



Legal and Social
Justice Services

Assessing the impacts of domestic and family violence sentence reforms in Queensland 2025

Queensland Sentencing Advisory Council

Submissions by Tasc Legal and Social Justice Services on **5.2 Systemic disadvantage, cultural considerations and other impacts on marginalised and disadvantaged groups.**

Who is Tasc?

Tasc Legal and Social Justice Services is a not-for-profit organisation that serves over 4,000 people per year across more than 400,000 square kilometres across Southwest Queensland. For over 40 years, Tasc has developed from a small community legal centre to a committed provider of high-quality legal advice, social justice, and advocacy services. Tasc is one of the largest regional community legal and advocacy services in Queensland, where the community and staff work together in partnership to continue to enable justice and change lives.

We are focused on social justice and support, and advocate for our clients, who are culturally and linguistically diverse, and come from the most vulnerable and marginalised sectors of our community. Our clients include First Nations people, those with disabilities, people experiencing mental illness, the elderly, those at risk of domestic violence, and people experiencing financial disadvantage. Tasc takes a particular interest in the way disadvantage is experienced in regional, rural, and remote areas of Queensland. We do our best to support the community we work with to promote, protect, and preserve their legal and human rights.

Systemic disadvantage, cultural considerations and other impacts on marginalised and disadvantaged groups

*“Non-violence, which is the quality of the heart, cannot come by an appeal to the brain”
Mahatma Gandhi*

Introduction: When considering the potential effectiveness of legislation increasing the severity of sentencing for acts of domestic and family violence, it is important to first grapple with what appears to be an enduring social myth regarding the effectiveness of punishment and harsher sentences as a means of deterrence (Abramovaite et al, 2023). According to Kelly and Tubex (2015) : “Prison terms are often justified on the basis that imposing harsh sentences on offenders will deter them” (p.1)”. They go on to argue however that imprisonment ... may in fact be counterproductive and contribute to further offending (p.1). These authors are far from alone in this determination (see Abramovaite et al, 2023; Gormley, 2024; Ritchie, 2011).

Doob, Webster and Gartner (2014) posit that “no reputable criminologist who has looked at the overall body of research literature on deterrence through sentencing...believes that crimes rates will be reduced through ... raising the severity of sentences handed down in criminal



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courts” (p.3)”. While Abramovaite et al, 2023 highlight evidence establishing that incarceration is often counter-productive for desistence as the experience can reinforce deviant identities, increase feelings of stigmatization and isolation, and prevent integration into the labor market (p. 1667), other researchers such as Saunders (2016) question the assumption that the decision to commit a crime is primarily rational in nature (Vellani, Kaufer, & Army, 2024).

Since the Enlightenment in the 17th century humankind has seen itself as the embodiment of reason, as a special type of being capable of towering over emotion. While the image was appealing in a world full of fears, the unpredictability of nature, and troubling aspects of human behavior, science has now shown that this is not the case. Rather than being at odds with one another, reason and emotion are both intricately interconnected and situational in nature (Harvey & Kisley, 2023; Maroney, 2016; Saunders, 2016). There is also evidence that society’s expectations regarding punishment may also be at risk.

Human beings are equipped with internal mechanisms that do not typically respond well to intentional threats against one’s social, physical and emotional integrity. If it looks on the surface that punishments are in fact effective, this could be due to the decision of someone to push down their emotional responses to this event in order to avoid repeated punishment – a decision which may not take into consideration that at one point in time, these emotional responses may resurface.

In the face of threat, the multiple representations of fight, flight, and freeze begin to take over and in doing so, to mold reasoning in ways that support the intentions of survival and perceptions of control. This is particularly true in cases where an individual’s early development and adolescence involved direct and/or indirect exposure to interpersonal harm and betrayal; chaos; emotional, social, and financial deprivation; and uncertainty (a common scenario when it comes to people who use domestic and family violence in order to get their needs met – De Courson & Nettle, 2021).

In a given moment in time, a man stalking his former partner with the intention of using violence as a means of navigating his rage or exerting control over a situation that creates perceptions of threat is more often than not under the illusion (an illusion likely, but not always, buffered by alcohol or other substances) that his actions are in fact, quite reasonable. In this moment, thoughts regarding when, whether, or how he will be apprehended are likely not in the forefront of his mind.

When he is apprehended and sentenced for beating his partner, the punishments inflicted run the risk of reminding him of past injustices and betrayals and in doing so, of setting off a cascade of negative emotions and assessments. Prison may then provide the emotional support necessary for maintaining these beliefs. His ability to learn from his wrongdoing may also be compromised.



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In order to incorporate understandings of one's wrongdoing in the face of punishment, or to prevent oneself from inflicting harm on another, people often rely upon acts of mentalisation – the ability to acknowledge and reflect upon both one's own mental state, one's actions, and on the mental states and actions of others. The capacity for mentalisation often diminishes in the face of punishments during childhood and can contribute to violent offending (Adshead et al, 2013).

Ultimately, if evidence points to the essential ineffectiveness of harsher sentencing, then what is behind the continuation of this pattern? Is this due to assumptions regarding the power of reason and rationality over emotions, or to an enduring sense of moral outrage regarding interpersonal violence and the corresponding impact of penal populism (Garland, 2021); or to the need to generate powerful solutions which acknowledge and honour the lived experiences of victim/survivors?

Is it also due to the conflation of policy with enduring religious references which perpetuate ideas of retribution and “an eye for an eye” (Fish, 2008); or to a persistent desire for control over one's environment using simplistic, linear reasoning (Mueller, 2020); or to an impulse to adhere to enduring myths and ideologies in the face of life's harsher elements?

Myths around marginal deterrence (stories and understandings dating back to the time of Montesquieu in the 18th century - Miceli, 2018) may allow people to quiet existential anxieties by anchoring their lives in enduring understandings of the nature of life and death (Pyszczyński, Solomon, & Greenberg, 2025). Myths however, can also be destructive.

In society's battle against the impacts of domestic and family violence, answers to the gap between evidence and policy appear to be vital (Maroney, 2016). Once acquired these understandings may open the door to alternate solutions capable of using both reason and emotion as a means of non-violent resolutions to the challenges society faces – and in doing so, to honour the words of Ghandi.

The Perseverance of a Myth: It is noteworthy that legislation introducing domestic and family violence as an aggravating factor came only four years after The Sentencing Advisory Council of Victoria in 2011 publicly stated that evidence strongly indicates that incarceration has little impact on rates of offending. In, ‘Does Imprisonment Deter? A Review of the Evidence’, Ritchie (2011) writes: “Research shows that imprisonment has, at best, no effect on the rate of reoffending and is often criminogenic, resulting in a greater rate of recidivism by imprisoned offenders...” (p.23).

In addressing this discrepancy, Rose et al (2024), posit that the popularity of increasingly punitive criminal justice policies is due to a large degree to the failure of scientific evidence to shape public policy (p.1). Understanding and remedying this gap is therefore vital. Towards



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this end, researchers point to evidence supporting the role of penal populism in preventing the infusion of scientific evidence into policies around crime and punishment.

The concept of penal populism highlights both the ways in which influential actors manipulate public opinion regarding crime and punishment in ways that serve their own agendas rather than present evidence-based solutions to the problem of crime, and the flow and pull of popular cultural sentiment – sentiments which often question what is deemed to be the far too progressive prioritising of the views of academic “elites” - often at the costs of the general public (Phillips & Chagnon, 2020).

Cairney and Oliver, 2017 argue that when it comes to particularly evocative matters impacting society, policy makers often utilise strong emotional appeals in generating public support for policy direction and content. Interpersonal violence often engenders high levels of emotional responsiveness, including fear and outrage, and brings moral considerations into play (Garland, 2021). In the face of these reactions, information regarding links between violent adult behavior and childhoods defined by neglect and a critical lack of resources can create a sense of cognitive dissonance.

In these cases, people may seek to quickly resolve this uneasy dissonance without needing to wade through the vast complexity of human behavior. Knowing that people are capable of significant acts of violence against others both horrifies and frightens many people. When a person (most often a man) kills his partner, commits acts of sexual violence and coercion against another, or beats his child it is not second nature to want to reflect on what has happened to him in his life. The most immediate instinct is to think about striking back and to seek a sense of comfort in lasting ideologies. In these cases, penal populism can become increasingly appealing.

And yet, when it comes to the enduring presence of the kind of interpersonal and intergenerational carnage indicative of domestic and family violence, addressing the power of this myth prior to sentencing becomes especially important when one considers that acts of domestic and family violence are often expressive in nature and therefore not privy to the impacts of a cost/benefit analysis (Boxall, 2018). While men may use violence in order to remain in control of partners and in doing so to prevent them from leaving (a fact highlighted by evidence that the risk of domestic homicide increases when woman shows a determination to leave, or during post separation– Horn et al, 2024), the motivations underlying this drive to exert control are often as much emotional in nature as they are instrumental (Dutton, 2002; Kiviso, 2015).

Research has shown that a significant majority of individuals who engage in acts of domestic and family violence were at one-point survivors of abuse themselves (Vellani, Kaufer, & Army, 2024). If not survivors of direct abuse, then survivors of the kinds of structural inequities capable of creating enduring belief systems focused on inevitable social exclusion; enduring



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perceptions of victimisation; injustice; an absence of an internalised sense of value; and the heightened importance of meeting one's own needs at all costs (De Courson & Nettle, 2023; Wolf & Shi, 2012).

This does not mean that all people subjected to this kind of violence become violent themselves. Many do not. In many cases, life (experiences, connections, encounters with others, struggles, inequities, opportunities, failures, and successes) can step in in ways which can either mitigate the impact of these adverse experiences or enhance them (Adshead, 2021). According to Adshead, a group of people immune from the incidental building blocks of evil and cruel inclinations does not exist.

In discussing the concept of structural violence, Zakrisson, Valdés, and Muntaner (2019) highlight its introduction in 1969 by Norwegian sociologist Dr Johan Galtung. Galtung described structural violence as a form of violence where social structures and other institutions fundamentally harm people by preventing them from meeting their basic needs. These social structures include nationalism, classism, ethnocentrism, racism, sexism, adultism, and acts of othering where individuals and groups are made to feel somehow less than fully human.

Galtung explained that these experiences constituted the 'avoidable impairment of fundamental human needs' and are in other words, preventable.

For its part, cultural violence constitutes aspects of culture used to legitimise structural violence based on religion and ideology. Cultural violence can make structural violence seem both normal and invisible. Together, structural and cultural violence can lead to both physical and emotional forms of violence, creating internalised oppression, self-loathing, alcohol and drug abuse, depression, suicide, and acts of domestic and family violence (p.666).

Exemplifying aspects of both historical myths and structural and cultural violence, there is a tendency (and at times, desire) to believe that harmful antisocial behaviors are more often than not due to an absence of punishment and constraining boundaries. There may also be the corresponding belief that those who use severe forms of violence are animalistic and monstrous in nature. In many cases, however, these behaviors are often not the result not of a lack of harsh consequences, or of monstrous inclinations, but of a past defined by punishing control, and a notable lack of predictable care and understanding (Canturk, Farajii, & Tezcan, 2021; Papalia et al, 2025). Note: This however is not an indictment against parents in general, and mothers more specifically, In the face of often intergenerational patterns of violence, neglect, and abuse parents must focus on immediate needs of survival for both themselves and their children. These needs may be inconsistent with the conditions necessary for optimal psychological development (Adshead et al, 2013).



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Solution one: Effectively bridging the gap between science and policy. When considering solutions, Cairney and Oliver (2017) argue for the importance of finding ways to bridge the gap between science and policy which do not negate the value and legitimacy of either perspective. In some cases, scientists may not have considered the importance of stepping beyond their evidence-based bubble in order to find ways to make their findings increasingly accessible to others – particularly in the face of strong, evocative responses to continuing rates of violence.

This could be a matter of timing or of finding ways to integrate science into stories conveying understanding. Storytelling is in many ways the primary way in which humans convey meaning. Forming points of collaboration and partnerships between scientists and policy makers where there is the increased capacity to integrate the perceived needs of both policy and science could also prove to be fruitful – as could further exploring ways in which to reduce polarities with reason and emotion, policy and science, individual culpability and systemic culpability.

Maroney (2016) highlights the evolution of a special section of law which acknowledges and integrates the role of emotion. He writes: “Emotion shapes law, and law needs to get emotion right in order to function well...law also shapes emotion...Criminal proceedings work to channel anger, indignation, fear, and disgust; rehabilitation programs encourage hope”(p.4).

Tasc recommends more broad evaluation of the research into sociocultural factors such as exposure to violent or radicalising content, access to early intervention programs in schools and communities, geographical factors, and political or gendered differences, that contribute to overall social attitudes towards the justification and use of violence in intimate and family relationship settings. Policymakers and legislators must stay agile in following the rapidly changing landscape of these trends and influences on emerging generations. Interventions are often reactive, when the objective should be a preventive reduction in the use of violence in vulnerable communities. Users of violence make the choice to use violence for a range of reasons, and seeking first to understand lays the foundation for how to address the issue.

Solution two: According to Phillips and Chagnon (2020) it is also possible that policy does not always reflect the genuine sentiments of those who have survived violence (Alliance for Safety and Justice, 2016; Pew Charitable Trusts, 2016). They also stress that the goals of an anti-violence culture are not antithetical to criminal reform.

While access to financial redress exist through Victims Assist and Uniting Care’s Escaping Violence is important, working with survivors to create programs designed to support both individual and collective needs beyond financial support could provide both an acknowledgement of their experiences and an honoring of their voices while collectively creating comprehensive, wrap around programs capable of support their needs, and the



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needs of their children, for more extended periods of time. While the criminal justice system appears to be predicated upon individual culpability, the system also bears some responsibility for the enduring impact of unaddressed structural inequity on all individuals at risk of structural violence.

Tasc recommends involving victim-survivors in creating programs that go beyond the immediacy of financial redress to support families and communities affected by violence, particularly those in regional, rural, and remote areas, where geography, isolation, and accessibility of support services are contributing factors to systemic disadvantage.

Solution three: Further exploring the role of prevention by mandating participation in programs designed to prevent escalating behaviors in respondents to domestic violence orders, before a contravention occurs. This would allow for the identification of specific patterns of abuse as a means of individualising preliminary interventions. It would also allow for the support of programs designed to help offenders fully integrate the risk to their lives and to the lives of their families of their eventual incarceration. It is important that this not be delivered as a threat, but as an opportunity to choose another path. Towards this end, this program could help offenders identify and access other pathways. While prison reform is vital, acknowledging the difficulties inherent in this system and its risks of generating additional harm and suffering may also be important.

Tasc recommends investing in the study and evaluation of the justifications, circumstances and mitigating factors that users of violence rely on in the litigation of domestic violence orders, prior to the escalations that lead to contravention and criminalisation. Understanding the motivations of users of violence may help inform the development of interventions that divert them from the pathway to the criminal justice system.

Solution four: Targeted deterrence (Braga, Weisburd, & Turchan, 2019) an intervention which integrates the role of authority while partnering with both government and research represents a possible pathway forward. This approach integrates law enforcement with community mobilisation and participation and the intervention of specialised social services. The aim is often supporting those involved in violence in gaining an understanding of what is at stake while providing additional community support and pathways forward. This style of intervention has the potential to intercept psychological and emotional struggles stemming from the impacts of structural and cultural violence.

Tasc recommends exploring models of intervention that involve partnering between law enforcement and social programs to educate and support communities identified as being at risk of systemic disadvantage. The aim should be in educating at-risk communities of the broader implications that choosing and using violence will have on



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the overall stability and resilience of their communities and providing alternatives to violence, focusing on self-determination and sustainability. These measures need to address all of the systemic issues that are specific to the community, which may include housing instability, geographical isolation, food scarcity, and lack of meaningful employment.

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Systemic Disadvantage and Cultural Considerations

Introduction: There are several key issues for the Council to consider when addressing cultural considerations and sentencing practices in Queensland. The elements of the reform affecting Indigenous Australians, will be discussed below. One of the key reasons for addressing aggravating factors in domestic violence matters is to attempt to reduce offending. The incorporation of aggravating factors for domestic violence is important to acknowledge the circumstances of the offence and recognises that not all domestic violence matters are the same, leading to harsher, more appropriate penalties. However, for the implementation of aggravating factors to be impactful for the Indigenous community, the way aggravating factors are sentenced, the efficacy of current sentencing trends, community values, alternative approaches and other systemic issues should all be considered.

Prison sentences: As QSAC (Queensland Sentencing Advisory Council) notes, “courts are treating domestic violence offences more seriously and are giving more – and longer – prison sentences,” demonstrating that sentencing trends are increasing for domestic violence matters¹. However, current statistics show that longer prison sentences have little to no impact on reducing recidivism rates among domestic violence offenders². This lack of sentencing efficacy leads us to suggest consideration for more focussed and rigorous community-based penalties, especially after the prison sentence is served, to ensure the aggravating factor element is operating as it was intended and is reducing the occurrences of reoffending to greater protect our communities.

Fines as a penalty: In Queensland in, 30% of those who received a guilty court judgement for domestic violence received a fine for their offence³. This is despite a Griffith University study



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recognising that fines are viewed as an inappropriate reprimand as it is seen as trivialising from a victim's perspective and there is little to no deterrent effect⁴. In addition to this, as previously noted, lower socio-economic status is a recognised risk factor for domestic violence perpetrators. Therefore, imposing penalties that are financially straining on offenders may be both ineffective and contributing the core issues of domestic violence. It appears that courts should reconsider the frequency at which the use of fines are imposed in these matters.

Alternatives, or additions to incarceration: Domestic violence is a significant issue in Queensland and currently, the developments in sentencing are not impacting communities or offenders as intended. Due to this, more comprehensive sentencing approaches such as alternatives or additions to imprisonment should be considered. In 2023-24, 17% (3623) of offenders in Queensland were sentenced to a moderate penalty in the community (as opposed to a custodial sentence)⁵. If this percentage were to increase, used in conjunction with other forms of punishments, it may reduce re-offending and the occurrence of aggravating factors in domestic violence matters. A prison sentence, in conjunction with a non-custodial sentence, such as longer monitored parole and intensive community group work, or therapy and treatment programs would provide a more purposeful framework that could lead to lower offence rates in Indigenous communities. In addition, addressing key risk factors such as employment, substance use and lack of education after an offender has been charged, could develop into a strong and effective framework that works for both victims and offenders. A multi-disciplinary approach with a focus on reducing community harms should be considered here.

Alternative sentencing practices could include longer parole for perpetrators, where monitoring the offender is used as a part of their case management⁶. This could contribute to victim safety, and it aligns with community values. During the parole period, extensive focus on rehabilitation and reducing recidivism is of paramount importance. The offence and its aggravating factors could act as indication to which type of sentencing the offender should receive. For example, if substance abuse was an aggravating, mandatory drug and alcohol rehabilitation and frequent drug tests as an element of the offender's parole conditions may help to reduce the risk of reoffending and monitor the individual's risk factor going forward.

Tasc recommends a multifaceted approach to sentencing, that includes longer, monitored parole periods, pre- and post-release interventions comprising of specific programs for issues such as drug and alcohol misuse, homelessness, and unemployment, and a focus on educating users of violence on the impact their choice to use violence has on their own communities.

Community impact: Sentencing practices for Indigenous People and their value within a wider community setting should be studied more thoroughly in conjunction with Indigenous Elders, academics and people, so that evidence-based programs and alternative, more



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effective forms of punishment can be examined. It must be recognised that Indigenous people are overrepresented in the justice system and in our prisons. To further drive this inequality is doing a disservice to both victims and offenders and lacks the appropriate recognition and action on the intergenerational trauma perpetuated by both historical and current colonial practices and institutions. This is because imprisonment can have a significant negative impact on Indigenous people, and to apply more lengthy prison sentences where aggravating factors are present would continue to have minimal deterrent effects and instead poses a risk to adverse harms to our communities. Alternative sentencing measures may prove to be more beneficial at addressing the root causes of domestic violence.

Tasc recommends culturally safe approaches to diversion programs, and the expansion of these programs including Restorative Justice programs to courts all over Queensland.

Risk factors: Statistically, a risk factor for domestic violence is lower socio-economic status and employment status⁷ and imprisonment can genuinely harm a person's employability and ability to earn an income, further contributing to a core issue of domestic violence. In addition to this, research shows that incarceration does not effectively prevent recidivism among Indigenous populations. In reality, it exacerbates problems, reduces employability and therefore income prospects for individuals. In addition, as discussed in the consultation paper, the High Court has also recognised that exposure to, and the experience of, disadvantage is relevant to sentencing⁸. This is particularly relevant when considering Indigenous matters due to historical and systemic disadvantage. This is why considering the use of alternative punitive measures, with a focus on deterrence should be contemplated as additional sentencing where an aggravating factor is present. Addressing risk factors, such as lapse of employment (economic factors), and substance misuse is important to this matter and should align with sentencing procedure.

Tasc recommends that policymakers and legislators consider the impact of incarceration on employability and consider investing in further research into way to reduce or prevent discrimination in the pre-employment phase for people exiting the criminal justice system.

Summary: Domestic violence occurrence rates in Indigenous communities are higher for both victims and perpetrators⁹ which is why it is imperative to continue to act and make reform from a victim protection perspective. This means, to strike a balance between protecting and prioritising victims and focussing on alternatives or additions to imprisonment for offenders is key and should be at the forefront of future reforms. Longer prison sentences where aggravating factors are an element should still be delivered where the court deems necessary, especially in matters where it can keep at-risk victims safer and provide an opportunity for domestic violence crisis supports to assist victims to leave the situation where required. Longer prison sentences are in alignment with community values, which express that domestic violence should not be tolerated. However, imprisonment as a standalone punishment hasn't proven to be effective so stepping towards alternatives and additions to



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imprisonment should be considered where aggravating factors are present. For instance, community is especially important to Indigenous people and to acknowledge this and cultivate strong community values where domestic violence is discouraged and build community groups where offenders be asked by the courts to attend. This may assist in cultivating a shift in norms to reject domestic violence in communities should be aimed towards to shift generational patterns over a longer term.

Although alternative measures may offer valuable benefits, they should not entirely replace imprisonment as a form of punishment. From a community values perspective, and from a victim survivor experience perspective, imprisonment should remain as an

important means to acknowledge the wrongdoing of the offender and protect victims. Accountability through legal consequences can be delivered in many forms, and where domestic violence aggravation factor are present, legal action should be consistently aimed at reduced offending.

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3 <https://www.abs.gov.au/statistics/people/crime-and-justice/criminal-courts-australia/latest-release#aboriginal-and-torres-strait-islander-defendants>

4 <https://www.abs.gov.au/statistics/people/crime-and-justice/criminal-courts-australia/latest-release#aboriginal-and-torres-strait-islander-defendants>

5 [consultation-paper-assessing-the-impacts-of-domestic-and-family-violence-sentencing-reforms-in-queensland.pdf](#)

6 <https://www.uts.edu.au/news/2024/25/05/first-nations-imprisonment-record-high>

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