

Community Summary

Sentencing of Sexual Assault and Rape: The Ripple Effect – Final Report

February 2025



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About the Council

The Queensland Sentencing Advisory Council gives the Queensland Attorney-General advice, when asked, about sentencing in Queensland. We also give the community information to help promote greater understanding of sentencing issues.

The Council can have up to 14 people, with our members bringing together the views of victim survivors, criminal law experts and those experienced in domestic and family violence and Aboriginal and Torres Strait Island peoples' justice issues.

About this summary

In this document, we tell you about the work we have done to review how sexual assault and rape offences are sentenced. We also explain what changes we believe should be made to improve sentencing of sexual violence offences.

Please note that this is a community summary, which is a simplified version of our final report. If you would like to read more, you can download the final report from our website.



www.sentencingcouncil.qld.gov.au

Content warning

This community summary has information about sexual violence offences that some readers may find distressing. You can find contact details for support services at the end of this document.

Sentencing of Sexual Assault and Rape: The Ripple Effect – Final Report

In 2023, the Attorney-General asked us to look at the sentencing practices in relation to adults convicted of sexual assault and rape offences.

We spoke with many people, including victim survivors of sexual violence, support organisations, legal experts, Aboriginal and Torres Strait Islander peoples, and the public.

We asked university researchers to talk to members of the community about their views on how sexual assault and rape offences compare in seriousness to other types of offences, and the most important purposes of sentencing.

We compared community members' views with the types of sentences given for sexual assault and rape and their length to see whether they align.

We also reviewed existing research, looked at what judges said when sentencing these offences, and examined data on sexual assault and rape in Queensland.

We did this to gather information and see if changes to the law or sentencing practices are needed.



What we know about sexual violence

Sexual violence means any unwanted sexual acts by one person towards another. Our [Information Sheet](#) explains the offences of sexual assault and rape, including what type of acts they include.

Sexual violence often goes unreported. Most sexual violence offences are done by someone the victim survivor knows and trusts, not strangers.

Some groups, like Aboriginal and Torres Strait Islander peoples, children and young people, people from different cultures or races, and people with a disability experience more sexual violence than others.

The number of cases that go to court does not show how often this really happens.

National context

A focus on men and boys:

- One in 16 men have experience sexual violence since the age of 15.
- One in 27 men have experienced sexual abuse before the age of 15.

A focus on women and girls:

- One in five women have experience sexual violence since the age of 15.
- One in 10 women have experienced sexual abuse before the age of 15.

In Queensland

Over 98 per cent of people sentenced for sexual assault and rape are men.

Between July 2005 to June 2023 there were 1,817 cases where the most serious offence (MSO) sentenced was **rape**.

We found that:

- These cases were dealt with in the higher courts (usually the District Court).
- 98.7 per cent of people were given prison time (a custodial penalty).
- The median sentence of imprisonment was 6.5 years.
- The median custodial sentence length has been stable over time, ranging between 5 and 6 years (including all forms of custodial orders, not just imprisonment).
- 35.5 per cent were also domestic violence offences (e.g. committed by a partner/ex-partner or family member).

For cases where rape was linked to **domestic violence**, we found that:

- The median prison time (custodial penalty) was longer.
- There was a higher chance of an unsuspended prison sentence (meaning the person had to serve the sentence in prison unless released on parole).
- Fewer prison sentences were partially suspended.
- Prison sentences were slightly longer.

We also looked at rape sentences given by the courts from July 2020 to June 2023 (403 cases).

We found that:

- Almost two-thirds (64.7%) of all penalties were unsuspended prison sentences.
- Close to one-third (30.7%) were partially suspended prison sentences (meaning the person had to spend part of their sentence in prison prior to their release into the community, with the condition they not commit another offence punishable by imprisonment while the order was still in force).

We also looked at 1,904 cases from July 2005 to June 2023 sentenced in the higher and lower courts where the MSO was **sexual assault**.

We found that:

- Almost all cases involved non-aggravated offences (95.4%) (10-year maximum penalty).
- Just over half (53.1%) were sentenced in the Magistrates Courts (which usually can impose a sentence of up to 3 years' imprisonment).
- 4.6 per cent were aggravated offences (14-year and life maximum penalties).
- All aggravated offences were sentenced in the higher courts (usually the District Court).

Deciding a sentence

A court decides a punishment for someone found guilty of a crime.

The judge or magistrate looks at different things to decide on a fair sentence.

They consider:

- how serious the crime was – including how much harm it caused to a victim
- how much the person is to blame for their behaviour
- the person's age and past crimes
- if the person pleaded guilty.

They also think about the type of sentence that will:

- punish the person fairly
- help the person change their behaviour
- prevent the person and other people from doing the crime again
- show that type of crime is not acceptable
- keep the public safe from harm.

This means two people who commit the same type of crime might get different sentences.

Sometimes, a court must give a specific punishment. For example, someone who repeatedly commits serious child sex crimes must get a life sentence or an indefinite sentence.

The maximum punishment for sexual assault can be from 10 years to life in prison, depending on the situation.

For rape, while the maximum punishment is life in prison, the actual sentence imposed clearly depends on the circumstance of each individual case.

What we found

We found several key issues after listening to others and doing research.

These are:

- Current penalties for rape, particularly for offences against children, do not adequately reflect the seriousness of this offending and the purposes of sentencing.
- The community view of the seriousness of sexual assault and the harm it causes can be misunderstood.
- Certain types of ‘good character’ evidence are problematic and can be re-traumatising for victim survivors.
- The laws that help courts decide the sentence need to be changed to better recognise the vulnerability of children and the harm caused to victim survivors.
- Courts do not have enough options for sentencing sexual assault and rape, which means the types of orders made may not work as well to protect the community and respond to factors contributing to the person’s offending.
- The information given to courts during sentencing can be better.
- Victim survivors want more support during the court process and to be kept updated about what is happening.
- There are issues with how victim impact statements are used in sentencing.
- Sentencing data in Queensland is limited, making research difficult now and in the future.



The seriousness of sexual assault and the harm it causes can be misunderstood and changes may be needed to improve sentencing practices.



Certain types of ‘good character’ evidence are problematic and can be re-traumatising for victim survivors.



Current penalties for rape, particularly for offences against children, do not adequately reflect the seriousness of this offending and the purposes of sentencing.



The laws that help courts decide the sentence need to be changed to better recognise the vulnerability of children and the harm caused to victim survivors.

Changes we propose

Our recommendations

We made 28 recommendations to improve sentencing for sexual assault and rape offences.

Changes to the law should be made to require courts to treat rape or sexual assault committed against a child as aggravating when sentencing.

Recommendation 1

Community members told us sexual assault and rape offences committed against children are more serious than those committed against adults. This is because children are more vulnerable and more likely to experience severe and long-lasting harm. Also, those who commit these offences are more to blame for taking advantage of children's vulnerability.

Queensland courts do treat offences against children as being more serious than those against adults. But, Council found that changes to the law are needed to make sure sentences better reflect community views and the higher vulnerability of children. This reform would mean a court has to treat the sexual assault or rape of a child as more serious when deciding the sentence.

This could lead to harsher penalties like longer prison sentences, or imprisonment instead of probation. This change would not increase the maximum possible sentence.

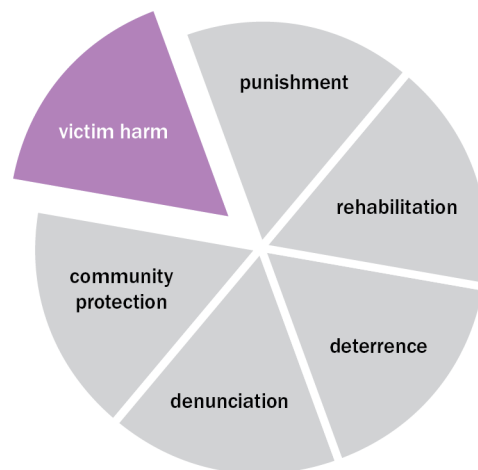
Recognition of the victim harm should be a new purpose of sentencing

Recommendation 2

When a court sentences a person, they have to consider the harm caused to a victim, but this is not a separate purpose of sentencing. This may mean courts focus less on victim harm when explaining the reasons for the sentence than if this were a sentencing purpose.

We recommend including recognition of victim harm as a sentencing purpose alongside other purposes we already have in legislation:

- **punishment:** punishing the person to an extent and in a way that is just
- **rehabilitation:** helping the person change their behaviour
- **deterrence:** discouraging the person and other people from committing these types of offences
- **denunciation:** communicating that the community does not approve of the what the person has done, and that this type of behaviour will not be tolerated
- **community protection:** keeping the community safe from harm in the future.



Sentencing laws that help courts decide the sentence should be reviewed

Recommendation 3

We were asked to review whether changes are needed to the laws that help courts decide sentences for people convicted of sexual assault and rape offences. What courts can or must consider are listed in section 9 of the *Penalties and Sentences Act 1992*. This is the law courts must follow when sentencing adults in Queensland.

A lot of changes have been made to this section 9 since this Act was first introduced. These changes mean this section is now long and complex. This can make it difficult to understand and apply the law when deciding the sentence. This is why we recommend this section be reviewed.

The offence of sexual assault should be reviewed

Recommendation 4

The offence of sexual assault includes a wide range of non-consensual sexual acts ranging from making someone watch pornography, masturbating in front of someone, touching another person in a sexual way, bringing a person's genitals or anus in contact with the mouth of a person, and acts of self-penetration.

We recommend sexual assault, and the maximum penalties that apply to different types of conduct be reviewed. This is to make sure the offence and the maximum penalties that apply reflect the seriousness of how different acts are viewed.

The use of some types of 'good character' evidence should be restricted and courts should have the choice not to treat it as mitigating

Recommendation 5

Character evidence can help a court decide if a person will change their behaviour. It helps a judge better understand the person they are sentencing.

'Good character' evidence can be:

- no criminal history
- helping the community
- a good work history.

Often character references are given by family members and friends of the person being sentenced.

Looking at what judges and magistrates said when sentencing people for sexual assault and rape, we found people were sometimes described as having 'high moral values', being a 'kind-hearted, loving father' or having a 'good work ethic'.

Victim survivors told us that hearing about someone being of 'good character' can be deeply distressing and re-traumatising and, when taken into account, can make them think the courts don't care about or take seriously the harm they have experienced.

They also told us that this was only the opinion of family, friends and acquaintances and may not be what that person is really like.

If people talk about the person having acted in a way that is ‘out of character’, it can also mislead the person being sentenced into thinking their behaviour is not how they usually would act and that they were not really to blame for their actions. This may mean they do not take full responsibility for it.



To presume that the good deeds or integrity they may have shown in other areas of life in any way diminishes the crime is a very apparent injustice.

Being convicted of a crime such as this, is clear evidence of a lack of good character. **No offender receives a life sentence but their victims do.**

Your Reference Ain't Relevant

We recommend the use of some types of ‘good character’ evidence should be limited. They should only be used if they help the court decide whether the person can be rehabilitated or may repeat their actions. Other information about the person, such as reports by professionals like psychologists and doctors, may also be important to help a court decide this.

We also recommend courts have the option to not treat ‘good character’ evidence in the form of character references or contributions to the community as mitigating (potentially reducing the sentence) if they think it is not appropriate due to the nature and seriousness of the offence.

Courts, prosecutors and defence practitioners need access to better resources

Recommendation 6

Victim survivors and the organisations that support them told us it is important that judges, magistrates, and all people working within the criminal justice system understand the impacts of sexual offending on victim survivors.

We found the type of information courts, prosecutors and defence practitioners have access to could be improved and is not always kept up to date.

Better information and resources will help inform the submissions made on sentence, and courts in deciding the sentence. This includes information about the nature of sexual violence, current sentencing practices and the principles that should guide sentencing.

The impact of reforms should be monitored

Recommendation 7

It is important to look at how changes to sentencing laws and practices are working to make sure they are working as they are meant to.

We recommend the changes be reviewed within 5 years of being put in place – including looking at whether sentences for sexual assault and rape offences against children increase after the new aggravating factor is introduced (see Recommendation 1).

More sentencing and parole options are needed

Recommendations 8 and 9

Right now, there are not enough options for how courts can sentence people who commit sexual assault or rape. This means the court may not find the best way to protect the community and stop these people from breaking the law again.

The options currently available might mean the person is not supervised or does not have access to programs as part of their sentence, which are important to reduce the risks of reoffending.

We have recommended changing the law so that courts have more choices.

We also recommend people have access to programs before they are sentenced, and that this access continues after the person is sentenced, while they are in prison, or while serving their sentence in the community.

Changes should be made to parole for rape, aggravated sexual assault, and other serious violent offences

Recommendation 10

Victim survivors told us that the time the person spends in prison is important to them to reflect the harm the offending caused. They also told us that the person should have access to treatment and supervision, so they do not harm anyone else.

Most people sentenced to serve time in prison will either be released in the community on parole or on a suspended sentence at some point. Research shows that parole supervision reduces the risk of reoffending.

Rules govern when a person convicted of a ‘serious violent offence’ can be released on parole, requiring them to serve either a minimum of 80 per cent of the sentence or 15 years (whichever is less). While these rules can apply to rape and sexual assault, usually they do not.

It is common for Queensland courts to set parole eligibility at one third of the sentence if a person has pleaded guilty, but they do not have to. If no parole date is set, the person must

usually serve half of their sentence in prison before they can be released in the community on parole. A later date can also be set.

We recommend current parole laws be changed so that all people convicted of rape, aggravated sexual assault and other serious violent offences sentenced to more than 5 years in prison have to serve between 50 to 80 per cent of their sentence in prison before being eligible for release on parole. A court could still set an earlier eligibility date if there is a good reason.

We also recommend a review of the current practice with respect to guilty plea discounts (Recommendation 24).

There are opportunities to improve the pre-sentence information and reports available to courts to inform sentence

Recommendations 11–13

Reports and advice by professionals, such as psychologists and doctors, can be given to the court to help it understand the reasons why the person may have committed a sexual offence, their personal circumstances, or the harm caused to a victim survivor. This is uncommon, however, due to the availability of funding and people with the right training and qualifications to provide this advice.

Cultural reports and advice can also be important for people of Aboriginal and Torres Strait Islander or other cultural backgrounds to help understand cultural factors.

We recommend current funding and models of professional and cultural advice be looked at to see what can be improved.

Better support for victim survivors

Recommendations 14–23

We know that going through the legal system can be hard for victim survivors.

Many victim survivors told us they felt confused and unsupported and that the courts didn't fully understand the harm they had experienced.

We were also told that the process of giving a victim impact statement detailing how the offence had impacted them was difficult and, without the right support, can cause them further harm.

We found changes are needed to improve sentencing including:

- Clarity around the roles of each agency in relation to victim impact statements.
- Talk more clearly with victim survivors so they feel safe, understood, and respected.
- Give victim survivors a copy of what was said in court at the sentencing hearing.
- Improve communication between government agencies and support services.
- Review and improve the process for victim impact statements.
- Help judges and magistrates better understand the effects of sexual assault and rape on victim survivors by ensuring access to training and the development of resources.
- Help prosecutors and defence practitioners in making sentencing submissions.
- Create resources to help courts interact with victim survivors.

Alternatives to sentencing

Recommendations 25–26

A restorative justice process may be a useful option in cases where a victim survivor wants to meet with the person who has harmed them to tell them about how it has affected them and make sure the person is held accountable for what they have done. This can happen at many different stages of the criminal justice process.

In our report, we make recommendations about a new restorative justice program, if established, as well as other alternative justice approaches. We highlight the need for there to be safeguards in place to make sure the victim's needs and wishes are prioritised and to protect them from further harm.

Improving the information that informs changes to sentence laws and practice

Recommendation 27 and 28

Information used to evaluate current laws and practices and inform changes to these laws and practices contains significant gaps.

We recommend changes to address this and better inform bodies such as the Council.

Find out more

You can find more information about the work we have done in this project and our recommendations on our website: www.sentencingcouncil.qld.gov.au

Next steps

We have delivered our report to the Attorney-General. It is up to the Queensland Government to decide whether to follow our advice and make the changes we have recommended.

Support services

If this content has raised any issues for you and you need to talk to someone, help is available:

Lifeline Australia (24 Hours): 13 11 14

1800RESPECT (24 Hours): 1800 737 732

DV Connect (Womensline) (24 Hours): 1800 811 811

DV Connect (Mensline): 1800 600 636

Sexual Assault Helpline: 1800 010 120

13 YARN Aboriginal & Torres Strait Islander Crisis Support (24 Hours): 13 92 76

Kids Helpline: 1800 55 1800

Relationships Australia: 1300 364 277

Victim Assist Queensland: 1300 546 587 or VictimAssist@justice.qld.gov.au

www.sentencingcouncil.qld.gov.au



Queensland Sentencing
Advisory Council