.5

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

Note: excludes children. People with unknown characteristics are excluded from each subgroup.

† Data withheld from cells where the sub-total contains less than 5 sentenced cases.

Trends in use of custodial penalties and custodial sentence length

Over the 7-year data period, the percentage of cases that resulted in a custodial penalty remained relatively stable, with almost all cases resulting in a custodial penalty. In 2022-23, the proportion of custodial penalties remained high with custodial penalties accounting for 99.4% of cases – see Figure 15.

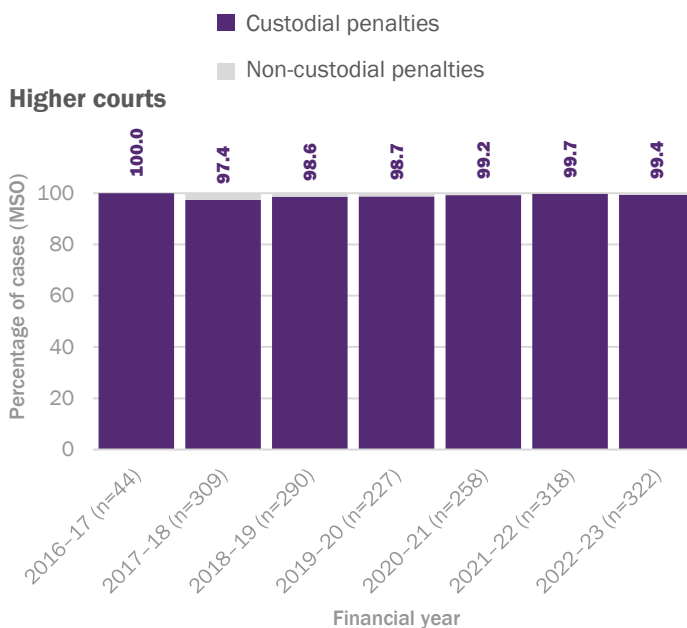
Figure 16 shows the average length of sentences (in years) for penalties of imprisonment and suspended sentences. The average and median length of sentences has increased over the data period.

In 2016-17, the average length of imprisonment was 2 years (median=2 years). However, this increased to an average of 2.7 years in 2022-23 (median=3 years).²⁵

Partially suspended sentences saw a similar trend. From 2017-18 (the first year with enough cases sentenced to calculate a reliable average), the length of sentences was 1.9 years (median=1.75 years). This increased to an average length of 2.7 years in 2022-23 (median 2.5 years).

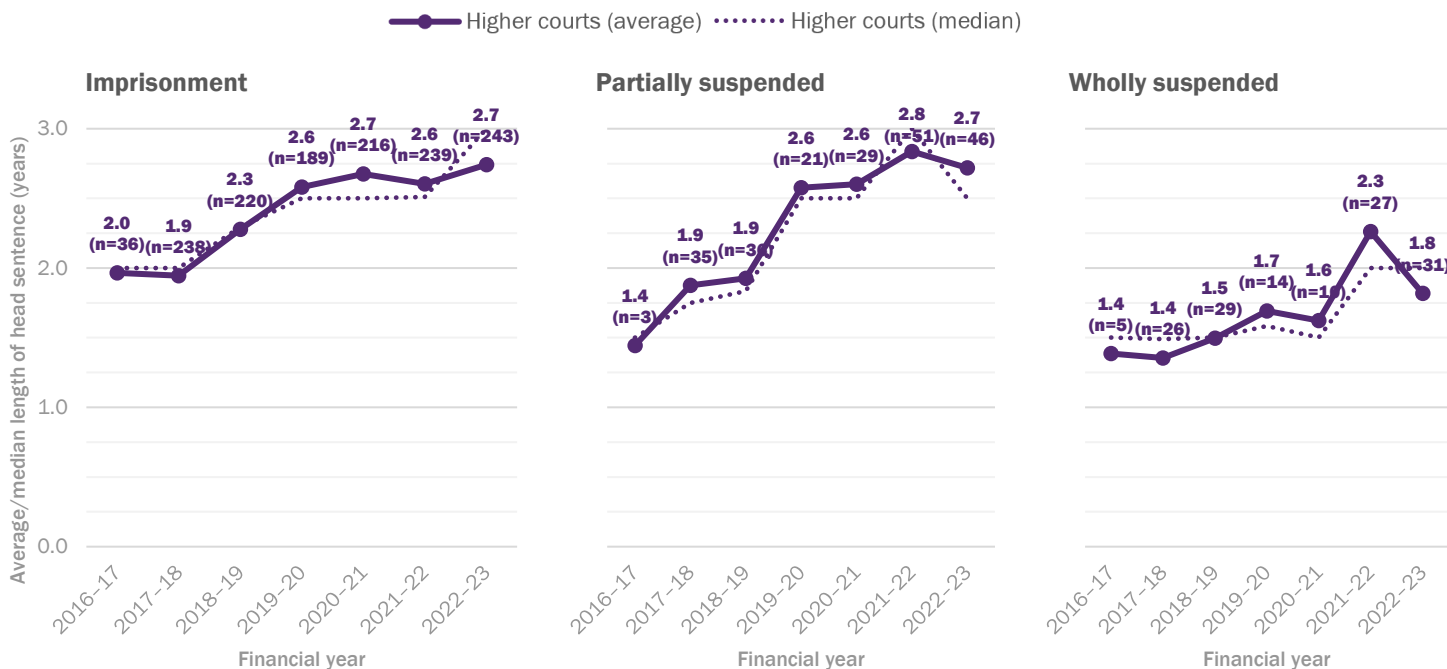
Wholly suspended sentences saw a similar, albeit less pronounced, trend. With average sentences increasing from 1.4 years in 2017-18 (median=1.5 years), to 1.8 years in 2022-23 (median=2.0 years).

Figure 15: Custodial penalties for strangulation (MSO) sentenced as an adult by year, 2015-16 to 2022-23



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.
Note: custodial penalties include imprisonment (including rising of the court), suspended sentences, and intensive correction orders.

Figure 16: Length of imprisonment and suspended sentences for strangulation (MSO) sentenced as an adult by year, 2015-16 to 2022-23



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted September 2023.

Endnotes

- ¹ A 'domestic relationship' means a relevant relationship under s 13 of the *Domestic and Family Violence Protection Act 2012*, 1992 (Qld) which is defined to mean an intimate personal relationship, a family relationship or an informal care relationship.
- ² 'Associated domestic violence' is defined under s 9 of the *Domestic and Family Violence Protection Act 2012* and includes domestic violence towards a child of an aggrieved, a child who usually lives with an aggrieved, a relative of an aggrieved, or an associate of an aggrieved.
- ³ Special Taskforce on Domestic and Family Violence in Queensland, *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland* (Final Report, February 2015).
- ⁴ *Ibid* at 302.
- ⁵ These counts are only offences that are sentenced in court. The Council acknowledges this is an undercount of the occurrence of offending as many other instances of offending are not reported, do not proceed to court or are acquitted.
- ⁶ As at 30 June 2021. See Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians*, Table 7.3, available at <<https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/30-june-2021>> accessed 26 October 2023.
- ⁷ Aboriginal and Torres Strait Islander status was unknown for 3 cases.
- ⁸ Queensland Treasury, Crime report, Queensland 2021–22 (2023), 75
- ⁹ Independent groups t-test: $t(1813) = 6.11, p < .001, r = 0.14$ (equal variances assumed).
- ¹⁰ Some matters were recorded as being finalised in the Magistrates Court (n=33, 1.8%). The majority of these (n=27) were sentenced in the Children's Court.
- ¹¹ Charges of strangulation can be committed to the Supreme Court in circumstances where there is a co-charged offence on indictment which must be dealt with in the Supreme Court. The charge of strangulation be recorded as the MSO in circumstances where the co-charged offence ultimately did not proceed to sentence.
- ¹² Magistrates Courts and the District Court have equivalent courts created by legislation which can exercise the specific sentencing powers for children under the *Youth Justice Act 1992* (Qld).
- ¹³ Fisher's exact test: $p = 1.0$.
- ¹⁴ Pearson's chi-square test: $\chi^2(1) = 2.727, p = .0987$.
- ¹⁵ Fisher's exact test: $p = .0347$.
- ¹⁶ Independent groups t-test: $t(1816) = 1.04, p = .299, r = 0.02$ (equal variances assumed).
- ¹⁷ Independent groups t-test: $t(1,059.1) = 0.18, p = .860, r = 0.01$ (equal variances not assumed).
- ¹⁸ Two years' worth of data on either side of the index period was reserved to allow for time a person spends in custody for a strangulation charge which reduces the opportunity for reoffending. As the average head sentence of imprisonment for strangulation was 2.5 years, it was assumed that the majority of offenders would have been released on parole within this two-year period.
- ¹⁹ Independent groups t-test: $t(727) = 0.10, p = .917, r = 0.0$ (equal variances assumed).
- ²⁰ Independent groups t-test: $t(727) = 0.37, p = .711, r = 0.01$ (equal variances assumed).
- ²¹ Independent groups t-test: $t(256.6) = 4.28, p < .001, r = 0.26$ (equal variances not assumed).
- ²² Independent groups t-test: $t(725) = 2.81, p = .005, r = 0.10$ (equal variances assumed).
- ²³ 'Imprisonment' refers to a non-suspended prison sentence, with either a parole release or eligibility date. Suspended sentences are periods of imprisonment of five years or less which are suspended in whole (called a 'wholly suspended sentence') or in part (called a 'partially suspended sentence') for a period of time (called an 'operational period'). If further offences punishable by imprisonment are committed during the operational period, the offender must serve the period suspended in prison (unless unjust to do so), plus any other penalties issued for the new offence).
- ²⁴ The Queensland Sentencing Advisory Council's *Queensland Sentencing Guide* is available at: https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0004/572161/queensland-sentencing-guide.pdf
- ²⁵ Independent groups t-test: $t(57.3) = 8.85, p < .001, r = 0.76$ (equal variances not assumed).



Sentencing Spotlight on choking, suffocation or strangulation in a domestic setting

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