

SENTENCING  
SPOTLIGHT ON...

manslaughter



Queensland Sentencing  
Advisory Council  
*Inform. Engage. Advise.*

# Sentencing Spotlight on...manslaughter

Manslaughter is generally referred to as the unlawful killing of a person without intent. This *Sentencing Spotlight* looks at sentencing outcomes for the offence of manslaughter finalised in the Queensland Courts between 1 July 2005 and 30 June 2016.

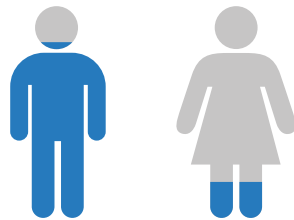
## Summary of offences 2005–06 to 2015–16



**224 offenders**

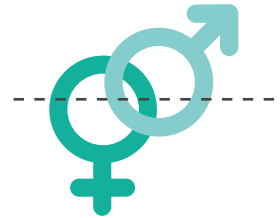
**8 offenders under 17 years**

**216 17 years and over**



**83.5% male**

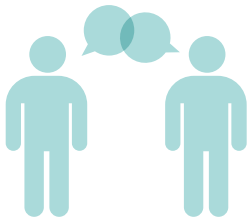
**16.5% female**



**Average age at sentencing 34.5 years**

**Male average age 33.9 years**

**Female average age 36.7 years**



**70.5%**

**of cases the offender known to victim**



**75.5%**

**plead guilty**



**21.4% offenders Aboriginal or Torres Strait Islander people (3.8% population)**



**92% immediate prison sentence**

**6.2% partially suspended sentence**

**1.8% wholly suspended sentence**



**95.7% males imprisoned**

**4.3% males partially or wholly suspended sentence**

**73.0% females imprisoned**

**27% females partially or wholly suspended sentence**



**most common period of imprisonment imposed**

Source: Department of Justice and Attorney-General's Queensland Wide Inter-linked Courts (QWIC) database, as maintained by the Queensland Government Statistician (GovStats). Additional details about cases were sourced from sentencing remarks direct from the courts.

# The offence of manslaughter

Section 303 of the *Criminal Code Act 1899* (Qld) (the Criminal Code) provides that a person is guilty of manslaughter when that person unlawfully kills another person in a way that does not constitute murder.<sup>1</sup>

In more general terms, manslaughter is the unlawful killing of a person without intent to kill, usually as a result of a careless, reckless or negligent act, and includes the intentional killing of a person under extreme provocation or when a person's state of mind has impaired their capacity to understand or to control their actions. If the elements of the offence appear to meet the criteria for murder, but the circumstances of the offence involved provocation, diminished responsibility, or the offence occurred in the context of an abusive domestic relationship where the victim was the perpetrator of such abuse, then the charge may be reduced to manslaughter.<sup>2</sup>

This *Sentencing Spotlight* focuses on the offence of manslaughter as defined under section 303 of the Criminal Code. Other offences relating to the death of a person such as murder, dangerous driving causing death, unlawful striking causing death, aiding suicide, and killing an unborn child, are excluded from the analysis.

# The penalty for manslaughter

In Queensland, the maximum penalty for manslaughter is imprisonment for life.<sup>3</sup> Unlike murder, this penalty is not mandatory, so the judge has discretion in what sentence to impose in the particular circumstances of each case.

Generally in sentencing an offender under section 9(2)(a) of the *Penalties and Sentences Act 1992* (Qld) (PSA), a court must have regard to the principles that a sentence of imprisonment should only be imposed as a last resort, and a sentence that allows the offender to stay in the community is preferable. However, these principles do not apply to the sentencing of an offender for any offence that resulted in physical harm to another person or involved violence against another person. In such cases, a court must have primary regard to factors such as the risk of further harm to the community, and the personal circumstances of any victim of the offence.<sup>4</sup>

While there is generally no minimum mandatory term of imprisonment for offenders sentenced for manslaughter, there may be specific aggravating circumstances that need be considered, such as being involved in serious organised crime, in which case the court may be required to impose a mandatory minimum term of imprisonment.<sup>5</sup>

## Parole

As with the offence of murder, if an offender is sentenced to life imprisonment, they are eligible to apply for release on parole after serving the required portion of their sentence. For the offence of manslaughter, the current minimum period of time required to be served is 15 years.

Where a person is sentenced to a period of actual imprisonment that is not a life sentence or other mandatory term, they will generally be required to serve half the term prior to becoming eligible to apply for parole, unless otherwise fixed by the judge taking into account factors such as an early guilty plea.<sup>6</sup> In some circumstances, a court must also make a serious violent offence declaration, under Part 9A of the PSA. In such instances, an offender will be required to serve either 15 years imprisonment or 80 per cent of their prison sentence, whichever is less, before becoming eligible to apply for parole.<sup>7</sup>

Once an offender is eligible to apply for parole, the date of release is determined by the parole authority. An offender may only be released sooner under exceptional circumstances.<sup>8</sup>

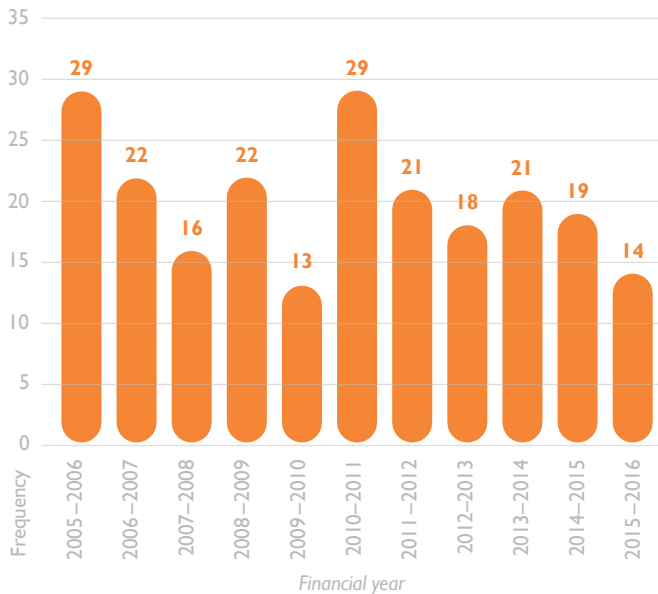
## Young offenders

If at the time of the offence, the offender was aged 10 to 16 years, the offender may be dealt with as a child under section 176 of the *Youth Justice Act 1992* (Qld)<sup>9</sup> and dealt with in the Children's Supreme Court. If the young person is found guilty of the offence of manslaughter, the court may order that the young person be detained for a period of no more than 10 years, or up to the maximum of life if the offence involves the commission of violence against a person and the court considers the offence to be a 'particular heinous offence', such as being excessively violent or brutal.<sup>10</sup> In exceptional circumstances, it is also possible for a young person to be dealt with as an adult in the Supreme Court, including where there is an adult co-offender.<sup>11</sup>

# Offenders sentenced for manslaughter

During 2005–06 to 2015–16, there were 224 offenders sentenced for which manslaughter was their most serious offence (MSO). Figure 1 shows the number of offenders sentenced for manslaughter as their MSO during the period, by financial year.<sup>12</sup>

**Figure 1: Number of offenders sentenced for manslaughter as their most serious offence, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

During 2015–16 there were 14 individuals sentenced for manslaughter. By comparison, based on Queensland Police Service reported data, there were only three people charged with manslaughter during the same period.<sup>13</sup> Caution is needed comparing these figures, as there is generally a considerable period of time between charge and sentence. In addition, not all offenders are initially charged with manslaughter; rather they may be charged initially with murder which may subsequently be reduced to manslaughter, particularly if there are circumstances of provocation or diminished responsibility.

# Characteristics of offenders sentenced for manslaughter

This section compares the age, gender and Aboriginal and Torres Strait Islander status of all offenders sentenced for the offence of manslaughter as their MSO over the period 2005–06 to 2015–16. The relationship between the offender and victim is also explored.

## Age

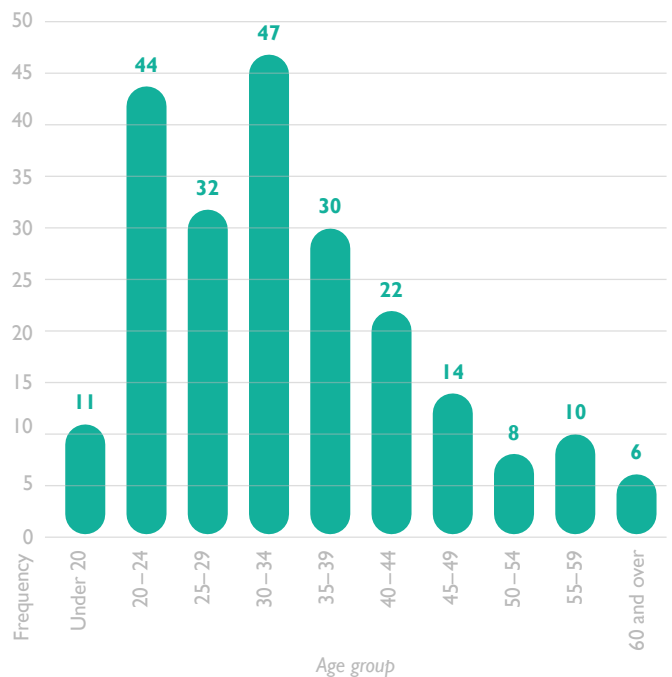
Of the 224 offenders sentenced for manslaughter as their MSO, 218 (97.3%) were sentenced as adults in the Supreme Court, including two offenders who were aged under 17 at the time of their offence, but who were dealt with as an adult. The remaining six offenders were sentenced as children in the Children's Supreme Court.

At the time of sentencing, the average age of all offenders sentenced for manslaughter as their MSO was 34.3 years.<sup>14</sup> By comparison, the average age of all offenders sentenced for murder during the same period was 37.0 years.<sup>15</sup>

Figure 2 shows the number of people sentenced for manslaughter as their MSO by age at sentence.

For all Queensland offenders sentenced for manslaughter as their MSO, most were aged between 20 and 40 at the time of sentencing.

**Figure 2: Number of people sentenced for manslaughter by age at sentence, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Gender

The majority of offenders sentenced for manslaughter in Queensland were male (83.5%), with only 37 female offenders sentenced for manslaughter during the period. Of the eight children sentenced for manslaughter, all but one were male.

Overall, on average, female manslaughter offenders were older than male offenders. The average age at time of sentencing was 36.7 years for female offenders, compared to 33.9 years for male offenders.<sup>16</sup>

## Aboriginal and Torres Strait Islander people

Although people of Aboriginal and Torres Strait Islander status represent approximately 3.8 per cent of Queensland's population aged 10 years and over,<sup>17</sup> they accounted for 21.4 per cent of all offenders sentenced for manslaughter during the period. In total, there were 48 offenders who identified as being Aboriginal and/or Torres Strait Islanders.

When considering over-representation further by gender, of the 187 male offenders sentenced for manslaughter, Aboriginal and Torres Strait Islander males accounted for 23.0 per cent (n=43). By comparison, of the 37 female offenders, Aboriginal and Torres Strait Islander females accounted for 13.5 per cent (n=5).

## Offender relationship with victim

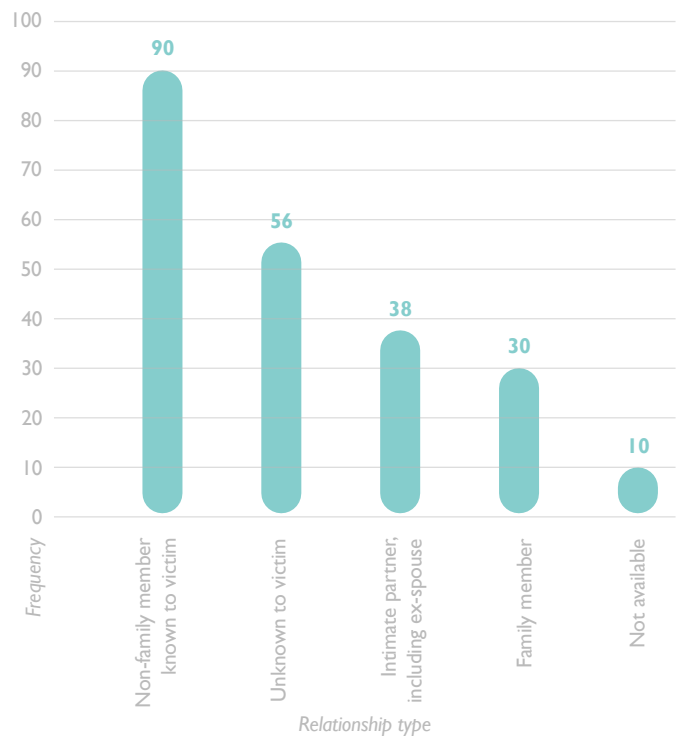
As shown in figure 3, in the majority of cases the victim was known to the offender in some way (70.5%).

Of the 224 sentenced manslaughter cases during the 11-year period, 40.2 per cent (n=90) were sentenced for the manslaughter of a known, non-family member such as a friend, neighbour or work colleague.

Thirty-eight (17.0%) involved the manslaughter of an intimate partner, including ex-partner,<sup>18</sup> and a further 30 (13.4%) offenders were sentenced for the manslaughter of a parent or other family member including children, siblings, grandparents, aunts, uncles and other extended family members.

Only a quarter of offenders sentenced for manslaughter involved a situation where the offender was unknown to the victim prior to the offence (see also Table 1).<sup>19</sup>

**Figure 3: Relationship between offender and victim of all offenders sentenced for manslaughter, 2005–06 to 2015–16**



Source: Analysis of sentencing remarks available from the Queensland Sentencing Information Service (QSIS).

When examining the offender-victim relationship by gender, for males the most likely victim was a known, non-family member (43.9%), followed by someone who was unknown to the victim (29.4%). For females the most likely victim of manslaughter was an intimate partner (43.2%), followed then by other family members (27.0%).

For offenders identifying as Aboriginal and Torres Strait Islander, the most common victim was a known, non-family member (37.5%), followed by an intimate partner (27.1%). By comparison, for non-Aboriginal and Torres Strait Islanders, the most common victim was a known, non-family member (40.9%), followed by 26.1 per cent where they were unknown to their victim.

**Table 1: Offender gender and Aboriginal and Torres Strait Islander status by offender-victim relationship**

Offender	N	Victim type				
		Known, non-family (%)	Unknown to victim (%)	Intimate Partner (%)	Family member (%)	Not available (%)
Female	37	21.6	2.7	43.2	27.0	5.4
Male	187	43.9	29.4	11.8	10.7	4.3
Aboriginal and Torres Strait Islander	48	37.5	20.8	27.1	14.6	0.0
Non-Aboriginal and Torres Strait Islander	176	40.9	26.1	14.2	13.1	5.7
Aboriginal and Torres Strait Islander female	5	0.0	0.0	80.0	20.0	0.0
Non-Aboriginal and Torres Strait Islander female	32	25.0	3.1	37.5	28.1	6.3
Aboriginal and Torres Strait Islander male	43	41.9	23.3	20.9	14.0	0.0
Non-Aboriginal and Torres Strait Islander male	144	44.4	31.3	9.0	9.7	5.6
Total	224	40.2	25.0	17.0	13.4	4.5

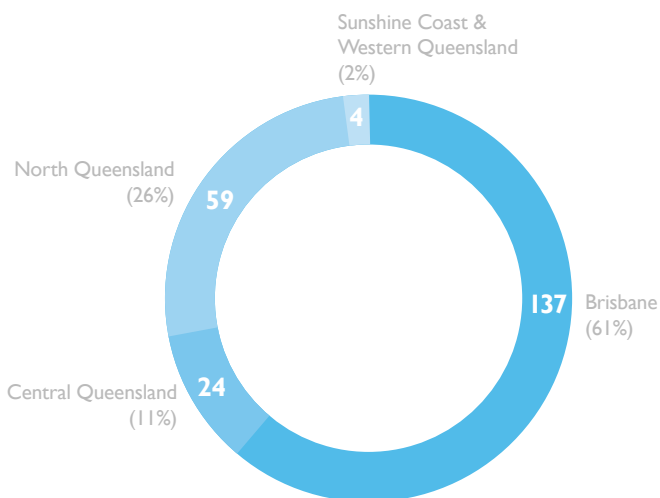
Source: Analysis of sentencing remarks available from the Queensland Sentencing Information Service (QSIS).

## Court location at sentence and type of plea

### Court location at sentencing

Of the 224 offenders sentenced for manslaughter as the MSO during the period, nine different court locations heard the matters, ranging from Cairns in the far north, Mount Isa and Toowoomba in the west, and Brisbane in the south. While the majority (61.2%) were sentenced in the Brisbane Court, matters were dispersed across the state. Figure 4 shows the distribution of manslaughter offenders sentenced across Queensland based on sentencing court region.

**Figure 4: Distribution of manslaughter offenders based on sentencing court region, 2005–06 to 2015–06**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

### Type of plea

The majority of offenders sentenced for manslaughter during the period pleaded guilty (75.5%), either initially or at a subsequent date, with only 17.9 per cent of offenders sentenced for manslaughter pleading not guilty.<sup>20</sup> This is quite different for the offence of murder, where the majority of offenders pleaded not guilty (72.3%). This is most likely to relate to the fact that murder carries a mandatory life sentence if an offender is convicted of the offence, while manslaughter does not carry any mandatory sentence.

Figure 5 outlines the proportion of offenders sentenced for manslaughter and for other selected offences who pleaded not guilty during the period, based on their most serious offence (MSO). These other selected offences also involved the death of a person or violence as a fundamental characteristic of the offence.

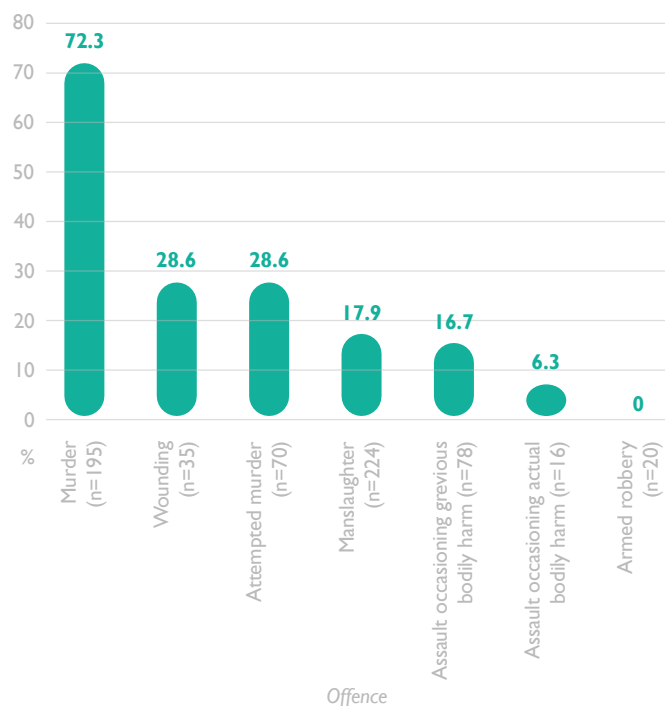
Offenders charged with manslaughter as their MSO were far less likely than those charged with murder to plead not guilty. There were also differences in formal plea when analysed by gender, indigenous Australian status and age.

Of the 37 females sentenced for manslaughter, 94.6 per cent entered a plea of guilty rather than contesting the charges. By comparison, 70.6 per cent of males pleaded guilty.

Aboriginal and Torres Strait Islander offenders sentenced for manslaughter were more likely to have pleaded guilty than non-Aboriginal and Torres Strait Islander offenders—85.4 per cent compared to 72.7 per cent.

Of the eight children sentenced for manslaughter, five pleaded guilty (62.5%).

**Figure 5: Proportion of offenders who pleaded not guilty to selected offences of violence, Queensland, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

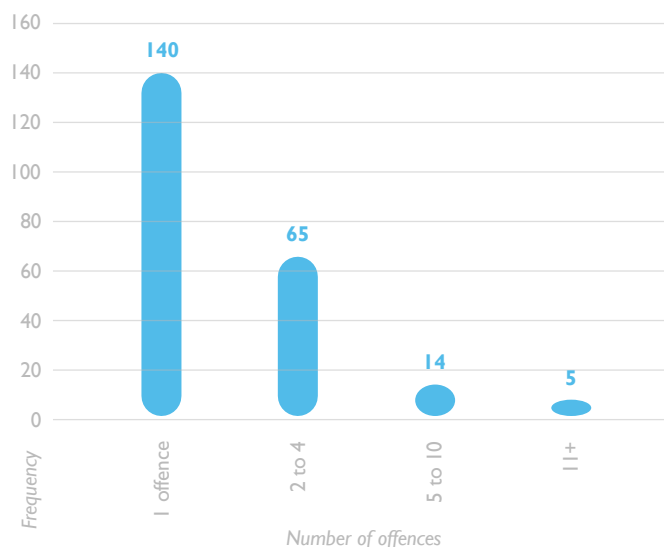
## Associated offences

Offenders prosecuted for manslaughter may have other offences finalised at the same court hearing. While there were 224 offenders sentenced for manslaughter as their MSO, there were an additional three offenders sentenced to both murder and manslaughter at the same time, and murder was considered their MSO.

For the 224 offenders sentenced where an offence of manslaughter was their MSO, most (62.5%) had only a single offence of manslaughter finalised. In total, the 224 offenders sentenced for manslaughter as their MSO during the period were responsible for 244 additional offences.

Figure 6 shows the number of people by the total number

**Figure 6: Number of finalised offences per person per hearing for offenders sentenced for manslaughter as their MSO, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

of offences finalised per person. The number of finalised offences per offender ranged from 1 to 23. The average number of offences per offender sentenced for manslaughter was 2.13 (median=1).

There was some difference regarding number of finalised offences by gender and Aboriginal and Torres Strait Islander status (see Table 2).

Males were more likely than females to have multiple offences finalised in one hearing (39.0% vs 29.7%), and non-Aboriginal and Torres Strait Islander offenders were slightly more likely to have multiple offences finalised than Aboriginal and Torres Strait Islander offenders (39.2% vs 31.3%).

When gender and Aboriginal and Torres Strait Islander status is considered together, non-Aboriginal or Torres Strait Islander males are the most likely to have multiple offences finalised.

**Table 2: Total number of finalised offences per event, by gender and Aboriginal and Torres Strait Islander status, 2005–06 to 2015–16**

	N	Single offence %	2 to 4 offence %	5 to 10 %	11+ %
Female	37	70.3	27.0	2.7	0.0
Male	187	61.0	29.4	6.9	2.7
Aboriginal and Torres Strait Islander	48	68.8	22.9	6.3	2.1
Non-Aboriginal and Torres Strait Islander	176	60.8	30.7	6.3	2.3
Aboriginal and Torres Strait Islander female	5	80.0	20.0	0.0	0.0
Non-Aboriginal and Torres Strait Islander female	32	68.8	28.1	3.0	0.0
Aboriginal and Torres Strait Islander male	43	67.4	23.2	7.0	2.3
Non-Aboriginal and Torres Strait Islander male	144	59.0	31.2	6.9	2.8
Total	224	62.5	29.0	6.3	2.2

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Table 3 shows the eight most common additional offences finalised when an offender is sentenced for manslaughter. The most frequent additional offence was assault occasioning actual bodily harm (12.7%), possession of illicit drugs (7.8%) and possession of drug utensils (5.7%). There were also six offenders sentenced for multiple manslaughter offences at the same time.

**Table 3: Additional offences most prevalent with a manslaughter offence, 2005–06 to 2015–16**

Offence	Frequency
Assault occasioning actual bodily harm	31
Possess illicit drugs	19
Possession of drug utensils	14
Offences against public order sexual standards	13
Enter dwelling with intent, without violence or threats	10
Illegal use of a motor vehicle	10
Break and enter other building	8
Deprivation of liberty / false imprisonment	7

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Sentence outcomes

### Penalty type

From 2005–06 to 2015–16, all 224 offenders received a custodial penalty. The vast majority (92%) were sentenced to immediate imprisonment, however six per cent (n=14) received a partially suspended sentence and the remaining four offenders (1.8%) received a wholly suspended sentence.<sup>21</sup>

### Penalty type, gender and Aboriginal and Torres Strait Islander status

Male offenders were most likely to be sentenced to imprisonment (95.7%), with only a small proportion sentenced to either a partially or wholly suspended sentence (2.7% and 1.6% respectively). While imprisonment was also the most common sentence for female offenders (73.0%), nearly a quarter of female offenders (24.3%) received a partially suspended sentence and one offender received a wholly suspended sentence (see also Table 4).

Aboriginal and Torres Strait Islander offenders were slightly more likely to be sentenced to imprisonment than non-Aboriginal and Torres Strait Islander offenders – 96 per cent of Aboriginal and Torres Strait Islander offenders were sentenced to imprisonment compared to 91 per cent of non-Aboriginal and Torres Strait Islander offenders. Non-Aboriginal and Torres Strait Islander offenders were more likely to receive suspended sentences (partially and wholly suspended). These findings regarding Aboriginal and Torres Strait Islander status are consistent across gender (see also Table 4).

### Penalty and offender-victim relationship

When the offender was not known to the victim, the offender was more likely to receive a prison sentence. Suspended sentences (either partially or wholly suspended) were more likely when the victim was a family member (see Table 5).

**Table 4: Penalty types by gender and Aboriginal and Torres Strait Islander status, 2005–06 to 2015–16**

	N	Imprisonment (%)	Partially suspended (%)	Wholly suspended (%)
Female	37	73.0	24.3	2.7
Male	187	95.7	2.7	1.6
Aboriginal and Torres Strait Islander	48	95.8	4.2	0.0
Non-Aboriginal and Torres Strait Islander	176	90.9	6.8	2.3
Aboriginal and Torres Strait Islander female	5	80.0	20.0	0.0
Non-Aboriginal and Torres Strait Islander female	32	71.9	25.0	3.1
Aboriginal and Torres Strait Islander male	43	97.7	2.3	0.0
Non-Aboriginal and Torres Strait Islander male	144	95.1	2.8	2.1
Total	224	92.0	6.2	1.8

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017



**Table 5: Penalty types by relationship to victims, 2005–06 to 2015–16**

Relationship to victim	N	Imprisonment (%)	Partially suspended (%)	Wholly suspended (%)
Family member	30	83.3	13.3	3.3
Intimate partner, including ex-spouse	38	89.5	10.5	0.0
Unknown to victim	56	98.2	1.8	0.0
Non-family member, known to victim	90	93.3	4.4	2.2
Not available	10	80.0	10.0	10.0
<b>Total</b>	<b>224</b>	<b>92.0</b>	<b>6.2</b>	<b>1.8</b>

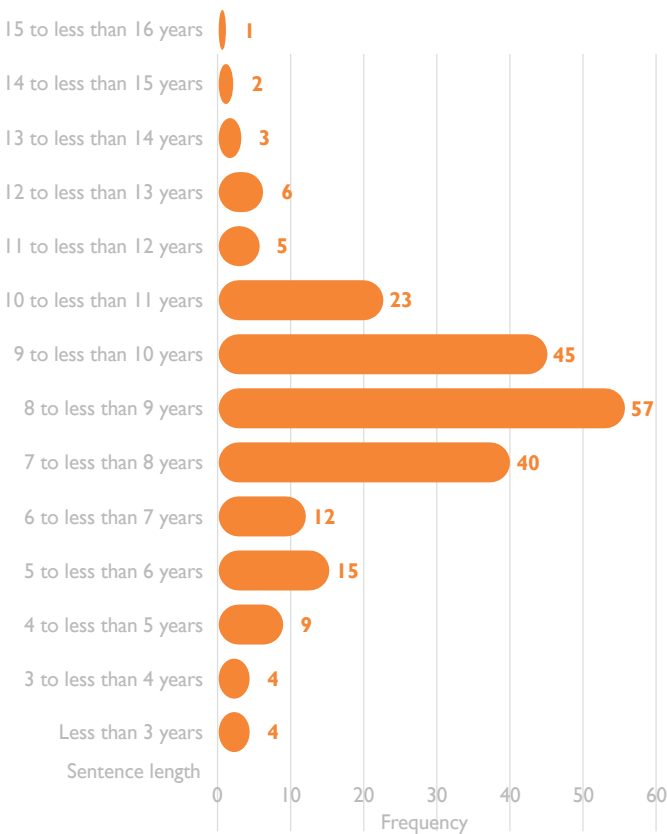
Source: Analysis of sentencing remarks available from the Queensland Sentencing Information Service (QSIS).

## Length of prison sentences

For all 224 offenders sentenced for manslaughter as their MSO, figure 7 shows the number of offenders receiving different lengths of custodial penalties (in years). While a life sentence is the maximum penalty under the Criminal Code for the offence of manslaughter, no one received the maximum penalty during the period.

Across all offenders, the length of custodial sentence ranged from 1.5 years to 15.0 years, which is consistent with the sentencing outcomes for manslaughter in other jurisdictions and is indicative of the wide range of circumstances where manslaughter occurs.<sup>22</sup>

**Figure 7: Number of offenders sentenced for manslaughter by sentence length (years), 2005–06 to 2015–16**

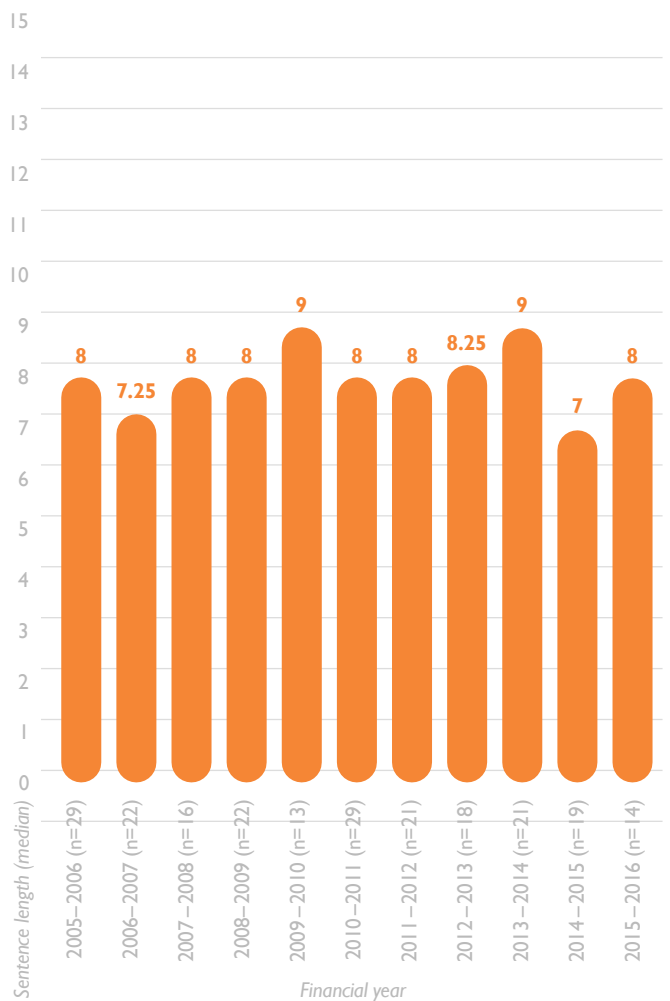


Source: Analysis of sentencing remarks available from the Queensland Sentencing Information Service (QSIS), for those matters identified as dealing with manslaughter within Queensland Treasury - Courts Database, as maintained by Queensland Government Statistician's Office, extracted January 2017

The median custodial sentence length for manslaughter during the period was eight years, and this was also the most common sentence length imposed.<sup>23</sup>

The median sentence length for the offence of manslaughter in Queensland has remained relatively constant over the period as shown in figure 8. The median sentence length for manslaughter was lowest in 2014–15 at seven years, and highest in both 2009–10 and 2013–14 at nine years.

**Figure 8: Median sentence length of offenders sentenced for manslaughter by year of sentence, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

**Table 6: Sentence length by gender and Aboriginal and Torres Strait Islander status—median, minimum and maximum sentence lengths, 2005–06 to 2015–16**

	N	Median (years)	Minimum sentence given (years)	Maximum sentence given (years)
Female	37	7.0	1.5	10.0
Male	187	8.0	1.5	15.0
Aboriginal and Torres Strait Islander	48	8.0	3.0	12.0
Non-Aboriginal and Torres Strait Islander	176	8.0	1.5	15.0
Aboriginal and Torres Strait Islander female	5	7.0	5.0	8.0
Non-Aboriginal and Torres Strait Islander female	32	7.0	1.5	15.0
Aboriginal and Torres Strait Islander male	43	8.0	3.0	12.0
Non-Aboriginal and Torres Strait Islander male	144	8.0	1.5	15.0
Total	224	8.0	1.5	15.0

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Sentence length by gender and Aboriginal and Torres Strait Islander status

Table 6 shows median sentence lengths in Queensland are similar when gender and Aboriginal and Torres Strait Islander status is considered. The median sentence length for males is eight years, compared to seven years for females. The median sentence length for both Aboriginal and Torres Strait Islander offenders and non-Aboriginal and Torres Strait Islander offenders is eight years.

Few differences were seen in sentence range when considering gender and Aboriginal and Torres Strait Islander status. Table 6 shows females had a slightly lower maximum in the range of sentence lengths given, with a maximum of 10 years compared to 15 years for males. Aboriginal and Torres Strait Islander offenders also had a slightly lower maximum length of 12 years compared to 15 years for non-Aboriginal and Torres Strait Islander offenders.

## Sentence length by offender-victim relationship

When the victim is not known to the offender, the median sentence length was slightly higher, and the circumstances involving the lowest sentences (of 1.5 years) involved situations where the victim was a family member of the offender (see Table 7).

**Table 7: Penalty types by relationship to victims**

Relationship to victim	N	Median (years)	Minimum sentence given (years)	Maximum sentence given (years)
Family member	30	8.0	1.5	15.0
Intimate partner, including ex-spouse	38	8.0	3.0	12.0
Unknown to victim	56	8.2	3.0	14.0
Non-family member, known to victim	90	8.0	3.3	14.0
Not available	10	5.0	4.0	8.0
Total	224	8.0	1.5	15.0

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

# Manslaughter case studies

The variation in sentence lengths imposed for manslaughter reflects the high level of case variability for this offence.

The following three case studies provide an indication of the significant diversity of the circumstances associated with an offender pleading guilty or being found guilty and sentenced for manslaughter; the scope that a judge has in relation to sentencing an offender; and the establishment of minimum non-parole periods.

## Adult offender: 12 years imprisonment

The offender was convicted of manslaughter for the unlawful killing of a drug user known to the offender, following a trial. The jury found the offender not guilty of murder.

Witnesses gave evidence during the trial that the victim was violent, with a volatile temper. On the night of the offence the victim, who was carrying a shotgun, had threatened to shoot the offender. There was a verbal altercation and, at some point, the offender shot the victim with the shotgun at close range.

The offender was 27-years-old at the time of the offence. When determining the sentence, the judge took into account that although the offender had a significant criminal history, there was no history of violence. He also took into account that the offender came from a good family background and had a good work history. The judge noted the offender was substantially adversely affected by methylamphetamine at the time of the killing, and recognised that although there was no intention to kill or to cause grievous bodily harm, there was a deliberate pulling of the trigger.

The judge sentenced the offender to 12 years imprisonment with a recorded conviction of a serious violent offence. A serious violent offence conviction means the offender will be only eligible for parole after serving 80 per cent of the 12-year sentence.

## Adult offender: seven years imprisonment

The offender was convicted of manslaughter for the unlawful killing of a 70-year-old man, known to the offender, following a trial. The jury found the offender not guilty of murder.

The offender told her psychologist that prior to the offence the victim had made inappropriate comments about her six-year-old daughter. On the day of the offence, the victim visited the offender's home and commented on the child's underwear. The offender alleged this caused her to 'snap' and throw the scalding water on the victim's head and chest, causing burns to his face and upper airways. The offender called an ambulance and the victim was hospitalised and treated. However, in the course of the medical treatment he received, the victim was immobilised and he contracted sepsis. Death was caused by deep venous thrombosis (DVT) in the lower legs, which led to a fatal pulmonary embolism. The victim died three weeks after the offence. The burns were a substantial cause of death.

The offender was aged 27 at the time of offence. When determining the sentence, the judge acknowledged the devastating impact of the offence on the victim's family and that the criminality involved warranted a significant sentence. The judge accepted the offender was genuinely remorseful and that personal deterrence was not a significant consideration because the offender had no prior criminal history and her conduct was out of character. Further, the offender's low level of intelligence and low intellectual functioning were significant factors taken into account.

The judge sentenced the offender to seven years imprisonment with a minimum of three years to be served before being eligible to apply for parole.

## Young offender, dealt with as a child: four years imprisonment

The offender, along with two co-accused, was convicted of manslaughter and assault occasioning bodily harm following a trial. One of the co-accused was the offender's older brother.

The offender took part in a fight between two groups. Both the offender and one of his co-accused punched the victim in the head. The blow from the co-accused resulted in the victim falling and hitting his head. Death was caused by injuries sustained from the fall.

The offender was aged 16 at the time of offence with his two co-accused aged 17 years and 18 years. The offender had no previous criminal history. The victim was a young man walking home with his fiancé and a few friends after having a night out. The victim came to the aid of his friends who were being attacked by the offender and his co-accused.

The judge stated it was incumbent upon him as the community's representative to denounce this sort of conduct and pass a sentence designed to deter other people.

The judge noted the importance of deterrence and denunciation, and acknowledged the significance that the offender was a child at the time of the offences. He also accepted the offender had demonstrated remorse.

The offender was sentenced to four years imprisonment for the manslaughter, and three months imprisonment in relation to the assault occasioning bodily harm, to be served concurrently. He would be eligible to apply for parole after serving half.

# Endnotes

- <sup>1</sup> Criminal Code (Qld) ss 303, 310.
- <sup>2</sup> Criminal Code (Qld) ss 304, 304A and 304B.
- <sup>3</sup> Criminal Code (Qld) s 310.
- <sup>4</sup> *Penalties and Sentences Act 1992* (Qld), s 9(2A), and (3).
- <sup>5</sup> *Penalties and Sentences Act 1992* (Qld), s 161Q and s 161R.
- <sup>6</sup> *Corrective Services Act 2006* (Qld), s 184(2). See *R v Crouch; R v Carlisle* [2016] QCA 81, [29] per McMurdo P.
- <sup>7</sup> *Penalties and Sentences Act 1992* (Qld), Part 9A and *Corrective Services Act 2006* (Qld), s 182(2).
- <sup>8</sup> *Corrective Services Act 2006* (Qld), s 176.
- <sup>9</sup> *Youth Justice Act 1992* (Qld) schedule 4. While legislative change is currently underway that will change the Queensland definition of a child for the purposes of criminal law, to cover those aged 10–17 years, for all those sentenced within the period considered here, the maximum age was 16 years.
- <sup>10</sup> *Youth Justice Act 1992* (Qld), s 176.
- <sup>11</sup> For example, *Youth Justice Act 1992* (Qld), s 111 and ss 140 to 145.
- <sup>12</sup> Note: an additional three offenders were sentenced for manslaughter, however they also were sentenced at the same time for a murder offence. As manslaughter was not their most serious offence they are therefore not counted in these statistics.
- <sup>13</sup> Queensland Police Service, 2015–2016 Annual Statistical Review, <<https://www.police.qld.gov.au/corporatedocs/reportsPublications/statisticalReview/2015-2016.htm>>, p106 & 107.
- <sup>14</sup> Median age=32.3 years.
- <sup>15</sup> See QSAC Sentencing Spotlight on Murder 2005–06 to 2015–16 for further information.
- <sup>16</sup> Median age for female offenders was 35.3 years, median age for males was 31.9 years. This difference was not found to be statistically significant.
- <sup>17</sup> As at 30 June 2015, Queensland Government Statisticians Office (GovStats), Population estimates by Indigenous Status, LGAs, 2001 to 2015. <<http://www.qgso.qld.gov.au/subjects/demography/atsi-people/tables/pop-est-indigenous-status/index.php>>
- <sup>18</sup> Intimate partner includes the offender's spouse, husband, wife, boyfriend, girlfriend, ex-spouse, ex-husband, ex-wife, ex-boyfriend or ex-girlfriend.
- <sup>19</sup> There were 10 (4.5%) matters where the relationship to the victim could not be determined.
- <sup>20</sup> Note: There were 15 additional offenders who did not enter a formal plea.
- <sup>21</sup> The court can impose a suspended sentence if an offender is sentenced to imprisonment for five years or less. The imprisonment sentence may be partially or wholly suspended. Offenders receiving partially suspended sentences will serve a proportion of their sentence in custody, while offenders receiving wholly suspended sentences will serve their entire imprisonment sentence in the community, provided they do not breach any conditions of their suspended sentence.
- <sup>22</sup> For example, in Victoria the sentencing range for manslaughter for cases sentenced in 2009–10 to 2013–14 was three years to 14 years (Victorian Sentencing Advisory Council 2015).
- <sup>23</sup> The median sentence length imposed is for the most serious offence (i.e. manslaughter only).

## Disclaimer

The content presented in this publication is distributed by the Queensland Sentencing Advisory Council as an information source only. While all reasonable care has been taken in its preparation, no liability is assumed for any errors or omissions. Queensland Sentencing Advisory Council makes every effort to ensure the data is accurate at the time of publication, however the administrative data are subject to a range of limitations. Refer to the *Sentencing Spotlight technical information* paper for further information on data sources for this *Sentencing Spotlight on...manslaughter*.



Queensland Sentencing  
Advisory Council

*Inform. Engage. Advise.*

# Sentencing Spotlight on...manslaughter

Published by the Queensland Sentencing Advisory Council, April 2017

© Queensland Sentencing Advisory Council 2017

This *Sentencing Spotlight on...manslaughter* is licensed under a Creative Commons Attribution 3.0 Australia licence.

You are free to copy and adapt the work as long as you attribute the Queensland Sentencing Advisory Council.

## For more information:

Email: [info@sentencingcouncil.qld.gov.au](mailto:info@sentencingcouncil.qld.gov.au)

Telephone: (07) 3224 7375

Website: [www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)