

SENTENCING SPOTLIGHT ON

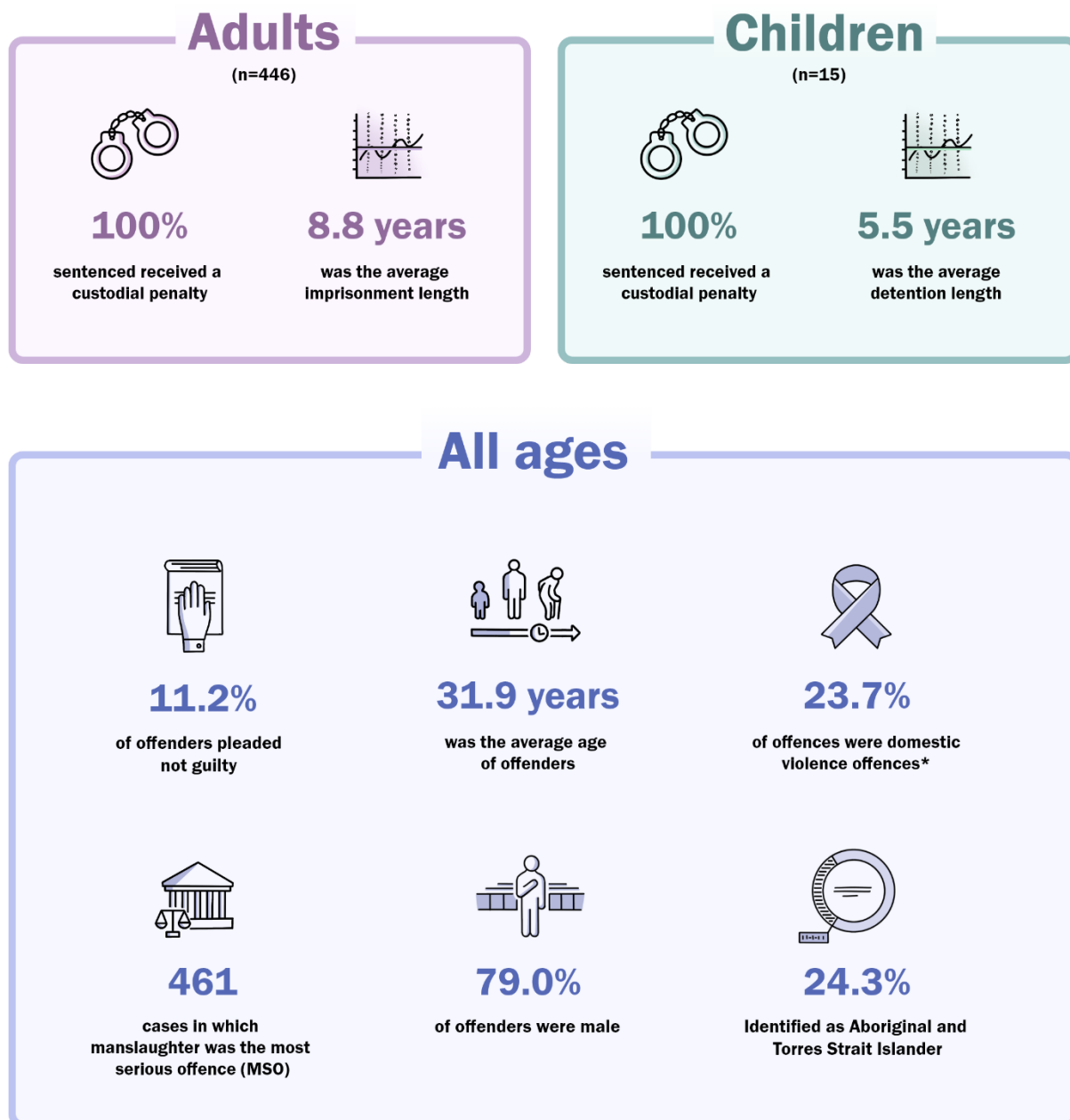
manslaughter



Queensland Sentencing
Advisory Council

Sentencing Spotlight on... manslaughter

This *Sentencing Spotlight* examines sentencing outcomes for Manslaughter offences under s 303 of the *Criminal Code* (Qld) finalised in Queensland courts between 2005–06 and 2023–24.



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).

Manslaughter

This *Sentencing Spotlight* focuses on the offence of manslaughter as defined under section 303 of the *Criminal Code* (Qld). Section 303 of the Code provides that ‘a person who unlawfully kills another under such circumstances as not to constitute murder is guilty of manslaughter’.

‘Unlawfully killing’ means causing a death that the law does not excuse or allow (also known as a defence).

Manslaughter can involve a broad range of factual circumstances from cases where the person did not intend to cause any physical harm or death to circumstances where the person intended to kill or cause grievous bodily harm but is found guilty of manslaughter instead of murder because of a partial defence such as provocation.

There are 4 broad categories of conduct that fall within the offence of manslaughter:

1. A deliberate act without an intention to kill or do grievous bodily harm.
2. A deliberate act done under provocation,¹ diminished responsibility² or killing for preservation in an abusive domestic relationship.³
3. Where liability for the unlawful killing arises as a result of being a party to the offence.⁴
4. A criminally negligent act or act done in a breach of duty (e.g., the duty of a parent to seek medical care for their child if the child is sick or seriously injured).

The maximum penalty for manslaughter

Manslaughter carries a maximum penalty of life imprisonment.⁵ Unlike murder, this penalty is not mandatory, so the judge must decide what sentence to impose in the particular circumstances of each case.

Parole

If a person is sentenced to a period of imprisonment that is not a life sentence or other mandatory term, they are generally required to serve half the period before being eligible for release on parole, unless the judge sets an earlier (or later) release date taking into account factors such as whether the person pleaded guilty.⁶

In some circumstances, a court must or may make a serious violent offence declaration under Part 9A of the *Penalties and Sentences Act 1992* (Qld). In such cases, the person will be required to serve either 15 years imprisonment or 80 per cent of their prison sentence, whichever is less, before being eligible for release on parole.⁷

From 2016, if the person is sentenced with a serious organised crime circumstance of aggravation, they must serve an additional 7 years before being eligible for release on parole.⁸

If a person is sentenced to life imprisonment for manslaughter, they must serve a minimum of 15 years in custody before being eligible for release on parole.⁹

Being eligible for release on parole does not mean release on parole is guaranteed — the prisoner must apply for parole to the Parole Board, who makes the decision about whether to grant the application for parole or if this should be refused.¹⁰ In some circumstances, a person’s parole application must be refused (for example, if a no body-no parole prisoner and a no cooperation declaration is in force).¹¹ A person may only be released on parole before their parole eligibility date under exceptional circumstances (but some prisoners are excluded from exceptional circumstances parole).¹²

Children

Different sentencing principles usually apply to the sentencing of children. The *Youth Justice Act 1992* (Qld) (‘YJA’) governs the sentencing of children in Queensland.¹³

A child is a person aged 10 years and over but under 18 years¹⁴ at the time of committing the offence. Prior to changes coming into effect in February 2018, 17-year-olds were dealt with under Queensland law as adults rather than as children.

A child aged 10–13 years can only be held criminally responsible if the prosecution shows the child had the capacity to know that what they did was seriously wrong when they did it.¹⁵ For more information about the sentencing of children, see the Council’s *Guide to the Sentencing of Children in Queensland*.

Penalties for children

The *Making Queensland Safer Act 2024* (Qld) changed the sentencing considerations and options available to a court when sentencing a child, including for the offence of manslaughter. The changes only apply to an offence committed after the Act’s commencement on 13 December 2024.

This *Sentencing Spotlight* includes analysis of cases sentenced up to 30 June 2024. As such, the changes introduced by the *Making Queensland Safer Act 2024* did not apply to any of the data analysed in this paper.

Prior to 13 December 2024, the maximum penalty of life imprisonment only applied to a child in certain circumstances.¹⁶ If the child pleaded guilty or was found guilty of manslaughter, the court could order that they be detained for a period of no more than 10 years, or up to the maximum penalty of life imprisonment if the offence involved violence to another person and the court

considered it was a ‘particularly heinous offence having regard to all the circumstances’.¹⁷ The assessment of whether an offence was particularly heinous required a court to consider not only the type of offence committed and the facts involved in its commission, but also factors relating to the child and their personal circumstances.¹⁸

From 13 December 2024, a court is permitted to sentence a child to up to life imprisonment without the need to be satisfied that the offence is one which in all the circumstances is ‘particularly heinous’.¹⁹

Number of cases

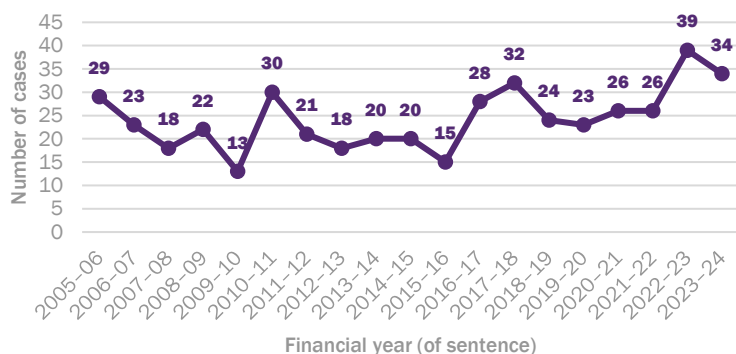
A total of 465 unique people were sentenced in 465 cases involving manslaughter between 2005–06 and 2023–24. For 461 (99.1%) of those cases, manslaughter was the most serious offence (MSO) sentenced. For the remaining 4 cases (0.6%) where manslaughter was not the MSO, the MSO was a charge of murder.

This *Sentencing Spotlight* focuses primarily on the 461 sentenced cases where manslaughter was the MSO.

Over the 19-year data period, there were 2,814,365 cases sentenced in Queensland’s criminal courts. Cases involving a homicide accounted for 0.04% of cases sentenced (n=1,047). The offence of manslaughter was sentenced in 465 cases, representing 44.4% of homicide offences, but only 0.02% of matters sentenced from 2005–06 to 2023–24.

Figure 1 shows the number of manslaughter cases sentenced (MSO) during the 19-year year data period, by financial year. The number had been relatively stable between 2018–19 and 2021–22 before an increase in 2022–23.

Figure 1: Number of manslaughter (MSO) cases, 2005–06 to 2023–24



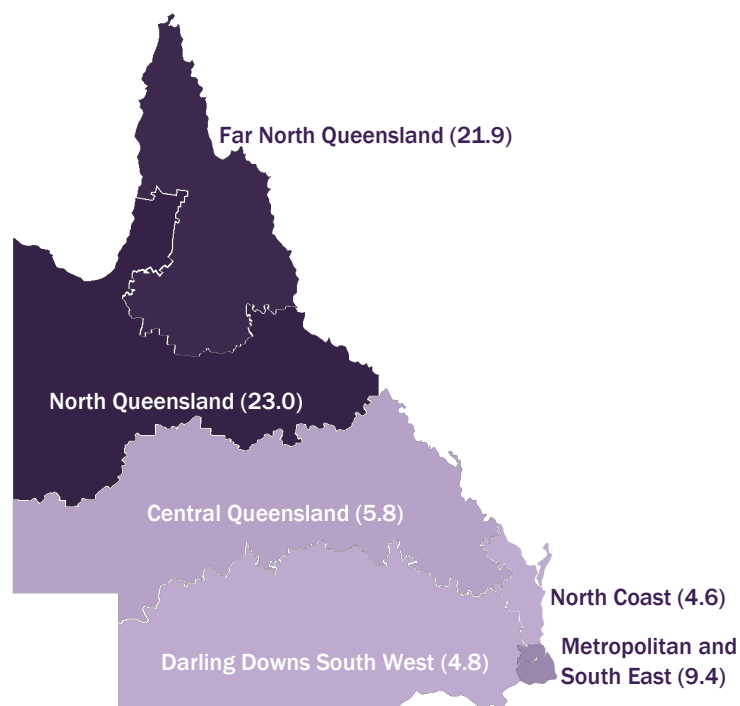
Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted August 2024.

Regions

The northern regions of Queensland had the highest proportional rate of sentenced manslaughter (MSO) cases. The rate of manslaughter cases in North Queensland (21.9) and Far North Queensland (23.0) were almost twice that of the Metropolitan and South East regions (9.4).

Figure 2 shows the distribution of manslaughter offences by region in Queensland by rate per 100,000 population based on the location of the court in which they were sentenced.

Figure 2: Manslaughter (MSO) cases by region by rate of population per 100,000, 2005–06 to 2023–24



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted August 2024. Rates calculated using estimated resident population data of people aged 10 and over, by Local Government Area from Australian Bureau of Statistics, “Regional population by age and sex”, 2023.

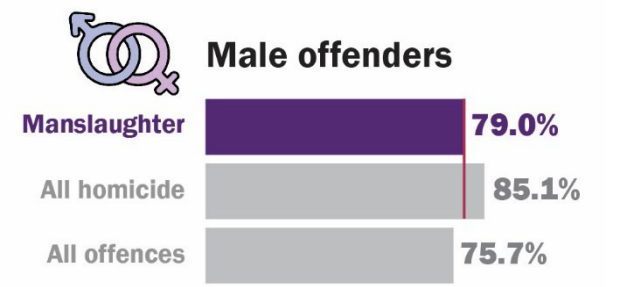
Note: as there is no Supreme Court located in the South East region, all cases from this region are heard in Brisbane. For this analysis, the Metropolitan and South East regions have been combined.

Demographic characteristics

This section compares the age, gender and Aboriginal and Torres Strait Islander status of all offenders sentenced for manslaughter (MSO) over the period from 2005–06 to 2023–24.

Gender

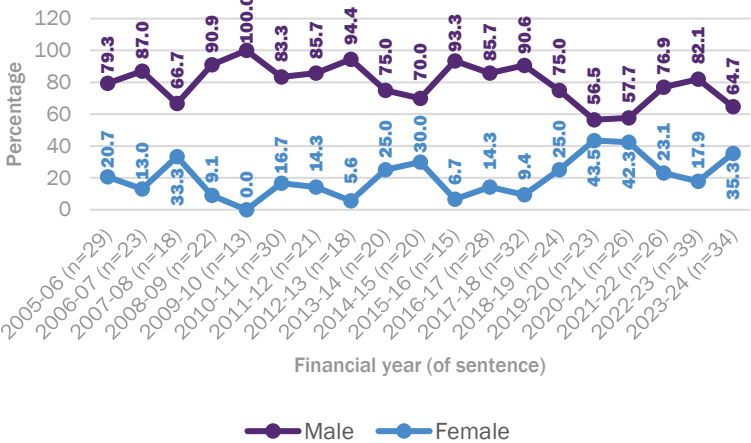
During the 19-year data period, most people sentenced for manslaughter (MSO) were male (79.0%, n=364). There were 97 females sentenced for manslaughter (21.0%). This was similar to the proportions seen across all offences sentenced in Queensland (75.7%).



On average, female offenders sentenced for manslaughter (MSO) were significantly older²⁰ than male offenders. The average age at time of the offence was 34.1 years for female offenders, compared to 31.3 years for male offenders.

There was a lot of fluctuation in the gender breakdowns over time, mostly due to the small number of cases sentenced each year for this type of offence. The proportion of women and girls sentenced for manslaughter (MSO) was lowest in 2009–10 with no women or girls sentenced that year. The highest number of females were sentenced in 2019–20, comprising 43.5% of the total number of sentenced manslaughter (MSO) cases that year (n=10)—see Figure 3.

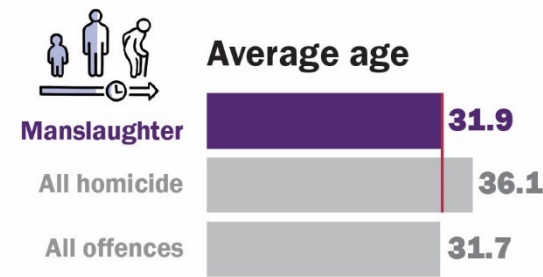
Figure 3: Proportion of people sentenced for manslaughter (MSO) by gender and year of sentence, 2005–06 to 2023–24



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

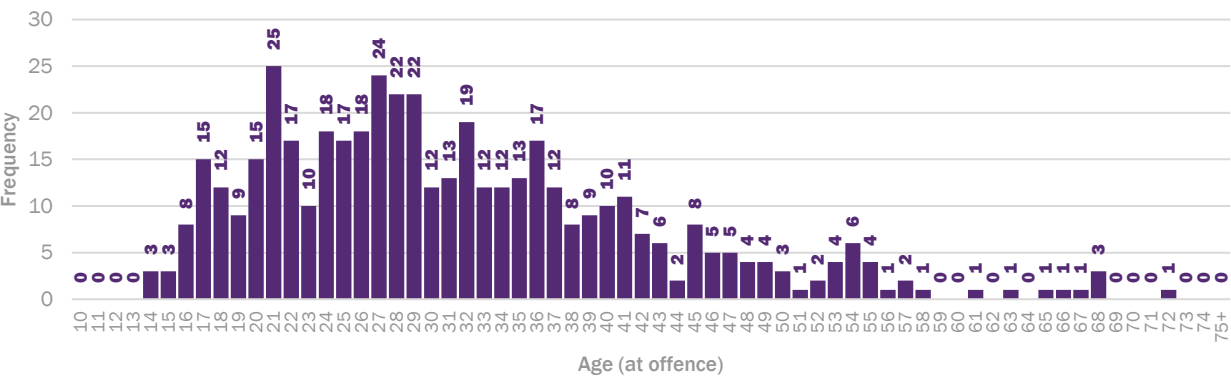
Age

On average, people sentenced for manslaughter (MSO) were 31.9 years old (median=29.7 years) at the time of committing the offence. There was no difference in average age compared to the age of those sentenced across all offence types (31.7 years, median=29.3 years). People sentenced for manslaughter were on average younger than those sentenced for other homicide offences.²¹



The youngest person (at time of offence) sentenced for manslaughter was 14 years old, while the oldest person was 72 years old. The median age (at time of offence) was 29.7 years. Figure 4 shows age at the time of offence.

Figure 4: Number of people sentenced for manslaughter (MSO) by age at offence, 2005–06 to 2023–24.

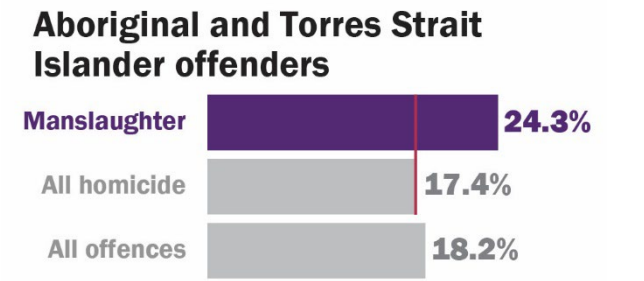


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.
Note: 1 case (MSO) was excluded as the offender's age was unknown.

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.

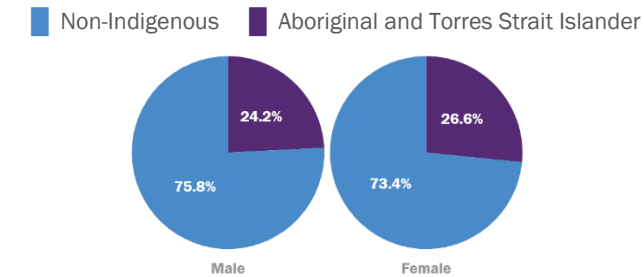
Although people who identify as Aboriginal and Torres Strait Islander represent approximately 4.6% of Queensland’s population aged 10 years and over,²² they accounted for 24.3% (n=112) of all people sentenced for manslaughter (MSO) during the 19-year data period. This was much higher than the percentage of people sentenced for other homicide offences (17.4%) or all offences generally (18.2%). Most people sentenced for manslaughter were non-Indigenous (74.0% of people sentenced; n=341).²³



There was no difference in age (at time of offence) for Aboriginal and Torres Strait Islander people (31.4 years) and non-Indigenous offenders (31.7 years).²⁴

There was no difference in Aboriginal and Torres Strait Islander status based on gender.²⁵ Of the 359 male offenders sentenced for manslaughter, over two-thirds were non-Indigenous (n=272, 75.8%). A similar proportion of female offenders sentenced for this offence were non-Indigenous (n=69/94, 73.4%)—see Figure 5.

Figure 5: Aboriginal and Torres Strait Islander status by gender for people sentenced for manslaughter (MSO), 2005–06 to 2023–24

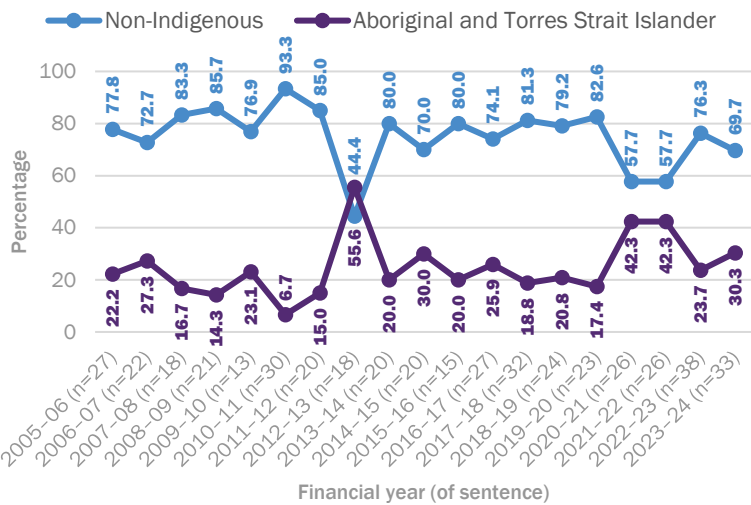


Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted August 2024.
Note: 8 cases (MSO) were excluded as their Aboriginal and Torres Strait Islander status was unknown.

Proportionally, the percentage of Aboriginal and Torres Strait Islander people sentenced for manslaughter remained relatively stable across the 19-year data period. There was some variation, with an increase in 2012–13 and 2020–21 to 2021–22—see Figure 6. The proportion of Aboriginal and Torres Strait Islander people sentenced

was highest in 2012–13 at 55.6% and lowest in 2010–11 at 6.7%.

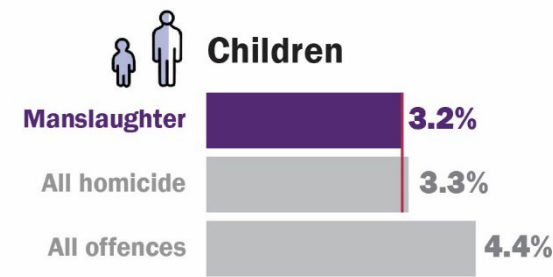
Figure 6: Proportion of people sentenced for manslaughter (MSO) by Aboriginal and Torres Strait Islander status and year of sentence, 2005–06 to 2023–24



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted August 2024.
Note: 8 cases (MSO) were excluded as the person’s Aboriginal and Torres Strait Islander status was unknown.

Sentenced children

Across all offences sentenced in Queensland over the 19-year period, 4.4% were committed by a child. In comparison, the offence of manslaughter (MSO) had a much lower proportion of sentenced children, with 3.2% of these cases involving offences committed by children (n=15). Prior to February 2018, 17-year-olds were dealt with as adults rather than as children.



Almost all the children sentenced for manslaughter (MSO) were male (86.7%, n=13), with only 2 girls sentenced during the data period.

Over the 19-year data period, 4 of the children sentenced for manslaughter were Aboriginal or Torres Strait Islander (26.7%).

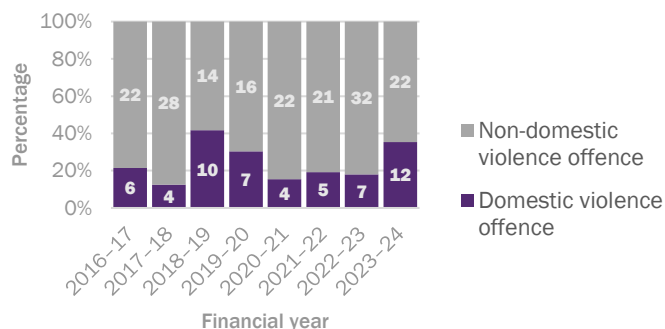
Domestic violence offences

From 1 December 2015, Queensland legislation was amended to enable a conviction for an offence committed in a domestic violence context to be recorded or entered in that person's criminal history as a domestic violence offence.²⁶ A person's behaviour is considered 'domestic violence' if they have a relevant relationship (intimate personal, family, or informal care) with the victim. Domestic violence means behaviour or a pattern of behaviour by one person towards another person in a relevant relationship and that behaviour is abusive (physically, sexually, emotionally, or psychologically), is threatening, coercive, or in any other way controls or dominates the second person in a way that causes that person to fear for their safety or wellbeing (or someone else's).²⁷

Almost one-quarter of the 232 manslaughter (MSO) cases sentenced from 2016–17 to 2023–24 were domestic violence offences (23.7%, n=55). The proportion of manslaughter cases sentenced as a domestic violence offence (MSO) is displayed in Figure 7.

As shown in Figure 8, there was a significant difference in the proportion of manslaughter offences sentenced that also met the definition of being a domestic violence offence based on gender. Women were much more likely to be sentenced for manslaughter as a domestic violence offence than men,²⁸ although more men overall were sentenced for manslaughter as a domestic violence offence (MSO, n=32 compared to n=23 women). Just under 1 in 5 cases sentenced involving male perpetrators

Figure 7: Number and proportion of manslaughter offences sentenced as domestic violence offences (MSO), 2016–17 to 2023–24



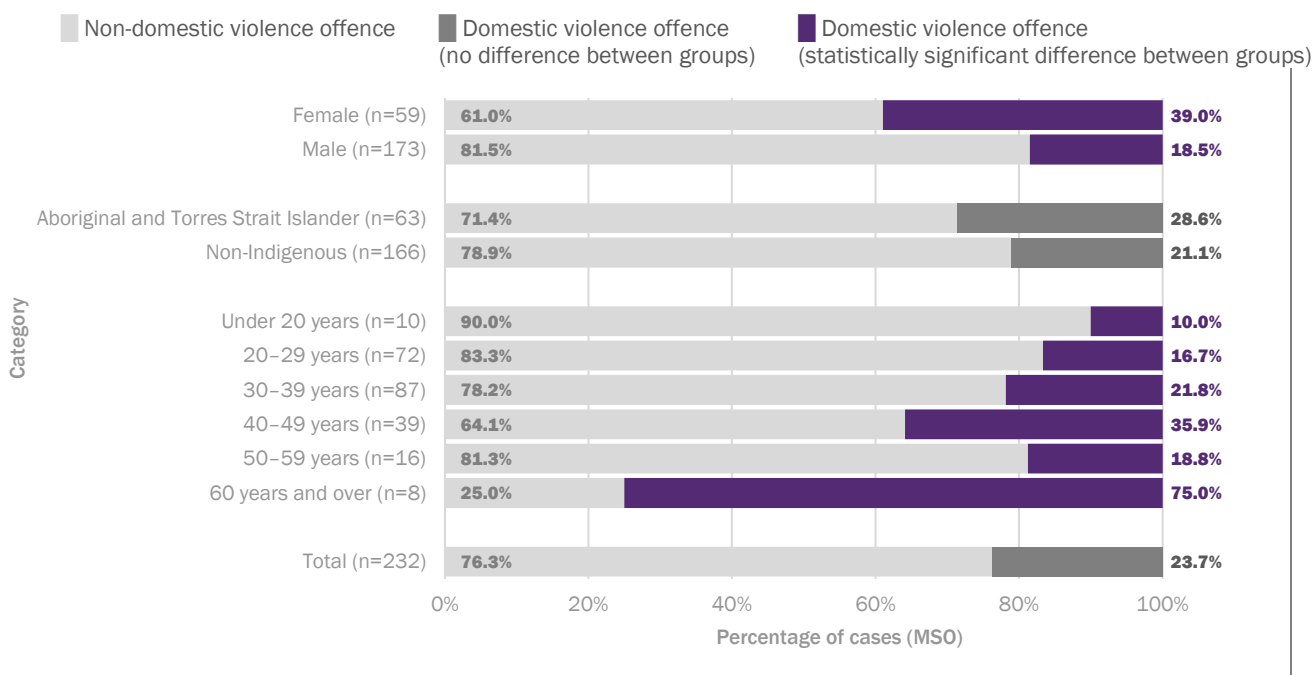
Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

(18.5% out of 173 cases) were sentenced as domestic violence offences compared with close to 2 in 5 cases (39.0% out of 59 cases) involving female offenders.

There was no significant difference in the proportion of manslaughter cases sentenced as domestic violence offences based on Aboriginal and Torres Strait Islander status.²⁹

There was a significant difference based on age group, with young people and children (all those under 20 years) being much less likely to be convicted of a domestic violence manslaughter offence.³⁰ Conversely, people aged 60 years and over were more likely to be convicted of a domestic violence manslaughter offence

Figure 8: Number of manslaughter offences sentenced as domestic violence offences (MSO) by gender, Aboriginal and Torres Strait Islander status and age at sentence, 2016–17 to 2023–24



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

Notes: Grey highlighting indicates there was no statistically significant difference between the groups. 3 cases were excluded because the Aboriginal or Torres Strait Islander status was unknown.

Sentencing court

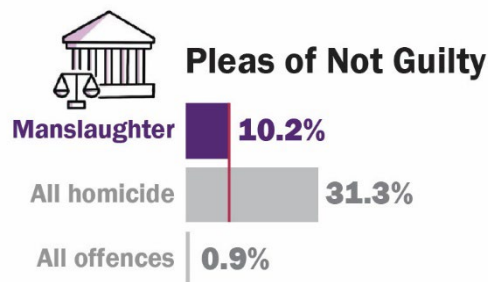
The Supreme Court is the highest court in Queensland and hears the most serious offences. The offences of manslaughter and murder must be heard in the Supreme Court because the maximum penalty is life imprisonment. Generally, the District Court does not have jurisdiction if the penalty is more than 20 years.³¹

For children, under the YJA, the offence of manslaughter is a ‘Supreme Court offence’ which means it must be dealt with in the Supreme Court.

All of the 461 cases of manslaughter (MSO) sentenced during the 19-year data period were sentenced in the Supreme Court.

Type of plea

Homicides generally have a higher proportion of not guilty pleas compared to other offences (31.3% and 0.9%, respectively) noting that murder in Queensland has a mandatory penalty of life imprisonment and that mandatory minimum non-parole periods also apply (ranging from 20 years up to 30 years depending on the circumstances) which may be a contributing factor.³²



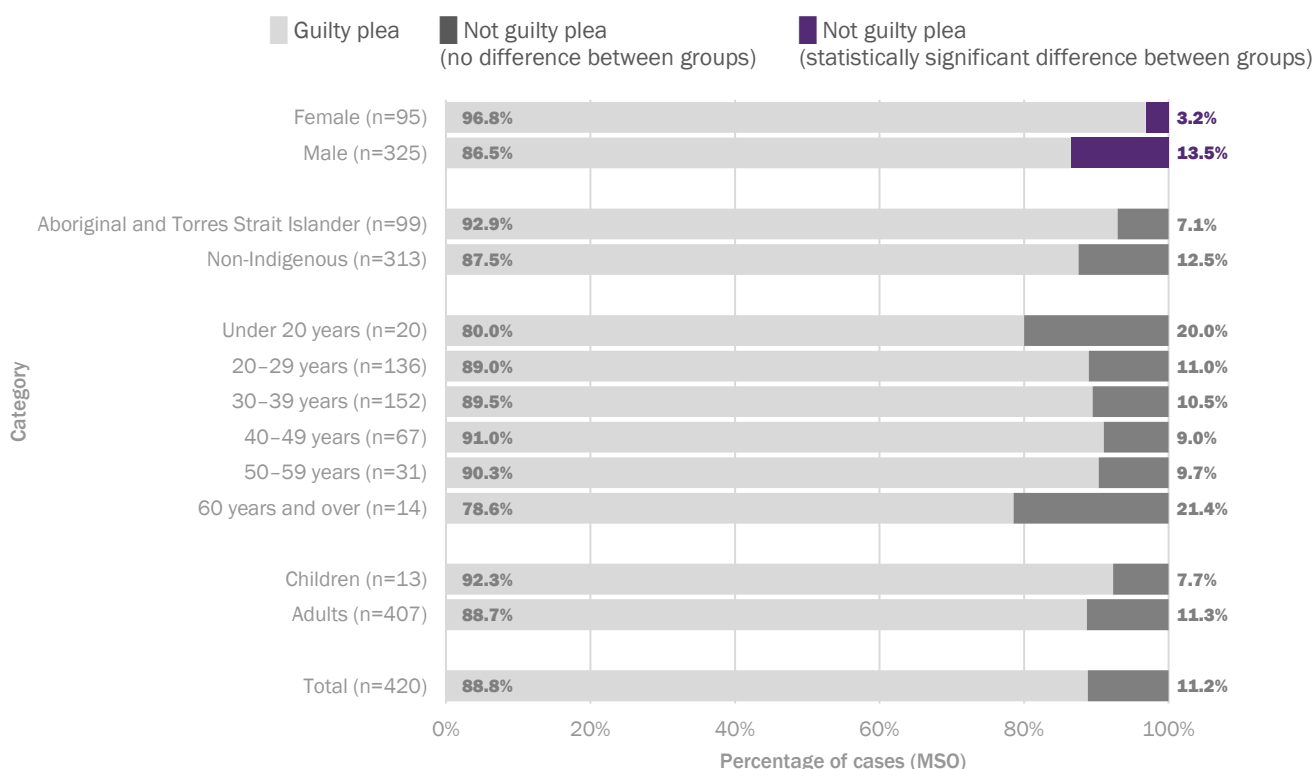
For sentenced cases involving the offence of manslaughter (MSO), 11.2% pleaded not guilty (n=47). The majority of people sentenced for manslaughter (MSO) pleaded guilty (88.8%).³³

This analysis does not explore the reasons a person may plead guilty.

Males were more than 4 times more likely to plead not guilty to manslaughter than females—see Figure 9.³⁴

There was no statistical difference in plea rates based on Aboriginal and Torres Strait Islander status,³⁵ or based on age group.³⁶

Figure 9: Plea type of people sentenced for manslaughter (MSO) by gender, Aboriginal and Torres Strait Islander status and age at sentence, 2005–06 to 2023–24



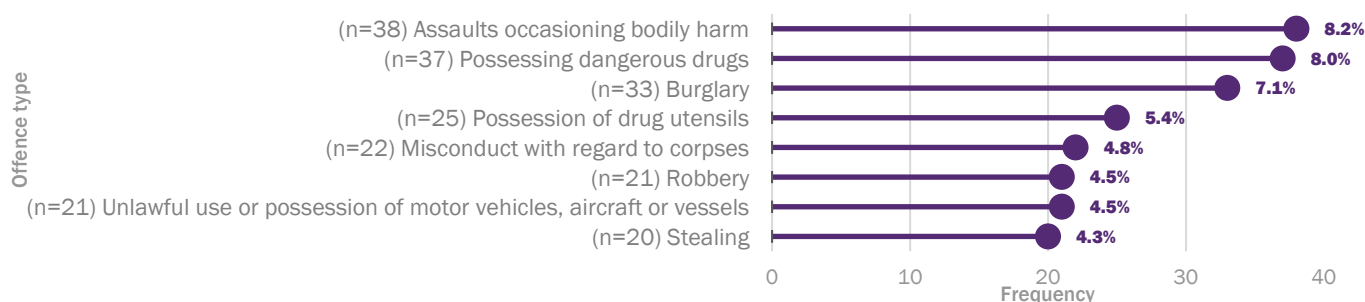
Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted August 2024.

Note: Grey highlighting indicates there was no statistically significant difference between the groups.

9 cases (MSO) were excluded from various breakdowns as the demographic attribute was unknown.

An additional 41 cases (MSO) were excluded as no formal plea was entered—further investigation of these cases revealed that all 41 had pled not guilty to a charge of murder and were found not guilty to murder but were convicted of an alternative count of manslaughter (for which a formal plea was not entered). However, please note that there may be more cases that involved a finding of guilt on an alternative charge - the authors were unable to determine whether any of the other 421 cases involving manslaughter (MSO) were also the result of a proceeding that had originally been charged as murder.

Figure 10: Most common offences co-sentenced with manslaughter (MSO), 2005–06 to 2023–24



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

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 manslaughter.

There were 4 cases where manslaughter was not the MSO. In all of these cases, the MSO was murder. These cases are not discussed in this section.

The remainder of this section focusses on the 461 cases in which manslaughter was the MSO.

In 43.0% of manslaughter cases (MSO, n=198), there was at least 1 co-sentenced offence. That is, in 43.0% of cases, the person being sentenced was also sentenced for other offences at the same court event. Inversely, 57.0% of cases involved only a single charge of manslaughter (n=263).

The number of sentenced offences per person per court event ranged from 1 to 42, with an average of 2.6 sentenced offences per event (median=1.0).

There was no difference in the average number of co-sentenced offences based on gender,³⁷ or Aboriginal and Torres Strait Islander status.³⁸

The most commonly co-sentenced offence with manslaughter (MSO) was assaults occasioning bodily harm (8.2%, n=38) followed by possessing dangerous drugs (8.0%, n=37), and burglary (7.1%, n=33)—see Figure 10. These three offences were common across all types of demographic breakdowns (by age, gender, and Indigenous status)—with one exception—there were no children with a co-sentenced charge of possessing dangerous drugs.

The offence of misconduct with regard to corpses was in the top 6 most common co-sentenced offences for females (n=4 cases), males (n=18 cases), non-Indigenous people (n=21 cases), and adults (n=22 cases), but was rare for Aboriginal and Torres Strait Islander people (n=1) and children (n=0).

Of the 461 cases of manslaughter, 17 were sentenced for multiple manslaughter offences at the same time.

Table 1: Number of sentenced offences per court event, by gender, and Aboriginal and Torres Strait Islander status, 2005–06 to 2023–24

Offender type	N	Single offence (%)	2 to 4 offences (%)	5 to 10 offences (%)	11+ offences (%)	Number of offences			
						Avg	Median	Min	Max
Female	97	60.8	28.9	8.2	2.1	2.6	1.0	1	42
Male	364	56.0	31.6	8.2	4.1	2.7	1.0	1	29
Aboriginal or Torres Strait Islander	112	59.8	27.7	8.0	4.5	2.5	1.0	1	22
Non-Indigenous	341	55.7	32.6	8.5	3.2	2.6	1.0	1	42
Total	461	57.1	31.0	8.2	3.7	2.7	1.0	1	42

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

Recidivism

A sample of people were examined in more detail to determine whether they had committed any other offences before or after being sentenced for manslaughter. For prior offending, a sample of people sentenced for manslaughter between 2019–20 and 2023–24 (n=148) was examined for prior offences—see Figure 11. For reoffending, a separate sample of people sentenced between 2009–10 and 2013–14 (n=102) was examined to identify any subsequent offences—see Figure 13.

Many people sentenced for manslaughter serve a long period of time in prison where the opportunity for recidivism is reduced. For this reason, separate samples were used to analyse prior offending and reoffending. This enabled us to allow for a period of up to 8 years of incarceration in this recidivism analysis. In other words, the arrow between the blue nodes in Figure 11 and Figure 13 can expand to account to up to 8 years of imprisonment.

As we will discuss later, the average imprisonment sentence for manslaughter is 8.8 years. This recidivism analysis assumes most people in the sample will either have fully served their sentence, or have been released on parole, within the time period set aside for this analysis.

Recidivism was operationalised as any criminal offence committed within two years of an offender’s expected release from custody (or, for sentences that did not involve custody, within two years of the date of the sentence hearing for the manslaughter offence).

Prior offending

There were 148 unique people sentenced for manslaughter (MSO) between 2019–20 and 2023–24. Over half had prior sentenced offences (56.1%). The remaining 43.9% had no prior offences. The number of prior sentenced court events ranged from 0 to 11. The average number of prior court events was 1.5 (median=1.0).

The most common prior offence was possessing dangerous drugs, with 32 individuals (21.6%) sentenced at 42 court events for this offence—see Figure 13.

Figure 11: Methodology for prior offending

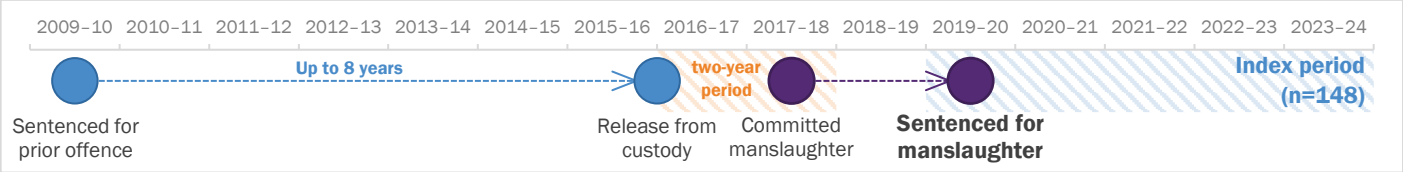










Figure 12: Most common prior offences for people sentenced for manslaughter between 2019–20 to 2023–24

Offence	Sentenced cases	Unique people
 Possessing dangerous drugs <i>Drugs Misuse Act 1986 (Qld) s 9</i>	42	32 (21.6%)
 Possession of drug utensils <i>Drugs Misuse Act 1986 (Qld) s 10</i>	33	28 (18.9%)
 Breach of bail – failure to appear <i>Bail Act 1980 (Qld) s 33</i>	31	25 (16.9%)
 Wilful damage <i>Criminal Code (Qld) s469</i>	26	21 (14.2%)
 Contravene direction or requirement of police officer <i>Police Powers and Responsibilities Act 2000 (Qld) s 791</i>	23	21 (14.2%)
 Unlicensed driving <i>Transport Operations (Road Use Management) Act 1995 (Qld) s 78</i>	27	20 (13.5%)
 Assault or obstruct police officer <i>Police Powers and Responsibilities Act 2000 (Qld) s 790</i>	23	20 (13.5%)
 Public nuisance <i>Summary Offences Act 2005 (Qld) s 6</i>	27	17 (11.5%)

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted August 2024.

Subsequent offending

There were 102 unique people sentenced for manslaughter (MSO) between 2009–10 and 2013–14. Of these, the majority had no subsequent offences (71.6%).

There were no repeat offenders for the offence of manslaughter in the 19-year data period. That is, there were no people who were sentenced for manslaughter on more than one occasion.

The number of subsequent offences ranged from 0 to 8. The average number of subsequent offences was 0.5 (median=0.0).

The most common subsequent offences were public nuisance and unlicensed driving, with each offence having 6 individuals subsequently sentenced for these offences.

Figure 13: Methodology for subsequent offending



The 'two-year period' refers to the time during which an offence must be committed for it to be included in the recidivism analysis. The person must have committed a new offence within 2 years of being released from custody for a prior offence.

Figure 14: Most common subsequent offences for people sentenced for manslaughter between 2009–10 and 2013–14

Offence	Sentenced cases	Unique people
 Public nuisance <i>Summary Offences Act 2005 (Qld) s 6</i>	8	6 (5.9%)
 Unlicensed driving <i>Transport Operations (Road Use Management) Act 1995 (Qld) s 78</i>	6	6 (5.9%)
 Assault or obstruct police officer <i>Police Powers and Responsibilities Act 2000 (Qld) s790</i>	7	5 (4.9%)
 Possessing dangerous drugs <i>Drugs Misuse Act 1986 (Qld) s 9</i>	5	5 (4.9%)
 Dealing with prohibited thing <i>Corrective Services Act 2006 (Qld) s123</i>	5	5 (4.9%)
 Breach bail condition <i>Bail Act 1980 (Qld) s29</i>	7	4 (3.9%)
 Contravention of domestic violence order <i>Domestic and Family Violence Protection Act 2012 (Qld) s 177</i>	7	3 (2.9%)
 Unlawful entry (of premises) <i>Criminal Code Act 1899 (Qld) s 421</i>	3	3 (2.9%)
 Assaults occasioning bodily harm <i>Criminal Code Act 1899 (Qld) s 339</i>	3	3 (2.9%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

Table 2: Prior and subsequent sentences for manslaughter

Category	Recidivist cases (n)	No recidivist cases (%)	1 to 4 recidivist cases (%)	5+ recidivist cases (%)	Number of recidivist cases			
					Average	Median	Min	Max
Prior offending (n=148)	83	43.9	46.6	9.5	1.5	1.0	0	11
Female (n=46)	24	47.8	50.0	2.2	1.0	1.0	0	5
Male (n=102)	59	42.2	45.1	12.7	1.8	1.0	0	11
Aboriginal or Torres Strait Islander (n=45)	33	26.7	57.8	15.6	2.3	2.0	0	11
Non-Indigenous (n=101)	50	50.5	42.6	6.9	1.2	0.0	0	9
Subsequent offending (n=102)	29	71.6	25.5	2.9	0.5	0.0	0	8
Female (n=14)	2	85.7	14.3	0.0	0.3	0.0	0	3
Male (n=88)	27	69.3	27.3	3.4	0.6	0.0	0	8
Aboriginal or Torres Strait Islander (n=22)	9	59.1	27.3	13.6	1.3	0.0	0	8
Non-Indigenous (n=79)	20	74.7	25.3	0.0	0.3	0.0	0	3

Note: Totals may not add to 100% due to rounding. Offenders with unknown characteristics are excluded from each subgroup

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

Note:

As there were only 15 children sentenced for manslaughter (MSO), it was not possible to do in-depth analysis for this cohort for this offence. All children were sentenced to detention, with penalties ranging from 3.0 years to 10.0 years. The average detention order was 5.5 years, and the median was 5.0 years.

The remainder of this section will discuss adults only.

Penalties and sentencing for adults

In Queensland, the maximum penalty for manslaughter is life imprisonment.³⁹

From 2005–06 to 2023–24, all 446 cases involving manslaughter offences committed by an adult received a custodial penalty.⁴⁰

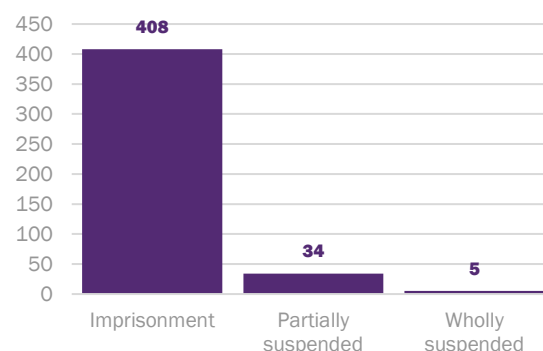
While courts have discretion to set the appropriate sentence in most cases, when sentencing a person for manslaughter different rules apply to the fixing of the person's parole eligibility date in some circumstances. This includes if a person is declared convicted of a serious violent offence (including if sentenced for manslaughter),⁴¹ in which case the person must serve 80% of their sentence in custody, or 15 years, whichever is less before being eligible for release on parole.⁴²

Across the 19-year data period there were 113 cases involving a charge of manslaughter declared to be a conviction of a serious violent offence. Of these, 86.7% were mandatory declarations due to the sentence of imprisonment being 10 years or more, while in the remaining 13.3% the judge determined this was warranted due to the circumstances of the case.⁴³

Penalty type

From 2005–06 to 2023–24, all 446 manslaughter cases (MSO) resulted in a custodial penalty. The vast majority of sentences imposed were sentences of immediate imprisonment (91.5%); however, 7.6% were partially suspended prison sentences (n=34), and the remaining 5 cases resulted in a wholly suspended prison sentence (1.1%).

Figure 15: Custodial penalties for adults sentenced for manslaughter (MSO), 2005–06 to 2023–24



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

Women were significantly more likely than men to be sentenced to a partially suspended prison sentence.⁴⁴ Women were also significantly less likely than men to be sentenced to imprisonment for manslaughter (MSO).⁴⁵

There were no significant differences in the the likelihood of a person receiving a sentence of imprisonment,⁴⁶ or a partially suspended sentence⁴⁷ based on Aboriginal and Torres Strait Islander status.

Figure 16 (overpage) shows the change in type of penalty over time. Wholly and partially suspended prison sentences were used rarely and remained consistently low across the data period, with 5 or less suspended sentences being used each financial year. The highest proportion of suspended sentences occurred in the 2020–21 financial year where 19.2% of sentences for manslaughter were partially suspended prison sentences. This proportion may have reflected the unique challenges of the emerging COVID-19 pandemic.

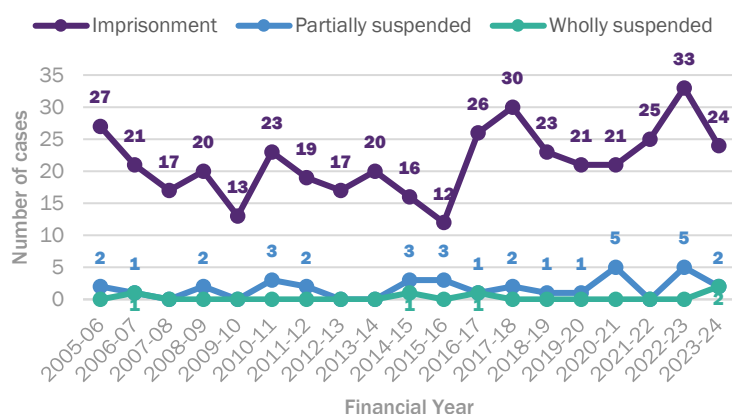
Table 3: Custodial penalties for adults sentenced for manslaughter (MSO) by gender and Aboriginal and Torres Strait Islander status, 2005–06 to 2023–24

Penalty type	Total %	Male %	Female %	Aboriginal and Torres Strait Islander %	Non-Indigenous %
Custodial penalties	100.0	100.0	100.0	100.0	100.0
Imprisonment (n=408)	91.5	95.4	76.8	91.7	91.8
Partially suspended (n=33)	7.4	4.0	20.0	7.4	7.3
Wholly suspended (n=5)	1.1	0.6	3.2	0.9	0.9
Total	100% n=446	100% n=351	100% n=95	100% n=108	100% n=330

Note: excludes children. 8 cases were excluded from the Aboriginal and Torres Strait Islander breakdowns as the Indigenous status was unknown.

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

Figure 16: Custodial penalties over time



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

Length of sentence

A life sentence is the maximum penalty for manslaughter.

There were no life sentences imposed over the 19-year data period for manslaughter (MSO).

Figure 17 shows the distribution of imprisonment sentences for adults sentenced to manslaughter (MSO). Table 4 shows some summary statistics on the length of penalty for the different types of custodial orders.

Imprisonment

For people sentenced to imprisonment for manslaughter (MSO), the average sentence was 8.8 years (median=9.0 years). The longest sentence of imprisonment was 20 years, and the shortest was for 18 months.

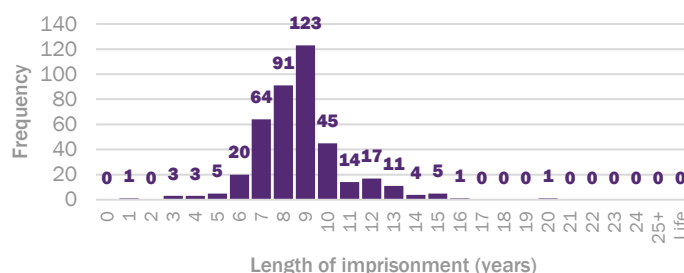
There were no significant differences in the length of imprisonment by Aboriginal and Torres Strait Islander status, with an average of 8.8 years for non-Indigenous people and 8.9 years for Aboriginal and Torres Strait Islander people.⁴⁸

There was a slight difference in the length of imprisonment based on gender, with men receiving slightly longer sentences at 9.0 years (on average), compared to 8.1 years for women.⁴⁹

Parole eligibility

The average time spent in prison before being eligible to apply for parole for manslaughter (MSO) was 5.0 years (median=4.5 years). These figures were calculated based on an estimated parole eligibility date based on first instance sentencing and whether or not the person was declared a serious violent offender. These data may differ from those held by other agencies due to the high number of SVO declarations that are overturned on appeal for the offence of manslaughter.⁵⁰

Figure 17: Length of imprisonment for adults sentenced for manslaughter (MSO), 2005-06 to 2023-24



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.⁵¹

Partially suspended prison sentences

The maximum term of imprisonment that can be suspended is 5 years.⁵² The average partially suspended prison sentence was 4.7 years (median=5.0 years). The longest partially suspended prison sentence was 5.0 years. In fact, three-quarters of the partially suspended prison sentences were for 5.0 years—the longest period permissible at law (75.8% of cases, n=25/33 cases). The shortest partially suspended prison sentence ordered was 2.0 years.

The average time to be served in custody before release was 1.5 years (median=1.0 years).

There was no difference in sentence length based on the demographic breakdowns. In fact, the median partially suspended sentence length was the same for each group (5.0 years).

Wholly suspended prison sentences

There were only 5 manslaughter (MSO) cases that resulted in a wholly suspended prison sentence. Three were for the maximum duration of 5.0 years, one was for 3.3 years, and was for 1.5 years.

Table 4: Sentence lengths for adults sentenced for manslaughter (MSO), by gender and Aboriginal and Torres Strait Islander status, 2005-06 to 2023-24

Offender type	N	Avg	Median	Min	Max
Imprisonment (years)					
Female	73	8.1	8.3	1.5	12.0
Male	335	9.0	9.0	3.0	20.0
Aboriginal or Torres Strait Islander	99	8.9	9.0	3.0	15.0
Non-Indigenous	303	8.8	9.0	1.5	20.0
Total	408	8.8	9.0	1.5	20.0
Partially suspended (years)					
Female	19	4.8	5.0	3.0	5.0
Male	14	4.6	5.0	2.0	5.0
Aboriginal or Torres Strait Islander	8	5.0	5.0	5.0	5.0
Non-Indigenous	24	4.7	5.0	2.0	5.0
Total	33	4.7	5.0	2.0	5.0
Wholly suspended (years) †					
Total	5	4.0	5.0	1.5	5.0

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted August 2024.

† Data withheld from cells with less than 5 sentenced cases.

Endnotes

¹ *Criminal Code Act 1899* (Qld) sch1, s 304 (*Criminal Code* (Qld)).

² *Ibid* s 304A.

³ *Ibid* s 304B.

⁴ *Ibid* ss 7, 8.

⁵ *Ibid* s 310.

⁶ *Ibid* s 184(2). See *R v Crouch; R v Carlisle* [2016] QCA 81 [29] (McMurdo P).

⁷ *Penalties and Sentences Act 1992* (Qld) pt 9A; *Corrective Services Act 2006* (Qld) s 182(2).

⁸ *Corrective Services Act 2006* (Qld) s 181(2A) amended by Serious and Organised Crime Legislation Amendment Act 2016 (Qld).

⁹ *Corrective Services Act 2006* (Qld) s 181(2)(d). There are exceptions to this – see ss 181(2A), (2B).

¹⁰ *Ibid* s 193(1).

¹¹ *Ibid* s 193A(2).

¹² *Corrective Services Act 2006* (Qld) ss 176–176B. This does not apply to no body-no parole prisoners if a no cooperation declaration is in force: s 176B.

¹³ *Youth Justice Act 1992* (Qld) s 2.

¹⁴ *Criminal Code* (Qld) s 29(1): a person under the age 10 years is not criminally responsible for any act or omission; *Acts Interpretation Act 1954* (Qld) sch 1 def ‘child’ as ‘an individual under 18 years’.

¹⁵ *Criminal Code* (Qld) s 29(2). *RP v The Queen* (2016) 259 CLR 641.

¹⁶ *Youth Justice Act 1992* (Qld) s 155.

¹⁷ *Ibid* s 176(3).

¹⁸ See *R v William (a pseudonym)* [2020] QCA 174 [25]–[26].

¹⁹ *Youth Justice Act 1992* (Qld) s 175A.

²⁰ Independent groups t-test: $t(458) = 2.26$, $p = .024$, $r = 0.11$ (equal variances assumed)

²¹ QASOC categories of offences are the Queensland extension of the Australian Standard Offence Classification developed by the Australian Bureau of Statistics. Division 01, homicide and related offences includes the offences of murder, manslaughter, aiding suicide, killing an unborn child, attempted murder, manslaughter by driving and driving causing death. For more information see Australian Standard Offence Classification (Queensland Extension) 2008.

²² 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.

²³ 8 cases (MSO) were excluded from these calculations as the person’s Aboriginal and Torres Strait Islander status as unknown.

²⁴ Independent groups t-test: $t(234.7) = 0.29$, $p = .772$, $r = 0.02$ (equal variances not assumed)

²⁵ Pearson’s chi-square test: $\chi^2(1) = .223$, $p = .6366$.

²⁶ Explanatory Notes, Criminal Law (Domestic Violence) Amendment Bill 2015 (Qld) 2. The amending Act was the *Criminal Law (Domestic Violence) Amendment Act 2015* (Qld). See *Penalties and Sentences Act 1992* (Qld) s 12A.

²⁷ See *Domestic and Family Violence Protection Act 2012* (Qld) ss 8, 13.

²⁸ Pearson’s chi-square test: $\chi^2(1) = 10.209$, $p = .0014$.

²⁹ Pearson’s chi-square test: $\chi^2(1) = 1.439$, $p = .2303$.

³⁰ Pearson’s chi-square test: $\chi^2(5) = 18.239$, $p = .0027$.

³¹ There are some exceptions to this: see *District Court Act 1967* (Qld) s 61.

³² *Criminal Code* (Qld) s 305 and *Corrective Services Act 2006* (Qld) s 181. An indefinite sentence may be imposed in place of a life sentence.

³³ In addition to this, there were 41 cases where no formal plea was entered. See the data note under Figure 9 for details.

³⁴ Pearson’s chi-square test: $\chi^2(1) = 7.971$, $p = .0048$.

³⁵ Pearson’s chi-square test: $\chi^2(1) = 2.202$, $p = .1378$.

³⁶ Pearson’s chi-square test: $\chi^2(5) = 3.518$, $p = .6207$.

³⁷ Independent groups t-test: $t(125.1) = 0.05$, $p = .958$, $r = 0.0$ (equal variances not assumed)

³⁸ Independent groups t-test: $t(222.0) = 0.25$, $p = .805$, $r = 0.02$ (equal variances not assumed).

³⁹ *Criminal Code* (Qld) s 310.

⁴⁰ This analysis is based on first instance sentencing outcomes and does not take into account the outcomes of any appeals. For more information, see <<https://www.sentencingcouncil.qld.gov.au/statistics/technical-paper>>.

⁴¹ *Penalties and Sentences Act 1992* (Qld) ss 171A; 161B.

⁴² *Corrective Services Act 2006* (Qld) s 182.

⁴³ Serious violent offender figures do not account for any cases in which this declaration was overturned on appeal.

⁴⁴ Pearson’s chi-square test: $\chi^2(1) = 16.765$, $p < .0001$.

⁴⁵ Pearson’s chi-square test: $\chi^2(1) = 1.110$, $p = .2921$.

⁴⁶ Pearson’s chi-square test: $\chi^2(1) = .002$, $p = .9603$.

⁴⁷ Pearson’s chi-square test: $\chi^2(1) = .002$, $p = .9628$.

⁴⁸ Independent groups t-test: $t(400) = 0.18$, $p = .858$, $r = 0.01$ (equal variances assumed)

⁴⁹ Independent groups t-test: $t(132.9) = 4.11$, $p < .001$, $r = 0.34$ (equal variances not assumed)

⁵⁰ A previous report by The Council found that SVO declarations were overturned in 45.1% of cases. Queensland Sentencing Advisory Council, The ‘80 per cent Rule’: The Serious Violent Offences Scheme in the Penalties and Sentences Act 1992 (Qld), 108 Figure 29.

⁵¹ Sentence lengths do not include any changes made on appeal.

⁵² *Penalties and Sentences Act 1992* (Qld) s 144.



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