



sentencing
ADVISORY
COUNCIL

REVIEW OF LIFE SENTENCING IN TASMANIA

FINAL REPORT No. 13

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Information on the Sentencing Advisory Council

The Sentencing Advisory Council ('the Council') was established in June 2010 by the Attorney-General and Minister for Justice, the Hon Lara Giddings MP. The Council was established, in part, as an advisory body to the Attorney-General. Its other function is to bridge the gap between the community, the courts and the government by informing, educating and advising on sentencing issues in Tasmania. At the time this Report was concluded, the Council members were Mr Michael O'Farrell SC (Chair), Ms Hannah Phillips, Ms Rosalie Martin, Mr Glenn Hay, Professor Lorana Bartels, Dr Michael Guerzoni, Ms Jane Ansell, Ms Linda Mason SC, Ms Kim Baumeler, Ms Rochelle Mainwaring and Deputy Commissioner Jonathan Higgins.

This Report was written by Dr Karen Gelb, with research assistance from Ms Saskia Teale.

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Any errors or omissions remain the responsibility of the authors.

Terminology

This report uses the terms 'victim' and 'victim-survivor' interchangeably. The term is generally presented in the form used by each consultation participant and in each of the publications reviewed.

Content warning

The material discussed in this report covers a range of serious violent and sexual offences. Case studies are presented for illustrative purposes, and sentencing remarks are at times quoted. The details of these serious cases may create distress for some people. Readers are therefore encouraged to exercise caution and be aware of self-care strategies when reading the report.

ABBREVIATIONS

ACT	Australian Capital Territory
Cth	Commonwealth
DPP	Director of Public Prosecutions
NSW	New South Wales
NT	Northern Territory
QLD	Queensland
QLRC	Queensland Law Reform Commission
QSAC	Queensland Sentencing Advisory Council
SA	South Australia
TAS	Tasmania
TSAC	Tasmanian Sentencing Advisory Council
VIC	Victoria
VSAC	Victorian Sentencing Advisory Council
WA	Western Australia

EXECUTIVE SUMMARY

Introduction

The *Criminal Code Act 1924* (Tas) ('the Criminal Code') sets out the maximum penalty for all indictable offences in Tasmania as 21 years, except where expressly provided. Currently, only two offences carry a maximum sentence of life in prison: murder (s 158) and treason (s 56). The Tasmanian Government has asked the Tasmanian Sentencing Advisory Council (TSAC) to review whether life sentences should be available for a broader range of serious offences.

Objectives of the review

The aim of this work was to review the offences in Tasmania that attract a maximum sentence of life imprisonment and identify whether life sentences should be available for a broader range of serious offences. The Terms of Reference provided by the Attorney-General to the TSAC were as follows:

1. Examine the operation of sentencing for crimes that attract a maximum penalty of life imprisonment in Tasmania.
2. Undertake an analysis of the availability and use of life imprisonment in sentencing in other Australian jurisdictions.
3. Examine which serious offences in Tasmania attract the longest terms of imprisonment in sentencing.
4. Consider whether life imprisonment should be applied as a maximum sentence for additional serious crimes in Tasmania, including:
 - a. What serious crimes should life sentences be available for; and
 - b. Whether life sentences should be available for aggravated forms of certain offences.
5. Any other related matters the Council recommends.

Approach to the review

The review comprised three primary components:

- A brief overview of the research on community perceptions of offence seriousness and sentencing outcomes for serious offences.

- Desktop analyses of sentencing remarks (legal analysis) and sentencing outcomes (statistical analysis).
- Consultations with a small set of key stakeholders in Tasmania.

This Report presents the findings of the review, along with recommendations about possible reforms that the TSAC may wish to consider as it crafts its response to the Attorney-General's request for advice.

Key findings

The review generated a number of key findings from the three arms of the work:

1. Informed public opinion generally aligns with judges' views.
2. Current sentencing practice in Tasmania is not out of step with other jurisdictions.
3. Judges have appropriate discretion in sentencing.
4. 'Persistent' offence provisions are anomalous and problematic.
5. Symbolic reform in the absence of changed sentencing practice may be problematic.
6. There would likely be unintended consequences of expanding life imprisonment.
7. Options to address victim and community expectations should be explored.

Recommendations

On the basis of the research, analysis and consultations, the Report presents the following recommendations:

Recommendation 1

Maximum penalties for serious offences other than murder and treason should remain as is; the 21-year maximum and other legislative provisions such as global sentencing allow judges scope to achieve the various purposes of sentencing. However, the operation of the maximum penalty in cases of persistent sexual abuse of a child or young person and persistent family violence is problematic due to the nature of the crime representing multiple instances of criminal behaviour. Mechanisms to address the anomaly of these offences should be examined.

Recommendation 2

If reforms are made to maximum penalties for some offences, appropriate data should be collected immediately to inform a review undertaken three years after implementation to understand the impact of reforms and ensure they are working as intended. A second review should be undertaken after a further three years to identify longer-term trends.

Recommendation 3

Work should be undertaken to develop public education and information resources to support community understanding of sentencing, including ensuring that online information is both accessible and appealing to the general public.

INTRODUCTION

This Report presents the findings of a review into the maximum penalties available in Tasmania for serious offences.

The *Criminal Code Act 1924* (Tas) sets out the maximum penalty for all indictable offences in Tasmania as 21 years, except where expressly provided.¹ Currently, only two offences carry a maximum sentence of life in prison: murder (s 158) and treason (s 56).

The Tasmanian Government is concerned that its laws continue to reflect the community's views on crime and justice and that sentencing laws are updated to reflect changes in public attitudes and expectations. To this end, it has asked the Tasmanian Sentencing Advisory Council (TSAC) to review whether life sentences should be available for a broader range of serious offences.

Objectives of the review

The aim of this work is to review the offences in Tasmania that attract a maximum sentence of life imprisonment and identify whether life sentences should be available for a broader range of serious offences. The Terms of Reference provided by the Attorney-General to the TSAC were as follows:

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4. Consider whether life imprisonment should be applied as a maximum sentence for additional serious crimes in Tasmania, including:
 - a. What serious crimes should life sentences be available for; and

¹ There are several legislative provisions in Tasmania that allow sentences longer than 21 years to be imposed, such as the *Dangerous Criminals and High Risk Offenders Act 2021* (Tas) that allows the Supreme Court to declare someone to be a 'dangerous criminal' and provides for their continued detention even if the court-imposed sentence has expired. The availability of 'global' sentences may also result in an offender being imprisoned beyond 21 years as a total effective sentence if convicted of multiple offences. These regimes are further discussed in Chapter 3. The maximum penalties for summary offences are set out in the *Police Offences Act 1935* (Tas). Under s 13 of the *Sentencing Act 1997* (Tas) a first summary offence can receive a maximum of 3 years' imprisonment and a subsequent summary offence can receive a maximum of 5 years' imprisonment.

- b. Whether life sentences should be available for aggravated forms of certain offences.
5. Any other related matters the Council recommends.

Approach to the review

The review comprises three primary components:

- A brief overview of the research on community perceptions of offence seriousness and sentencing outcomes for serious offences.
- Desktop analyses of sentencing remarks (legal analysis) and sentencing outcomes (statistical analysis).
- Consultations with a small set of key stakeholders in Tasmania.

This Report presents the findings of the review, along with recommendations about possible reforms that the TSAC may wish to consider as it crafts its response to the Attorney-General's request for advice.

Structure of the Report

The Report is divided into three substantive chapters, each based on a component of the work.

Chapter 1 presents a summary of relevant research on people's perceptions of serious offences, including views of the relative seriousness of offences and of sentencing for serious offences. It differentiates between general community views, the views of victims and views of jurors in serious offence cases.

Chapter 2 discusses sentencing purposes and principles relevant to serious offences, and examines sentencing outcomes for a range of specific offences in both Tasmania and other Australian jurisdictions, where such data are publicly available.

Chapter 3 presents stakeholder views on the need for reform, focusing on the main themes that arose during the consultation process.

Chapter 4, the final chapter, synthesises the three arms of the research, presenting key findings and recommendations that identify the need for limited reform.

1 People's Perceptions of Serious Offences

The Tasmanian Government framed its reference to the TSAC in terms of a need for laws to reflect community views on crime and justice and changes in public attitudes and expectations. While there is little contemporary research on the views of Tasmanians, research from other Australian jurisdictions is relevant to this question.

This chapter presents a brief review of relevant literature on community views of sentencing for serious offences.² It focuses on research from Australia only, and – given the limited work on this issue – encompasses work conducted over the past two decades to allow for inclusion of key evidence.

Public perceptions of sentencing are often measured by top-of-the-head opinion polls with abstract questions about whether sentencing is 'too tough, about right or too lenient'. Using this approach, proponents of harsher sentencing argue that people view sentences as too lenient. However, there is an extensive body of research showing that, in general, people's many misconceptions about crime and sentencing affect their views of actual sentencing practice.³ To identify community views more accurately, researchers have developed ways to gauge *informed* public judgment.

The focus of this chapter is research that attempts to gauge public judgment, rather than public opinion. 'Public opinion' and 'public judgment' are distinguished by the level of knowledge that people bring to bear when responding to researchers' questions. 'Public opinion' has been defined as people's 'top-of-the-head' perspectives, typically based on pre-existing beliefs and (mis)understandings. In contrast, 'public judgment' arises in the context of having had access to information that lends a deeper understanding of relevant issues to allow a more considered, informed response.⁴ The studies summarised below include

² There appears to be no research specifically on the question of community views of life imprisonment, other than in the context of the acceptability of life without parole as an alternative to the death penalty, which is not directly relevant to this report.

³ Karen Gelb, Victorian Sentence Advisory Council, *Myths and Misconceptions: Public Opinion versus Public Judgement about Sentencing* (Report, July 2006) ('Gelb 2006'); Karen Gelb, Victorian Sentencing Advisory Council, Victoria, *More Myths and Misconceptions* (Report, September 2008).

⁴ For a detailed discussion of the difference between public opinion and public judgment, see David A Green, 'Public Opinion Versus Public Judgment About Crime' (2006) 46(1) *British Journal of Criminology* 131.

various approaches to informing participants, but all take steps toward eliciting more thoughtful and informed responses.

1.1 Community views of the relative seriousness of offences

People's views about the adequacy of sentencing for specific offences are likely informed by their views of the seriousness of the offence. In legal terms, offence seriousness has been identified via two major components: harm and culpability. This harm and culpability framework can be used as a foundation to measure people's views of the seriousness of offences.

As part of a review of maximum penalties in Victoria, the Victorian Sentencing Advisory Council (VSAC) undertook research with 244 members of the general public who participated in community panel sessions throughout regional and metropolitan Victoria.⁵ The panels combined a series of paired comparison exercises and a coded ranking exercise based on case vignettes to provide quantitative measures of judgments of relative offence seriousness,⁶ followed by qualitative discussion of the factors that make an offence more or less serious. The vignettes provided brief information on the offence, the victim and the offender so panel participants were considering a specific crime scenario.

While the research identified variation in people's views of offence seriousness for some offences, participants agreed that offences involving the deliberate infliction of harm, sexually violent offences and sexual offences against children are among the most serious.

There was a high level of agreement among participants about the seriousness of the five top-ranked offences: intentional murder, sexual penetration with a child aged under 12, rape, reckless murder and intentionally cause serious injury.⁷ They agreed that the most serious offences are those against the person involving a high level of harm (death or serious injury) and culpability (intention or knowledge) and sexual offences involving coerced sexual penetration and child victims. There were more diverse views for attempted offences, unintentional fatal or serious injury offences, those risking (but not eventuating in) harm, drug trafficking offences and sexual offences with a slightly older victim.⁸ It was harm and culpability elements that most strongly influenced people's responses.

⁵ Victorian Sentencing Advisory Council, *Community Attitudes to Offence Seriousness* (Report, 2012) ('VSAC 2012').

⁶ The paired comparison method involves taking pairs of items and comparing them to identify which item in each pair is preferred or greater on some characteristic. In the case of the Sentencing Advisory Council research, it involved identifying which of the two offences in a pair (defined using a brief description of each) was more serious. The coded ranking method involves ranking or rating offences using a scale of offence seriousness. For this exercise, the Sentencing Advisory Council presented offences using brief vignettes that were drafted to test in detail the influence of harm and culpability factors on judgments of seriousness. VSAC 2012 (n 5).

⁷ VSAC 2012 (n 5) 41.

⁸ Ibid 42. The scenario involved a 15-year-old victim.

The five key findings from VSAC's research were as follows:⁹

- Direct threats or harm to people are overall more serious than harms to property or indirect harms.
- Offences involving the intentional infliction of death and serious injury are among the most serious.
- Sexual offences against young children are among the most serious.
- Sexual motivation and personal invasion are influential factors in attitudes to offence seriousness.
- There is no consensus on the seriousness of offences involving unintentional death and serious injury.

Of note, participants ranked rape and sexual penetration with a child aged under 12 at the same levels as the two different forms of murder (intentional and reckless). A key factor in this assessment was the age of the victim (age eight in the vignettes). Participants viewed the level of culpability as high due to the abuse of trust and power involved in sexual offences against young children – the implicit trust that a young child has in an adult – and the harms being long-lasting and severe, akin to a sort of 'death'. But they also considered the physical aspects of the offending – penetrative offences being ranked as more serious than non-penetrative ones – and the broader harms of child sexual offences, particularly producing child pornography.¹⁰ The vignettes elicited strong emotive responses from participants, such as feelings of revulsion and disgust. These offences were considered as significantly more severe than other types. As one participant stated: 'You need to have a scale higher than 10 for anything sexual against children'.¹¹

Other sexual offences drew less agreement among participants. Breach of trust and abuse of position were raised in the context of sexual penetration with a child aged under 16 under the care, supervision or authority of the offender (a 35-year-old teacher having sexual intercourse with his 15-year-old student), but the focus of participants' concerns was the teacher–student relationship rather than the age of the victim. And for the vignette involving a 15-year-old victim and 20-year-old offender in a boyfriend-girlfriend relationship, there was disagreement about whether the close age gap minimised any power imbalance.¹²

The research concludes that, even without being provided a definition, people intuitively apply concepts of harm and culpability in their assessments of offence seriousness.

⁹ VSAC 2012 (n 5) 49.

¹⁰ Ibid 55.

¹¹ Ibid 55.

¹² Ibid 57.

Similar results were found in a study undertaken for the Queensland Sentencing Advisory Council (QSAC) using essentially the same methodology as the Victorian research to examine community views of sentencing for rape and sexual assault offences. The research examined views on both the relative seriousness of these offences compared with others and the importance of punishment, denunciation and community protection in sentencing these offences.¹³

With 89 people taking part in 19 focus groups across metropolitan and regional areas, as well as online, the study found that people's views were shaped by the specific circumstances of the offence scenarios presented.

Three key findings emerged regarding the seriousness of offences:¹⁴

- Sexual offences against children were ranked as more serious than similar sexual offences against adults due to children's greater vulnerability, lack of understanding or coping mechanisms and the long-term nature of the harm caused.
- Non-sexual offences involving potentially fatal consequences were generally ranked as more serious than sexual offences, although sexual offending against children emerged as more serious than potentially lethal offences.
- The nature of sexual acts affected people's views of offence seriousness, with penile penetration considered the most serious.

Participants applied a harm and culpability framework to their considerations of offence seriousness:¹⁵ they considered the cumulative effect of physical, emotional and psychological harm caused by rape and sexual assault offences, noting the long-lasting psychological harm that such offences would cause.

The relationship between the perpetrator and the victim-survivor was seen as a complex factor in determining offence seriousness. Overall, research participants concluded that offences involving a stranger are more serious than those involving an offender known to the victim, such as an intimate partner or a friend. However, higher culpability was attributed to the offender in cases where they were known to the victim-survivor due to the breach of trust that occurred in addition to the sexual offence. This breach was seen to be most serious in circumstances of family violence.

¹³ Dominique Moritz, Ashley Pearson and Dale Mitchell, Sexual Violence Research and Prevention Unit, University of the Sunshine Coast, *Community views on rape and sexual assault sentencing* (Final Report, June 2024) ('Moritz et al 2024').

¹⁴ Ibid 6.

¹⁵ Ibid 5.

1.2 Victim views of sentencing for serious offences

The QSAC focus group research included victim-survivors of sexual offences.¹⁶ Their views broadly aligned with those of general participants except when considering sentencing purposes in cases of sexual violence against a child. In those scenarios, the victim-survivor cohort identified community protection as the most important sentencing purpose while general participants identified punishment as the most important. Victim-survivors were therefore said to view responses to sexual offending more strategically, valuing primary prevention strategies above secondary prevention.¹⁷

Among other recommendations, QSAC ultimately recommended that recognition of victim harm be included as a separate sentencing purpose alongside other legislated purposes such as punishment and rehabilitation. This would encourage courts to focus more on victim harm when explaining the reasons for the sentence imposed.¹⁸ QSAC also recommended that courts, prosecutors and defence practitioners need access to better information and resources to ensure that they properly understand the nature of sexual violence and the impacts of sexual offending on victim-survivors.¹⁹ And to improve victim-survivors' experience of the criminal justice system, QSAC also recommended alternatives to sentencing, particularly in the form of restorative justice processes.²⁰

A rapid evidence assessment of sentencing for sexual assault and rape undertaken for QSAC included a review of key research on both victims' and community views of sentencing for these offences. Notwithstanding a range of methodological limitations inherent to research with victims of crime,²¹ the 22 reviewed studies on victim perceptions are particularly useful in offering a perspective on sentencing for these offences directly from victims themselves.

Two of the key points identified by the review were as follows:²²

- Victims of sexual violence are often dissatisfied with the sentencing process and outcomes, especially when they feel unheard.
- Contrary to expectations, victims are generally open to various sentencing options, including rehabilitative approaches, not solely seeking retributive outcomes.

¹⁶ Of the total group of participants, 38% identified as a victim-survivor. Moritz et al 2024 (n 13) 27.

¹⁷ Ibid 5.

¹⁸ Recommendation 2: Queensland Sentencing Advisory Council (2025). *Community summary: Sentencing of sexual assault and rape: The ripple effect – Final report*. Brisbane: QSAC, 10 ('QSAC 2025').

¹⁹ Recommendation 6: QSAC 2025 (n 18) 12.

²⁰ Recommendations 25-26: QSAC 2025 (n 18) 15.

²¹ Lacey Schaefer et al, Griffith Criminology Institute, *Sentencing practices for sexual assault and rape offences* (Final Report, February 2024) 95 ('Schaefer et al 2024').

²² Ibid 86.

Studies have shown that victims' satisfaction with the *process* of sentencing differs from their views on the *outcomes* of sentencing; recognition and having their perspectives accounted for during sentencing (particularly via their victim impact statement being read before the court) are valued more than the actual sentence imposed. Satisfaction with sentencing is therefore not reliant on a specific sanction being imposed, but is about the vindication and voice that the sentencing process affords. Indeed, the Victorian Law Reform Commission identifies victim needs around information, participation, voice, validation, denunciation and support, while also noting that 'the injustice of sexual violence can never be fixed through the criminal justice process'.²³

While sentences in individual cases will not always reflect victim preferences, merely increasing penalties is therefore unlikely to lead to a substantial change in victim satisfaction.

The rapid evidence assessment summarises the research on victim satisfaction with sentencing as follows:²⁴

Studies that investigate victims' perceptions of the sentences handed down to the perpetrators of sexual violence reveal that they are largely dissatisfied with the sentencing process and the outcomes in their cases. Research findings indicate that survivors communicate the greatest degree of dissatisfaction when they feel as though their voices had not been heard, showcasing the importance of procedural justice beyond (or in addition to) concerns relating to retributive justice.

Other studies have considered the appropriateness of various sentencing options, finding that prior victimisation does not affect the likelihood of preferring restorative over retributive justice approaches.²⁵ The review concludes that victims are generally supportive of rehabilitative approaches and are open to many different sanctions.

1.3 Community views of sentencing for serious offences

The TSAC considered people's views of sentencing for a range of sex offences in its 2015 report.²⁶ After releasing a Consultation Paper that provided information about sentencing for rape, maintaining a sexual relationship with a young person, sexual intercourse with a young person, aggravated sexual assault and indecent assault, sentencing vignettes were presented based on real Tasmanian cases. Feedback was sought on the appropriateness of sentencing for each offence. Overall, respondents were of the view that sentencing practices

²³ Victorian Law Reform Commission, *Improving the justice system response to sexual offences* (Report, September 2021) 32; cited in Schaefer et al 2024 (n 21) 94.

²⁴ Schaefer et al 2024 (n 21) 90.

²⁵ Ibid 91.

²⁶ Tasmanian Sentencing Advisory Council, *Sex offence sentencing* (Final Report, August 2015) ('TSAC 2015').

for sex offences were too lenient. There was significant concern about maintaining a sexual relationship with a young person, aggravated sexual assault and indecent assault.²⁷

Similar results were elicited from the focus group research undertaken for QSAC, which identified a number of key findings on people's views of sentencing for rape and sexual assault offences, based on the presented case scenarios. In terms of general community views on the purposes of sentencing, the research found that people's views vary based on the context of the offending. Community protection was thought to be a more important sentencing consideration if the perpetrator is perceived to be more dangerous (and therefore more of a threat to the wider community), such as when the offending is perpetrated by a stranger, in a public place, in broad daylight or as a premeditated act. Denunciation, although carrying less weight than other sentencing purposes in relation to rape and sexual violence, was seen to have value in responding to family or domestic violence as a way to prevent its normalisation. Punishment was seen as important when the victim-survivor is vulnerable, for example, a child.²⁸

The Queensland Law Reform Commission (QLRC) adopted a mixed-methods approach to examine community attitudes to homicide and family violence offences.²⁹ Using both quantitative surveys and qualitative focus groups to identify whether Queensland's criminal law reflects contemporary community standards, the research included a survey of 2,485 participants and 12 focus groups with 58 participants. The survey offered respondents scenarios in which key variables were manipulated to identify the effect of the changes on people's views. The focus groups also manipulated scenario circumstances, using follow-up questions and prompts, to assess changes in attitudes regarding the defendant's culpability (for example, by asking people whether their view of the defendant's responsibility would have changed if they had used a weapon).

One of the key findings of the QLRC research was that the community does not support the mandatory penalty of life imprisonment for murder, expecting sentencing to reflect the individual culpability of defendants found guilty of murder.³⁰ However, 'even though many focus group participants indicated their support for mandatory sentences, they nevertheless made subsequent statements implying they supported discretionary sentencing for murder. This suggests they may not have understood the full implications of a mandatory period of

²⁷ TSAC 2015 (n 26) 65.

²⁸ Moritz et al 2024 (n 13) 4.

²⁹ Hayley Boxall et al, 'Community attitudes to defences and sentences in cases of homicide and assault in Queensland' (Research report No 1, Queensland Law Reform Commission, November 2024) ('Boxall et al 2024').

³⁰ Key finding 12: Ibid 117.

imprisonment'.³¹ The authors conclude that 'there may be a need for more comprehensive public education about the criminal justice system, including criminal responsibility and the application of mandatory and discretionary approaches to sentencing in serious offences, including for murder and manslaughter'.³²

This lack of understanding of key criminal justice concepts and terms is seen explicitly in work undertaken on behalf of QSAC involving 66 members of the general public participating in eight structured focus groups to explore people's understanding of sentencing terms and outcomes.³³ The research found that, 'while community members may have a high level of confidence in their understanding of sentencing terms, they may not understand their precise meaning'.³⁴ Although 85% of participants were confident they understood the meaning of the term 'life sentence', this was not supported by their comments.³⁵ The authors suggest that:³⁶

An opportunity exists for enhancing confidence in the criminal justice system and the courts by improving the community's understanding of sentencing terms and outcomes. This suggests a need for targeted education and awareness strategies that are tailored to address the gaps in information available to the general community. The development of products that translate complex legal sentencing terms into plain English could have a positive impact on community understanding.

The rapid evidence review undertaken for QSAC identified a number of key findings from 111 studies (including 17 from Australia) on general community views of sentencing for sexual assault, rape and equivalent offences.³⁷ Many of the studies, however, have serious methodological limitations. Nonetheless, two key points were elicited from the review:

- Public perceptions about sentencing for sexual offences are multifaceted, frequently representing a balance between punishment, rehabilitation, and community protection.
- Public views on sentencing are influenced by individual demographics, personal experiences, and the circumstances of the offence, including the degree to which the community subscribes to misconceptions about the causes of sexual offending such as rape myths.

As a whole, the evidence shows that the general community is frequently punitive in the abstract but moderates its punitiveness in response to specific information about crime and justice. Indeed, people consider many of the same factors that judges do when sentencing,

³¹ Boxall et al 2024 (n 29) 119.

³² Ibid.

³³ Samuel Jeffs et al, 'Understanding of sentencing: Community knowledge of sentencing terms and outcomes' (Research brief No. 3, Queensland Sentencing Advisory Council, April 2023) ('Jeffs et al 2023').

³⁴ Ibid 2.

³⁵ Ibid 10.

³⁶ Ibid 2.

³⁷ Schaefer et al 2024 (n 21).

such as culpability and harm, leading to sentencing preferences that are largely consistent with those handed down by the courts.³⁸

Research on general community views, however, is constrained by the extensive myths and misconceptions that underlie and directly influence people's opinions.³⁹ In addressing this limitation and measuring well-informed views of sentencing, the most sophisticated research is the work of Warner and her colleagues. Over the course of a decade, they spoke with actual jurors – people who had served on juries for serious sexual and violent crimes – to identify the views of people who had heard the same evidence as the judge and were therefore in a unique position to determine whether the sentence imposed was appropriate.⁴⁰

1.4 Juror views of sentencing for serious offences

The seminal work in Australia on informed public judgment about sentencing for serious offences is the program of jury studies undertaken in Tasmania, Victoria and nationally over a period of 10 years, from 2007 to 2016.⁴¹ Each of the studies involved jurors who had been involved in trials of people charged with serious offending, providing them with detailed information about each offence, victim and offender – the same information available to the judge. Remarkably consistent results were found across the studies, showing the nuance and complexity of informed public judgment about sentencing.

The key findings from each study are briefly described below.

1.4.1 The Tasmanian Jury Sentencing Study

In asking jurors about their views on sentencing – both in general and relating to the specific case in which they had served as juror – the Tasmanian Jury Sentencing Study was the first of its kind in the world.⁴² Over a two-year period, researchers surveyed 698 jurors from 138 trials in which a person was found guilty by a jury. The trials included violent offences (36%), drug-related offences (23%), sex offences (17%), property offences (15%) and other offences (9%).

³⁸ Schaefer et al 2024 (n 21) 100-101.

³⁹ See further: Gelb 2006 (n 3).

⁴⁰ Multiple reports and articles on the quantitative analyses of the jury studies have been published over the past 15 years. The qualitative aspect of the jury studies – extensive interviews with over 100 participants across the Tasmanian, Victoria and national studies – sought to identify the reasons underlying people's views on sentencing. Interviews included discussion of the nature of sex offences and the harms caused. Detailed analysis of these data has yet to be published.

⁴¹ Victorian Sentencing Advisory Council, *Public opinion about sentencing: A research overview* (13 December 2018).

⁴² Kate Warner et al, 'Public judgement on sentencing: Final results from the Tasmanian Jury Sentencing Study' (2011) *Trends and Issues in Crime and Criminal Justice* No 407: 1-6 ('Warner et al 2011').

After the trial but before sentence, about half (52%) of the jurors nominated a preferred sentence that was more lenient than the judge ultimately imposed. This varied by offence type: 48% preferred a more lenient sentence for sex offences and drug offences, with 49% preferring a more lenient sentence for drug offences.⁴³ In the abstract, jurors viewed sentences as too lenient, especially for sex offences (80%) and violence offences (76%). But at Stage 2 of the study, when jurors were given the judge's sentence and reasons and information about crime and sentencing, these proportions had dropped, to 70% for sex offences and 66% for violence offences. At the same time, 90% of jurors identified the actual sentence imposed as very or fairly appropriate. Jurors were least satisfied with the sentences imposed for sex offences and drug offences, with 12.2% and 17.0% respectively seeing the sentence imposed as very or fairly inappropriate. When asked about the sentence that should have been imposed for the offence on which they deliberated, 46% identified a more severe sentence for both sex and drug offences.⁴⁴ Only 35% of jurors wanted a more severe sentence in their particular violence offence case. Finally, 83% of Stage 2 participants regarded judges as being in touch with public opinion, including 26% seeing them as very in touch.⁴⁵

The authors concluded that informed members of the community are not as punitive as typical surveys might suggest, and that having first-hand contact with judges leaves jurors seeing judges as in touch with their community.

1.4.2 The Victorian Jury Sentencing Study

In a replication and expansion of the original Tasmanian study, Warner and colleagues next turned to the Victoria County Court, where 987 jurors from 124 criminal trials were studied from 2013 to 2015.⁴⁶ As with the Tasmanian research, the study showed that the views of judges and jurors are much more closely aligned than mass public opinion surveys would suggest.⁴⁷

Victorian jurors were even more likely than Tasmanian jurors to prefer a more lenient sentence than the judge, with 62% preferring a more lenient sentence.⁴⁸ For cases where both juror and judge selected a term of imprisonment, the difference between juror and judge was substantial – jurors were on average more lenient than the judge by 12 months with respect to the length of prison sentences. Once informed of the actual sentence

⁴³ Warner et al 2011 (n 42) 2.

⁴⁴ Ibid 4.

⁴⁵ Ibid 5.

⁴⁶ Kate Warner et al, 'Measuring jurors' views on sentencing: Results from the second Australian jury sentencing study' (2016) 19(2) *Punishment and Society* 180 ('Warner et al 2016').

⁴⁷ Ibid.

⁴⁸ Ibid 186.

imposed, 87% viewed the sentence as appropriate, including 55% considering it very appropriate.⁴⁹ Jurors were also twice as likely to impose a non-custodial sentence than judges for offenders with no relevant priors (15% versus 8%), leading the researchers to conclude that 'there is little difference between judges and jurors in their preference for custodial or non-custodial sanctions'.⁵⁰

As in Tasmania, sentencing preference varied by offence type: in violent offence trials 71% of jurors preferred a more lenient sentence than the judge, compared with 50% in sex offence trials.⁵¹ Among different types of sex offences, jurors were more likely to conform to the overall pattern of juror leniency in cases involving rape and aggravated sexual assault (adult victim) – 61% preferred a more lenient sentence than was imposed – and also child sexual assault of children aged 12 and older, where 55% preferred a more lenient sentence. However, this pattern was reversed in cases involving child sexual assault of children under 12, where 63% nominated a more severe sentence than the judge imposed.⁵²

Less than half of jurors (46%) considered the judge's sentence to be appropriate in sex offence trials; 53% for cases involving either rape or child sexual assault of children aged 12 and older and only 36% for trials involving child sexual assault of children under 12.⁵³

Considering factors traditionally used by judges to assess the seriousness of offences and the offender's degree of blameworthiness, the research found that jurors attributed a lot of weight to aggravating factors when they arose but no weight or only a little weight to mitigating factors. The aggravating factors that were given the most weight were an abuse of trust/power (given 'a lot of weight' by 73% of jurors), a substantial level of injury/harm/loss (72%), planning for the offence (61%) and the vulnerability of the victim (58%). None of the mitigating factors was endorsed by more than half the jurors as attracting a lot of weight.⁵⁴

As the Victorian study extended the analysis of the Tasmanian study, the authors strengthened their conclusion that jurors tend to be more lenient than the judge – not just in terms of sentence type preference but also sentence duration. However, they noted the exception seen for child sexual abuse trials, finding a more punitive attitude towards child sexual assault of young victims compared with judicial sentences.⁵⁵

The fact that jurors in Victoria were dissatisfied with the sentences in cases of children under 12 provided evidence that there is a punitiveness gap between judges and the public with

⁴⁹ Warner et al 2016 (n 46) 193.

⁵⁰ Ibid 187.

⁵¹ Ibid 188.

⁵² Ibid 189.

⁵³ Ibid 191.

⁵⁴ Ibid 193.

⁵⁵ Ibid 195.

respect to this offence that cannot be dismissed as a methodological artefact or a product of a lack of information.

1.4.3 The National Jury Sentencing Study

The third component of the Jury Sentencing Study research arose from the earlier two studies' finding that jurors were least satisfied with sentencing for sex offences, particularly those against children. Across each Australian state and territory, 1,745 participants were involved: 989 empanelled jurors, 450 unempanelled jurors (who had been called for jury service but then not selected), and 306 respondents for an online survey in Western Australia.⁵⁶ The final sample of jurors had sat across 128 sex offence trials and 31 violent offence trials.

As with the previous two jury studies, jurors were satisfied with the sentence imposed: 46% of jurors considered the actual sentence imposed to be very appropriate and 39% viewed it as fairly appropriate.⁵⁷ Jurors' views varied, however, based on the type of offence for which they served. For those on the jury in a violent offence trial, 93% considered the sentence to be very or fairly appropriate. For those serving in a sex offence trial, 87% considered the sentence to be very or fairly appropriate. Within this group, jurors were more satisfied with sentences for sex offences against adults (97% viewing the sentence as appropriate) than for sex offences against children (84%).⁵⁸

1.5 Summary – perceptions of sentencing for serious offences

Research on perceptions of offence seriousness consistently finds that people view sex offences – and sex offences against children in particular – as among the most serious forms of offending, even akin to murder in terms of the harm caused. Offender culpability in such offences is viewed as very high, largely due to the vulnerability of children and the breach of trust that such offending inherently entails. Given the vulnerability of children, the breach of trust inherent in any offences committed against them, and the potential for severe life-long consequences, the purposes of denunciation, punishment and general deterrence loom large in sentencing any form of violence against children.

Research conducted with victims of serious crimes shows that victim views – while diverse – typically align with those of the general community. Victims are generally supportive of rehabilitative approaches. Their views are notable for two key aspects:

⁵⁶ As the researchers were unable to obtain approval to speak with jurors in Western Australia, they instead recruited respondents to an online study to assess case vignettes. Unempanelled jurors were asked to consider one of 10 case-based scenarios based on a real sex offence case or violent offence case.

⁵⁷ Kate Warner et al, 'Public perspectives on judges' reasons for sentence' (2021) 95(9) *Australian Law Journal* 685, 688.

⁵⁸ Ibid 689.

- They place more emphasis on the purpose of community protection for some offences, valuing the need to prevent anyone else suffering the same experiences they did.
- Their satisfaction is more closely linked to the process of sentencing than the outcomes of sentencing, with an emphasis on being heard, regardless of the sentence ultimately imposed.

Research with the general community finds that people hold extensive misconceptions about the criminal justice system and sentencing, suggesting the need for education efforts. While people are frequently punitive in the abstract, their views moderate when presented with more detailed scenarios and contextual information. Indeed, the jury sentencing studies show that informed members of the community – who have heard the same evidence as the judge – are usually more lenient in their sentencing preferences than are judges. The greatest disparity between jurors and judges, however, is consistently seen for sex offences in general, and sex offences against children in particular.

2 Sentencing Approaches and Outcomes for Serious Offences

After briefly discussing the role of maximum penalties and sentencing approaches for serious offences in Tasmania, this chapter presents legal case analysis and statistical analysis of data on sentencing outcomes in Tasmanian cases,⁵⁹ both for offences with a maximum penalty of life imprisonment and for other serious offences. Data are also presented on sentencing outcomes in other jurisdictions in Australia for which data are publicly available, for comparison.

While such a comparative exercise offers a way to assess the appropriateness of sentencing practice, inter-jurisdictional comparison is problematic for a number of reasons. There are variations across jurisdictions in offence definitions, crime rates, prosecution practices, the jurisdiction of higher courts, available sentencing options, provisions regarding non-parole periods and parole eligibility, and the counting rules used to record sentencing data. Comparisons of sentencing outcomes therefore need to be treated with caution; they ‘should not be used alone as a basis to increase sanctions in Tasmania’.⁶⁰

With these caveats, the following sections examine both broad sentencing outcome data, to provide a general context, and data specific to Tasmania and comparator jurisdictions, where relevant data are publicly available. The chapter begins, however, with a brief overview of maximum penalties and sentencing purposes in the Tasmanian context.

⁵⁹ Legal analysis of Tasmanian cases was based on judicial sentencing remarks published by the Supreme Court of Tasmania. Statistical analysis of data on sentencing outcomes was based on a spreadsheet with extensive detail of every case sentenced in the Tasmanian Supreme Court over the past two decades. This information was collected under the auspices of the Tasmanian Law Reform Institute for many years, updated by TSAC until mid-2017, and from then to the end of 2025 by Ms Rachel Vermey for the forthcoming third edition of Kate Warner and David Porter’s *Sentencing in Tasmania*, with funds provided by the Law Foundation and TSAC.

⁶⁰ TSAC 2015 (n 26) 75.

2.1 The role of maximum penalties

Maximum penalties set the upper limit on the quantum of penalty that a court may impose, indicating the views of parliament – and therefore the community – on the seriousness of offences and the degree to which society condemns such behaviour. Maximum penalties also act as guides for sentencing courts about the relative seriousness of each offence.

Life imprisonment is the most severe maximum penalty in Australian criminal law and is reserved for the most serious crimes.

In *Markarian v The Queen*,⁶¹ their Honours explained that maximum penalties always require ‘careful attention’⁶² by a sentencing court because they ‘invite comparison between the worst possible case and the case before the court at the time’⁶³ and in doing so, provide a ‘yardstick’⁶⁴ for sentencing judges. Maximum penalties do not bind courts to inappropriately severe sentences; courts have wide sentencing discretion within the parameters of the maximum penalty to deliver individualised justice and arrive at a sentence that is just in all circumstances.⁶⁵

High Court authorities have held that maximum penalties are reserved for ‘worst category’ cases.⁶⁶ In determining whether a case falls into this category, courts consider both the nature of the crime and the circumstances of the offender.⁶⁷

The majority in *Veen v The Queen [No 2]*⁶⁸ clarified the application of ‘worst category cases’.⁶⁹

[T]he maximum penalty prescribed for an offence is intended for cases falling within the worst category of cases for which that penalty is prescribed [...] That does not mean that a lesser penalty must be imposed if it be possible to envisage a worse case; ingenuity can always conjure up a case of greater heinousness. A sentence which imposes the maximum penalty offends this principle only if the case is recognisably outside the worst category.

In *R v Kilic*,⁷⁰ the High Court concurred that ‘an offence may be assessed as so grave as to warrant the maximum prescribed penalty notwithstanding that it is possible to imagine an even worse instance of the offence’. It held that sentencing judges should avoid using the

⁶¹ *Markarian v The Queen* [2005] HCA 25 (*‘Markarian’*).

⁶² *Ibid* 13, [31] (Gleeson CJ, Gummow, Hayne and Callinan JJ).

⁶³ *Ibid*.

⁶⁴ *Ibid*.

⁶⁵ *Elias v The Queen; Issa v The Queen* [2013] HCA 31, [27] (French CJ, Jayne, Kiefel, Bell and Keane JJ).

⁶⁶ *Ibbs v The Queen* [1987] HCA 46, 451–52; *Veen v The Queen (No 2)* [1988] HCA 14, 478 (Mason CJ, Brennan, Dawson and Toohey JJ) (*‘Veen’*).

⁶⁷ *R v Kilic* [2016] HCA 28, [18] (Bell, Gageler, Keane, Nettle and Gordon JJ) (*‘Kilic’*).

⁶⁸ *Veen* (n 66).

⁶⁹ *Veen* (n 66) 478 (Mason CJ, Brennan, Dawson and Toohey JJ).

⁷⁰ *Kilic* (n 67).

expression ‘worst category’ as ‘lay persons are unlikely to be familiar with the legal signification of the expression and, as a result, might wrongly take it to mean that the judge has underestimated the seriousness or effects of the offence’. Rather, judges should state ‘whether the offence is or is not so grave as to warrant the maximum prescribed penalty’.⁷¹

In Tasmania, maximum penalties have four key purposes in the sentencing system:⁷²

1. To set out the most severe consequences for a prescribed offence.
2. To impose a clear limit on the power available to courts when setting sentences and achieving the purposes of sentencing.
3. To express Parliament's views (on behalf of the community) about the seriousness of each type of offence.
4. To allow for the most severe punishment to be imposed on the worst example of an offence.

Superior courts have consistently held that failing to consider the correct maximum penalty in sentencing is an error that justifies resentencing.⁷³ Increases in statutory maximums are recognised by courts as an indication that the legislature intends for sentences for the relevant offence to be increased.⁷⁴ For example, following an increase in the maximum penalties for dangerous driving offences, the Tasmanian Court of Appeal acknowledged that the amendments provided a ‘clear indication that the public, through their representatives, regard bad cases of [dangerous driving] as a serious problem requiring considerably higher penalties than in the past’.⁷⁵

The High Court has also held that changes in sentencing practice be considered at sentencing. In considering ‘current sentencing practices’ for an offence, the court has stated:⁷⁶

The requirement of currency recognises that sentencing practices for a particular offence or type of offence may change over time reflecting changes in community attitudes to some forms of offending. For example, current sentencing practices with respect to sexual offences may be seen to depart from past practices by reason, inter alia, of changes in understanding of the long-term harm done to the victim. So, too, may current sentencing practices for offences involving domestic violence depart from past sentencing practices for this category of offence because of changes in societal attitudes to domestic relations.

⁷¹ *Kilic* (n 67) [17]-[20] (Bell, Gageler, Keane, Nettle and Gordon JJ).

⁷² Tasmanian Sentencing Advisory Council, *A guide to sentencing in Tasmania* (2020), 38-39.

⁷³ *R v Mason* [2000] NSWCCA 82, [19] (Abadee J); *Andreata v The Queen* [2015] NSWCCA 239, [28] (Beech-Jones J); *Des Rosiers v The Queen* [2006] NSWCCA 16, [20] (Latham J).

⁷⁴ *Muldock v The Queen* [2011] HCA 39, [31] (French CJ, Gummow, Hayne, Heydon, Crennan, Kiefel, Bell JJ).

⁷⁵ *DPP v Monks* [2024] TASSCA 4, [21] (Martin AJ, Porter AJ agreeing, Estcourt J dissenting at [17] citing *Shipton v The Queen* [2003] TASSC 23, [9]-[10] (Cox CJ)).

⁷⁶ *Kilic* (n 67) [21] (Bell, Gageler, Keane, Nettle and Gordon JJ).

While current sentencing practices in like cases must be considered, it has been determined that:⁷⁷

The requirement to have regard to the sentences imposed in those cases does not mean that the range of sentences imposed in the past fixes the boundaries within which future sentences must be passed; rather the range of sentences imposed in the past may inform a 'broad understanding of the range of sentences that would ensure consistency in sentencing and a uniform application of principle'.

For offending that is committed in unusual circumstances – such as *Kilic*, involving intentionally causing serious injury by fire – and for offences that are not often sentenced – such as cases of shaken baby syndrome – it can be particularly challenging to identify appropriately comparable contemporary cases for the purposes of considering 'current sentencing practices'.

2.2 Sentencing approaches in Tasmania

The *Sentencing Act 1997* (Tas) identifies the protection of the community as a primary consideration when sentencing offenders.⁷⁸ The purpose of the Act is to promote consistency in the sentencing of offenders, establish fair sentencing processes, help prevent crime and promote respect for the law by imposing sentences that deter offenders and other persons, rehabilitate, and denounce criminal behaviour, promote public understanding of sentencing practices and procedures, set out the objectives of sentencing and related orders and recognise the interests of victims.⁷⁹

While some commentators argue that high maximum penalties serve the purpose of general deterrence, research has consistently demonstrated that increasing the severity of punishment does not have a general deterrent effect for the majority of offence types and offenders. This is because deterrence relies on the assumption that potential offenders have accurate knowledge about the threat of a criminal sanction and then make a rational choice to offend after weighing up the costs and benefits that the offending will convey. Such clear and informed calculations, however, are not the norm; crimes are often committed in circumstances where consideration of potential consequences is unlikely, such as when the person is intoxicated or affected by drug use.⁸⁰

⁷⁷ *Kilic* (n 67) [22] (Bell, Gageler, Keane, Nettle and Gordon JJ). Notes omitted.

⁷⁸ *Sentencing Act 1997* (Tas) s 3(b).

⁷⁹ *Ibid* s 3(c)-(h).

⁸⁰ For an overview of research on the effectiveness (or lack thereof) of deterrence, see Victorian Sentencing Advisory Council, *Does imprisonment deter? A review of the evidence* (Report, April 2011).

While the research evidence shows that longer sentences do not increase deterrence, they nonetheless will protect the broader community from a particular offender throughout the duration of their sentence via an incapacitative effect.

2.2.1 Single and global sentences

A Tasmanian court sentencing an offender for more than one offence can either impose a single sentence for all offences (a global sentence), impose separate sentences for each offence or a combination of single and global sentences.⁸¹ When imposing multiple sentences, sentencing judges determine whether the sentences are to be served concurrently or cumulatively.⁸² A sentence of life imprisonment cannot be made cumulative with a life sentence.⁸³ Global sentences were historically recognised at common law, but today, Tasmania is the only jurisdiction to provide for global sentencing in statute.⁸⁴ Section 11 of the *Sentencing Act 1997* (Tas) gives Tasmanian courts wide discretion to impose single count or global sentences.⁸⁵ For many crimes, global sentences are more common than single-count sentences. There are, however, specific requirements for sex offences. If the court imposes a global sentence in a matter involving a sex offence, it must identify the separate sentence it would have imposed for each sex offence.⁸⁶ The *Sentencing Act 1997* (Tas) also specifies that when imposing a global sentence, a court must not impose a penalty exceeding the sum of the maximum penalties that could otherwise have been imposed for each offence.⁸⁷

2.2.2 The totality principle

When sentencing for more than one offence, courts must apply the totality principle, which in effect involves reviewing the aggregate sentence and considering whether the aggregate is 'just and appropriate' in the circumstances and not manifestly excessive.⁸⁸ The totality principle enables a court to reduce a sentence where the aggregate sentence 'becomes so crushing as to call for the merciful intervention of the court by way of reducing the total effect'.⁸⁹

⁸¹ *Sentencing Act 1997* (Tas) s 11.

⁸² Kate Warner, *Sentencing in Tasmania* (The Federation Press, rev ed, 2002) 56-57.

⁸³ *Ibid* 238.

⁸⁴ *Ibid*; *R v Daniel O'Connell and Ors* (1844) 11 CL&F 155.

⁸⁵ *Sentencing Act 1997* (Tas) s 11.

⁸⁶ *Ibid* s 11(3).

⁸⁷ *Ibid* s 11(2).

⁸⁸ David A Thomas, *Principles of Sentencing* (Heinemann, 2nd ed, 1979), 56; also cited with approval in *Mill v R* [1988] HCA 70, 63 (Wilson, Deane, Dawson, Toohey and Gaudron JJ).

⁸⁹ *Kelly v The Queen* (1992) 33 FCR 536, 541 (O'Loughlin), quoting *R v Moyse* (1988) 38 A Crim R 169, 177.

2.2.3 Parole

When sentencing an offender to imprisonment for life, a judge must either set a non-parole period or declare the offender ineligible for parole.⁹⁰ For fixed-term sentences, the ordinary parole provisions apply: the court may order that the person is not eligible for parole or may set a parole eligibility date, which must not be less than half of the total sentence.⁹¹

2.2.4 Ancillary orders

The *Dangerous Criminal and High Risk Offenders Act 2021* (Tas) empowers the Director General to order the ongoing detention or supervision of a person who has served their custodial sentence and is at risk of committing further serious offences.

Serious offences include sexual offences in relation to children, murder, manslaughter, persistent family violence and rape.⁹²

2.2.4.1 Dangerous criminal declarations

The DPP can apply to the Supreme Court for an offender convicted of a violent crime to be declared a dangerous criminal. The Supreme Court must be satisfied to a high degree of probability that the offender poses a serious danger to the community before declaring someone a dangerous criminal.⁹³ Someone declared a dangerous criminal cannot be released from custody until the declaration is discharged.⁹⁴ A dangerous criminal declaration must be reviewed at least once within each three-year period following the determination.⁹⁵

Since the introduction of Tasmanian indefinite detention provisions, contained first in the Criminal Code and subsequently in the *Sentencing Act 1997* (Tas), dangerous criminal declarations are rarely made; there have been 11 successful applications since 1991.⁹⁶ The most recent declaration was made in 2024.⁹⁷ Of those people declared to be dangerous

⁹⁰ *Corrections Act 1997* (Tas) s 69(1); *Sentencing Act 1997* s 18(1).

⁹¹ *Sentencing Act 1997* (Tas) s 17.

⁹² *Dangerous Criminals and High Risk Offenders Act 2021* (Tas) Sch 1.

⁹³ *Ibid* s 7(2).

⁹⁴ *Ibid* s 9.

⁹⁵ *Ibid* s 10.

⁹⁶ Tasmanian Law Reform Institute 'A comparative review of national legislation for the indefinite detention of 'Dangerous Criminals' (Research Paper No 4, July 2017) 4. There have also been four unsuccessful declarations (this figure includes data provided for this report by the Office of the Director of Public Prosecutions).

⁹⁷ *Tasmania v Jamie Dean Sharman* (Supreme Court of Tasmania, Jago J, 9 October 2024) in which a sentence of seven years' imprisonment with a four-year non-parole period was imposed for one count of persistent family violence. A 10-year Community Protection Order was also imposed. This case remains before the Court of Appeal.

criminals, four have made applications for the discharge of their dangerous criminal status, of which only one was successful.⁹⁸ Four declarations currently remain in force.⁹⁹

2.2.4.2 High Risk Offender Orders

The DPP can also apply to the Supreme Court for a serious offender to be given a High Risk Offender Order (HRO order).¹⁰⁰ The Supreme Court can make an HRO order if it is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing another serious offence unless an HRO order is made in relation to the offender.¹⁰¹ An HRO order can provide for supervision conditions, for example, an offender may be ordered to report to a probation officer, submit to electronic monitoring or take prescribed medication.¹⁰² An HRO order can last up to five years; upon expiration, it can be followed by subsequent HRO orders.¹⁰³ Interim HRO orders can last from three to six months.¹⁰⁴

Since the *Dangerous Criminals and High Risk Offenders Act 2021* (Tas) came into effect in December 2021, 10 high-risk offender orders and four interim high-risk offender orders have been made by the Supreme Court.¹⁰⁵

2.2.4.3 Community Protection Orders

Persistent sexual abuse of a child is a Class 2 offence for the purposes of the *Community Protection (Offender Reporting) Act 2005*.¹⁰⁶ This requires a court sentencing an offender for this offence to direct that the offender's name be placed on the Community Protection Register. The person listed must comply with reporting obligations for a maximum of 15 years in the case of one Class 2 offence and a maximum of life in the case of more than one such offence, unless the court is satisfied that the offender does not pose a risk of committing a reportable offence in the future.¹⁰⁷

2.3 Broad sentencing outcomes

Perhaps the crudest measure of sentencing is a jurisdiction's imprisonment rate. Nonetheless, it is useful to consider Tasmania's position relative to other states and territories. Table 1 shows that Tasmania's imprisonment rate of 183.4 per 100,000 adult

⁹⁸ In 1997 Mark Brandon Read successfully applied for discharge and was released.

⁹⁹ One is under review, one was confirmed in 2025, one was confirmed in 2026 and the Sharman appeal is yet to be argued. Data provided for this report by the Office of the Director of Public Prosecutions.

¹⁰⁰ *Dangerous Criminal and High Risk Offenders Act 2021* (Tas) s 35(1).

¹⁰¹ *Ibid* s 35(2).

¹⁰² *Ibid* s 38(2)(a)(b), (f).

¹⁰³ *Ibid* s 39(2)(a).

¹⁰⁴ *Ibid* s 39(2)(b).

¹⁰⁵ Department of Justice, *Annual report 2024-25* (October 2025) 42-43.

¹⁰⁶ *Community Protection (Offender Reporting) Act 2005* (Tas) Sch. 2.

¹⁰⁷ *Ibid* s 24.

population sits towards the lower end in jurisdictional comparisons, but remains above the rate in Victoria and the Australian Capital Territory (ACT).

Table 1: Average daily imprisonment rate, by state/territory, December quarter 2025

	Imprisonment rate
NT	1,409.4
WA	356.2
QLD	258.1
SA	223.6
NSW	191.7
TAS	183.4
VIC	122.0
ACT	121.6
<i>AUST</i>	<i>217.4</i>

Source: ABS *Corrective Services, Australia, December Quarter 2025*

Table 2 shows the proportion of people found guilty in the higher courts who are sentenced to custody in a correctional institution.¹⁰⁸ Tasmania – with 51.4% of guilty defendants sentenced to immediate imprisonment – sits lower than all other Australian jurisdictions.¹⁰⁹

Table 2: Defendants finalised with a guilty outcome in the higher courts and sentenced to imprisonment, by state/territory, 2024-25 (percentage)

	Proportion sentenced to imprisonment
NT	92.0
QLD	79.5
WA	77.4
VIC	76.5
NSW	71.7
SA	65.2
ACT	62.1
TAS	51.4
<i>AUST</i>	<i>73.6</i>

Source: ABS *Criminal Courts, Australia, 2024-25*

¹⁰⁸ The ABS defines 'custody in a correctional institution' as 'an order requiring a person to be detained within a facility built especially for the purpose of incarceration'. The person must therefore spend at least a portion of their imprisonment term incarcerated. See Australian Bureau of Statistics, 'Criminal Courts, Australia methodology' (Webpage, 2026).

¹⁰⁹ Data on the number of guilty outcomes in the Tasmanian higher courts are not published in summary tables by the ABS. Instead, this figure was manually calculated as the total of the number of people who pleaded guilty plus the number found guilty by the court. These data – and the ensuing calculated imprisonment rate – should therefore be treated with caution.

Table 3 shows the number of people proven guilty of committing sexual offences in the higher courts and the proportion sentenced to custody in a correctional institution. Tasmania – with 73.7% of guilty defendants sentenced to immediate imprisonment – has an imprisonment rate for sexual assault and related offences slightly below the Australian average (76.2%).¹¹⁰

Table 3: Defendants finalised with a guilty outcome in the higher courts and sentenced to imprisonment for sexual assault and related offences, by state/territory, 2024-25

	Guilty outcome (#)	Custody in a correctional institution (%)
NT	72	98.6
NSW	651	80.8
SA	251	80.5
VIC	317	76.7
WA	448	75.4
TAS	57	73.7
QLD	751	71.4
ACT	42	64.3
<i>AUST</i>	<i>2,610</i>	<i>76.2</i>

Source: ABS *Criminal Courts, Australia, 2024-25*

Table 4 shows that, while Tasmania's imprisonment rate for sexual offences is lower than that of many other Australian jurisdictions, the state has the longest median sentence length for these offences, of four years.

¹¹⁰ The number of homicide offences each year in Tasmania is very small, such that data on outcomes for these offences are subject to 'perturbation' by the ABS to protect confidentiality. As such, ABS data on sentencing outcomes for homicide are not presented here.

Table 4: Median sentence length for defendants sentenced in the higher courts to custody in a correctional institution for sexual assault and related offences, by state/territory, 2024-25

	Median custodial sentence (months)
TAS	48.0
VIC	48.0
NT	47.0
SA	45.9
NSW	45.0
QLD	36.0
ACT	34.0
WA	27.0
<i>AUST</i>	<i>42.0</i>

Source: ABS *Criminal Courts, Australia, 2024-25*

Comparisons using ABS data need to be treated with caution, given the breadth of the ABS offence classification system, differences in offence definitions and the differences in maximum penalties for the offences included in the sexual assault and other offences category.

While these inter-jurisdictional comparisons offer a snapshot of high-level sentencing data, analysis of specific offences that are closely comparable provides a more accurate view of Tasmanian sentencing practice relative to other jurisdictions.

The following sections examine sentencing outcomes for specific offences in those jurisdictions where data are publicly available. Most of these offences are subject to a maximum penalty of life imprisonment in at least some Australian jurisdictions and all were raised for discussion by at least one consultation participant.

2.4 Sentencing outcomes for murder

The only offence for which a maximum penalty of life imprisonment is available in every Australian state and territory is murder.¹¹¹ This section presents data on sentencing outcomes for murder in each jurisdiction where such data are available.

2.4.1 Sentencing outcomes for murder in Tasmania

Tasmania's mandatory sentence of life imprisonment replaced capital punishment as the penalty for murder (and treason) in 1968. In 1995 the mandatory penalty was changed to a

¹¹¹ See Appendix C for the list of offences in each jurisdiction.

maximum penalty. A person convicted of murder is liable to imprisonment for the term of their natural life or ‘for such other term as the court determines’.¹¹²

Most people convicted of murder receive a fixed-term sentence, while those sentenced to life imprisonment are typically characterised by the exceptional objective seriousness of the offence and the high ongoing risk they pose to the community. In *Dobson*,¹¹³ for example, the Court of Appeal compared life sentences to fixed-term sentences that exceed the offender’s life expectancy, stating that a life sentence ‘carries symbolic significance as the maximum penalty available to the court’.¹¹⁴

2.4.1.1 Objective seriousness of the murder

When imposing life sentences, sentencing judges emphasise the particularly grave circumstances of the murder and the offender’s objectively serious conduct. In several cases, for example, the judge described the killings as ‘cold-blooded’¹¹⁵ or ‘senseless and brutal’.¹¹⁶ Sentencing judges also acknowledge the significant impact of murder on victims and their families, underscoring the importance of the sentence in denouncing the offender’s behaviour.

Intentional murders are generally considered to involve a greater degree of moral culpability than non-deliberate murders.¹¹⁷ However, in *Dobson* the Tasmanian Criminal Court of Appeal clarified that cases of unintentional murders can still warrant a life sentence.¹¹⁸ Post-offence behaviour can be considered an aggravating factor in murder cases where the conduct contributes to the overall seriousness of offending. The court found this to be the case both in *Dobson*, where the offender buried the victim’s body in an isolated area such that it was not discovered for 19 days, and in *Sadler*,¹¹⁹ where the offender dismembered and disposed of the victim’s body.¹²⁰

¹¹² *Criminal Code 1924* (Tas) s 158.

¹¹³ *Dobson v Tasmania* [2017] TASCCA 19 (*‘Dobson’*).

¹¹⁴ *Ibid* [55] (Wood and Pearce JJ).

¹¹⁵ *Tasmania v Duffy* (Supreme Court of Tasmania, Brett J, 13 November 2020), 4 (*‘Duffy 13/11/2020’*).

¹¹⁶ *Tasmania v Drake* (Supreme Court of Tasmania, Jago J, 12 December 2023), 4 (*‘Drake 12/12/2023’*).

¹¹⁷ *Criminal Code 1924* (Tas) s 157(1)(c). A killing amounts to murder if the person knew that his or her unlawful act was likely to cause death in the circumstances, even if they had no wish to cause death or bodily harm to any person; *Neill-Fraser v Tasmania* [2012] TASCCA 2, [220] (Crawford CJ); cited in *Brennan v Tasmania* [2022] TASCCA 7, [31] (Wood J).

¹¹⁸ *Dobson* (n 113) [27]. Even though *Dobson*’s state of mind at the time of the killing was not intentional and did not automatically put the murder in the worst category, ‘his tendency to commit serious crimes of violence against women and his callous behaviour in hiding and disposing of the body during the 48 hours after the killing do place this case in the worst category of murder cases’ at [18].

¹¹⁹ *Sadler v Tasmania* [2022] TASCCA 9.

¹²⁰ *Dobson* (n 113) [41]-[43]; *Ibid* [3] (Blow CJ).

2.4.1.2 Risk to the general public and limited rehabilitation prospects

Judges imposing life sentences for murder also highlight the person's ongoing risk to the community as a central factor justifying the penalty.

The majority in *Dobson* observed: 'In Tasmania it has been held that protection of the public may justify a life sentence'.¹²¹ Further, when discussing proportionality and community protection, the majority held that:¹²²

It is beyond doubt that protection of the public is, along with deterrence, retribution and reform, one of the primary aims of sentencing.... Further, one of the purposes of the *Sentencing Act 1997* is to 'promote the protection of the community as a primary consideration in sentencing offenders': s 3(b). The risk that the appellant may offend again is a material factor in determining the sentence to be imposed.

Sentencing judges identify several factors as indicative of an offender's high risk to the community and limited prospects of rehabilitation, including a history of violent offending, persistent disregard for the law, non-compliance with prior supervision orders, and the presence of psychiatric illness, intellectual disability or personality traits such as antisocial personality disorder that shape behaviour.¹²³ Generally, in sentencing practice, factors such as psychiatric illness, intellectual disabilities, and deprived social upbringings can operate to mitigate the offender's moral culpability and weigh in favour of reducing an offender's sentence.¹²⁴ However, in Tasmanian murder cases over the past decade, these subjective factors often led sentencing judges to be concerned about the offender's guarded rehabilitation prospects.¹²⁵ For example, in *Duffy*,¹²⁶ Brett J stated:¹²⁷

Your mistreatment in childhood, your level of intellectual functioning and your personal associations have, in my view, all contributed to your decision to commit this crime [...] [t]hose aspects of your life deserve sympathy, but they also suggest that there is little probability or hope for effective rehabilitation.

The Supreme Court considers people who committed unprovoked and random killings of strangers to pose an acutely elevated risk to the community, on the basis that they have demonstrated a propensity for unpredictable and uncontrolled violence.¹²⁸ The court recognises the impact of random killings of strangers on the community's sense of safety

¹²¹ *Dobson* (n 113) [33], citing *Re Kemp* [1997] TASSC 147.

¹²² *Ibid* [32], citing *Veen* (n 66) [476].

¹²³ *Ibid* [39]; *Duffy* 13/11/2020 (n 115) 3; *Drake* 12/12/2023 (n 116) 8.

¹²⁴ *Bugmy v The Queen* [2013] HCA [44] (French CJ, Hayne, Crennan, Kiefel, Bell and Keane JJ); *Muldrock* (n 74) [31].

¹²⁵ See, for example, *Drake* 12/12/2023 (n 116).

¹²⁶ *Duffy* 13/11/2020 (n 115).

¹²⁷ *Ibid* 5.

¹²⁸ *Drake* 12/12/2023 (n 116) 6.

and, if released, the heightened risk the offender poses to the community.¹²⁹ Generally, those convicted of murdering a stranger in Tasmania were more likely to receive a life sentence, while those convicted of murdering a victim with whom they had a prior relationship (either a family, friend, or commercial relationship) were more likely to receive a fixed-term sentence; offenders whose violence was perpetrated in the context of a relationship were seen as posing less of a risk to the community at large.¹³⁰ For example, in sentencing Cedric and Nolene Jordan, who had murdered their daughter's ex-partner, Pearce J stated:¹³¹

Neither has any prior convictions and it appears that both led blameless lives until the time of the murder. They pose little or no risk to anyone else.

Both offenders were sentenced to 22 years' imprisonment, with a non-parole period of 12 years.¹³² Similarly, in sentencing Kerry Bilston, who had fatally shot his neighbour with whom he had been engaged in a longstanding dispute, Pearce J observed, 'I do not think that the defendant will pose any risk of a similar crime on his release',¹³³ and imposed a sentence of 19 years with a non-parole period of 10 years.¹³⁴

Murders committed in a family violence context more frequently received a lengthy fixed-term sentence (even exceeding the offender's life expectancy), rather than a life sentence.¹³⁵ For example, Kerry Whiting murdered his ex-partner and new partner and at the age of 45 was sentenced to 38 years' imprisonment with a non-parole period of 24 years.¹³⁶

At times a life term with a (relatively) short non-parole period may be imposed – a non-parole period shorter than that imposed for some fixed-term sentences. While it may seem anomalous for a life sentence to provide for potential release after a shorter term in custody, there may be good reason for a relatively short non-parole period to be imposed. A life sentence can be used to keep an offender under supervision on an ongoing basis as a mechanism to prevent reoffending, and Tasmanian judges seem to take advantage of this. For example, in 2015, Mark Mason received a life sentence for the murder of his ex-partner

¹²⁹ *Drake* 12/12/2023 (n 116) 4; *Tasmania v Adams* (Supreme Court of Tasmania, Blow J, 26 March 2009) ('*Adams* 26/03/2009').

¹³⁰ *Tasmania v Cedric Jordan and Nolene Jordan* (Supreme Court of Tasmania, Pearce J, 28 June 2023) ('*Jordan* 28/6/2023'); *Tasmania v Kerry Bilston* (Supreme Court of Tasmania, Pearce J, 16 May 2018) ('*Bilston* 16/05/2018').

¹³¹ *Jordan* 28/6/2023 (n 130) 2.

¹³² *Ibid.*

¹³³ *Bilston* 16/05/2018 (n 130).

¹³⁴ *Ibid.*

¹³⁵ *Daley v Tasmania* [2016] TASCRA 10, [15] (Estcourt J); *Tasmania v Whiting* (Supreme Court of Tasmania, Jago J, 27 June 2024), 5 ('*Whiting* 27/6/2024'); *Tasmania v Neubert* (Supreme Court of Tasmania, Brett J, 22 May 2017).

¹³⁶ *Whiting* 27/6/2024 (n 135) 5.

due to sexual jealousy and the attempted murder of the ex-partner's friend.¹³⁷ In this case, Blow CJ imposed a life sentence with a 17.5-year non-parole period, reasoning that he could not rule out the possibility that Mr Mason might reoffend. If released on parole, he would remain under supervision and be subject to conditional freedom for the remainder of his life.¹³⁸ The life sentence was explained as a potential lever to allow an appropriately serious response to any further offending: if the offender were to commit further family violence while on parole, 'the consequences will be far more serious than a sentence of a few months' imprisonment from a magistrate. He should have his parole revoked and be sent back to prison to complete the rest of his life sentence'.¹³⁹

The ongoing supervision that a life sentence ensures was also a significant factor in Jago J's decision to impose a life sentence on Colin Drake in 2023. The defendant had a limited capacity for rehabilitation and posed a risk to society for the rest of his life, such that lifelong supervision with conditional release on parole, revocable for the remainder of his life, was warranted.¹⁴⁰

Since 2015 there have been 28 people sentenced for murder in Tasmania. Four people have been sentenced to life imprisonment: one with a non-parole period of 20 years,¹⁴¹ one with a non-parole period of 18 years,¹⁴² one with a non-parole period of 17.5 years,¹⁴³ and the fourth with a non-parole period of 14 years.¹⁴⁴ The longest term involved the 'frenzied and persistent' attack on a stranger by an offender with low intellect who had been subject to a supervision order for many years, with a history of non-compliance.¹⁴⁵ He was assessed as presenting a long-term and broad-ranging risk to the community, with limited capacity for reform due to his intellect and personality traits. The judge was satisfied that the case fell within the worst category of murder cases.¹⁴⁶

Only one person has received a sentence of life imprisonment without parole eligibility in the last 25 years.¹⁴⁷

Apart from the life terms, the longest fixed terms of imprisonment imposed for murder since 2015 were for offences committed in the context of family violence. A 45-year term with a

¹³⁷ *Tasmania v Mason* (Supreme Court of Tasmania, Blow CJ, 28 May 2015) ('*Mason 28/05/2015*').

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ *Drake 12/12/2023* (n 116). The sentence is currently subject to appeal.

¹⁴¹ *Ibid.*

¹⁴² *Duffy 13/11/2020* (n 115).

¹⁴³ *Mason 28/05/2015* (n 137); there was also a conviction for attempted murder of a second victim.

¹⁴⁴ *Tasmania v Dobson* (Supreme Court of Tasmania, Blow CJ, 8 September 2015) ('*Dobson 08/09/2015*').

¹⁴⁵ *Drake 12/12/23* (n 116) 7.

¹⁴⁶ *Ibid.*

¹⁴⁷ *Adams 26/03/2009* (n 129). The offender killed an elderly woman during a knifepoint robbery while he was on parole for a previous murder.

non-parole period of 25 years was imposed for the premeditated and cold-blooded execution of a former girlfriend and her new partner, with both victims having their throats cut and their bodies set alight.¹⁴⁸ The second longest was a term of 38 years with a non-parole period of 24 years for the premeditated murder of the offender's ex-wife and attempted murder of her new partner. The attacks, committed in front of the children in the home, were said to constitute extreme family violence driven by a desire to possess and control.¹⁴⁹

Only three terms of imprisonment imposed for murder were shorter than 20 years. The shortest, a term of 16 years with a non-parole period of eight years, was imposed on a young offender following a public attack with a baseball bat, after which he immediately called an ambulance.¹⁵⁰ A 19-year term with a 10-year non-parole period was imposed on an intoxicated female offender who had killed her partner on the spur of the moment.¹⁵¹ The same term was imposed on a man who, in a state of agitation, fatally shot his neighbour.¹⁵²

Excluding life terms, the median term of imprisonment for murder imposed since 2015 was 23 years, while the median non-parole period was 14 years.

2.4.2 Sentencing outcomes for murder in other jurisdictions

Murder is subject to a maximum penalty of life imprisonment in the ACT, Victoria, South Australia and NSW,¹⁵³ and a mandatory penalty of life imprisonment in Queensland, WA and the NT.¹⁵⁴

¹⁴⁸ *Tasmania v Rusterholz* (Supreme Court of Tasmania, Pearce J, 1 May 2015).

¹⁴⁹ *Whiting* 27/6/2024) (n 135). Just prior to submission of this Final Report, a longer sentence was imposed in a case of murder, making the *Whiting* sentence the third-longest to be imposed since 2015. A 40-year term of imprisonment with a 25-year non-parole period was imposed in the case of *Tasmania v Leigh Geoffrey Sushames* (Supreme Court of Tasmania, Jago J, 26 June 2026) for one count of murder and two counts of aggravated assault in the context of a premeditated intentional ambush attack on multiple police officers attending the offender's property during the course of a routine police matter. The objective circumstances of the crime were said to involve an 'exceptionally high degree of seriousness'. Jago J stated: 'the killing of a police officer whilst in the execution of his duty, is an exceptionally serious crime. The gravity of such conduct is of a nature that it must occupy a position at, or near to, the pinnacle of the scale of seriousness. Courts need to give weight to the protection of members of the police force'. While general deterrence, denunciation and just punishment were said to be of paramount importance – 'a strong sentencing response is required to reassert societal values and affirm the importance of the lawful authority of police in maintaining public order' – a life sentence was not deemed appropriate due to the offender being adamant in his wish to plead guilty and accept responsibility at the earliest possible opportunity. Further, Jago J could not conclude that the offender was incapable of rehabilitation or lacked the capacity to lead a productive and responsible life. *Tasmania v Leigh Geoffrey Sushames* (Supreme Court of Tasmania, Jago J, 26 June 2026).

¹⁵⁰ *Tasmania v Kelleher* (Supreme Court of Tasmania, Geason J, 23 February 2023).

¹⁵¹ *Tasmania v Hancock* (Supreme Court of Tasmania, Wood J, 1 July 2025).

¹⁵² *Bilston* 16/05/2018 (n 130130).

¹⁵³ *Crimes Act 1900* (ACT) s 12; *Crimes Act 1958* (Vic) s 3; *Criminal Law Consolidation Act 1935* (SA) s 11. In NSW the murder of a police officer carries a mandatory penalty of life imprisonment: *Crimes Act 1900* (NSW) s 19B. Otherwise life imprisonment operates as a maximum penalty: *Crimes Act 1900* (NSW) s 19A, unless the court is satisfied that the level of culpability is so extreme that the purposes of sentencing can only be met through the imposition of a life sentence.

¹⁵⁴ *Criminal Code Act 1899* (Qld) s 305; *Criminal Code Act Compilation Act 1913* (WA) s 279(4); *Criminal Code Act 1983* (NT) s 54.

In those jurisdictions where a sentence of life imprisonment is not mandatory, such sentences are imposed where the offender's moral culpability is extreme and undiminished by mitigating factors, and where the offender poses a significant risk to the community.¹⁵⁵ For example, sentencing judges in NSW have described offenders in these kinds of cases as 'cold blooded',¹⁵⁶ 'evil',¹⁵⁷ and demonstrating 'callous contempt for human life',¹⁵⁸ which warranted severe punishment at the upper end of the sentencing scale.

Sentencing judges in murder matters consistently cite denunciation, general and specific deterrence, community protection and just punishment as the primary purposes of sentencing.¹⁵⁹ A lack of remorse generally increases the need for specific deterrence.¹⁶⁰

Across Australia, a number of factors have been identified as aggravating in cases involving a murder conviction. Courts have consistently held that offence-related features such as premeditation,¹⁶¹ motivation by greed or personal gain, and the commission of a contract killing or gang-related murder significantly increase the objective seriousness of the offence, with courts handing down longer sentences and non-parole periods to achieve both specific and general deterrence within criminal organisations.¹⁶² It is also aggravating for a murder to be committed in a public setting,¹⁶³ to occur in the context of family violence, or to involve a victim who is vulnerable;¹⁶⁴ in such cases stronger weight is applied to the purposes of general deterrence, denunciation and community protection. Additionally, a lack of

¹⁵⁵ See, for example, in NSW, where the following cases have found that, per s 61(1) of the *Crimes (Sentencing Procedure) Act 1999* (NSW), the level of culpability in the commission of the offence is so extreme that the community interest in retribution, punishment, community protection and deterrence can only be met through the imposition of that [life] sentence: *R v Sultani*; *R v Munshizada*; *R v Baines*; *R v Danishyar* [2021] NSWSC 1654, [120] (Fagan J) ('*Sultani*'); *R v Warwick (No.94)* [2020] NSWSC 1168, [103]-[104] (Garling J) ('*Warwick*'); *R v Stein* [2024] NSWSC 1080, [119] (Wilson J) ('*Stein*').

¹⁵⁶ *Sultani* (n 155) [120], [114] (Fagan J).

¹⁵⁷ *Warwick* (n 155) [103]-[104] (Garling J).

¹⁵⁸ *Sultani* (n 155) [120] (Fagan J).

¹⁵⁹ *Warwick* (n 155) [94] (Garling J); *DPP v Elliot & Fares* [2022] VSC554, [84] (Tinney J) ('*DPP v Elliot*'), citing *R v Wright* [1988] VSCA 84; *DPP v Ene, Kakato Taumoefolau* [2025] VSC 281, [152] (Tinney J) ('*DPP v Ene*'); *DPP v Chalmers* [2023] VSC 764, [119] (Tinney J); *DPP v O'Connell (No 5)* [2024] ACTSC 16, [77] (Baker J); *Lowe v The King* [2025] SASCA 24, [70] (Livesey P, David JA and Doyle AJA) ('*Lowe*'); *R v Klosowski* [2021] SASCA 85, [57] (Kelly P and Livesey JA) ('*Klosowski*').

¹⁶⁰ *DPP v Wijesinghe* [2025] ACTSC 543, 15, [71] (McCallum CJ) ('*Wijesinghe*').

¹⁶¹ *Western Australia v Phillips* [2023] WASCA 104, [55] (Quinlan CJ, Beech and Hall JJA) ('*Phillips*'); *R v Singh* [2024] SASCA 81, [69] (Livesey ACJ, Doyle and David JJA) ('*Singh*').

¹⁶² *R v Rogerson*; *R v McNamara (No 57)* [2016] NSWSC 1207, [237] (Bellew J); *DPP v Asling* [2017] VSC 191, [30]-[33] (Kaye JA).

¹⁶³ *DPP v El Nasher* [2023] VSC 694, [30] (Beale J).

¹⁶⁴ Aggravating factor in NSW under s 21A(2)(d) of the *Crimes (Sentencing Procedure) Act 1999* (NSW); *R v Thompson* [2025] NSWSC 419, [236] (Weinstein J) citing *Quinn v The Queen* [2018] NSWCCA 297, [243]-[246] (Hoeben CJ at CL); *Singh* (n 159) [69] (Livesey ACJ, Doyle and David JJA); *Stein* (n 150) [81] (Wilson J); *Sturniolo v Western Australia* [2023] WASCA 147, [283] (Quinlan CJ, Beech and Hall JJA); *Phillips* (n 159), [135] (Quinlan CJ, Beech and Hall JJA).

remorse¹⁶⁵ and post-offence conduct, such as the disposal or concealment of the deceased, also operate as aggravating factors.¹⁶⁶

Common mitigating factors considered in these cases include the offender's youth,¹⁶⁷ diminished mental state and an absence of premeditation.¹⁶⁸ Their prospects for rehabilitation and their risk of future offending are also relevant considerations,¹⁶⁹ based on their criminal history and previous periods of pro-social living.¹⁷⁰ In Victoria, factors such as youth and prospects of rehabilitation have been described as taking a 'back seat' to other sentencing objectives such as just punishment, denunciation, general deterrence, specific deterrence, and protection of the community.¹⁷¹ In WA, sentencing judges emphasised that extremely serious cases warranted lengthy periods of imprisonment, and that without them, 'the community's interest in the objectives of punishment, retribution and general deterrence could not legitimately be met'.¹⁷²

Sentencing judges consistently acknowledge that sentences for murder must recognise both the harm experienced by victims and the community's interest in denouncing and deterring such offending.¹⁷³ The ways in which harm to victims is considered vary across jurisdictions. In the ACT, victim impact statements are used to inform the court about the nature and extent of harm caused to the primary victim and their family, as well as to establish aggravating factors such as 'substantial harm'.¹⁷⁴ Consideration of the harm to the victim operates similarly in Queensland and the Northern Territory.¹⁷⁵ In South Australia, the harm to the victim looms larger as a sentencing consideration; for example, judges have spoken of

¹⁶⁵ *Wijesinghe* (n 160), [71] (McCallum CJ).

¹⁶⁶ *R v Bowie* [2023] NSWSC 207, [40] (Yehia J), citing *R v Wilkinson (No 5)* [2009] NSWSC 432, [61] (Johnson J); *Bell v The Queen* [2003] WASCA 216, [23]–[25] (Murray ACJ); *Colledge v Western Australia* [2007] WASCA 211, [16] (Wheeler JA); *R v Cavkic (No 2)* [2009] VSCA 43, [134] (Vincent and Nettle JA and Vickery AJA).

¹⁶⁷ *Bradley v The Queen* [2017] VSCA 69, [105] (Maxwell P, Weinberg and Tate JJA), citing *R v Mills* [1988] 4 VR 235, 242 (Batt JA).

¹⁶⁸ *Veen* (n 66) 393 (Mason CJ, Brennan, Dawson and Toohey JJ).

¹⁶⁹ *R v Scognamiglio* (1991) 56 A Crim R 81, [86] (Grove J).

¹⁷⁰ *Stein* (n 155) [107] (Wilson J).

¹⁷¹ *DPP v Elliot* (n 159) [84] (Tinney J), citing *R v Wright* [1988] VSCA 84, [6] (Winneke ACJ).

¹⁷² *Lester v Western Australia* [2025] WASCA 96, [103] (Quinlan CJ); *Austin v Western Australia* [2023] WASCA 191, [79] (Buss P and Mazza JA) ('*Austin*'); *Phillips* (n 161) [111] (Quinlan CJ, Beech and Hall JJA), [147]; *R v Newby* [2022] ACTCA 20, [83] (Elkaim, Mossop and Bromwich JJ).

¹⁷³ *DPP v Taylor* [2023] ACTSC 39, [44] (Mossop J); *Stein* (n 155) [116]; *Lowe* (n 157) [70] (Livesey P, David JA and Doyle AJA).

¹⁷⁴ *R v Dowden-Carlisle* [2023] ACTSC 169, [29] (Norrish AJ), citing *Culbert v The King* [2021] NSWCCA 38, [119]–[120] (Hoeben CJ at CL); *DPP v Donoghue (No 3)* [2024] ACTSC 272, [20]–[21] (Mossop ACJ).

¹⁷⁵ *R v Dayney* (Supreme Court of Queensland, Bowskill SJA, 7 December 2021), 4; *R v Johnston* [2024] QSCSR 27, 3 (Applegarth J).

the role of sentencing to ‘vindicate the dignity’¹⁷⁶ of victims or as ‘affording recognition of the dignity of the victim’.¹⁷⁷

2.4.2.1 Murder – Australian Capital Territory

While murder attracts a maximum penalty of life imprisonment in the ACT,¹⁷⁸ from 2013 through 2025 no life sentences were imposed.¹⁷⁹ Imprisonment accounted for 20 of the 23 cases sentenced (87%), with the remaining three attracting a partially suspended sentence. The median duration of sentences was more than 20 years, which was also the longest duration category. The shortest term of imprisonment imposed for murder was nine years.¹⁸⁰

2.4.2.2 Murder – New South Wales

In NSW, murder attracts a maximum penalty of life imprisonment¹⁸¹ (which becomes mandatory if the victim was a police officer)¹⁸² and a standard non-parole period of either 20 or 25 years.¹⁸³ From July 2020 to June 2025, all 165 people convicted of murder were sentenced to imprisonment, with an average sentence of 187 months (or 15.5 years).¹⁸⁴

Data from the Public Defender’s office¹⁸⁵ identify the ‘natural life’ sentences imposed in the period to December 2025 (life with no non-parole period). In the period from 2020, five such sentences were imposed. These cases involved multiple victims¹⁸⁶ and/or a child victim¹⁸⁷ or the murders of judicial officers.¹⁸⁸

¹⁷⁶ *Klosowski* (n 159) [55] (Kelly P and Livesey JA).

¹⁷⁷ *Singh* (n 161) [69] (Livesey ACJ, Doyle and David JJA); *Munda v Western Australia* [2013] HCA 38, [55] (French CJ, Hayne, Crennan, Kiefel, Gaegler and Keane JJ).

¹⁷⁸ *Crimes Act 1900* (ACT) s 12.

¹⁷⁹ A long reference period was used for the ACT due to the very small numbers of people sentenced.

¹⁸⁰ Available sentencing data typically do not include specific durations for very long sentences, instead using an aggregated category of ‘more than 20 years’. The only way to identify precise sentence length is by identifying individual cases via sentencing remarks, if published.

¹⁸¹ *Crimes Act 1900* (NSW) s 19A, 19B. If the court is satisfied that the level of culpability is so extreme that the purposes of sentencing can only be met through the imposition of a life sentence, a court must impose life imprisonment: *Crimes (Sentencing Procedure) Act 1999 No 92* (NSW) s 61.

¹⁸² *Crimes Act 1900* (NSW) s 19B.

¹⁸³ The longer standard non-parole period applies to certain categories of victim, such as police or emergency services worker or teacher, where the offence arose due to the victim’s occupation or voluntary work. It also applies where the victim was under age 18 or was the offender’s intimate partner. For all standard non-parole periods in NSW, see Judicial Commission of NSW ‘Appendix A: Pt 4 Div 1A Table – standard non-parole periods’ (Webpage, 29 May 2026).

¹⁸⁴ NSW Bureau of Crime Statistics and Research ‘Courts and Sentencing’ (Webpage, 2 March 2026).

¹⁸⁵ The Public Defenders (NSW), ‘Sentencing Tables Index’ (Webpage, 22 April 2026).

¹⁸⁶ *Sultani* (n 155); *R v Yoo* [2025] NSWSC 1522 (‘Yoo’).

¹⁸⁷ *Yoo* (n 186); *Stein* (n 155).

¹⁸⁸ *Warwick* (n 155).

2.4.2.3 Murder – Queensland

From 1 July 2020 to 30 June 2025 there were 71 cases in Queensland sentenced for murder.¹⁸⁹ Under Queensland law, an adult sentenced for murder must be given a life sentence or an indefinite sentence; they will remain in custody or on parole (if granted parole by the Parole Board) for the rest of their life.¹⁹⁰ All 71 were sentenced to a term of life imprisonment.¹⁹¹

2.4.2.4 Murder – Victoria

From 1 July 2019 to 30 June 2024 there were 79 cases sentenced in the Victorian courts for murder. Of the 79 cases, eight were sentenced to a term of life imprisonment (10.1% of cases). Among the remaining 71 cases, the shortest imprisonment length was 14 years, the longest was 36 years and the median was 24 years.¹⁹²

The average non-parole period imposed for cases of murder ranged from 20.2 years in 2020-21 to 25.8 years in 2023-24.¹⁹³

2.4.2.5 Murder – Summary

Table 5 below presents a cross-jurisdictional comparison that summarises the data on sentencing outcomes for murder.¹⁹⁴

¹⁸⁹ Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Murder' (Webpage, 2025).

¹⁹⁰ *Criminal Code Act 1899* (Qld) s 302, 305.

¹⁹¹ One case was not reported in the Queensland Sentencing Advisory Council's Sentencing DataHub. It involved a 17-year-old offender who was sentenced as an adult 38 years after the offence was committed. Due to their age at the time of the offence and the laws in force at the time of their sentence, it was not mandatory for life imprisonment to be imposed; instead, the court had to take into account the sentence that might have been imposed had the person been sentenced as a child. The sentence imposed was 20 years' imprisonment.

¹⁹² Victorian Sentencing Advisory Council, 'Murder – All sentences', *SACStat* (Webpage, 2025).

¹⁹³ Only those cases which attracted a non-parole period are included in these data.

¹⁹⁴ Data on the range of imprisonment lengths (excluding life sentences) are presented in the summary tables where available.

Table 5: Cross-jurisdictional summary of sentencing outcomes for murder

	Number of people sentenced to imprisonment (reference period)	Imprisonment term duration	Number of life sentences
ACT	23 (2013-2025)	Median: 20+ years Range: 9 to 20+ years	0
NSW	165 (July 2020 to June 2025)	Average: 15.5 years	5
QLD	71 (July 2020 to June 2025)	-	71
TAS	28 (2015-2025)	Median: 23 years Range: 16 to 45 years	4
VIC	79 (July 2019 to June 2024)	Median: 24 years Range: 14 to 36 years	8

2.5 Sentencing outcomes for other serious offences

In all other Australian states and territories, a maximum penalty of life imprisonment is available for a wider range of offences than in Tasmania. These offences generally fall into the following categories:

- Offences causing or attempting to cause death
- Sex offences
- Drug offences
- Other offence types (including aggravated forms of property offences).

This section presents data on sentencing outcomes for a selection of these offences in each jurisdiction where data are available. Due to the lack of published data in some jurisdictions and a need to present as much information as possible for comparison, the data presented below are from both those jurisdictions where the offence attracts a maximum penalty of life imprisonment and those where a lower maximum penalty is available. Data on outcomes in Tasmania are included for comparison. Under the Tasmanian regime, these offences are subject to a maximum penalty (for a single charge) of 21 years.

2.5.1 Attempted murder and manslaughter

A maximum penalty of life imprisonment is available for both attempted murder and manslaughter in the NT, QLD, SA and WA.¹⁹⁵

Attempted murder is ‘one of the most serious crimes that can be committed’,¹⁹⁶ with the primary purposes of sentencing being denunciation, general deterrence and community protection.¹⁹⁷ There is no uniform sentencing standard for attempted murder because ‘[t]he facts and circumstances tend to vary markedly, as do the sentences’.¹⁹⁸ In *Lowe*,¹⁹⁹ the majority noted ‘[t]he maximum is [...] for the worst type of cases and sentences approaching the maximum should be reserved for cases approaching the worst type in seriousness’.²⁰⁰

The gravity of the offence is assessed according to the offender’s mental state and intent to kill the victim, the degree of premeditation and the objective seriousness of the violent acts.²⁰¹ Aggravating factors include premeditation, the use of weapons,²⁰² committing the offence in public or near other people,²⁰³ in the context of a ‘contract’ killing²⁰⁴ or domestic violence,²⁰⁵ and where the offender fails to seek medical assistance for the victim.²⁰⁶ Mitigating factors include a plea of guilty, impaired mental functioning, genuine remorse and strong prospects of rehabilitation.²⁰⁷

All jurisdictions have numerous manslaughter offences, broadly modelled on the two common law forms of manslaughter: manslaughter by criminal negligence and involuntary manslaughter by unlawful and dangerous acts.²⁰⁸ Other forms of manslaughter include infanticide, culpable driving causing death, unlawful striking causing death and aiding and abetting suicide.²⁰⁹ The authorities consistently observe:²¹⁰

¹⁹⁵ Other fatal offences for which a life term is available include: conspiring/soliciting to commit murder (SA, VIC); aiding/procuring suicide (QLD, WA); killing/seriously harming or preventing the birth of an unborn child (QLD, WA); criminal neglect where the victim dies (SA); aggravated causing death by dangerous use of a vehicle or vessel (SA); and unintentional killing in the course of a violent crime (VIC).

¹⁹⁶ *R v Cigercioglu* [2023] VSC 772, [48] (Fox J).

¹⁹⁷ *Phillips* (n 161) [147] (Quinlan CJ, Beech and Hall JJA); *R v REB* [2023] QCA 105 [27] (Bond JA).

¹⁹⁸ *Lowe* (n 159) [50] (Livesey P, David JA and Doyle AJA).

¹⁹⁹ *Ibid.*

²⁰⁰ *Ibid* [66] citing *R v Morse* (1979) 23 SASR 98, 99 (King CJ).

²⁰¹ *Phillips* (n 161) [55] (Quinlan CJ, Beech and Hall JJA).

²⁰² *Ibid.*

²⁰³ *Byfield v The Queen* [2002] WASCA 260 [21] (Malcolm CJ).

²⁰⁴ *Ibid.*

²⁰⁵ *R v Mallie* [2009] QCA 190 [40] (McMurdo P); *R v MDU* [2024] QCA 113 [133] (Morrison JA).

²⁰⁶ *Ibid* [29].

²⁰⁷ *R v Mikhail* [2020] VSC 681 [72]-[97] (Croucher J); *R v Goude* [2020] HCA 8 [60] (Gordon and Edleman JJ).

²⁰⁸ Mirko Bagaric et al, *Sentencing in Australia* (Thomson Reuters (Professional) Australia Pty Limited, 2020) 812.

²⁰⁹ LexisNexis, *Halsbury’s Laws of Australia* (online at 8 November 2019) (B) Unlawful Homicide ‘Unlawful Homicide – Introduction’ [130-3010]; see unlawful striking causing death, *Criminal Code 1899* (Qld) s 314A.

²¹⁰ *Marshall v Western Australia* [2015] WASCA 156 [49] (Martin CJ).

There is no customary range of sentences for the offence of manslaughter because of the almost infinite variety of circumstances in which the offence can be committed and the consequential variation in the sentences appropriately imposed in respect of any particular offence.

Nonetheless, the sentencing purposes of adequate punishment, deterrence and denunciation must be considered.²¹¹

When assessing the gravity of the offence, sentencing judges have regard to the factual matrix of the violence as well as the subjective personal factors and degree of intent to injure the victim.²¹² Aggravating factors include premeditation or an intention to injure the victim,²¹³ the use of weapons such as knives,²¹⁴ and prolonged or repeated violence.²¹⁵ It is also aggravating for the offence to occur in a family violence context.²¹⁶ Mitigating factors include a plea of guilty, an offender's relative youth or prospects of rehabilitation, genuine remorse and acceptance of responsibility.²¹⁷

The following sections present information on sentencing outcomes for attempted murder and manslaughter in Tasmania²¹⁸ and in other jurisdictions for which data were available. Caution should be used when comparing across jurisdictions due to the significant variability in legislative frameworks, definitions, cultures and other factors that will affect sentencing. The comparison of sentencing outcomes is particularly fraught for manslaughter; it has been said that 'manslaughter is almost unique in its protean character as an offence',²¹⁹ such that reliance on statistical data to identify sentencing patterns has been described as 'unhelpful and even dangerous'.²²⁰

2.5.1.1 Attempted murder – Tasmania

Since 2015 there have been only nine cases of attempted murder sentenced in the Tasmanian Supreme Court, one of which involved a conviction for both attempted murder

²¹¹ LexisNexis, *Halsbury's Laws of Australia* (online at 8 November 2019) (B) Unlawful Homicide 'Unlawful Homicide – Penalty and Sentencing [130-3080].

²¹² *R v TZ* [2023] QCA 087 [21] (Mullins P, Gotterson AJA, and Henry J); *R v Jones* (2010) SASCF 58 [38] (Anderson J).

²¹³ *Taylor v Western Australia* [2022] WASCA 174 [44] (Quinlan CJ, Mitchell and Beech JA); *Francis v Western Australia* [2019] WASCA 43 [77] (Buss P, Mitchel and Pritchard JJA).

²¹⁴ *R v Geissler* [2019] QCA 063 [8] (Fraser JA).

²¹⁵ *Western Australia v Camus* [2014] WASCA 74 [2] (Pullin JA).

²¹⁶ *R v O'Sullivan; Ex parte* [2019] QCA 300 [116] (Sofronoff P, Gotterson JA and Lyons SJA).

²¹⁷ *Aljrood v Western Australia* [2016] WASCA 73 [21] (McLure P).

²¹⁸ Due to the small number of cases, data from 2015 are included.

²¹⁹ *R v Forbes* [2005] NSWCCA 377, [133] (Spigelman CJ).

²²⁰ *R v Vongsouvanh* [2004] NSWCCA 158, [38] (Simpson J). The Judicial Commission of New South Wales' Sentencing Bench Book notes that 'sentencing statistics for manslaughter are of such limited assistance that they should be avoided: *R v Wood* [2014] NSWCCA 184, [59] (Price, Garling and Bellew JJ).

and murder, leading to a sentence of life imprisonment.²²¹ For the remaining eight, the median sentence was seven years and the median non-parole period was just under four years.

Attempted murder may arise in a variety of circumstances; the range of sentences imposed for this offence reflects this variation. Apart from the life sentence, the longest sentence for attempted murder since 2015 was a global sentence of 18 years with a non-parole period of 12 years, imposed on a man whose volatile intimate partner relationship culminated in him dousing her with petrol and setting her alight. Her life was in danger for a month, with burns to 68% of her body, requiring repeated surgeries. He was sentenced to 18 years' imprisonment with a non-parole period of 12 years for attempted murder and persistent family violence.²²² Another attempted murder in the context of family violence received a 17-year term of imprisonment, with the offender intending to kill his two young children and then himself to hurt his wife.²²³ The shortest sentence of 4.5 years was imposed on a 17-year-old who stabbed a 17-year-old girl multiple times using a pair of scissors after entering her home with intent to rape or assault her. He had been in psychiatric treatment for some years, having been diagnosed with (among other mental illnesses) a personality disorder.²²⁴ In some instances an immediate term of imprisonment is not imposed in attempted murder cases, although the last time a wholly suspended sentence was handed down for this offence in Tasmania was in 2005, for a woman's attempted 'mercy killing' of her mother with an injection of insulin to ease her suffering from dementia.²²⁵

2.5.1.2 Attempted murder – New South Wales

In NSW, attempted murder attracts a maximum penalty of 25 years' imprisonment and a standard non-parole period of 10 years. From July 2020 to June 2025, all of the 31 people who were convicted of attempted murder were sentenced to imprisonment, with an average sentence of six years and eight months.²²⁶

²²¹ *Mason 28/05/2015* (n 137) (Blow CJ). The offender was sentenced to a term of life imprisonment with a non-parole period of 17.5 years. At sentencing, Blow CJ stated: '[t]his was a case of domestic violence in which a defenceless woman was deliberately killed because of sexual jealousy. It also involved a pointless attack on the murdered woman's friend, resulting in life-threatening injuries and the infliction of permanent disabilities. The only appropriate sentence is a very long prison sentence'.

²²² *Tasmania v Davey* (Supreme Court of Tasmania, Brett J, 10 December 2021) ('*Davey 10/12/021*'). He was also sentenced to four years cumulative (non-parole period of two years) for trafficking in firearms and drug trafficking offences.

²²³ *Tasmania v Harper* (Supreme Court of Tasmania, Jago J, 13 September 2023).

²²⁴ *DPP v CBF* [2016] TASSCA 1.

²²⁵ *Tasmania v Pryor* (Supreme Court of Tasmania, Hill AJ, 19 December 2005). She was also convicted of aiding her terminally ill father who was suffering from advanced cancer to commit suicide eight months later. She was sentenced to 18 months' imprisonment for the attempted murder and 12 months' imprisonment (cumulative) for aiding suicide.

²²⁶ NSW Bureau of Crime Statistics and Research 'Courts and Sentencing' (Webpage, 2 March 2026).

2.5.1.3 Attempted murder – Queensland

Data from Queensland show that all 18 of the cases of attempted murder sentenced in the five years to June 2025 received a term of imprisonment; the longest sentence was a term of life imprisonment and the shortest were two sentences of between five and six years. The longest fixed terms of imprisonment were 14 to 15 years. While there were too few cases for calculating a median or average, the most common sentence imposed was between nine and 10 years.²²⁷

2.5.1.4 Attempted murder – Victoria

With a maximum penalty of 25 years' imprisonment, the 13 attempted murder charges sentenced in Victoria in the five years to 30 June 2024 received terms of imprisonment ranging from six years to 18 years, with a median of 12 years.²²⁸

2.5.1.5 Attempted murder – Summary

Table 6 below presents a cross-jurisdictional comparison that summarises the data on sentencing outcomes for attempted murder.

Table 6: Cross-jurisdictional summary of sentencing outcomes for attempted murder

	Number of people sentenced to imprisonment (reference period)	Imprisonment term duration	Number of life sentences
NSW	31 (July 2020 to June 2025)	Average: 6.7 years	n/a
QLD	18 (July 2020 to June 2025)	np Range: 5-6 to 14-15 years	1
TAS	9* (2015-2025)	Median: 7 years Range: 4.5 to 18 years	n/a
VIC	13** (July 2019 to June 2024)	Median: 12 years Range: 6 to 18 years	n/a

np: There were too few cases in Queensland to calculate a median or average

* One of the people sentenced for attempted murder was also sentenced for murder; he was sentenced to life imprisonment and is excluded from the duration data

** Victorian data are for charges, as case-level data were not available

²²⁷ Of note, 72.2% were charged as domestic violence offences. Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Attempt to Murder' (Webpage, 2025).

²²⁸ While data on sentencing outcomes for attempted murder *charges* are available, data are not presented on sentencing outcomes for attempted murder *cases*. Victorian Sentencing Advisory Council, 'Attempted Murder – All sentences', *SACStat* (Webpage, 2025).

2.5.1.6 Manslaughter – Tasmania

Culpable homicide not amounting to murder is manslaughter.²²⁹ Since 2015, there have been 30 cases of manslaughter sentenced in the Tasmanian Supreme Court with a median sentence of six years and a median non-parole period of three years and nine months.²³⁰ There is a wide range of circumstances in which manslaughter may be proven – with considerable variation in culpability – and the data on sentencing outcomes reflect this heterogeneity of circumstances. The longest sentence – 13 years’ imprisonment with a non-parole period of eight years – was imposed in a case where the offender used his car as a weapon, running over his female partner after seeking to frighten her and expecting her to jump out of the way, as she had previously, during a relationship characterised by ongoing family violence and with a family violence order in place. The judge declared that ‘it is difficult to imagine a more serious example of manslaughter by culpable negligence’;²³¹ were it not for a guilty plea, the head sentence would have been 16 years. The least severe sentences were two wholly suspended sentences, imposed in a case with two offenders. The case involved a failure to care properly for the elderly mother over the course of a single night, during which she died, following a long period of providing a high level of care. Despite the ‘gross negligence’ this entailed, the judge accepted that ‘the circumstances of this case are exceptional and that they do not give rise to a need for personal deterrence’ – while ‘a sentence of imprisonment for manslaughter would usually be appropriate, in this case an immediate custodial sentence is not the appropriate outcome’. A two-year term, wholly suspended, was ultimately imposed.²³² Apart from this case, the shortest term of imprisonment was four years with a non-parole period of three years, imposed on a person whose brother had asked him to join a confrontation with the deceased. Unbeknownst to the man sentenced, the brother had brought a knife and stabbed the victim, killing him.²³³

Of particular note is one case of a manslaughter conviction in circumstances of fatal child abuse. On 30 November 2023, Khaylan Shayne Butler (aged 10 months and 16 days) died due to ‘vigorous shaking’ by the then-partner of his mother. The offender was prosecuted under s156(2)(c) of the Criminal Code; death was caused by an ‘inherently dangerous’ unlawful act – an assault or assaults – that any reasonable person would have realised exposed the victim to an appreciable risk of serious injury. Porter AJ held that the objective

²²⁹ *Criminal Code 1924* (Tas) s 159.

²³⁰ In one case the defendant was found unfit to stand trial.

²³¹ *Tasmania v James Kenneth Austin* (Supreme Court of Tasmania, Brett J, 3 July 2025). In his sentencing remarks, His Honour noted: ‘In *Shield v Tasmania* [2017] TASCRA 6, I made the point that the assumption that cases of manslaughter based on death by culpable negligence are necessarily less serious than other forms of manslaughter is not justified and should not be accepted’.

²³² *Tasmania v Jassy Lois Anglin and Michael John Anglin* (Supreme Court of Tasmania, Tennent J, 13 April 2015).

²³³ *Tasmania v Luke Shaw, Paul Shaw, Patrick Dolbey* (Supreme Court of Tasmania, Brett J, 11 December 2025).

seriousness, or criminality, of the case was at 'a high level', with primary considerations being Khaylan's very young age and vulnerability, and that he had been entrusted to the offender's care.²³⁴

A sentence of six years' imprisonment with a non-parole period of three years was imposed. The offender's moral culpability was said to be reduced from the level of culpability that corresponds with the objective seriousness or criminality of the offence due to his long-term Attention Deficit Hyperactivity Disorder; his impaired functions rendered him less able to cope with a crying baby and he stated he just 'flipped'. But this only reduced his moral culpability a limited degree when compared to the seriousness of the violence inflicted; the judge determined that his moral culpability remained high.²³⁵

In other Australian jurisdictions, similar acts may be charged as murder rather than manslaughter. For example, in NSW a nine-week-old baby was shaken vigorously, causing a severe brain injury that caused his death a month later, with the offender deemed 'recklessly indifferent to the life of his son'.²³⁶ There had been a previous incident of the baby being shaken, with the child's mother warning the offender that shaking a baby could kill. In sentencing, the judge noted that '[t]he harm done by all murders can be concluded to be significant, recognised by the maximum penalty specified of life imprisonment. The harm done by the murder of a child is frequently even greater'.²³⁷ The victim's very young age and great vulnerability, the injuries inflicted, the breach of trust and the offender's failure to seek help were all noted as significant in assessing the gravity of the crime. Noting that specific deterrence was not needed and community protection not a significant consideration, general deterrence was held to be paramount: '[t]he message must be understood that violently dealing with young children is very dangerous conduct which will be sternly punished by the criminal courts'.²³⁸ The offender was sentenced to 18 years' imprisonment with a non-parole period of 12 years and six months.

Similarly, in Queensland such cases may be charged as murder. For example, in *Fisher* the offender was charged with the murder of his 11-month-old child, although he ultimately pleaded guilty to manslaughter with a circumstance of aggravation (as it was a domestic violence offence).²³⁹ He was sentenced to nine years' imprisonment; no order was made with respect to parole, so eligibility for parole was automatically set at half that term.²⁴⁰

²³⁴ *Tasmania v Daniel John Ridgers* (Supreme Court of Tasmania, Porter AJ, 27 February 2025).

²³⁵ *Ibid.*

²³⁶ *R v AS* [2023] NSWSC 1575, [10] (Wilson J).

²³⁷ *Ibid* [50] (Wilson J).

²³⁸ *Ibid* [10], [59] (Wilson J).

²³⁹ *R v Fisher* [2022] QSC 189.

²⁴⁰ *Ibid* [50] (Burns J).

Victorian charges of child homicide encompass the killing of any child under the age of six in circumstances that constitute manslaughter.²⁴¹ This includes instances where a child has been shaken to the extent that catastrophic head injuries are caused, leading to death. For example, in *McDonald* a 53-day-old child was subject to blunt force trauma to the head and spine and was violently shaken. After an initial charge of murder, the offender pleaded guilty to the charge of child homicide. The judge noted that, while the law regards all human life as sacrosanct, the 'life of an infant or a young child is especially precious, because children...are so vulnerable and defenceless'.²⁴² The key purposes for which the sentence was imposed – nine years' imprisonment with a minimum non-parole period of six years and eight months – were general and specific deterrence and denunciation.²⁴³ Had a guilty plea not been entered, the sentence would have been 11 years with a non-parole period of nine years.

2.5.1.7 *Manslaughter – New South Wales*

In NSW, the maximum penalty for manslaughter is 25 years' imprisonment and there is a standard non-parole period of 10 years. From July 2020 to June 2025, 129 people were sentenced for manslaughter, with all but four receiving a custodial sentence.²⁴⁴ Combining the 125 people sentenced to imprisonment for manslaughter during this period with 110 sentenced to imprisonment for driving causing death, the average sentence length was three years and eight months.²⁴⁵ As data on the duration of manslaughter prison terms on their own were not available – and terms for driving causing death may well be shorter than for manslaughter – these imprisonment length data should be treated with caution (and are therefore not included in the summary table below).

2.5.1.8 *Manslaughter – Queensland*

Data from Queensland, where the maximum penalty for manslaughter is life imprisonment, show that 90.8% (138 people) of the 152 cases of manslaughter sentenced in the five years to June 2025 received a term of imprisonment and a further nine cases received a partially suspended sentence, for a total of 96.7% of people being sentenced to spend time in custody. Five people received a wholly suspended sentence. The longest sentence of imprisonment was a term of between 20 and 21 years and the shortest were between five

²⁴¹ *Crimes Act 1958* (Vic) s 5A. The maximum penalty is now 25 years' imprisonment; at the time of the offence the maximum was 20 years' imprisonment.

²⁴² *DPP v McDonald* [2020] VSC 845, [28] (Kaye JA).

²⁴³ *Ibid* [52] (Kaye JA).

²⁴⁴ These four received a supervised or unsupervised community order. NSW Bureau of Crime Statistics and Research 'Courts and Sentencing' (Webpage, 2 March 2026).

²⁴⁵ Data just on the duration of manslaughter sentences are not available in the BOCSAR court statistics. *Ibid*.

and six years. The average imprisonment sentence (excluding the partially suspended sentences) was 9.4 years.²⁴⁶

2.5.1.9 Manslaughter – Victoria

The maximum penalty for manslaughter in Victoria is 25 years' imprisonment. All of the 87 manslaughter cases sentenced in the five years to 30 June 2024 received a custodial term, either in prison or a youth justice centre (six people). Among the 81 people sentenced to imprisonment in an adult facility, the shortest imprisonment length was three years and four months, the longest was 16 years and the median was eight years and six months.²⁴⁷

2.5.1.10 Manslaughter – Summary

Table 7 below presents a cross-jurisdictional comparison that summarises the data on sentencing outcomes for manslaughter.

Table 7: Cross-jurisdictional summary of sentencing outcomes for manslaughter

	Number of people sentenced to imprisonment (reference period)	Proportion of people sentenced to imprisonment	Imprisonment term duration	Number of life sentences
NSW	129 (July 2020 to June 2025)	96.9	np	n/a
QLD	152 (July 2020 to June 2025)	96.7*	Average: 9.4 years Range: 5-6 to 20-21 yrs	0
TAS	30 (2015-2025)	93.3	Median: 6 years Range: 4 to 13 years	n/a
VIC	87 (July 2019 to June 2024)	100	Median: 8.5 years Range: 3.3 to 16 years	n/a

np: Duration data on manslaughter alone are not available

* This includes 90.8% sentenced to imprisonment and 5.9% sentenced to a partially suspended sentence

2.5.2 Rape of an adult and sexual abuse of a child (persistent/penetrative)

Specific sex offences carry a maximum penalty of life imprisonment in five jurisdictions:

NSW, Queensland, the Northern Territory and South Australia,²⁴⁸ as well as the Commonwealth offence of sexual intercourse or other sexual activity with a child outside

²⁴⁶ The nine partially suspended sentences all received a term of between five and six years. Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Manslaughter' (Webpage, 2025).

²⁴⁷ Victorian Sentencing Advisory Council, 'Manslaughter – All sentences', *SACStat* (Webpage, 2025).

²⁴⁸ *Crimes Act 1900* (NSW) s 66A, 66EA; *Penalties and Sentences Act 1992* (Qld) s 161E, 215(3)-(4A), 216(3), 217A(3), 222, 229B(1)-(1A); *Criminal Code Act 1983* (NT) s 202B(3), 202C(3), 208H(1), 208HA, 208J, 208JA, 208JI (7); *Criminal Law Consolidation Act 1935* (SA) s 48, 49, 50(1), 66(1)-(2), 68.

Australia.²⁴⁹ Most commonly, these are offences involving child victims, although the life maximum is also applicable to sexual assault against adults in Queensland and the Northern Territory.²⁵⁰

Across all jurisdictions, sentencing judges consistently emphasise that the primary purposes of sentencing child sex offenders are denunciation and specific and general deterrence.²⁵¹ For example, in recognising the long term and severe impact of childhood sexual abuse, Tasmanian courts have emphasised the need to protect children and denounce such offending. As Wood J explained in *Director of Public Prosecutions v BRL*:²⁵²

This aspect of sentencing reinforces society's values and expectations of its members. Fundamental to those values of society is the protection of its children. The sentence should vindicate the outrage that informed members of the community have to cases involving child sexual abuse and reflect that in just and reasonable measure. The sentence must be just punishment for the gravity of the crimes committed, the appalling breach of trust, and the harm caused...Sentences which fail to reflect these considerations of general deterrence and vindication of society's values cause victims to feel justifiably betrayed and devalued, and create a sense of injustice in the community generally.

There is consistency in the types of factors considered when sentencing offenders for sex offences against children. For example, the Victorian Court of Appeal authoritatively observed that 'the absolute prohibition on sexual activity with a child is founded on a presumption of harm'.²⁵³ It set out the following factors a court will need to consider when sentencing an offender for child sex offences:²⁵⁴

- (a) the relative ages of the offender and the victim;
- (b) whether the offender was in a position of trust or authority with respect to the victim which facilitated the commission of the offence;
- (c) the situation of the victim, and the degree to which she/he was taken advantage of; and
- (d) what the evidence shows about harm already suffered or likely to be suffered.

In NSW, the trauma experienced by abused children is statutorily recognised as a mandatory sentencing consideration in child sex abuse cases.²⁵⁵ Additionally, the good

²⁴⁹ *Criminal Code Act 1995* (Cth) s 272.10.

²⁵⁰ *Criminal Code Act 1899* (QLD) s 349; *Criminal Code Act 1983* (NT) s 208H (1).

²⁵¹ *R v Whalley* [2022] NSWDC 662 [59] (Colefax DCJ) ('Whalley'); *R v Sorensen* [2024] QDCSR 355, 4 (Heaton J); *R v Singar* [2025] NTCCA 1 [31], [49] (Grant CJ, Kell and Blokland JJ); *Brooker v The King* [2024] SASCA 135, [88] (Livesey P, David JA and Bond AJA) ('Brooker'); *XBX v Western Australia* [2024] WASCA 43, [143] (Vandongen JA).

²⁵² *Director Public Prosecutions v BRL* [2023] TASCCA 8 [28] (Wood J).

²⁵³ *Clarkson v The Queen*; *EJA v The Queen* [2011] VSCA 157, [3] (Maxwell ACJ, Nettle, Neave, Redlich, and Harper JJA).

²⁵⁴ *Ibid* [42].

²⁵⁵ *Crimes (Sentencing Procedure) Act 1999* No 92 (NSW) s 25A(3).

character or lack of previous convictions of an offender cannot be taken into account as a mitigating factor where the factor assisted in the commission of the offences.²⁵⁶ In 2018, the NSW government increased the maximum penalty for persistent child sex abuse from 25 years' imprisonment to life imprisonment.²⁵⁷ Since then, courts have referred to the increase in the maximum penalty as a 'legislative guidepost'²⁵⁸ and a 'relevant yardstick'²⁵⁹ noting that comparative sentences involving the superseded maximum penalty are of limited relevance.²⁶⁰

In *R v Whalley*,²⁶¹ after listing the general sentencing considerations, Colefax SC DCJ said '[f]or offences against children, the predominant sentencing consideration is general deterrence. Offending against children requires condign and severe punishment'.²⁶²

Similarly, in *R v WP*,²⁶³ Fitzsimmons SC DCJ emphasised that adequate punishment and general and specific deterrence are relevant sentencing factors:²⁶⁴

Having regard to the remaining purposes of sentencing provided in s 3A of the CSPA it is important that the sentence reflects the offender being adequately punished, and that the offender is made accountable for his actions. As previously observed, general and specific deterrence remain very relevant factors in determining an appropriate sentence, as does protecting the community from the offender.

Sex offenders in NSW can be supervised post-release via the Child Sex Offenders Register and the *Crimes (High Risk Offenders) Act 2006* (NSW), which provides for the extended supervision and continuing detention of high-risk sex offenders and high-risk violent offenders.²⁶⁵

In Queensland, denunciation and general deterrence also took precedence among other sentencing objectives for cases of persistent child sex offences.²⁶⁶ In *R v Dries*,²⁶⁷ their honours noted that general deterrence was a significant factor even where the offender could not be specifically deterred.²⁶⁸

²⁵⁶ *Crimes (Sentencing Procedure) Act 1999* No 92 (NSW) s 21A(5A).

²⁵⁷ *Criminal Legislation Amendment (Child Sexual Abuse) Act 2018* No 33 (NSW) s 66EA.

²⁵⁸ *R v DM* [2019] NSWDC 653, [40] (Buscombe DCJ) ('*R v DM*').

²⁵⁹ *Towse v The Queen* [2022] NSWCCA 252 [64] (McNaughton J).

²⁶⁰ *Ibid.*

²⁶¹ *Whalley* (n 251).

²⁶² *Ibid* [59]; *R v DM* (n 258) [39].

²⁶³ *R v WP* [2024] NSWDC 544.

²⁶⁴ *Ibid* [88] (Fitzsimmons DCJ).

²⁶⁵ *Crimes (High Risk Offenders) Act 2006* No 7 (NSW) s 3.

²⁶⁶ *R v Murray* [2025] QSCSR 207; *R v Sorensen* [2024] QDCSR 355.

²⁶⁷ *R v Dries* [2024] QDCSR 973.

²⁶⁸ *Ibid* 4.

Heaton J emphasised the importance of general deterrence in *R v JHF*:²⁶⁹

The cases make it very clear that general deterrence is an important consideration in sentencing for this type of offence. I must have regard as well in sentencing you, to the need to protect victims such as those from your offending from the potentially devastating consequences of offending such as this by the imposition of a penalty, which has a significant deterrent effect.... As I said, I must have regard to the need not only to deter you, but others who think that it is okay to behave in this deplorable way and offend in such a serious way against young children.

The *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) provides for the continued detention in custody or supervised release of sex offenders who present a serious danger to the community. The *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld) also provides for post-release supervision of child sex offenders.

In South Australia, the protection of the community has been described as the ‘paramount consideration’²⁷⁰ when sentencing child sex offenders. With ‘[s]econdary purposes’²⁷¹ including ‘ensuring punishment, to publicly denounce and deter offending, and to recognise the harm done to the victim and the community’.²⁷² Similarly to NSW, the good character or lack of previous convictions of an offender cannot be taken into account as a mitigating factor where the factor assisted in the commission a child sexual offence.²⁷³

In *R v D*,²⁷⁴ the South Australia Supreme Court authoritatively set the starting points for head sentences for unlawful sexual intercourse with children that have been used by South Australian courts over the past 25 years.²⁷⁵ Unlawful sexual intercourse with children under the age of 12 involving multiple offences over a period of time attracts a starting point of 12 years, subject to reduction for a guilty plea or police cooperation.²⁷⁶ Where a child is under the age of ten, the starting point is ten years’ imprisonment.²⁷⁷

In *R v Beaumont*,²⁷⁸ the majority elaborated on what is meant by protection of the community, explaining that the successful rehabilitation of the offender is also relevant to this consideration:²⁷⁹

²⁶⁹ *R v JHF* [2025] QDCSR 869, 5 (Heaton J).

²⁷⁰ *R v Beaumont* [2023] SASCA 128, [51]–[53] (Livesey P, Lovell and Bleby JJA) (*‘Beaumont’*).

²⁷¹ *Ibid.*

²⁷² *Ibid.*

²⁷³ *Sentencing Act 2017* (SA) s 11(4).

²⁷⁴ *R v D* (1997) 69 SASR 413 (*‘R v D’*).

²⁷⁵ *Ibid* 13 (Doyle CJ); *Beaumont* (n 270) [47] (Livesey P, Lovell and Bleby JJA); *R v MJJ, R v CJN* (2013) 117 SASR 81, [84] (Kourakis CJ, Vanstone J agreeing).

²⁷⁶ *R v D* (n 274) 13 (Doyle CJ).

²⁷⁷ *Ibid.*

²⁷⁸ *Beaumont* (n 270).

²⁷⁹ *Ibid* [51]–[53] (Livesey P, Lovell and Bleby JJA).

Some time ago it was said that ‘every court sentence should primarily be surveyed in the light of one test: is that the best thing to do in the interest of the community? — always remembering, of course, that the convicted person, despite his wrongdoing, remains a member of the community’. The protection of the safety of the community can however also be served by rehabilitation and the imposition of a sentence which, whilst operating as a deterrent to others, recognises the need to properly reflect on a defendant’s capacity to make a worthwhile contribution to the community of which the defendant remains a member.

Their Honours went on to address the role of community concern about crime in sentencing:²⁸⁰

But public concern about crime, however understandable and soundly based, must never be allowed to bring about departure by the Courts from those fundamental concepts of justice and mercy which should animate the criminal tribunals of civilized nations.

Simultaneously, when assessing appeals in relation to manifest inadequacy or excess, the South Australian Court of Appeal has been concerned not to set sentences ‘so low as to undermine public confidence in the administration of justice’.²⁸¹ In *Brooker*,²⁸² their Honours spoke of the role of appeal courts to ensure that sentences recognise the interests of victims and acknowledge that the ‘prevailing standards of punishment reflect a hardening in community attitudes and increased maximum penalties’ for child sex offending.²⁸³

The *Criminal Law (High Risk Offenders) Act 2015* (SA) provides for the making of extended supervision and continuing detention orders in relation to certain serious offenders. The South Australian government introduced amendments in 2025 that allow for offenders found guilty of a second serious child sex offence to be detained indefinitely unless the offender can prove they are not at risk of reoffending.²⁸⁴

In the Northern Territory, when sentencing an offender for an offence against a child, the court must disregard the good character of the offender where their good character assisted in their committing the offence.²⁸⁵ Under the *Child Protection (Offender Reporting and Registration) Act 2005* (NT) convicted sex offenders may be subject to ongoing reporting obligations post-release, and serious sex offenders may be subject to ongoing detention or supervision post-release under the *Serious Sex Offenders Act 2013* (NT).²⁸⁶

²⁸⁰ *Beaumont* (n 270) [53] (Livesey P, Lovell and Bleby JJA), citing *Yardley v Betts* (1979) 22 SASR 108, 112–113 (King CJ, Mitchell and Legoe JJ agreeing).

²⁸¹ *R v Berry* [2024] SASCA 413, [86] (Doyle, Bleby JJA and Hall AJA); *Mead v The King* [2025] SASCA 3, [109] (Doyle SJ, Bleby JJA and Doyle AJA).

²⁸² *Brooker* (n 251).

²⁸³ *Ibid* [5] (Livesey, David JA and Bond AJA).

²⁸⁴ *Sentencing (Serious Child Sex Offenders) Amendment Act 2024 (No 37 Of 2024)* (SA).

²⁸⁵ *Sentencing Act 1995* (NT) s 5(3A).

²⁸⁶ *Serious Sex Offenders Act 2013* (NT).

As with community perceptions of serious sex offences against children, judges around Australia also recognise children's vulnerability and the potentially severe and chronic nature of the harm caused by these offences. For judges too, denunciation, punishment and general deterrence are the focus of sentencing sexual violence against children.

This section examines sentencing outcomes for those sexual offences which are comparable with offences in Tasmania and for which data are accessible: rape, persistent sexual abuse of a child/young person and penetrative sexual abuse of a child/young person. When sentencing sex offences in Tasmania, judges must take into account the following nine aggravating factors:²⁸⁷

- (a) the victim being under the care, supervision or authority of the offender;
- (b) the victim being a person with a disability;
- (c) the victim being under the age of 13 years;
- (d) the offender committing the offence in whole or in part in the presence of any other person or persons, besides the victim;
- (da) the victim being under the age of 18 years and the offender being a person in a position of authority in relation to the victim (regardless of whether the offence is under section 124A of the *Criminal Code*, or any other section of the *Criminal Code*);
- (e) the offender subjecting the victim to violence or the threat of violence;
- (f) the offender supplying the victim with alcohol or drugs with the intention of facilitating the commission of the offence;
- (g) the offender making forced or uninvited entry into the victim's home or other premises;
- (h) the offender doing, in the course of committing the sexual offence, an act likely to seriously and substantially degrade or humiliate the victim;
- (i) the offender causing any other person or persons to carry out an act referred to in paragraph (e), (f), (g) or (h) of this definition.

Further, the court must not take into account the offender's good character or lack of prior convictions if these facilitated the offending,²⁸⁸ and alleged consent or acquiescence is not to be taken as a mitigating factor.²⁸⁹

2.5.2.1 Rape – Tasmania

While this section focuses on recent sentencing outcomes, other analysis of sentencing outcomes for rape in Tasmania suggests that sentences have become more severe over the

²⁸⁷ *Sentencing Act 1997* (Tas) s 11A(1).

²⁸⁸ *Sentencing Act 1997* (Tas) s 11A(2)(b).

²⁸⁹ *Sentencing Act 1997* (Tas) s 11A(3)(a).

past 25 years, with greater use of imprisonment and longer global sentences being imposed, particularly in the period from 2015.²⁹⁰

Since 2020 there have been 62 people sentenced for rape²⁹¹ in Tasmania,²⁹² with a median sentence of four years' imprisonment and a median non-parole period of just over two years.²⁹³ The longest global sentence imposed was 40 years with a 20-year non-parole period and registration on the Community Protection Register for life. In this case,²⁹⁴ the offender pleaded guilty to 77 counts of rape and other serious sex offences against his biological nephew, dozens of which he filmed, committed over a five-year period when the boy was between nine and 14 years of age. At sentence, the judge classified the offending as the worst case of child sexual abuse he had seen.²⁹⁵ In imposing a global sentence, the judge first had to identify the sentence that would have been imposed for each individual offence. Across 78 counts,²⁹⁶ the total came to 223 and a half years. In setting out the facts of each individual offence in its entirety, Estcourt J explained: 'I have done so because those facts must be indelibly apparent, in their horrifying omnitude, on the Court's sentencing database, so that they can be recognised in future years as marking, what in my experience, is the worst case of child sexual abuse this Court has seen to date'.²⁹⁷

The longest single sentence imposed for rape was six years with a three-year non-parole period and registration on the Community Protection Register for five years for the 'callous and brutal' rape of a 13-year-old girl who was staying at the offender's home.²⁹⁸ The sentencing judge found that 'the circumstances of this crime and its seriousness are such as to subjugate the defendant's deprived background to principles of deterrence and denunciation and militate against modification of sentence on the basis of the *Bugmy* principle'.²⁹⁹ Estcourt J further stated: '[r]ape is always a grave crime, and this is an atrocious example of it. It calls for a sentence which reflects a high level of punishment, denunciation and retribution, provides the victim with appropriate vindication, protects the public and

²⁹⁰ TSAC 2015 (n 26) 19; Kate Warner and David Porter, *Sentencing in Tasmania* (The Federation Press, 3rd ed, forthcoming 2026) ('Warner and Porter').

²⁹¹ Five of these were also sentenced for persistent or penetrative sexual abuse of a child. These cases received some of the longer sentences imposed during this period.

²⁹² This figure does not include three people sentenced for attempted rape.

²⁹³ Four of the longest sentences for rape have been imposed since 2023: *MJR* (40 years), *KBR* (21 years; also found guilty of multiple counts of persistent sexual abuse of a child), *DMB* (18.5 years; also found guilty of multiple counts of persistent family violence) and *JED* (18 years; also found guilty of multiple counts of persistent sexual abuse of a child).

²⁹⁴ *Tasmania v MJR* (Supreme Court of Tasmania, Estcourt J, 5 December 2025) ('*MJR 5/12/2025*').

²⁹⁵ *Ibid* [36].

²⁹⁶ The offender was also convicted of several summary offences for a total of 81 counts.

²⁹⁷ *MJR 5/12/2025* (n 294) [36].

²⁹⁸ *Tasmania v RPP* (Supreme Court of Tasmania, Estcourt J, 26 February 2021) 1.

²⁹⁹ *Ibid* 2.

marks the proper feelings of outrage which the commission of such an atrocity would raise in the minds of the community'.³⁰⁰

Non-custodial penalties for rape are exceedingly rare, with three terms of imprisonment wholly suspended and four orders for home detention. The home detention orders were imposed for offences such as the 'isolated and impulsive' digital penetration of his sleeping girlfriend by a 17-year-old;³⁰¹ three involved digital penetration and the fourth involved a penile/vaginal and digital rape committed by a 15-year-old offender.³⁰² The wholly suspended sentences were imposed on people with significantly diminished culpability: one offence was committed by a 77-year-old with dementia,³⁰³ another by a 19-year-old with severe autism,³⁰⁴ and the third by a 16-year-old with autism who was sentenced under the *Youth Justice Act 1997* (Tas).³⁰⁵

2.5.2.2 Rape – New South Wales

From July 2020 to June 2025 in all NSW courts, 685 defendants were convicted of unlawful sexual penetration of an adult. Of these, 620 people (90.5%) were sentenced to an immediate custodial term (imprisonment or a juvenile control order). In the District Court, the average term for sexual assault or sexual touching of an adult was 33.5 months during this period.³⁰⁶

2.5.2.3 Rape – Queensland

From 1 July 2020 to 30 June 2025 there were 698 cases in Queensland sentenced for rape, with 38.7% charged as a domestic violence offence. Imprisonment accounted for 449 of these (64.3%), with an average sentence length of 6.5 years. There were also 206 partially suspended sentences (29.5% of cases), for a total of 93.8% of cases leading to immediate incarceration. While the maximum penalty for rape is life imprisonment,³⁰⁷ no life sentences were imposed.³⁰⁸

³⁰⁰ *Tasmania v RPP* (Supreme Court of Tasmania, Estcourt J, 26 February 2021) 2.

³⁰¹ *Tasmania v IWM* (Supreme Court of Tasmania, Shanahan J, 19 June 2025).

³⁰² *Tasmania v JAPL* (Supreme Court of Tasmania, Pearce J, 16 October 2024).

³⁰³ *Tasmania v KCW* (Supreme Court of Tasmania, Geason J, 1 September 2023).

³⁰⁴ *Tasmania v HJS* (Supreme Court of Tasmania, Blow CJ, 6 March 2023).

³⁰⁵ *Tasmania v LM* (Supreme Court of Tasmania, Jago J, 18 March 2022); the judge, however, had no evidence as to the effect of the autism on the offender's behaviour and therefore culpability.

³⁰⁶ Unlike sentence type data, which are available separately for both 'unlawful sexual penetration' and 'unlawful sexual contact', BOCSAR data do not disaggregate custodial term duration into its constituent components. NSW Bureau of Crime Statistics and Research 'Courts and Sentencing' (Webpage, 2 March 2026). These data are therefore not included in the summary table.

³⁰⁷ *Criminal Code Act 1899* (Qld) s 349.

³⁰⁸ Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Rape (Webpage, 2025).

2.5.2.4 Rape – Victoria

From 1 July 2019 to 30 June 2024 there were 252 cases of rape sentenced in the Victorian higher courts. Of these, 234 (92.9%) were sentenced to a term of imprisonment with no community correction order, six received a sentence of imprisonment plus a community correction order (2.4%), and eight people were sentenced to custody in a youth justice centre (3.2%). Only three cases (1.2%) were sentenced to a community correction order on its own.

For those cases of imprisonment only (234 cases) and imprisonment combined with a community correction order (six cases), the shortest imprisonment length was 0.11 years, the longest was 29 years and the median was seven years. For the 429 individual charges of rape that received a term of imprisonment (96.6% of all rape charges), the shortest was 0.2 years, the longest 15 years and the median six years and three months.³⁰⁹

2.5.2.5 Rape – Summary

Table 8 below presents a cross-jurisdictional comparison that summarises the data on sentencing outcomes for rape. Notwithstanding the caveats around the comparability of sentencing data due to, *inter alia*, lack of uniformity in criminal laws across Australia and differences in offence definitions, the table shows that sentencing outcomes for rape in Tasmania are less harsh than for the other jurisdictions presented. This does not mean that sentencing for rape in Tasmania is incorrect, or ‘out of step’; it means that there are jurisdictional differences in the sentences imposed, which should be viewed in the context of each jurisdiction’s approach to sentencing.³¹⁰

³⁰⁹ Victorian Sentencing Advisory Council, ‘Rape – All sentences’, *SACStat* (Webpage, 2025).

³¹⁰ TSAC 2015 (n 26) 80. See further Arie Freiberg, Hugh Donnelly and Karen Gelb, *Sentencing for Child Sexual Abuse in Institutional Contexts* (Report for the Royal Commission into Institutional Responses to Child Sexual Abuse, 2015) 106.

Table 8: Cross-jurisdictional summary of sentencing outcomes for rape

	Number of people sentenced for rape (reference period)	Proportion of people sentenced to imprisonment	Imprisonment term duration	Number of life sentences
NSW	685 (July 2020 to June 2025)	90.5	-	n/a
QLD	698 (July 2020 to June 2025)	93.8	Average: 6.5 years Range: <1 to 12-13 years	0
TAS	62 (2020-2025)	88.7	Median: 4 years Range: 18 months to 40 years (global) / 15 months to 6 years (single)	n/a
VIC	252 (July 2019 to June 2024)	98.5	Median: 7 years Range: 0.11 to 29 years (case) / 0.02 to 15 years (charge)	n/a

2.5.2.6 Persistent sexual abuse of a child or young person – Tasmania

This crime was introduced into s 125A of the Criminal Code with effect from 25 November 1994 as the crime of ‘maintaining a sexual relationship with a young person’. It was renamed in 2020 to ‘persistent sexual abuse of a child or young person’ in response to the concerns that the phrase ‘sexual relationship’ understated the seriousness of the crime and implied a level of consent.³¹¹ The crime is committed if a person commits an unlawful sexual act with a child or young person on at least three occasions when the young person was under the age of 17 years and was not married to the accused. The indictment must specify the period during which it is alleged that the persistent sexual abuse was maintained, but it is not necessary to prove the dates on which any of the persistent sexual abuse was committed or the exact circumstances in which it was committed. In trials by jury, it is not necessary for each member of the jury to be satisfied that the unlawful sexual acts were committed on the same three occasions. This dispenses with the requirement of extended unanimity mandated by the High Court.

The purpose of the creation of the crime in 1994 was to address difficulties of proving the particulars of each offence in cases of child sexual abuse where multiple offences are alleged. In such a situation it is difficult for a victim to remember and particularise specific

³¹¹ In addition to terminology changes, and in response to the recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse, in 2019 s 11A(3) of the *Sentencing Act 1997* was inserted requiring the court to take into account sentencing practices at the time of sentencing rather than at the time of offending in the case of historical child sexual offences. *Criminal Code and Related Legislation Amendment (Child Abuse) Act 2019* (commenced 2 October 2019).

acts to enable the prosecutor to draw charges with the degree of particularity required by law. As Brett J clarified:³¹²

The point that his Honour is making, in my respectful view, is that given that the charge is intended to capture the overall criminality inherent in a course of conduct, the correct comparison is not with identified acts said to be representative of the offending, but rather with the offending taken as a whole. His Honour is explaining the reality that, because much of the criminality cannot be particularised except in a vague and general way, the sentence must concentrate on what can be identified, but also taking account of the fact that the identified acts occur in the context of a course of ongoing criminality.

As with rape, another analysis of Tasmanian sentencing outcomes for persistent sexual abuse of a child or young person suggests that sentences for this offence have increased ‘dramatically’ since 2001: median sentences have doubled and the longest single and global sentences imposed have increased ‘very significantly’.³¹³ The increase in the severity of sentences for this offence has been identified, to some extent, as an ‘inevitable consequence and a reflection of the greater community understanding of the long-term effects of child sexual abuse’ following the Royal Commission into Institutional Responses to Child Sexual Abuse.³¹⁴

In the period from 2020-2025, 84 people were sentenced for persistent sexual abuse of a child.³¹⁵ Two sentences of home detention were imposed (2.4% of sentences) – one involving the offender masturbating in view of a child aged 14-15 years, the other involving conduct engaged in by a 34-year-old teacher in respect of a 16-year-old young person over a period lasting five months. There were five wholly suspended sentences (6.0% of sentences). These involved, for example, an autistic 14/15-year-old sexually assaulting his 13-year-old sister on about 10 occasions over two years,³¹⁶ and other cases where the offender was only just more than five years older than the victim or was in a mutually affectionate relationship but with a seven-year age disparity.³¹⁷ Imprisonment sentences were imposed for the remainder of the cases (92.9% of sentences).

The longest sentences typically involved multiple victims or numerous occasions of offending, including rape. The longest was a global sentence of 25 years’ imprisonment, imposed for offending that lasted for more than seven years against five young children,

³¹² *JWM v Tasmania* [2017] TASCRA 22, [128] (Brett J).

³¹³ Warner and Porter (n 290).

³¹⁴ *Director of Public Prosecutions v Harington* [2017] TASCRA 4, [23] (Pearce J).

³¹⁵ In 2025, one person was found unfit to stand trial; this case is excluded from the analysis.

³¹⁶ *Tasmania v DKE* (Supreme Court of Tasmania, Wood J, 21 January 2021) DKE was sentenced under the *Youth Justice Act 1997* (Tas). Similar mitigating circumstances were found in *Tasmania v AWM* (Supreme Court of Tasmania, Pearce J, 16 October 2020).

³¹⁷ *Tasmania v Gall-Strauss* (Supreme Court of Tasmania, Brett J, 3 June 2025).

including the offender's own three sons and daughters and two daughters of two different partners. In the case of the four female victims, the abuse began when they were just four or five years old, and included directing them to perform sexual acts with his partner. He received a non-parole period of 16 years and was placed under a Community Protection Order for life, with the judge stating:³¹⁸

This is as grave a set of crimes against children as may come before a court. There is a very strong need to punish you, denounce your actions and protect the community, in particular other children, from you. The sentence must make clear to you and others that those who commit sexual abuse against children can expect harsh punishment, with the aim, as far as a sentencing court can achieve, of protecting children by deterring such abuse.

The median sentence imposed for persistent sexual abuse during this period was six years, and the median non-parole period was four years. The vast majority (all but 12 – 85.7%) were placed on the community protection register for extended periods; nine people for life. Fixed-term reporting periods ranged from two years to 30 years.

2.5.2.7 Persistent sexual abuse – New South Wales

The NSW offence of maintaining an unlawful sexual relationship with a child s 66EA is subject to a maximum penalty of life imprisonment. From 2021 to 2025, 16 people were sentenced for maintaining an unlawful sexual relationship with a child under s 66EA of the *Crimes Act 1900* (NSW).³¹⁹ All received a term of imprisonment. Sentences ranged from three years and six months for two counts of non-penetrative offences against an offender's young cousins some 20 years prior,³²⁰ to an aggregate sentence of 28 years. One of these cases was sentenced to a non-parole period of 20 years for offending against six separate children, for which it was said, '[w]eight must be afforded to the need for the sentence to deter others, and to denounce crimes that the broader community regards as aberrant and abhorrent'.³²¹ The other case that received an aggregate sentence of 28 years had a non-

³¹⁸ *Tasmania v NLR* (Supreme Court of Tasmania, Pearce J, 11 May 2023): There had been a not guilty plea and the offender had a prior conviction for a sexual offence. There were said to be no mitigating factors. Three of the s 125A offences each warranted a sentence of no less than 12 years' imprisonment, with the consequences described as emotional, psychological, sexual, behavioural and cognitive, and likely lifelong. The sentence is currently subject to appeal. See also *Tasmania v KBR* (Supreme Court of Tasmania, Jago J, 30 October 2023), involving six victims, two of whom were the offender's biological children and four of whom were grandchildren or step-grandchildren. In this case, the offender was found guilty of two counts of persistent sexual abuse of a child and four counts of rape, among other sexual offences, committed over a period of 23 years. He was sentenced to 21 years' imprisonment with a non-parole period of 13 years and registration under a Community Protection Order for life.

³¹⁹ The Public Defenders (NSW) 'Maintain unlawful sexual relationship' [November 2025].

³²⁰ *R v LPCM* [2025] NSWCCA 78.

³²¹ *WP v The King* [2024] NSWCCA 77 [125]. The case involved offending over an 18-year period against his own children and step-children plus physical abuse, confinement and denial of food.

parole period of 21 years for offending against the three sons of the offender's intimate partner, including via use of force.³²²

2.5.2.8 Persistent sexual abuse – Queensland

There were 410 cases of repeated sexual conduct with a child sentenced from July 2020 to June 2025,³²³ almost half of which (49.5%) were charged as a domestic violence offence. The 313 imprisonment sentences accounted for 76.3% of all sentences imposed, and had an average duration of 8.5 years. There were also 87 partially suspended sentences imposed, accounting for 21.2% of all sentences, with an average length of 3.9 years. Nine life sentences were imposed, resulting in 99.8% of all sentences for this offence being sentenced to immediate incarceration.³²⁴

2.5.2.9 Persistent sexual abuse – Victoria

From 1 July 2019 to 30 June 2024 there were 14 cases (22 charges) of persistent sexual abuse of a child aged under 16 sentenced in the Victorian higher courts. All received a sentence of imprisonment.³²⁵

Among the 14 cases, the shortest imprisonment length was two years, the longest was 16 years and the median was 11.25 years. For the 22 charges that received a term of imprisonment, the shortest sentence was two years, the longest 13 years and the median eight years.³²⁶

2.5.2.10 Persistent sexual abuse – Summary

Table 9 below presents a cross-jurisdictional comparison that summarises the data on sentencing outcomes for persistent sexual abuse of a child or young person.

³²² *MK v The King* [2024] NSWCCA 127.

³²³ *Criminal Code Act 1899* (Qld) s 229B.

³²⁴ Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Repeated sexual conduct with a child' (Webpage, 2025).

³²⁵ The maximum penalty for this offence is 25 years' imprisonment.

³²⁶ Victorian Sentencing Advisory Council, 'Persistent sexual abuse of a child under 16 – All sentences', *SACStat* (Webpage, 2025).

Table 9: Cross-jurisdictional summary of sentencing outcomes for persistent sexual abuse

	Number of people sentenced for persistent CSA (reference period)	Proportion of people sentenced to imprisonment	Imprisonment term duration	Number of life sentences
NSW	16 (2021 to 2025)	100	Range: 3.5 to 28 years	0
QLD	410 (July 2020 to June 2025)	99.8	Average: 8.5 years Range: 2-3 years to life	9
TAS	84 (2020-2025)	92.9	Median: 6 years Range: 15 months to 25 years	n/a
VIC	14 (July 2019 to June 2024)	100	Median: 11.25 years Range: 2 to 16 years	n/a

2.5.2.11 Penetrative sexual abuse of a child or young person – Tasmania

At the same time as the offence of persistent sexual abuse of a child or young person was introduced, ‘sexual intercourse with a young person’ (s 124) became ‘penetrative sexual abuse of a child or young person’.³²⁷

From 2020 to 2025 32 people were sentenced for penetrative sexual abuse of a child/young person or sexual intercourse with a person under 17 in Tasmania.³²⁸ Many of these offences were committed in the context of an intimate consensual relationship. Court outcomes ranged from adjourned proceedings requiring the 18-year-old offender to be of good behaviour for two years following a single instance of consensual sexual intercourse with a 14-year old,³²⁹ to a six-year term for the year-long sexual abuse of the offender’s 14-year-old step-daughter.³³⁰ In addition to the adjourned case, 15 received an immediate custodial term (46.9% of people sentenced), 13 imprisonment terms were wholly suspended (40.6%), two people were placed on a home detention order (6.3%) and one received both a home detention order and a wholly suspended sentence (3.1%).

³²⁷ *Criminal Code Amendment (Sexual Abuse Terminology) Act 2020* (Tas).

³²⁸ Consent is only a defence to s 124 where the young person was aged 15 or above and the accused was no more than five years older, or the young person was 12 or above and the accused was no more than three years older.

³²⁹ *Tasmania v JLK* (Supreme Court of Tasmania, Pearce J, 30 November 2020).

³³⁰ *Tasmania v TP* (Supreme Court of Tasmania, Jago J, 18 March 2025).

For the 15 imprisonment terms, the median sentence was two years; for the 10 of these sentences where a non-parole period was identified, the median was 15 months. The longest sentences were imposed for offences characterised by multiple victims, a breach of trust or the young age of the child.

2.5.2.12 Penetrative sexual abuse of a child or young person – New South Wales

Analogous offences in NSW would be those found under s 66 of the *Crimes Act 1900* (NSW). There are several offences that involve sexual intercourse with a child or young person: sexual intercourse with a child under 10 (s 66A), which attracts a maximum penalty of life imprisonment and a standard non-parole period of 15 years; attempting or assaulting with intent to have sexual intercourse with a child under 10 (s 66B), which both attract a maximum penalty of 25 years' imprisonment and a standard non-parole period of 10 years; and four separate offences of sexual intercourse – child between 10 and 16 (s 66C), which attract varying maximum penalties and standard non-parole periods depending on the age of the child (10 to 14 versus 14 to 16) and circumstances of aggravation.³³¹

From July 2020 to June 2025, 1,229 people were convicted in all court jurisdictions of these various forms of unlawful sexual penetration of a child, with 1,011 (82.3%) sentenced to a custodial term (immediate imprisonment or custody in a juvenile facility).³³²

When considering only sexual intercourse with a child under 10 under s 66A of the *Crimes Act 1900*, which has a maximum penalty of life imprisonment and a standard non-parole period of 15 years, 20 people were sentenced for this specific offence from 2020 to October 2025.³³³ Sentences ranged from an 18-month Community Correction Order for a 'fleeting' offence by a grandfather against his 5-year-old grandson³³⁴ to 10 years' imprisonment for a case involving a s 66A charge on its own,³³⁵ and two cases sentenced to 30 years' imprisonment as an aggregate sentence: one for a case involving multiple very young victims and the filming of the sexual assaults,³³⁶ and another involving persistent offending against young daughters, including physical assaults and choking.³³⁷

³³¹ Judicial Commission of NSW 'Sentencing Bench Book: Sexual offences against children (NSW)' *Judicial Commission of New South Wales* (Webpage, 2025) [17-460] Sexual intercourse with a child offences: s 66A-66C *Crimes Act 1900* (NSW).

³³² NSW Bureau of Crime Statistics and Research 'Courts and Sentencing' (Webpage, 2 March 2026). The data do not specify the particular offence.

³³³ The Public Defenders (NSW), 'Sexual intercourse with a child under 10 years' (October 2025).

³³⁴ *RC v The Queen* [2020] NSWCCA 76; the offender was aged 74 at the time of sentencing.

³³⁵ *Cheung v the Queen* [2022] NSWCCA 168; the offender was aged 68 at the time of sentencing.

³³⁶ *Grange v The King* [2023] NSWCCA 6.

³³⁷ *RG v The King* [2025] NSWCCA 36; the Court of Appeal found the sentence at first instance – 48 years – to be manifestly excessive.

Under s 66C(1) of the *Crimes Act 1900* (NSW), which has a maximum penalty of 16 years' imprisonment and a standard non-parole period of seven years, seven people were sentenced from 2020 to March 2025 for sexual intercourse with a child between 10 and 14.³³⁸ The longest sentence imposed was an aggregate sentence of 20 years and 10 months for offences against two girls: one aged 11 to 15 years during the offending period and the other (the offender's daughter) aged eight to nine years old.³³⁹ The shortest was a four-year term with a two-year non-parole period for offences committed by a 19-year-old offender against a 12-year-old girl.³⁴⁰

Four people were sentenced from 2020 to October 2024 under s 66C(3) of the *Crimes Act 1900* (NSW) for sexual intercourse with a child between 14 and 16 years, which has a maximum penalty of 10 years.³⁴¹ The longest sentence was an aggregate term of eight years' imprisonment with a non-parole period of four years and nine months for offences against three victims aged 14 to 15 years,³⁴² while the least severe sentence was a two-year conditional release order following a guilty plea and dismissal of charges.³⁴³

2.5.2.13 Penetrative sexual abuse of a child or young person – Victoria

There are two main analogous offences in Victoria: sexual penetration of a child aged under 12 (*Crimes Act 1958* (Vic) s 49A(1) – maximum penalty 25 years) and sexual penetration of a child aged 12 to under 16 (*Crimes Act 1958* (Vic) s 49B(1) – maximum penalty 15 years).

Of the 27 people sentenced for offending against a child under 12, one person was sentenced to a combined imprisonment plus community correction order, with the rest sentenced to a term of immediate imprisonment. The shortest imprisonment duration was eight months, the longest was 16 years and eight months, and the median was nine years and eight months.³⁴⁴

Of the 134 people sentenced for sexual penetration of a child aged 12 to 16, 27 (20.1%) were sentenced to a community correction order. Of the remainder, 19 (14.2%) received a combined imprisonment plus community correction order and 83 (61.9%) were sentenced to immediate imprisonment. The shortest imprisonment duration was just over one month, the

³³⁸ The Public Defenders (NSW) 'Sexual intercourse with child between 10 and 14 years' (March 2025).

³³⁹ *DR v The Queen* [2022] NSWCCA 151. The indicative sentence for the s 66C(1) offence was 11 years and four months.

³⁴⁰ *Krojs v The Queen* [2022] NSWCCA 209.

³⁴¹ The Public Defenders (NSW) 'Sexual intercourse with child between 14 and 16 years' (October 2024).

³⁴² The sentence was reduced following a successful appeal: *Dorsett v The Queen* [2024] NSWCCA 192.

³⁴³ *R v AB* [2022] NSWCCA 3. Section 10 of the *Crimes (Sentencing Procedure) Act 1999* (NSW) allows the court to find a person guilty but dismiss the charge without recording a conviction.

³⁴⁴ Victorian Sentencing Advisory Council, 'Sexual Penetration of a child under 12 – All Sentences' *SACStat* (Webpage, 2025).

longest was 10 and a half years, and the median was three years and almost nine months.³⁴⁵

2.5.3 Persistent family violence

2.5.3.1 Persistent family violence – Tasmania

Persistent family violence was inserted into the Criminal Code in late 2018.³⁴⁶ It was designed to acknowledge that the incident-based nature of most criminal offences fails to take into account the patterns of power and control in family violence cases and the full impact of ongoing violence on its victims. The offence requires that the accused has committed an unlawful family violence act that constitutes a family violence offence in relation to a spouse or partner on at least three separate occasions. Prosecutions for persistent family violence require the written authority of the Director of Public Prosecutions to ensure that the offence is only used when there is serious criminal conduct.³⁴⁷

Persistent family violence is a 'reportable offence' under the *Community Protection Act 2005* (Tas), s 15: the court must make an order requiring registration under the Act unless satisfied the offender does not pose a risk of committing a further reportable offence in future.³⁴⁸ If warranted, a declaration must also be made that the offender is a serial family violence perpetrator.³⁴⁹

Porter AJ has articulated the unique nature of family violence that renders it of particular concern:³⁵⁰

All unlawful violence is unacceptable but family violence, as defined, within domestic relationships, is a particularly abhorrent issue of great community concern. It is often difficult to detect, frequently involves vulnerable victims, and is an insidious problem of large dimensions. The conduct involves significant breaches of trust.

Denunciation, deterrence, community protection and victim vindication have therefore been accepted as important considerations when sentencing people for family violence offences.³⁵¹ If the offender has prior convictions for family violence against previous partners, community protection becomes even more important.

³⁴⁵ Victorian Sentencing Advisory Council, 'Sexual Penetration of a child under 12 to 16' *SACStat* (Webpage, 2025).

³⁴⁶ Section 170A commenced in December 2018.

³⁴⁷ *Criminal Code 1924* (Tas) s 170A(8). Normally this would require at least three occasions of indictable offences, but the charge may be authorised where there are two occasions of serious indictable conduct alongside other serious or sustained summary offences.

³⁴⁸ *Community Protection (Offender Reporting) Act 2005* (Tas) s 6.

³⁴⁹ *Family Violence Act 2004* (Tas) s 29A.

³⁵⁰ *Tasmania v DMB* (Supreme Court of Tasmania, Porter AJ, 29 August 2023), 9 ('*DMB 29/08/2023*').

³⁵¹ *Munda v Western Australia* [2013] HCA 38, cited in *Lockwood v Tasmania* [2025] TASCRA 6, [11] (Jago J) ('*Lockwood*').

Relevant factors to consider in sentencing persistent family violence cases have been described as follows:³⁵²

... the number and nature of each unlawful family violence act, the duration of the course of unlawful conduct and the nature of the relationship generally, including the extent to which there was coercive control, the extent to which there was humiliating and degrading behaviour, and the extent to which there was exposure of children of the relationship to the violence or a real risk that such exposure might occur. It is well recognised that the exposure of children to family violence can have significant, often life-long, deleterious effects.

Sentences for persistent family violence involve imposing the same penalty as if the individual acts of family violence had been separately charged, but moderated by the principles of totality and proportionality 'to avoid crushing and disproportionate sentences resulting from simply arithmetical accumulation'.³⁵³

From 2020 to 2025, there were 27 people sentenced for offences of persistent family violence.

The longest global sentence – 18 years and six months with a non-parole period of 11 years – was imposed for two counts of persistent family violence alongside rape, assault and indecent assault relating to four separate women over the course of 11 years.³⁵⁴ The second longest global sentence was 18 years' imprisonment with a 12-year non-parole period for persistent family violence (comprising acts of violence on at least eight separate occasions) and attempted murder. The offender's controlling, abusive and aggressive behaviour escalated to the point where he set his partner alight, causing catastrophic burns to 68% of her body.³⁵⁵

Two-thirds of the cases involving persistent family violence sentenced from 2020 to 2025 (18 of the 27) involved a single count of the charge, with no other offences charged.³⁵⁶ The longest sentence among these cases – 17 years' imprisonment with a 10-year non-parole period – was imposed for 19 separate occasions of family violence committed over 14 years, including nine counts of rape.³⁵⁷ The shortest was an eight-month prison term, imposed after

³⁵² *Lockwood* (n 351) [15] (Jago J).

³⁵³ *DMB* 29/08/2023 (n 350) 9.

³⁵⁴ *Ibid.* Many of the occasions of violence took place while family violence protection orders were active. The offender was placed on the Community Protection Register for 15 years.

³⁵⁵ *Davey* 10/12/2021 (n 222). The offender was also sentenced to four years' imprisonment to be served cumulatively for trafficking in drugs and firearms and breaching a suspended sentence. For all these offences, the total sentence imposed was 22 years and three months, with a non-parole period of 14 years and three months.

³⁵⁶ In the absence of co-occurring offences, there is no way to secure a sentence above the 21-year maximum term.

³⁵⁷ *Tasmania v Lockwood* (Supreme Court of Tasmania, Blow CJ, 26 April 2023). He was also placed on the Community Protection Register for 15 years; *Lockwood* (n 351).

a home detention order was cancelled.³⁵⁸ The median of sentences for a single count of persistent family violence was five years, and the median non-parole period was three years.

2.5.3.2 Persistent family violence – Western Australia

WA is the only other jurisdiction in Australia with an offence of persistent family violence. Introduced in July 2020 under the *Family Violence Legislation Reform Act 2020* (WA), s 300 of the Criminal Code defines persistent family violence as taking place on three or more occasions, each of which is on a different day over a period not exceeding 10 years. The charge must specify the period during which the alleged violence was committed, but the dates need not be specified. The maximum penalty is 14 years' imprisonment. In addition to this charge, an accused may be charged with a 'prescribed offence' as an alternative should the persistent family violence charge be unsuccessful.³⁵⁹

Sentencing tables prepared by the Office of the Director of Public Prosecutions list just two cases of persistent family violence, although there are likely to have been more. The first involved a total effective sentence of seven years' imprisonment, including a term of two years and six months for the persistent family violence count (relating to six incidents over a period of five years, some of which involved a weapon), to be served partly cumulatively and partly concurrently with sentences for six other counts relating to specific instances of violence.³⁶⁰ The sentencing judge found that personal deterrence was required in this case. In 2024 a single count of persistent family violence that had at first instance received a sentence of two years and three months' imprisonment was subject to a successful appeal: the need for general and specific deterrence in domestic violence sentencing was noted and a term of five years and eight months was instead imposed.³⁶¹

2.5.4 Drug offences

Serious drug offences carry a maximum penalty of life imprisonment in NSW, the ACT, South Australia, Victoria, Queensland, Western Australia and the Northern Territory and in the *Criminal Code Act 1995* (Cth). Courts in these jurisdictions consistently identified general and specific deterrence, denunciation, adequate punishment, and protection of the community as the primary purposes of sentencing serious drug offenders.³⁶² Sentencing

³⁵⁸ *Tasmania v JSS* (Supreme Court of Tasmania, Pearce J, 7 December 2021).

³⁵⁹ The 'acts of family violence' that are required for a person to have persistently engaged in family violence are those acts which would otherwise constitute a 'prescribed offence'.

³⁶⁰ *Wilson v Western Australia* [2025] WASCA 8.

³⁶¹ *Western Australia v Winch* [2024] WASCA 79. The offender had repeatedly assaulted and threatened his wife with various weapons over an eight-year period during which violence restraining orders were repeatedly breached. The Court of Appeal noted the gross breach of trust involved, with the nature of the violence designed to make the victim terrified of the potential consequences of attempting to leave the relationship.

³⁶² *R v Sikais* [2024] NSWDC 80, [11] (Newlinds DCJ) ('*Sikais*'); *R v Care*; *R v Al-Khateib* [2020] NSWDC 856, [82] (Bennett DCJ); *R v Omari* [2022] ACTCA 4, [96] (Elkaim ACJ, Mossop and Banks-Smith JJ); *R v Yavuz*

judges frequently spoke of the harmful impacts of drugs of dependence on communities and explained that lengthy sentences for serious drug offences aim to ‘signal to would-be drug offenders’ that the potential financial rewards to be gained from such activities are neutralised by the risk of severe punishment.³⁶³ For example, in *R v Sikais*,³⁶⁴ where the offender was charged for commonwealth drug offences, Newlinds SC DCJ stated:³⁶⁵

General deterrence and denunciation are important considerations in sentencing for drug supply and importation offences. Such considerations will generally outweigh subjective circumstances, particularly in the determination of the total sentence, and condign punishment will be warranted in almost every case.

In Western Australia, ‘matters personal to an offender will almost always be subsidiary considerations (that is, the offender’s personal circumstances and antecedents will ordinarily ‘play a secondary role in the sentencing process’).³⁶⁶ This is similarly the case in Victoria, where the prior good character of serious drug offenders is to be given less weight in sentencing than for other types of offenders.³⁶⁷

The objective seriousness of drug offences is assessed against a number of factors, including the weight of the drugs, the nature and extent of the offender’s participation in drug manufacturing or trafficking within a particular organisation, whether the offending was committed for financial gain, and the degree of purity of the drugs.³⁶⁸ These factors are set out in a list of mandatory considerations when sentencing drug offenders under South Australian legislation.³⁶⁹ Similarly, NSW legislation stipulates aggravating factors that the court must consider, including when drug offending occurs as part of an organised criminal activity and for financial gain.³⁷⁰ The Victorian Criminal Court of Appeal has held that sentencing for serious commercial drug offences involves a greater degree of uniformity

(No 2) [2020] ACTSC 248, [21] (Loukas-karlsson J); *R v Godfrey* (The Supreme Court of the Northern Territory, Huntingford J, 26 November 2025); *R v Truong* [2015] NTCCA 5, [34] (Riley CJ, Barr and Hiley JJ); *Teagle v The King* [2023] SASCA 108, [46], [53] (Livesey P, Lovell and Bleby JJA); *R v Farquhar* [2023] SASCA 98, [50] (Lovell and David JJA) (*‘Farquhar’*); *Cuong v The Queen* [2021] SASCA 89, [14] (Lovell and Bleby JJA); *Ilich v The Queen* [2021] SASCA 45, [95] (Kelly P, Lovell and Livesey JJA) (*‘Ilich’*); *Kwag v The King* [2024] VSCA 279, [64] (Kennett J); *Lai v The King* [2023] VSCA 151, [18] (Forrest and Osborn JJA); *Walker v Western Australia* (2022) WASCA 1, [43], [70], [164] (Quinlan CJ and Beech JA); *Jamie Ryan Browne v Western Australia* [2024] WASCA 162 [55] (Buss P) (*‘Jamie Ryan Browne’*).

³⁶³ *Sikais* (n 362) [11] (Newlinds DCJ).

³⁶⁴ *Ibid.*

³⁶⁵ *Ibid.*

³⁶⁶ *Jamie Ryan Browne* (n 362), [53], citing *Bellissimo v The Queen* (1996) 84 A Crim R 465, 469.

³⁶⁷ *DPP v Goldsmith* [2023] VSCA 124, [71] (Beach, Kyrou and Forrest JJA).

³⁶⁸ *Sikais* (n 362) [12]; *Jamie Ryan Browne* (n 362) [52]; *Farquhar* (n 362) [34], citing *R v Young* (2016) 126 SASR 41, [216] (Blue J) (*‘Young’*); *McCabe v The King* [2023] VSCA 329, [21] (Macaulay and Taylor JJA), citing *Lieu v The Queen* [2016] VSCA 277, [41] (Beach and Kaye JJA).

³⁶⁹ *Controlled Substances Act 1984* (SA) s 44.

³⁷⁰ *Crimes (Sentencing Procedure) Act 1999* (NSW) s 21.

than for other crimes; this reflects the central importance of general deterrence and the significant role that drug weight plays in the sentencing process.³⁷¹

In Queensland, prior to 2023, the trafficking of dangerous drugs carried a maximum penalty of 25 years' imprisonment. An amendment to the *Drugs Misuse Act 1986* (Qld) increased the maximum to life imprisonment.³⁷² While most jurisdictions limit life imprisonment for drug offences to cases involving commercial or trafficable quantities, Queensland has no graded quantity thresholds. This means that an offender may face a maximum of life imprisonment regardless of the amount of drugs involved. For lower-level trafficking offences, sentencing courts are more inclined to consider mitigating factors such as youth, lack of criminal history, and rehabilitation prospects; the sentencing guideposts for head sentences are three to five years.³⁷³ For more serious trafficking offences, the head sentence guideposts are 10 to 12 years for mature offenders and eight to 10 years for young offenders without significant criminal history and with good rehabilitation prospects.³⁷⁴

In South Australia, sentencing judges particularly emphasised the harm that the proliferation of illegal drugs causes to society and that sentences need to reflect the gravity of offending in the permissible range.³⁷⁵ In *Ilich*,³⁷⁶ their Honours, referring to *R v Young*, stated:³⁷⁷

[T]he Chief Justice explained that a sentence in the range of four to seven years may be appropriate for a commercially motivated street trader convicted of basic trafficking, and that sentences approaching the 10-year maximum may be appropriate for middle order dealers and persistent or recidivist street dealers convicted of a basic trafficking offence.

2.5.4.1 Drug offences – Tasmania

While serious drug offences are subject to a maximum penalty of life imprisonment in all other Australian jurisdictions, in Tasmania the maximum remains 21 years. In Tasmanian legislation serious drug offences are not identified separately and according to the type of substance, the quantity of the substance or the specific act alleged to have occurred. For example, under the *Misuse of Drugs Act 2001* (Tas),³⁷⁸ the offence of 'trafficking in controlled substance' includes preparing, transporting, guiding/concealing, possessing or

³⁷¹ *DPP v Tran* [2024] VSCA 16, [17] (Niall and Boyce JJA).

³⁷² *Police Powers and Responsibilities and Other Legislation Amendment Act (No. 2) 2023* (Qld) s 4.

³⁷³ *R v Hassum* [2025] QSCSR 249, 6.

³⁷⁴ *R v Liu* [2024] QCA 058 [29] (Dalton JA), citing *R v Elizalde* [2006] QCA 330.

³⁷⁵ *Farquhar* (n 362) [47].

³⁷⁶ *Ilich* (n 362).

³⁷⁷ *Ibid* [91] citing *Young* (n 368).

³⁷⁸ *Misuse of Drugs Act 2001* (Tas) s 12. The amount of a substance that classifies as 'trafficable' is listed in Schedule 1.

importing a trafficable quantity. There is therefore a wide range of offending that can be charged under this section.

From 2020 to 2025, 214 people in Tasmania were sentenced for trafficking in a controlled substance. Of these, 90 (42.1%) were sentenced to some form of immediate imprisonment (either imprisonment or a partially suspended sentence). The median term of these sentences was 27.5 months. The longest imprisonment term was 15 years with a non-parole period of 7.5 years for two counts of trafficking in a controlled substance. This involved an organised syndicate that was transporting drugs via the Spirit of Tasmania. Over a period of 18 months, the (female) offender recruited vulnerable people to courier the drugs and cash and managed all aspects of the process, from sourcing the drugs to delivering them, to packaging and concealing the proceeds from their sale. In all, 26 kilograms of controlled drugs were involved – primarily methylamphetamine but also cocaine and ketamine. It was a sophisticated operation aimed at avoiding interception and generating a very significant profit.³⁷⁹

From 2020 to 2025 there were also 81 wholly suspended sentences imposed for this offence, accounting for 37.9% of all sentences, and a further 14 wholly suspended sentences with a Drug Treatment Order attached. Home detention orders were imposed on 21 people. The remainder involved a community correction order or a fine. These were typically imposed for low-level offending, such as the 12-month community correction order imposed on a person convicted of trafficking 21 grams of cannabis.³⁸⁰

Given the wide range of offending that is sentenced under the single Tasmanian trafficking offence, comparisons with other jurisdictions should be treated with caution. Nonetheless, sentencing outcomes from other states for serious forms of drug trafficking are presented below.

2.5.4.2 Drug trafficking – Australian Capital Territory

Apart from murder, the only offences that attract a maximum penalty of life imprisonment in the ACT are those relating to drug trafficking. Sentencing outcome data show that there were no sentences imposed at all for three of these offences: selling a controlled plant,³⁸¹ supplying a controlled plant to a child for selling,³⁸² and procuring a child to traffic in a controlled drug.³⁸³ The remaining three offences involve large commercial quantities and trafficking, manufacturing or cultivating a controlled drug for selling.

³⁷⁹ *Tasmania v Fiala* (Supreme Court of Tasmania, Estcourt J, 25 August 2023).

³⁸⁰ *Tasmania v Astell* (Supreme Court of Tasmania, Brett J, 27 August 2020).

³⁸¹ *Criminal Code 2002* (ACT) s 619(1).

³⁸² *Criminal Code 2002* (ACT) s 622(1).

³⁸³ *Ibid* s 624(1).

An imprisonment sentence was imposed in six of the seven cases involving trafficking in a controlled drug,³⁸⁴ with the remaining one receiving an intensive correction order. In the period from 1 February 2013 to 30 November 2025,³⁸⁵ the shortest term was 2.5 years, the longest five years and the mid-point 3.5 years.³⁸⁶

There were only three cases sentenced for manufacturing a controlled drug for selling.³⁸⁷ Only one of these received a term of imprisonment of two years. The other two received a wholly suspended sentence.³⁸⁸

Of the 15 cases sentenced for cultivating a controlled plant for selling,³⁸⁹ six (40%) were sentenced to a term of imprisonment, one received a partially suspended sentence and eight (53.3%) a wholly suspended sentence. The shortest imprisonment term was six months, the longest two years and the mid-point was also six months.³⁹⁰

2.5.4.3 Drug trafficking – New South Wales

Across all NSW courts from July 2020 to June 2025, 378 of 432 people convicted of international trafficking offences received a custodial sentence (87.5% average). The average duration of imprisonment terms was 45.4 months (3.8 years).³⁹¹

2.5.4.4 Drug trafficking – Queensland

Under the *Drugs Misuse Act 1986* (QLD) s 5, trafficking in dangerous drugs carries a maximum penalty of life imprisonment.³⁹² In the five years to 30 June 2025, imprisonment accounted for 1,546 of the 2,223 cases sentenced (69.6%) for this offence. There were also 348 partially suspended sentences imposed (15.7%) and 320 wholly suspended sentences (14.4%). In total, 85.3% of cases received an immediate custodial term. The average duration of imprisonment sentences was 4.2 years and the average for partially suspended sentences was 4.1 years.³⁹³

2.5.4.5 Drug trafficking – Victoria

Victorian data are available for two drug offences that attract a maximum penalty of life imprisonment: the state offence of trafficking in a large commercial quantity of a drug of

³⁸⁴ *Criminal Code 2002* (ACT) s 603(1).

³⁸⁵ A longer reference period is used for ACT data due to the extremely small numbers.

³⁸⁶ ACT Sentencing Database. Last accessed 4 Dec 2025.

³⁸⁷ *Criminal Code 2002* (ACT) s 607(1).

³⁸⁸ ACT Sentencing Database (n 386).

³⁸⁹ *Criminal Code 2002* (ACT) s 616(1).

³⁹⁰ ACT Sentencing Database (n 386).

³⁹¹ NSW Bureau of Crime Statistics and Research 'Courts and Sentencing' (Webpage, 2 March 2026).

³⁹² From 2 May 2023, the maximum penalty increased from 25 years to life imprisonment.

³⁹³ Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Trafficking in dangerous drugs' (Webpage, 2025).

dependence and the Commonwealth offence of trafficking in a commercial quantity of a controlled drug. The state offence of trafficking in a commercial quantity attracts a maximum penalty of 25 years' imprisonment.

Under the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71(1), 97 people were sentenced in the Victorian higher courts from 1 July 2019 to 30 June 2024. All 97 received a term of imprisonment. The shortest imprisonment duration was four years, the longest was 21.5 years and the median was 11 years and four months. No life terms were imposed.³⁹⁴

There were 232 people sentenced under the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71AA(1) for commercial quantity trafficking. Of these, 204 (87.9%) received a term of imprisonment, 17 (7.3%) received a combined imprisonment/community correction order, five people (2.2%) received just a community correction order and the remaining six received some other disposition. The shortest imprisonment duration was almost two months, the longest was 17 years and 10 months, and the median was four years and eight months.³⁹⁵

Under the *Criminal Code Act 1995* (Cth) s 302.2, all 11 people sentenced in the Victorian higher courts from 1 July 2019 to 30 June 2024 for the Commonwealth offence of trafficking in a commercial quantity of a controlled drug received a term of imprisonment without a recognisance release order. The shortest imprisonment duration was six years, the longest was 19.5 years, and the median was 10.5 years.³⁹⁶

2.5.4.6 Drug offences – Summary

Table 10 below presents a cross-jurisdictional comparison that summarises the data on sentencing outcomes for drug offences, noting the inclusion in Tasmanian data of all types of drug offences and the restriction for other states to serious commercial or large commercial trafficking only.

³⁹⁴ Victorian Sentencing Advisory Council, 'Traffick in a large commercial quantity of a drug of dependence – All Sentences', *SACStat* (Webpage, 2025).

³⁹⁵ Victorian Sentencing Advisory Council, 'Traffick in a commercial quantity of a drug of dependence – All Sentences', *SACStat* (Webpage, 2025).

³⁹⁶ Victorian Sentence Advisory Council, 'Trafficking in a commercial quantity of controlled drug – All Sentences' *SACStat*, (Webpage, 2025).

Table 10: Cross-jurisdictional summary of sentencing outcomes for drug offences

	Number of people sentenced for drug offences (reference period)	Proportion of people sentenced to imprisonment	Imprisonment term duration
ACT	Traffick in controlled drug: 7 (2013 to 2025)	85.7	Median: 3.5 years
NSW	International traffick: 432 (July 2020 to June 2025)	87.5	Average: 3.8 years
QLD	Traffick: 2,223 (July 2020 to June 2025)	85.3	Average: 4.2 years
TAS	214 (2020-2025)	42.1	Median: 2.3 years
VIC	Large commercial traffick: 97 Commercial traffick: 232 Commercial traffick (Cth): 11 (July 2019 to June 2024)	Large commercial traffick: 100 Commercial traffick: 95.2 Commercial traffick (Cth): 100	Medians: Large commercial traffick: 11.3 Commercial traffick: 4.7 Commercial traffick (Cth): 10.5

2.6 Summary – sentencing outcomes for serious offences

Sentencing outcomes for serious offences in Tasmania do not appear to be grossly out of step with those in other Australian jurisdictions. While median sentences for some offences are lower in Tasmania than elsewhere, this does not mean that sentences imposed in individual cases are necessarily wrong or that Tasmanian judges are 'out of touch' with community expectations.

In those jurisdictions where a maximum penalty of life imprisonment is available for a broader range of offences than in Tasmania, the data show that life terms are seldom imposed in the absence of mandatory sentencing.

3 *Stakeholder Views on the Need for Reform*

A key component of this research was a series of consultations with Tasmanian stakeholders to identify views on whether reform is needed in this area and, if so, the nature of the reform.

This chapter presents the findings of these consultations.³⁹⁷

3.1 Approach to consultations

A list of key stakeholders to consult was identified by TSAC. People were invited to contribute to the research in two ways:

- Via an online meeting with the researchers
- By preparing a written submission.

The aim of the consultation was to identify informed views about Tasmania's use of life imprisonment. To this end, a targeted consultation was adopted. While participants remain anonymous in this report, the following were represented:³⁹⁸

- Police, courts and correctional services
- Prosecution and defence organisations
- Advocacy groups
- Frontline victim support services
- Academics.

To facilitate frank and open discussion, the consultations were not recorded and participants were assured that they would not be personally identified in the report.

Along with an invitation to take part in a consultation, a brief background paper was provided that identified the Terms of Reference for the research and the ethical conditions under which it was being conducted. The background paper included a list of consultation

³⁹⁷ The qualitative analysis presented in this chapter is based on extensive notes taken by the researcher(s) during each interview.

³⁹⁸ See Appendix A for the organisations consulted.

questions³⁹⁹ and a table containing each of the offences attracting a maximum penalty of life imprisonment in each Australian jurisdiction.⁴⁰⁰ The purpose of this comparative table was to inform participants about the range and type of offences subject to this maximum.

A total of 15 online meetings were held, and five written submissions were received.

Thematic analysis identified the key themes on which there was broad consensus as well as a number of areas of considerable disagreement among consultation participants.

Each of these is discussed in the following sections.

3.2 Is the current Tasmanian approach a problem?

The consultations began with an overarching question: Is it a problem that only murder and treason are subject to a maximum penalty of life imprisonment in Tasmania – and that other serious offences attract a 21-year maximum – when other Australian states and territories include many more offences under their life imprisonment regimes? On the whole, participants were not convinced that there is any problem that needs to be urgently addressed. There was general consensus on the following points:

- There has been no widespread public outcry or community demand for expanding the number of offences subject to a maximum penalty of life imprisonment.
- Judges are not complaining that the current 21-year maximum is constraining them in achieving all the purposes of sentencing.
- The suite of options available under the current legislative framework is sufficient to allow appropriate sentences, particularly if concerns are still held about a person's risk of offending.
- Sentencing practice in Tasmania is not grossly out of step with other Australian states and territories.

Each of these is further discussed in the following sections.

3.2.1 There is no widespread public outcry

Most consultation participants struggled to identify the underlying driver of the reference for TSAC; they were perplexed about the attention being given to maximum penalties, given there has been no public outcry calling for reform. One participant felt this had 'come out of nowhere'. Participants also noted the absence of media attention to the issue, with one academic participant suggesting that courts are not being unresponsive to the community. Indeed, the framework adopted by judges when issuing their comments on passing sentence has changed to reflect community expectations: judges have worked to become

³⁹⁹ See Appendix B for the list of consultation questions. These were designed to act as prompts to guide – but not limit – the conversation.

⁴⁰⁰ See Appendix C for the list of offences in each jurisdiction.

trauma-informed, reducing the likelihood that their language and terminology are retraumatising and enhancing their understanding of the causes and consequences of serious crimes.

The one issue that has drawn some public attention – from people in Tasmania as well as further afield – is the ‘shaken baby’ case of Khaylan Butler.⁴⁰¹ Evidence of community concern around the sentence that was imposed in this case may be seen from an online petition initiated by the Justice for Khaylan advocacy group, which has gathered more than 3,300 signatures of people calling for cases of shaken baby syndrome to be charged as murder rather than manslaughter.⁴⁰²

Notwithstanding this one case, consultation participants agreed that there have been no widespread community calls for expanding the range of offences for which a maximum penalty of life imprisonment is available.

3.2.2 Judges are not feeling constrained

Legal and criminal justice system practitioners and academic participants pointed out that sentences imposed for serious crimes in Tasmania do not typically even approach the 21-year maximum penalty, indicating that judges are not butting up against the cap on their sentencing discretion. Judicial sentencing remarks do not express consternation about constraints on the lengths of sentences that may be imposed.

Consultation with people who work within the Tasmanian criminal justice system highlighted that the current 21-year maximum penalty is sufficient in practice for the vast majority of serious offences. Drawing on their first-hand knowledge of sentencing practice, these participants noted the rarity of sentences approaching 21 years for single instances of very serious crimes. For example, even for manslaughter a sentence longer than 10 years was said to be rare. For one count of rape, anything approaching 21 years would be unheard of. A consultation participant with prosecution experience noted that sentences approaching 21 years are not being sought; it is not the case that prosecutors are seeking and failing to achieve them.

One legal practitioner consultation participant noted that life imprisonment – both philosophically and jurisprudentially – is and should be reserved only for murder as the single most serious offence that can be committed. This may help to explain the apparent absence of concern expressed by judges as they craft sentences for other serious offences to achieve the legislated purposes of sentencing.

⁴⁰¹ See the section on Manslaughter – Tasmania for a discussion of this case.

⁴⁰² While the petition is specific in this aim, advocacy has since shifted to ensuring that all cases of fatal child abuse – regardless of the specific cause of the death – be subject to longer sentences.

The argument being made by these consultation participants is this: the fact that sentences imposed for a single count are not approaching the 21-year maximum indicates that judges are not being constrained. There is therefore no need for the maximum penalty to be increased.

3.2.3 Available sentencing options are sufficient

Academic and legal practitioner consultation participants noted that sentencing principles are not compromised for serious offences that do not have a maximum penalty of life imprisonment; existing sentencing provisions can be applied to achieve long sentences as appropriate. For example, some of the most serious offences, such as sex offences, often occur in the context of other offences. As the 21-year maximum penalty applies to each count with which a person is charged, global sentencing provisions mean that people charged with multiple counts or multiple offences face a maximum penalty of 21 years *on each*.⁴⁰³ The court therefore already has the flexibility in such cases to impose very long sentences through sentence cumulation. Indeed, as one legal practitioner participant noted, such a sentence may even result in a longer period incarcerated than a life term for murder that attracts a relatively short non-parole period.⁴⁰⁴ A judicial officer described the current system as providing ‘excellent sentencing scope’ for all offences; ‘we’re ready for any eventuality with the 21 years’.

In addition, academic and legal practitioner participants noted that dangerous criminal declarations allow the court to impose an indefinite sentence (with no parole eligibility while the declaration is operative),⁴⁰⁵ while the mental health powers of a restriction order allow people who are mentally impaired and pose a risk to be detained for treatment in a secure mental health unit until the order is discharged by the Supreme Court.⁴⁰⁶ High-risk offender orders are also available, providing for ongoing supervision for up to five years and subject to renewal.⁴⁰⁷

3.2.4 Sentencing practice in Tasmania is broadly consistent with elsewhere

In discussing sentencing practice in Tasmania relative to other Australian states and territories, some consultation participants drew on their first-hand experience practising in the Tasmanian criminal justice system, while others drew on research and statistics to support their argument.

⁴⁰³ *Sentencing Act 1997* (Tas) s 11.

⁴⁰⁴ For example, in *Dobson 08/09/2015* (n 144) a life imprisonment term was imposed for murder, with a non-parole period of 14 years.

⁴⁰⁵ *Dangerous Criminal and High Risk Offenders Act 2021* (Tas) s 9.

⁴⁰⁶ *Sentencing Act 1977* (Tas) s 77.

⁴⁰⁷ *Dangerous Criminal and High Risk Offenders Act 2021* (Tas) s 35(1).

Most consultation participants agreed that sentencing practice in Tasmania is not grossly out of step with practice in other Australian jurisdictions. However, one legal service practitioner noted some level of inconsistency with national sentencing levels, and a participant who works with victims of crime noted that sentencing for family violence offences appears to be 'very low', but they were concerned about increasing the maximum penalty due to the high volume of these offences.

Academic consultation participants pointed to increasing sentences in Tasmania over the past two decades – sometimes doubling or trebling – for serious offences such as child sex offences, persistent sexual abuse of a child and causing death by dangerous driving as evidence that the Supreme Court is keeping abreast of community expectations and imposing appropriate sentences. These participants also highlighted that judicial sentencing remarks in child sex offence cases in particular clearly reflect a contemporary appreciation of the seriousness of these offences and their lasting impact. Reference was also made by an academic participant to self-reported victimisation data for serious crimes; these data show Tasmania having lower victimisation rates than other jurisdictions, even with what was called a 'comparatively low' sentencing regime. This participant suggested that, unless crime rates in Tasmania change dramatically, there is no need for increased sentences in the name of improvements to crime prevention.

One written submission from a legal practitioner presented an analysis of homicide rates in Australia showing that jurisdictions with mandatory life sentences for murder also have higher murder rates. The analysis was used to argue against increasing the range of offences for which a life sentence may be imposed, with reference to evidence that ever-longer sentences do not deter. Further, Tasmanian sentencing data were presented to show that, even when life sentences are legislatively prescribed, they are rarely imposed (in less than 10% of cases since 2016). Indeed, several written submissions drew on published sentencing data from other jurisdictions to make the point that having a (non-mandatory) maximum penalty of life imprisonment would not result in longer sentences being imposed.

In considering current sentencing practice, consultation participants raised several points related to the purposes of sentencing when a maximum penalty of life imprisonment is available. In Tasmania, a sentence may only be imposed for the purposes of deterrence, rehabilitation and denunciation. These purposes of sentencing are said to 'help prevent crime and promote respect for the law'.⁴⁰⁸ For some participants, expanding the number of offences for which a maximum penalty of life imprisonment is available would have either negligible or negative consequences for each of these sentencing purposes.

⁴⁰⁸ *Sentencing Act (1997) (Tas)* s 3(e).

3.2.4.1 Deterrence

Academic consultation participants and some legal practitioner participants highlighted the research evidence demonstrating that the threat of a harsher sentence does not deter people from offending – ‘that’s not a controversial premise’ said one.⁴⁰⁹ A participant from a frontline victim support service agreed, pointing out that, if charges are appropriate and sentences are appropriate, then whether life imprisonment is available as a maximum should not matter.

One of the written submissions from a legal practitioner used Australian data to support the conclusion that even a maximum penalty of life does not deter people from committing crime any better than a shorter, fixed-term maximum. The Northern Territory and Western Australia were used to illustrate that, despite mandatory terms of life imprisonment for murder, both have homicide rates that are higher than the Australian average.

3.2.4.2 Rehabilitation

Concern was raised by some participants that ever-increasing sentences would have a negative impact on people’s prospects of rehabilitation. A participant from an advocacy group noted that a life sentence – even one with a nominated non-parole period – can leave people in prison with a sense of hopelessness due to their inherent uncertainty. In the absence of clear timelines towards which to work, rehabilitation can be undermined as it becomes more difficult to engage people in programs.

A legal practitioner participant noted the disconnection from identity that extremely long sentences can cause, exacerbating mental health or behavioural issues. A person who is incarcerated for a significant period, with little or no prospects for release, may have less motivation to behave constructively in prison, potentially causing disruption to others housed with them and presenting safety issues for staff.

For one participant who works within the criminal justice system, the key concern about expanding the maximum penalty of life imprisonment would be the potential for extremely long sentences to undermine the desistance journey. People in prison for decades become institutionalised and lose all connection, support and engagement with the outside community. For this participant, the criminal justice system should be helping people to lower their risk of reoffending and preparing them to transition out of prison, aiming towards

⁴⁰⁹ Indeed, it has been said that there is ‘broad consensus among researchers that increasing certainty of punishment is usually more effective than making punishment more severe’. David Crump, ‘Deterrence’ (2018) 49(2) *St. Mary’s Law Journal* 317, 332. More generally, though, ‘the idea that general deterrence can be achieved through sentencing has fallen into disfavour in recent years’. Victorian Sentencing Advisory Council, *Sentencing occupational health and safety offences in Victoria* (Consultation Paper, February 2024), 7.

releasing them back into the community safely. Facing a term of life imprisonment was said to work against that goal.

3.2.4.3 Denunciation

Several legal practitioner consultation participants made the point that expanding the maximum penalty of life imprisonment to offences other than murder – particularly to non-fatal offences and non-violent offences, as has been done in other jurisdictions such as Queensland – would essentially ‘devalue’ the crime of murder. In the words of one submission, expanding the availability of life sentences would ‘erode the seriousness which attaches to an offence which is declared to be a life offence’ by essentially equating murder with other offences. This could be said to be signalling to the community that offences such as extortion, serious perjury or piracy (in the case of Queensland) are as serious as murder.

In other words, the denunciatory effect of life sentences would be undermined if expanded to other offences. The most serious of all punishments – currently reserved in Tasmania for murder, the most serious of all offences – would be diminished.

3.2.5 Summary

Consultation on the current approach in Tasmania was neatly summarised by one academic consultation participant who noted that ‘the system seems to function quite well’.⁴¹⁰ This participant expressed support for the current approach even more strongly, suggesting that it offers a unique benefit not seen in other jurisdictions: Tasmania is ‘more immune to a political influence in sentencing’ that may arise as a ‘knee-jerk response’ to individual cases. Indeed, as another academic researcher pointed out, when the Criminal Code was being introduced in 1924, it was recorded in the Hansard that Parliament intended the 21-year maximum penalty to be a practical way to enforce the separation of powers.

All consultation participants recognised that the court already has the ability to impose very long sentences for serious offences, with provisions such as dangerous criminal declarations adding another element (albeit one that is used sparingly) to the court’s ability to manage risk. With discretion to impose a sentence of up to 21 years for each indictable crime, the current Tasmanian approach was largely considered appropriate. That is, in the absence of evidence that the system is not working, the overall view elicited during consultations was that the current 21-year maximum penalty for serious offences in Tasmania is not a cause for concern.

⁴¹⁰ Notwithstanding significant concerns raised by frontline victim support service participants whose comments in the consultation were framed within the caveat that the criminal justice system is inherently unjust – upholding the patriarchy and other systems of oppression – and inherently retraumatising to many victim-survivors of serious crimes.

However, despite this general support for Tasmania's current approach, many of the consultation participants identified a small number of offences for which the 21-year maximum penalty fails to reflect the scale of harm that can be caused. These offences – and the need for targeted reform – are discussed in the following section.

3.3 Does the current maximum penalty reflect the harm caused?

In discussing how to define which offences should be considered the most serious – and therefore potentially subject to a maximum penalty of life imprisonment – consultation participants drew on the harm and culpability framework.

Using this framework, many participants suggested that, for certain offences, the existing 21-year maximum penalty does not reflect the most serious instances of certain fatal and non-fatal offences – particularly offences against children – as it fails to acknowledge the extent of the harm caused. The two categories of offence most commonly raised were:

- Sexual offences against children
- Persistent child sexual abuse and family violence offences.

A third category – fatal child abuse offences – was also noted by one consultation participant as a particular instance of homicide where legislative provisions do not reflect the level of harm.

Despite property offences and drug offences attracting a maximum penalty of life imprisonment in some other Australian states and territories, consultation participants were not in favour of following suit in Tasmania. Large-scale drug trafficking was noted by a handful of participants for its potential for widespread harm, but the focus of concern during consultations was firmly on sexual offences against children and persistent offending.

3.3.1 Sexual offences against children

Many consultation participants were of the view that the current 21-year maximum penalty does not reflect the harm caused by sexual offences against children. One participant who works directly with victims of crime made the point strongly: 'given the consequences to child victims of complex trauma and the overall cost to society of managing people who don't reach their full potential, the punishment doesn't fit the crime with these child victims'.

A participant from a frontline victim support service noted the inherent abuse of power and trust in sex offences against children, more so in those involving some form of institutional context. For this person, offences involving an abuse of power should be subject to a harsher systemic response.

Among some academic and legal practitioner participants, there was an acknowledgement that offences such as rape of a child would be 'legitimate candidates' for a maximum penalty of life imprisonment – that there would 'be an appetite' for increasing the maximum for such offences – but there remained the question of whether an increase is actually necessary. For these participants, the current 21-year maximum is working well, with judges able to fulfil their desired sentencing purposes appropriately.

3.3.2 Persistent sexual abuse of a child and persistent family violence

Several consultation participants expressed considerable concern that the ongoing nature of persistent sexual abuse of a child and persistent family violence is insufficiently recognised under the current Tasmanian approach. A frontline victim support service provider noted that sentences for ongoing serious offences such as these simply do not reflect the lifelong harm caused; such offences should be considered sufficiently serious to warrant a maximum penalty of life imprisonment.

Discussions of these two persistent offences elicited concerns about a legal anomaly: the original intent behind their creation has failed to materialise. The offences, designed as a single charge, typically have no co-occurring charges that could otherwise offer an opportunity for a longer, cumulative sentence. The unintended consequence is that the 21-year maximum 'does not adequately reflect the gravity of the offending'.

A submission by a participant with experience in prosecution noted that the 21-year maximum does not 'reflect the expectations of victims or the community, that persons convicted of serious child sexual offences, and serious family violence offences should face commensurately serious sentences'. Identifying that these charges were 'specifically enacted to cover serious, ongoing, violent crimes, to cover some of the worst examples of those kinds of offending', the submission warned that the current maximum 'could potentially leave Judges without adequate sentencing scope'. Evidence of the need to address the apparent anomaly – that sentences for some of the most serious ongoing offending are limited due to being charged as a single offence – was offered with the example of *MJR*.⁴¹¹ In order to offer the sentencing judge sufficient scope to impose a sentence commensurate with the horrific nature of the crimes committed against a child over a five-year period, the Director of Public Prosecutions particularised each of 77 counts of rape and a number of other serious offences. While it undoubtedly would have been far simpler to have indicted for one charge of persistent sexual abuse of a child, this approach was adopted to avoid leaving the judge with woefully insufficient scope for sentencing (as evidenced by the 40-year

⁴¹¹ *MJR* 5/12/2025 (n 294).

sentence ultimately imposed). But while this approach was successful in *MJR*, there is often insufficient detail to ground the laying of separate charges in this sort of ongoing offending.

Several legal practitioner and criminal justice system practitioner consultation participants were of the view that increasing the maximum penalty for these two offences to a life term 'opens up a substantial range of sentencing above the 21-year maximum, even if most would, in practice fall short of an actual life sentence'. However, other stakeholders, including a legal practitioner from an advocacy group, noted that an increase in maximum penalty to some other fixed term might be a preferable approach as it would provide scope for longer sentences but would leave murder as the only offence attracting a maximum penalty of life in acknowledgement of its unique status.

A participant from a victim advocacy group noted the high level of culpability when there is repeat serious offending. While not proffering a definition of 'repeat', this consultation participant noted that repeat sexual or family violence (including the use of disabling behaviours such as choking and strangulation, which are known to be correlated with future homicide), against one person over time or against multiple victims, shows very high levels of both culpability and harm. For this participant, increasing the maximum penalty to life imprisonment would go some way to addressing the failures of Tasmania's policing and legal systems to address recidivist behaviour by serious sexual offenders, both within and outside of the family context. And, as another frontline service provider noted, while sentencing is never a deterrent to family violence, a longer sentence means that the victim-survivor is afforded more time away from the perpetrator.

Other than increasing the maximum penalties or charging particularised instances of ongoing sexual abuse or family violence offences, there may be alternative mechanisms to address the anomaly created by these two 'persistent' offences. For example, legislative amendments could be made to enable judges to impose sentence separately for each of the instances of the offending that characterise the 'persistent' offence, notwithstanding a conviction for the single rolled-up charge. This would then provide for multiple sentences of up to 21 years' imprisonment.

3.3.3 Fatal violence against children

Consultation participants generally noted the wide range of circumstances in which fatal offences can occur and the appropriateness of reserving a maximum penalty of life imprisonment for intentional homicide constituting murder. However, the case of Khaylan Shayne Butler was identified in the submission by Maddison Butler and Brie Jeanneret as presenting a particular instance where the legislative provisions do not allow the severity of the harm – the loss of a child's life – to be adequately reflected. They question whether

Tasmanian law offers judges the appropriate tools when sentencing cases of fatal child abuse or whether, instead, a 'structural gap' exists between murder and manslaughter through which such cases may be slipping. The problem, according to the submission, is that fatal child abuse cases are charged as manslaughter due to difficulties in proving intent. This is true even when the alleged conduct was 'obviously life-threatening' and constituted conduct that 'any reasonable person knows can kill', as in the case of shaken baby syndrome. This in turn creates sentencing outcomes that fail to reflect the seriousness of the harm – the death of a baby or child.

In their submission, the authors acknowledge that manslaughter captures a very broad range of offending, from accidental deaths to extreme acts of violence. They argue, however, that the law does not currently recognise fatal child abuse as being qualitatively different from other forms of manslaughter. Fatal child abuse represents a distinct and gravely serious category of offending that should take into account the age of the victim and the breach of trust inherent in offences against children. The submission notes that the foreseeability of the death should also be specifically taken into account. In the absence of a requirement for these factors to be recognised, the submission argues, the current law enables low head sentences, early parole eligibility and 'outcomes that undermine public confidence'.

The authors propose several options that could address their concerns about inadequate sentencing for fatal child offences:

- That violent acts that any reasonable adult would know could kill a baby or child be treated as murder, even in the absence of an intent to kill
- That the definition of murder be clarified to include fatal acts against infants and acts involving shaken baby syndrome
- That a specific offence of fatal child abuse be created to avoid a reliance on subjective assessments of intent
- That people found guilty of killing a baby or child be automatically subject to a longer minimum non-parole period
- That, on a guilty finding for manslaughter offences involving child deaths, sentencing guidance be provided such that the starting point for sentencing increases and a presumption be made against early parole
- That data on charges and sentences for child deaths be systematically collected to allow for better recognition, naming and responses to fatal violence against children.

There have been only two other cases of fatal child abuse in Tasmania over the past 25 years to which this case may be compared. In *Shanks*, a four-year-old boy was severely

beaten by his father over a period of several days. No medical assistance was sought; despite extreme and extensive injuries (79 separate or composite signs of violence or injury), evidence showed that medical intervention could have prevented his death. His Honour Evans J noted that, '[w]hilst the defendant did not intend to cause his son's death, his moral culpability is most substantial. His abuse of his son extended over a period of days and there is good reason to expect that had his son received timely medical attention, his death may have been avoided'. The sentence was 10 years' imprisonment with a non-parole period of half that time.⁴¹² In *Horner*, the offender was convicted of manslaughter in 2003 after he violently shook his eight-week-old infant daughter in apparent panic after she was choking on the bottle with which she had been left unattended. His Honour Underwood J noted that, 'at all times prior to this afternoon, or indeed, at all times you were a loving and caring father who cared for and loved your child, and that this criminal act was borne out of panic in the circumstances that you found yourself in'. After the offender spent 13 months in prison awaiting finalisation of his matter, the sentence – two years' imprisonment with the unserved part of the term to be suspended – was said to 'mark society's recognition of the sanctity of human life; and, secondly, to acknowledge the tragic circumstances which led to the commission of the crime'.⁴¹³

These three cases illustrate the range of circumstances in which fatal violence against a child can lead to a conviction for manslaughter and the complexities that arise for sentencing judges.

3.3.4 Summary

While consultation participants generally viewed the current 21-year maximum penalty for serious offences as appropriate, concerns about its inability to reflect the harm caused by sexual offences against children and persistent offending suggest the need for limited reform in these specific areas. And given the complexity and relative rarity of fatal child abuse deaths, consideration may be needed of ways to assist the court in its exercise of the sentencing discretion.

3.4 Would changing the maximum penalty improve people's perceptions?

While consultation participants generally viewed the current 21-year maximum penalty for serious offences as appropriate, concerns about its inability to reflect the harm caused by sexual offences against children and persistent offending suggest the need for limited reform in these specific areas. And given the complexity and relative rarity of fatal child abuse

⁴¹² *Tasmania v Shanks* (Supreme Court of Tasmania, Evans J, 5 December 2006).

⁴¹³ *R v Horner* (Supreme Court, Underwood J, 17 April 2003).

deaths, consideration may be needed of ways to assist the court in its exercise of the sentencing discretion.

3.4.1 Community perceptions

Consultation participants acknowledged that it may be considered axiomatic that the general community believes that sentences are too lenient. But they all recognised the many myths and misconceptions around crime and the criminal justice system that leave the general community with inaccurate views of sentencing; one participant from a victim advocacy group stated that the opinions of both Government and the general public are ‘driven by fear-mongering law and order discourses’. Pointing to the Jury Sentencing Studies, many consultation participants noted that informed members of the community do not, in fact, want more severe sentences to be imposed; if people were properly informed about sentencing in Tasmania, they would not see any problem with the current approach.

Given the lack of public knowledge about sentencing, concern was expressed by some participants about basing legislative change on what ‘public opinion’ might appear to be. One academic participant was adamant that public attitudes should not be a main driver of public policy, while another felt that legislating for longer sentences would do nothing to change community views or enhance community confidence in the courts. This participant referred to Queensland, where research shows that people still view sentencing as too lenient,⁴¹⁴ despite substantial law reform and a maximum penalty of life imprisonment for many sex offences. A third researcher emphasised the need to raise the community’s awareness and understanding before taking their views as truth.⁴¹⁵

Instead of using the maximum penalty as a mechanism to increase public confidence, one legal practitioner participant suggested that public pressure for tougher sentencing can be mitigated by providing more information on court matters and sentencing. While judges around Australia already use their sentencing remarks to condemn and denounce serious offending – and these are often made available to the public online (including in Tasmania) – few among the general community have the awareness, interest, time or capacity to find, read and comprehend their detail. An academic participant further noted that there are other ways for the criminal justice system and the state to communicate disapproval or condemnation of certain crimes, such as greater promulgation of judicial sentencing

⁴¹⁴ For example, QSAC 2025 (n 18); Moritz et al 2024 (n 13).

⁴¹⁵ One of the legal practitioners consulted pointed out a similar principle identified by the High Court of Australia in *Markarian*: ‘Judges are aware that, if they consistently impose sentences that are too lenient or too severe, they risk undermining public confidence in the administration of justice and invite legislative interference in the exercise of judicial discretion. For the sake of criminal justice generally, judges attempt to impose sentences that accord with *legitimate* community expectations’ [emphasis added]. *Markarian* (n 61) [82] (Gleeson CJ, Gummow, Jayne and Callinan JJ).

comments in high-profile cases. This participant suggested that courts need to take more control of communication about what they do and the sentences they impose, such as via a publicity officer who can create media briefings when a long sentence is imposed.

All consultation participants acknowledged that, even if more offences were to be subject to a maximum penalty of life imprisonment, it would likely have little impact on actual sentencing practice. A justice system practitioner pointed out that the realities of charging practice and sentencing considerations mean that expanding the range of offences subject to this maximum penalty would be unlikely to lead to more life sentences being imposed. One academic consultation participant framed this in terms of 'holding up a false promise to the public that this is going to make a difference'. A legal practitioner participant saw an even more dire consequence: if serious crimes become subject to a maximum penalty of life imprisonment but sentences fall far short of that, the law could be brought into disrepute. This would result in a drop in public confidence, rather than the increase that was perhaps intended.

Despite this pragmatic constraint, there was some guarded acceptance of the value of increasing the maximum penalty for symbolic purposes. One justice system practitioner suggested that a maximum penalty of life imprisonment would 'put a line in the sand in terms of community expectation', even if the maximum would not be achieved in the majority of cases. For this participant, the current approach in Tasmania fails to reflect community expectations, especially for child sex offending. Referring to the commission of inquiry,⁴¹⁶ this participant was of the view that the list of offences subject to life imprisonment should 'absolutely should be expanded'. As one academic participant acknowledged, notwithstanding their opposition to increasing maximum penalties: making an offence subject to a maximum penalty of life imprisonment 'communicates to the community that these are really serious offences'.

This theme – the importance of 'sending a message' about the seriousness of the offence, even if sentencing practice does not change significantly – was also raised in the context of addressing the expectations of victims of crime. However, consultation participants raised concerns about the impact of such symbolic measures on victim expectations.

3.4.2 Victim perceptions

Frontline victim support service participants approached the question of victim expectations with caution. They noted the 'nuance and complexity' in the views of victims and survivors of serious crimes – wanting a just sentence but also compassion, and the prevention of such

⁴¹⁶ Commission of Inquiry into the Tasmanian Government's responses to child sexual abuse (Report, August 2023).

crimes happening to others. Some were said to prefer a rehabilitative or therapeutic approach, while others are focused on a harsh response. All want accountability, not only for perpetrators but for the criminal justice system as well.

The 'multiple systemic failures' of the criminal justice system were mentioned by all frontline victim support service participants. Emphasising that the system is particularly retraumatising for victims of serious sexual offences and family violence, these participants all discussed the ways in which the criminal justice system is failing victim-survivors. For example, one participant was of the view that a criminal justice response to intimate partner violence does not solve the problem for the victim-survivor; instead, it solves a problem for a state that needs to look like it has a response to intimate partner violence. For this participant, whether maximum penalties should be increased is the wrong question to be asking. Rather, we should consider the following: What is an experience of justice for victim-survivors? What should that look like and feel like for them?

In the context of systemic failures, frontline victim support service participants identified one particular benefit of increasing the maximum penalty to life imprisonment for sexual violence and child sexual abuse – it would finally show that the criminal justice system takes seriously the nature of gendered violence, placing appropriate gravity on the impact of this form of violence.

While there was support for increasing the maximum penalty for serious sex offences and persistent family violence offending among these consultation participants, this was significantly tempered by concern about the impact on victim-survivors when sentences are imposed that do not approach that maximum. For one such consultation participant, seeing a life sentence imposed could be the first time that a victim-survivor has their experiences validated – more so than if the perpetrator were given a 21-year sentence. But were the maximum to increase and sentencing practice not change dramatically, 'that would be worse than the current situation'. It would be even more invalidating than currently to know that the perpetrator could have been sentenced to life, but was not. For this participant, it is the experience of validation that the criminal justice system needs to improve.

Other consultation participants were similarly concerned about raising the expectations of victims of serious offences when they are bound to remain unfulfilled. Justice system practitioners, legal practitioners and academics all noted that raising expectations when the likelihood of a sentence anywhere near a life term is minimal could lead to even worse outcomes for victims than the current approach.

Overall, consultation participants did not believe that changing the maximum penalty would enhance victim perceptions. While there was a suggestion that a maximum penalty of life

would send a message that gendered violence is taken seriously, there were greater concerns about unrealistically raising victim expectations. Increasing sentences was said by one frontline victim support service provider to be ‘a blunt instrument’; a higher maximum penalty ‘would not really do anything for victim-survivors’. Instead, participants emphasised the need for better ways to offer victim-survivors validation in a system that can so often create harm for them. For example, an academic consultation participant suggested exploring different models of responding to victims that do not rely on lengthy sentences and the formal court process, such as restorative justice. For this participant, police and courts ‘can’t fix social problems’. Instead, we should be seeking a better tool to help victims in a more effective way.

3.4.3 Summary

Increasing maximum penalties is unlikely to lead to significant improvements in people’s perceptions of sentencing and the criminal justice system. For the general community, increasing the range of offences subject to a maximum penalty of life imprisonment would not necessarily change people’s views, but it could ‘send a message’ about the seriousness of the offence, even if sentencing practice does not change significantly.

For victims of serious crimes, there is potential for improved satisfaction if the message being sent is that these crimes are being taken seriously by the courts. However, were the maximum to increase and sentencing practice not change, raising expectations when the likelihood of a sentence anywhere near a life term is minimal could lead to even worse outcomes for victims than the current approach. Such reforms may also be counter-productive if they result in fewer guilty pleas and more trials. Improving victims’ perceptions is more likely to be achieved by improving their experiences of validation by the criminal justice system.

3.5 Would there be unintended consequences of changing the maximum penalty?

Participants were asked to consider both intended and unintended consequences of expanding the range of offences to which a maximum penalty of life imprisonment applies. They consistently identified three areas of possible unintended consequences that would raise concerns:

- The impact on the justice system itself
- Victim experiences of justice
- The symbolic role of the law.

3.5.1 Impact on the justice system

There was broad consensus about the potential unintended consequences on the criminal justice system itself of increasing the number of offences to which a maximum penalty of life imprisonment applies. Participants suggested there might be more plea negotiations at the charging stage as people attempt to avoid being charged with these offences. People who do face a maximum sentence of life imprisonment might be more likely to plead not guilty as they have nothing to lose. With more trials would come an increased potential to cause more trauma for victims. According to one legal practitioner consulted, in a system that 'already struggles with managing getting matters to finalisation', there should be a 'public interest factor' for law reform that is mindful of mechanisms that encourage timely finalisation of cases in an appropriate manner.

Some consultation participants pointed out the impact that such changes in the justice system might have on groups that are already marginalised and over-criminalised, such as First Nations people and those from various minority cohorts. For example, it was said that any change to the way that cases are charged and prosecuted could affect Aboriginal people disproportionately. Similarly, changes to the use of life imprisonment and its impact on the parole system could also affect this cohort disproportionately, as Aboriginal people are less likely to apply for or be granted parole due to structural and cultural factors, including systemic discrimination and experiences of disadvantage. This consultation participant argued that expanding the offences for which a life sentence can be imposed might therefore drive further over-representation: if Aboriginal peoples are less likely to apply for parole, they are more likely to serve their full prison term than non-Indigenous people.

Finally, a concern was raised in a legal practitioner's written submission about the prison system's ability to house and support an increasing number of people facing significant time in prison. The submission argued that, over time, longer sentences will create capacity pressures and stretch resources, with prisons becoming increasingly overcrowded. The submission noted that, at a cost of close to \$600 per prisoner per day, 'this is a significant investment in a punitive measure that is proven to be largely ineffective, inefficient and a drain on resources that could otherwise be allocated to crime prevention strategies'.

3.5.2 Victim experiences of justice

Beyond creating unrealistic expectations for victims of the sentence that might be imposed, many participants expressed concern about the impact on victims were more matters to go to trial. Legal practitioners, academic participants and those from frontline victim support services noted the potential impact on victim experiences of the criminal justice system, with

victims suffering the consequences of a contested charge and having to be involved in a trial.

A legal practitioner consultation participant raised concerns about victims' longer-term engagement with the parole process when a life sentence is involved. For this participant, a life sentence can retraumatise a victim for decades if they become a registered victim; with every update, they stay forever engaged, the horror of their experience being brought back to them over decades and denying them the chance to move on to a new life in which they are not classified as a victim. This situation would arise, for example, when a registered victim is asked to file a new victim impact statement with every new application for parole. The impact on victims and their families, 'who potentially face ongoing trauma from delayed justice', could be significant.

3.5.3 *The symbolic role of law*

There was general scepticism among consultation participants about using the maximum penalty purely for symbolic purposes, when there is likely to be little impact on actual sentencing practice and no additional deterrent effect. One legal practitioner participant cautioned that 'prioritising symbolism creates very real reputational issues for the judiciary within the community – raising penalty provisions doesn't change in any practical sense the sentencing laws that need to be applied for any individual case'. An individual sentence that falls far short of life imprisonment (as most do) might lead to community outrage and media approaches to politicians, who could then deflect the criticism towards the judiciary. This could be 'dangerously corrosive of community trust' in the proper application of sentencing law. For this participant, governments should be careful about prioritising symbolism above the reputational integrity of the judiciary as it could have the perverse effect of reducing community confidence in the courts.

Another legal practitioner consultation participant suggested that it would be 'a gamble' to rely on the potential symbolic value of increasing the maximum penalty to life imprisonment when long sentences are unlikely to follow. For this participant, there are other ways to send a message to the community about the seriousness of particular offences; when a life term is not imposed despite being available, the message is undermined. The implementation of 'reactionary reforms' – when harsh promises are made but do not eventuate – ends up reducing confidence in the system.

3.5.4 *Summary*

All consultation participants identified potential unintended consequences of implementing reforms to the maximum penalties available for other serious offences. To minimise the impact of any such consequences, participants suggested both limiting any reforms to only

those deemed absolutely necessary and ensuring that reforms are monitored and regularly reviewed.

3.6 Other issues that the Sentencing Advisory Council could consider

Consultation participants were asked to identify any other relevant issues that TSAC could consider when formulating its final recommendations. While most participants did not identify other areas of pressing concern, the issues that were raised largely related to identifying ways to improve victim experiences and address community expectations.

3.6.1 *Examining ways to improve victims' experiences with the criminal justice system*

A number of consultation participants noted that simply increasing the maximum penalty for an offence to life imprisonment would do little to change the views of victims about the criminal justice system. Instead, some suggested other ways to improve victims' experiences.

An academic participant suggested that alternative processes, such as restorative justice programs, would provide victims more choice and a less traumatising way to seek to restore the harm caused to them. A participant from a frontline victim support service discussed the continued use of 'good character' evidence in sentencing considerations (despite restrictions on when this can be considered), asserting that the practice is problematic, with victims saying it makes them feel retraumatised.

For these and other consultation participants, the criminal justice system is a blunt tool to respond to serious offences, in particular sex offences. They recommended consideration of ways to improve the experience of victims of a system that can be deeply retraumatising.

3.6.2 *Educating and informing the general public*

Consultation participants all spoke of the importance of community confidence in the criminal justice system, but many acknowledged the difficulty of keeping the public sufficiently informed to enable a solid understanding. Some participants suggested that – if reforms are made as a result of TSAC's recommendations – this would offer the ideal opportunity to undertake a coordinated public information and education effort to increase community understanding of sentencing, including the role of maximum penalties, the meaning of life imprisonment, and the meaning of various sentencing purposes and principles.

3.6.3 *Upskilling judges*

In addition to informing the general public about any reforms that arise from TSAC's recommendations, some consultation participants also made the point that this would be an

opportune moment to upskill judges, particularly about the nature of, and harms caused by, serious sexual violence and family violence. These participants expressed concern that, were the maximum penalty for such offences to be increased to life imprisonment, judges would nonetheless treat these offences as less serious than warranted.

To ensure that judges understand the intent of any reforms and the seriousness of sexual and family violence, these consultation participants recommended that information be developed specifically for a judicial audience.

4 Recommendations: Identifying the Need for Limited Reform

This chapter summarises the key findings of this research, based on the various methodological arms – the review of literature, analysis of sentencing outcomes and stakeholder consultation. It then presents a series of recommendations for limited reform.

4.1 Key findings

4.1.1 *Informed public opinion generally aligns with judges' views*

Caution is needed in inferring community views from top-of-the-head comments, media headlines or single (albeit particularly heinous) crimes. The most robust research shows that public opinion can be nuanced and complex, with informed members of the community not as punitive as often portrayed.

Research consistently shows that sentencing preferences of an informed public generally align with those of judges, and are often more lenient. However, the area where people are least satisfied with sentencing is sex offences. These offences are viewed as among the most serious of all offence types, at times equivalent to murder – but people feel that the harm caused to victims, including long-term psychological harm, is not properly recognised in sentencing.

Among sex offences, those committed against children are viewed as the most serious due to the vulnerability of young victims, the breach of trust inherent in the offending and the devastating, lifelong harm caused.

4.1.2 *Current sentencing practice in Tasmania is not out of step with other jurisdictions*

While comparison of sentencing outcomes across jurisdictions is fraught and must be treated with substantial caution, it appears that sentencing for serious offences in Tasmania is fairly consistent with that in some other states, albeit sitting at the lower end for sex offences.

Even in those jurisdictions where a maximum penalty of life imprisonment is available for many more offences, sentences rarely approach the maximum where it is not a mandatory

sentence. Similarly, data on Tasmanian sentencing outcomes show that sentences for the worst instances of offending still fall below the 21-year maximum for single counts of an offence, although global sentencing has resulted in some extremely long sentences.

4.1.3 Judges have appropriate discretion in sentencing

Judicial officers, legal practitioners, academics and criminal justice system practitioners who were consulted for this work were all of the view that the current approach in Tasmania is working well: that legislative provisions allowing global sentencing sufficiently support judicial discretion to sentence beyond the 21-year maximum for each individual charge. Further, ancillary orders such as dangerous offender declarations and high-risk offender orders allow for ongoing detention or supervision of those deemed to present an ongoing risk to the community. With these options, stakeholders argued, judges are able to impose an appropriate sentence even in the most serious of cases.

Analysis of Tasmanian sentencing outcomes supports the contention that judges are not being constrained by the 21-year maximum. Most sentences for single charges of an offence do not approach the maximum penalty, while global sentences imposed for offending that involves multiple proven charges have reached as high as 40 years.

Despite the flexibility of the current provisions, some stakeholders identified a problem: with certain offences, the maximum penalty does not allow for sentences that reflect the harm caused, the offender's culpability and the gravity of the offence. For these offences – sex offences against children and persistent offences in particular – there was some support (though not among all stakeholders) for increasing the maximum penalty available.

While raised by only a single consultation participant, cases of fatal child abuse may also be in need of reform, given the challenges in sentencing this infrequently occurring offence.

Notwithstanding most consultation participants' views that the current approach is (largely) working as intended, in formulating policy in relation to any adjustment of maximum penalties, the government should consider the moral abhorrence – apparent in both informed community views and judicial comments on passing sentence – of serious crimes against children, be they sexual offences, violent offences or fatal offences.

4.1.4 'Persistent' offence provisions are anomalous and problematic

There were two offences that created particular concern for most judicial, legal, academic and criminal justice system stakeholders: persistent sexual abuse of a child and persistent family violence.

With these offences often being the only conviction in a case, the 21-year maximum penalty may result in sentences that do not appropriately reflect the seriousness of the offending and

the harm caused to the victim subjected to persistent violence of this kind. In the worst instances of these offences, prosecutors may need to pursue individual charges in their attempt to secure an appropriate sentence. But it is not always possible to particularise separate occurrences of offending; even when it is, there is likely to be significant burden placed on victims to identify particular instances of the offending, given the difficulties of remembering and the potential secondary traumatisation associated with providing evidence of every instance.

These two persistent offences represent a legal anomaly – while intended to facilitate prosecution and reduce the secondary impact on victims, they appear not to be working as intended, with sentences for the worst instances of such offending failing to reflect the harm caused.

4.1.5 Symbolic reform in the absence of changed sentencing practice may be problematic

Even if more offences were to be subject to a maximum penalty of life imprisonment, it likely would have little impact on actual sentencing practice: the reality of charging practice and the need to apply sentencing considerations to the unique circumstances of each case suggest that there may be little noticeable change in outcomes. Any increase in maximum penalties would therefore be of symbolic value only. The only exception to this would be for the two anomalous persistent offences.

There are two opposing positions on the value of changing the law even if practice does not change. On the one hand, stakeholders working with victims of crime were of the view that the symbolic value of having the highest possible maximum would ‘send a message’ to victims, offenders and the community that such offences are among the most serious and will be taken seriously by the criminal justice system. On the other hand, judicial, legal, academic and criminal justice system stakeholders expressed considerable concern about using law for symbolic purposes alone when there is no realistic expectation that sentences would reach anywhere near the maximum.

Regardless of their position on this issue, all stakeholders expressed concern about the unintended impact on victims were the maximum penalty to be increased without sentences also increasing. If a life sentence is available but the sentence imposed falls far short, victim experiences of the criminal justice system could be made even worse than they are currently. Stakeholders identified the need for better ways to offer victims validation in a system that can so often be harmful.

4.1.6 *There would likely be unintended consequences of expanding life imprisonment*

Expanding the maximum penalty of life imprisonment to other offences would likely have unintended consequences across the criminal justice system and for victims of crime. Defendants may be more likely to contest charges at trial, with subsequent harmful impacts on victims having to endure a trial and extended involvement in the justice process. There may also be consequences for First Nations defendants and those from other minority cohorts, potentially driving further over-representation. Finally, an increase in contested matters means more trials, resulting in increased pressure and workload for the court.

In addition to practical concerns, if penalty provisions were to increase but sentencing practice remained largely unchanged, there could be an unintended negative impact on public opinion and corrosion of community confidence in the courts.

4.1.7 *Options to address victim and community expectations should be explored*

Acknowledging that the criminal justice system can be retraumatising for victims, particularly in the case of serious sexual offences, the introduction of other options for victims to seek to address the harms they experienced should be considered. This could support victims' confidence that their voices have been heard.

To ensure an evidence-informed approach, it would be valuable for further work to be undertaken that examines the experiences of victims who come into contact with the Tasmanian criminal justice system in relation to sentencing.

Community confidence in the criminal justice system is crucial, but the general public does not have a good understanding of how the system works, particularly in terms of sentencing. Coordinated public education and information efforts could contribute to better understanding of the complexities of sentencing and the many considerations that must inform judicial sentencing discretion.

In order to understand Tasmanians' views, it would be valuable for further work to be undertaken by the TSAC to investigate contemporary community perceptions of sentencing for serious sex offences.

4.2 Recommendations

Taken together, the findings of this research lead to the following recommendations:

Recommendation 1

Maximum penalties for serious offences other than murder and treason should remain as is; the 21-year maximum and other legislative provisions such as global sentencing allow judges scope to achieve the various purposes of sentencing. However, the operation of the maximum penalty in cases of persistent sexual abuse of a child or young person and persistent family violence is problematic due to the nature of the crime representing multiple instances of criminal behaviour. Mechanisms to address the anomaly of these offences should be examined.

Recommendation 2

If reforms are made to maximum penalties for some offences, appropriate data should be collected immediately to inform a review undertaken three years after implementation to understand the impact of reforms and ensure they are working as intended. A second review should be undertaken after a further three years to identify longer-term trends.

Recommendation 3

Work should be undertaken to develop public education and information resources to support community understanding of sentencing, including ensuring that online information is both accessible and appealing to the general public.

References

A. Articles/Books/Reports

Mirko Bagaric, Theo Alexander and Richard Edney, *Sentencing in Australia* (Thomson Reuters (Professional) Australia Pty Limited, 2020).

Boxall, Hayley, Kate Fitz-Gibbon, Lorana Bartels, Rebekah Ruddy, 'Community attitudes to defences and sentences in cases of homicide and assault in Queensland' (Research report No 1, Queensland Law Reform Commission, November 2024).

Commission of Inquiry into the Tasmanian Government's responses to child sexual abuse (Report, August 2023).

Crump, David, 'Deterrence' (2018) 49(2) *St. Mary's Law Journal* 317.

Department Of Justice, *Annual report 2024-25* (October 2025).

Freiberg, Arie, Hugh Donnelly and Karen Gelb, *Sentencing for child sexual abuse in institutional contexts* (Report for the Royal Commission into Institutional Responses to Child Sexual Abuse, 2015).

Gelb, Karen, Victorian Sentence Advisory Council, *Myths and misconceptions: Public opinion versus public judgement about sentencing* (Report, July 2006).

Gelb, Karen, Victorian Sentencing Advisory Council, Victoria, *More myths and misconceptions* (Report, September 2008).

Green, David, 'Public Opinion Versus Public Judgment About Crime' (2006) 46(1) *British Journal of Criminology*.

Jeffs, Samuel, Siobhan Allen, Eva Klambauer and Laura Hilderley, Queensland Sentencing Advisory Council, *Understanding of sentencing: Community knowledge of sentencing terms and outcomes* (Research brief No 3, April 2023).

LexisNexis, *Halsbury's Laws of Australia* (online at 8 November 2019).

Moritz, Dominique, Ashley Pearson and Dale Mitchell, Sexual Violence Research and Prevention Unit, University of the Sunshine Coast, *Community views on rape and sexual assault sentencing* (Final Report, June 2024).

Moritz, Dominique, Ashley Pearson and Dale Mitchell, Sexual Violence Research and Prevention Unit, University of the Sunshine Coast, *Community views on rape and sexual assault sentencing* (Supplementary materials, June 2024).

Queensland Sentencing Advisory Council, *Sentencing of sexual assault and rape: The ripple effect* (Final Report, December 2024).

Queensland Sentencing Advisory Council, *Sentencing of sexual assault and rape: The ripple effect – Final Report* (Community Summary, February 2025).

Schaefer, Lacey, Michelle Sydes, Danielle Harris, Gemma Williams, Caitlyn Egan Griffith Criminology Institute, *Sentencing practices for sexual assault and rape offences* (Final Report, February 2024).

Tasmanian Law Reform Institute, 'A comparative review of national legislation for the indefinite detention of 'Dangerous Criminals'' (Research Paper No 4, July 2017).

Tasmanian Sentence Advisory Council, *A guide to sentencing in Tasmania* (2020).

Tasmanian Sentencing Advisory Council, *Sex offence sentencing* (Final Report, August 2015).

Thomas, David, *Principles of Sentencing* (Heinemann, 2nd ed, 1979).

Victorian Law Reform Commission, *Improving the justice system response to sexual offences* (Report, September 2021).

Victorian Sentencing Advisory Council, *Does imprisonment deter? A review of the evidence* (2011).

Victorian Sentencing Advisory Council, *Public opinion about sentencing: A research overview* (13 December 2018).

Victorian Sentencing Advisory Council, *Sentencing occupational health and safety offences in Victoria* (Consultation Paper, February 2024).

Warner, Kate and David Porter, *Sentencing in Tasmania* (The Federation Press, 3rd ed, forthcoming 2026).

Warner, Kate, Julia Davis, Caroline Spiranovic, Helen Cockburn, Arie Freiberg, 'Measuring jurors' views on sentencing: Results from the second Australian jury sentencing study' (2016) 19(2) *Punishment and Society*.

Warner, Kate, Caroline Spiranovic, Lorana Bartels, Karen Gelb, Lynne Roberts, 'Public perspectives on judges' reasons for sentence' (2021) 95(9) *Australian Law Journal* 685.

Warner, Kate, Julia Davis, Maggie Walter, Rebecca Bradfield, Rachel Vermey, 'Public judgement on sentencing: Final results from the Tasmanian Jury Sentencing Study' (2011) *Trends and Issues in Crime and Criminal Justice* No 407: 1-6.

Warner, Kate, *Sentencing in Tasmania* (The Federation Press, 2002).

B. Cases⁴¹⁷*Aljrood v Western Australia* [2016]

WASCA 73

Austin v Western Australia [2023] WASCA

191

Bell v The Queen [2003] WASCA 216*Bellissimo v The Queen* (1996) 84 A Crim
R 465*Bradley v The Queen* [2017] VSCA 69*Brennan v Tasmania* [2022] TASCCA 7*Brooker v The King* [2024] SASCA 135*Bugmy v The Queen* [2013] HCA 37*Byfield v The Queen* [2002] WASCA 260*Byrne v Western Australia* [2022] WASCA
64*Cheung v the Queen* [2022] NSWCCA
168*Clarkson v The Queen; EJA v The Queen*
[2011] VSCA 157*Colledge v Western Australia* [2007]
WASCA 211*Culbert v The Queen* [2021] NSWCCA 38*Cuong v The Queen* [2021] SASCA 89*Daley v Tasmania* [2016] TASCCA 10*Des Rosiers v The Queen* [2006]
NSWCCA 16*Director of Public Prosecutions v*
Harrington [2017] TASCCA 4*Director of Public Prosecutions v BRL*
[2023] TASCCA 8*Dobson v Tasmania* [2017] TASCCA 19*Dorsett v The Queen* [2024] NSWCCA
192*DPP v Asling* [2017] VSC 191*DPP v CBF* [2016] TASCCA 1*DPP v Chalmers* [2023] VSC 764*DPP v Donoghue (No 3)* [2024] ACTSC
272*DPP v El Nasher* [2023] VSC 694*DPP v Elliot & Fares* [2022] VSC554*DPP v Ene, Kakato Taumoefolau* [2025]
VSC 281*DPP v Goldsmith* [2023] VSCA 124*DPP v McDonald* [2020] VSC 845*DPP v Monks* [2024] TASCCA 4*DPP v O'Connell (No 5)* [2024] ACTSC 16*DPP v Taylor* [2023] ACTSC 39*DPP v Tran* [2024] VSCA 16*DPP v Wijesinghe* [2025] ACTSC 543*DR v The Queen* [2022] NSWCCA 151*Elias v The Queen* [2013] HCA 31*Francis v Western Australia* [2019]
WASCA 43*Grange v The King* [2023] NSWCCA 6

⁴¹⁷ Links are provided for Tasmanian cases, where available, to support ready access to local caselaw.

<i>Hutton v Western Australia</i> [2022] WASCA 133	<i>R v Care; R v Al-Khateib</i> [2020] NSWDC 856
<i>Jamie Ryan Browne v Western Australia</i> [2024] WASCA 162	<i>R v Cavkic (No 2)</i> [2009] VSCA 43
<i>JWM v Tasmania</i> [2017] TASCCA 22	<i>R v Cigercioglu</i> [2023] VSC 772
<i>Kelly v The Queen</i> (1992) 33 FCR 536	<i>R v CJN</i> (2013) 117 SASR 81
<i>Krojs v The Queen</i> [2022] NSWCCA 209	<i>R v D</i> (1997) 69 SASR 413
<i>Lai v The King</i> [2023] VSCA 151	<i>R v Daniel O’Connell and Ors</i> (1844) 11 CL&F 155
<i>Lester v Western Australia</i> [2025] WASCA 96	<i>R v Dayney</i> (Supreme Court of Queensland, Bowskill SJA, 7 December 2021)
<i>Lieu v The Queen</i> (2016) 263 A Crim R 173	<i>R v DM</i> [2019] NSWDC 653
<i>Lockwood v Tasmania</i> [2025] TASCCA 6	<i>R v Dowden-Carlisle</i> [2023] ACTSC 169
<i>Lowe v The King</i> [2025] SASCA 24	<i>R v Dries</i> [2024] QDCSR 973
<i>Markarian v The Queen</i> [2005] HCA 25	<i>R v Elizalde</i> [2006] QCA 330
<i>Marshall v Western Australia</i> [2015] WASCA 156	<i>R v Farquhar</i> [2023] SASCA 9
<i>McCabe v The King</i> [2023] VSCA 329	<i>R v Fisher</i> [2022] QSC 189
<i>Mead v The King</i> [2025] SASCA 3	<i>R v Forbes</i> [2005] NSWCCA 377
<i>Mill v The King</i> (1988) 166 CLR 5	<i>R v Geissler</i> [2019] QCA 063
<i>MK v R</i> [2024] NSWCCA 127	<i>R v Godfrey</i> (The Supreme Court of the Northern Territory, Huntingford J, 26 November 2025)
<i>Muldrock v The Queen</i> [2011] HCA 39	<i>R v Goude</i> [2020] HCA 8
<i>Munda v Western Australia</i> [2013] HCA 38	<i>R v Hassum</i> [2025] QSCSR 249
<i>Neill-Fraser v Tasmania</i> [2012] TASCCA 2	<i>R v JHF</i> [2025] QDCSR 869
<i>Quinn v The Queen</i> [2018] NSWCCA 297	<i>R v Johnston</i> [2024] QSCSR 27
<i>R v AB</i> [2022] NSWCCA 3	<i>R v Jones</i> (2010) SASCF 58
<i>R v AS</i> [2023] NSWSC 1575	<i>R v Kilic</i> [2016] HCA 28
<i>R v Beaumont</i> [2023] SASCA 128	<i>R v Klosowski</i> [2021] SASCA 85
<i>R v Berry</i> [2024] SASCA 413	

- R v LPCM* [2025] NSWCCA 78
- R v Mallie* [2009] QCA 190
- R v Mason* [2000] NSWCCA 82
- R v MDU* [2024] QCA 113
- R v Mikhail* [2020] VSC 681
- R v MJJ, R v CJN* (2013) 117 SASR 81
- R v Moyse* (1988) 38 A Crim R 169
- R v Murray* [2025] QSCSR 207
- R v Newby* [2022] ACTCA 20
- R v O'Sullivan; Ex parte* [2019] QCA 300
- R v Omari* [2022] ACTCA
- R v REB* [2023] QCA 105
- R v Rogerson; R v McNamara* (No 57) [2016] NSWSC 1207
- R v Scognamiglio* (1991) 56 A Crim R 81
- R v Sikais* [2024] NSWDC 80
- R v Singar* [2025] NTCCA 1
- R v Singh* [2024] SASCA 81
- R v Sorensen* [2024] QDCSR 355
- R v Stein* [2024] NSWSC 1080
- R v Sultani; R v Munshizada; R v Baines; R v Danishyar* [2021] NSWSC 1654
- R v Thompson* [2025] NSWSC 419
- R v Truong* [2015] NTCCA 5
- R v TZ* [2023] QCA 087
- R v Vongsouvanh* [2004] NSWCCA 158
- R v Warwick* (No.94) [2020] NSWSC 1168
- R v Whalley* [2022] NSWDC 662
- R v Wilkinson* (No 5) [2009] NSWSC 432
- R v Wood* [2014] NSWCCA 184
- R v WP* [2024] NSWDC 544
- R v Wright* [1988] VSCA 84
- R v Yavuz* (No 2) [2020] ACTSC 248
- R v Young* (2016) 126 SASR 41
- RC v The Queen* [2020] NSWCCA 76
- RG v The King* [2025] NSWCCA 36
- Shipton v The Queen* [2003] TASSC 23
- Sturniolo v Western Australia* [2023] WASCA 147
- Tasmania v Adams* (Supreme Court of Tasmania, Blow J, 26 March 2009)
- Tasmania v Astell* (Supreme Court of Tasmania, Brett J, 27 August 2020)
- Tasmania v AWM* (Supreme Court of Tasmania, Pearce J, 16 October 2020)
- Tasmania v Cedric Jordan and Nolene Jordan* (Supreme Court of Tasmania, Pearce J, 28 June 2023)
- Tasmania v CJW* (Supreme Court of Tasmania, Pearce J, 14 August 2019)
- Tasmania v Daniel John Ridgers* (Supreme Court of Tasmania, Porter AJ, 27 February 2025)
- Tasmania v Davey* (Supreme Court of Tasmania, Brett J, 10 December 2021)
- Tasmania v DKE* (Supreme Court of Tasmania, Wood J, 21 January 2021)
- Tasmania v DMB* (Supreme Court of Tasmania, Porter AJ, 29 August 2023)

Tasmania v Dobson (Supreme Court of Tasmania, Blow CJ, 8 September 2015)

Tasmania v Drake (Supreme Court of Tasmania, Jago J, 12 December 2023)

Tasmania v Duffy (Supreme Court of Tasmania, Brett J, 13 November 2020)

Tasmania v Fiala (Supreme Court of Tasmania, Estcourt J, 25 August 2023)

Tasmania v Gall-Strauss (Supreme Court of Tasmania, Brett J, 3 June 2025)

Tasmania v Hancock (Supreme Court of Tasmania, Wood J, 1 July 2025)

Tasmania v Harper (Supreme Court of Tasmania, Jago J, 13 September 2023)

Tasmania v HJS (Supreme Court of Tasmania, Blow CJ, 6 March 2023)

Tasmania v IWM (Supreme Court of Tasmania, Shanahan J, 19 June 2025)

Tasmania v James Kenneth Austin (Supreme Court of Tasmania, Brett J, 3 July 2025)

Tasmania v Jamie Dean Sharman (Supreme Court of Tasmania, Jago J, 9 October 2024)

Tasmania v JAPL (Supreme Court of Tasmania, Pearce J, 16 October 2024)

Tasmania v Jassy Lois Anglin and Michael John Anglin (Supreme Court of Tasmania, Tennent J, 13 April 2015)

Tasmania v JLK (Supreme Court of Tasmania, Pearce J, 30 November 2020)

Tasmania v JSS (Supreme Court of Tasmania, Pearce J, 7 December 2021)

Tasmania v KBR (Supreme Court of Tasmania, Jago J, 30 October 2023)

Tasmania v KCW (Supreme Court of Tasmania, Geason J, 1 September 2023)

Tasmania v Kelleher (Supreme Court of Tasmania, Geason J, 23 February 2023)

Tasmania v Kerry Bilston (Supreme Court of Tasmania, Pearce J, 16 May 2018)

Tasmania v KR (Supreme Court of Tasmania, Porter J, 7 October 2015)

Tasmania v Leigh Geoffrey Sushames (Supreme Court of Tasmania, Jago J, 26 June 2026)

Tasmania v LM (Supreme Court of Tasmania, Jago J, 18 March 2022)

Tasmania v Lockwood (Supreme Court of Tasmania, Blow CJ, 26 April 2023)

Tasmania v Mason (Supreme Court of Tasmania, Blow CJ, 28 May 2015)

Tasmania v MJR (Supreme Court of Tasmania, Estcourt J, 5 December 2025)

Tasmania v NLR (Supreme Court of Tasmania, Pearce J, 11 May 2023)

Tasmania v Pryor (Supreme Court of Tasmania, Hill AJ, 19 December 2005)

Tasmania v RPP (Supreme Court of Tasmania, Estcourt J, 26 February 2021)

Tasmania v Rusterholz (Supreme Court of Tasmania, Pearce J, 1 May 2015)

Tasmania v TP (Supreme Court of Tasmania, Jago J, 18 March 2025)

Tasmania v Whiting (Supreme Court of Tasmania, Jago J, 27 June 2024)

Taylor v Western Australia [2022] WASCA 174

Taylor v Western Australia [2023] WASCA 127

Teagle v The King [2023] SASCA 108

Towse v The Queen [2022] NSWCCA 252

Veen v The Queen (No 2) (1988) 164 CLR 465

Wark v Western Australia [2023] WASCA

Western Australia v Camus [2014] WASCA 74

Western Australia v Dimer [2022] WASCA 148

Western Australia v Phillips [2023] WASCA 104

Western Australia v Winch [2024] WASCA 79

Wilson v Western Australia [2025] WASCA 8

WP v R [2024] NSWCCA 77 [125]

XBX v Western Australia [2024] WASCA 43

Yardley v Betts (1979) 22 SASR 108

C. Legislation⁴¹⁸

Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (Qld)

Child Protection (Offender Reporting and Registration) Act 2005 (NT)

Community Protection (Offender Reporting) Act 2005 (Tas)

Controlled Substances Act 1984 (SA)

Corrections Act 1997 (Tas)

Crimes (High Risk Offenders) Act 2006 No 7 (NSW)

Crimes (Sentencing Procedure) Act 1999 (NSW)

Crimes Act 1900 (ACT)

Crimes Act 1900 (NSW)

Crimes Act 1958 (Vic)

Criminal Code Act 1899 (Qld)

Criminal Code Act 1924 (Tas)

Criminal Code Act 1983 (NT)

Criminal Code Act 1995 (Cth)

Criminal Code Act Compilation Act 1913 (WA)

Criminal Code Amendment (Sexual Abuse Terminology) Act 2020 (Tas)

Criminal Code and Related Legislation Amendment (Child Abuse) Act 2019 (Tas)

Criminal Law (High Risk Offenders) Act 2015 (SA)

Criminal Law Consolidation Act 1935 (SA)

⁴¹⁸ Links are provided for Tasmanian legislation.

Criminal Legislation Amendment (Child Sexual Abuse) Act 2018 No 33 (NSW)

Dangerous Criminals and High Risk Offenders Act 2021 (Tas)

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)

Drugs Misuse Act 1986 (QLD)

Drugs, Poisons and Controlled Substances Act 1981 (Vic)

Family Violence Act 2004 (Tas)

Family Violence Legislation Reform Act 2020 (WA)

Misuse of Drugs Act 2001 (Tas)

Penalties and Sentences Act 1992 (Qld)

Police Offences Act 1935 (Tas)

Police Powers and Responsibilities and Other Legislation Amendment Act (No. 2) 2023 (Qld)

Sentencing (Serious Child Sex Offenders) Amendment Act 2024 (No 37 Of 2024) (SA)

Sentencing Act 1995 (NT)

Sentencing Act 1997 (Tas)

Sentencing Act 2017 (SA)

Serious Sex Offenders Act 2013 (NT)

Youth Justice Act 1997 (Tas)

D. Online resources

Australian Bureau of Statistics, 'Criminal Courts, Australia methodology' (Webpage, 2026).

Judicial Commission of NSW, 'Sentencing Bench Book: Sexual offences against children (NSW)' [17-460] Sexual intercourse with a child offences: s 66A-66C *Crimes Act 1900 (NSW)* (Webpage, 2025).

NSW Bureau of Crime Statistics and Research, 'Courts and Sentencing' (Webpage, 2 March 2026).

Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Attempt to Murder' (Webpage, 2025).

Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Manslaughter' (Webpage, 2025).

Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Murder' (Webpage, 2025).

Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Repeated sexual conduct with a child' (Webpage, 2025).

Queensland Sentencing Advisory Council DataHub, 'Sentencing Data by Offence – Trafficking in dangerous drugs' (Webpage, 2025).

The Public Defenders (NSW), 'Maintain unlawful sexual relationship' (November 2025).

The Public Defenders (NSW), 'Sexual intercourse with child between 10 and 14 years' (March 2025).

The Public Defenders (NSW), 'Sexual intercourse with child between 14 and 16 years.' (October 2024).

The Public Defenders (NSW), 'Sexual intercourse with a child under 10 years' (October 2025).

The Public Defenders (NSW), 'Sentencing Tables Index' (Webpage, 22 April 2026).

Victorian Sentencing Advisory Council, 'Attempted murder – All sentences', *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Manslaughter – All sentences', *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Murder – All sentences', *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Persistent sexual abuse of a child under 16 – All sentences', *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Rape – All sentences', *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Sexual penetration of a child under 12 – All sentences' *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Sexual penetration of a child under 12 to 16 – All sentences' *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Trafficking in a commercial quantity of a controlled drug – All sentences', *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Traffick in a commercial quantity of a drug of dependence – All sentences', *SACStat* (Webpage, 2025).

Victorian Sentencing Advisory Council, 'Traffick in a large commercial quantity of a drug of dependence – All sentences', *SACStat* (Webpage, 2025).

APPENDIX A: ORGANISATIONS CONSULTED

The following organisations participated in consultations for this Report:

Organisation	Consultation type
Academic researchers x 3	Meeting x 3
Australian Lawyers Alliance Tasmania Branch	Meeting
Community Corrections	Meeting
Community Legal Centres Tasmania	Meeting plus submission
Department of Police, Fire and Emergency Management, Strategy and Support (on behalf of Tasmania Police)	Meeting
Engender Equality	Meeting
Laurel House	Meeting
Magistrates Court of Tasmania	Meeting
Office of the Director of Public Prosecutions	Submission
Prisoners Legal Service	Meeting plus submission
Tasmania Legal Aid	Meeting
Tasmanian Aboriginal Legal Service	Meeting plus submission
Tasmanian Family and Sexual Violence Alliance	Meeting
Victim Support Services + Victims of Crime Assistance and Redress	Meeting

APPENDIX B: CONSULTATION QUESTIONS

The maximum penalty for all offences in Tasmania is 21 years, except murder and treason that carry a maximum sentence of life in prison. This is very different to all other jurisdictions in Australia, where offences such as large-scale drug trafficking and serious sex offences also carry a maximum penalty of life.

1. Is it problematic that only these two offences attract the highest possible maximum penalty? If so, in what ways does it affect you, your organisation or the Tasmanian justice system?
2. Do you think the current situation reflects contemporary community expectations and public attitudes?
3. Do you think the current situation reflects the expectations of victims of serious crimes?
4. Does the current situation allow all the purposes of sentencing to be fulfilled for other serious offences not subject to a life imprisonment maximum penalty?
5. Should the availability of life imprisonment be expanded to include other serious crimes? If so, on what basis/principles should these other offences be identified?
6. Which offences do you view as high priority for amendment of their maximum penalty, and why?
7. What do you see as the potential consequences (both intended and unintended) of imposing sentences of life imprisonment on (a) people who are found guilty or plead guilty; (b) victims of crime; (c) members of the community; and (d) the justice system more generally?
8. Are there offences that you would be concerned about if they were to be included in any reforms?
9. Is there anything else you think the TSAC should consider when formulating its recommendations?

APPENDIX C: CROSS-JURISDICTIONAL COMPARISON OF OFFENCES WITH LIFE IMPRISONMENT

Table A1: Cross-jurisdictional comparison of offences attracting a maximum penalty of life imprisonment (mandatory penalty denoted by *)

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
Murder	Murder	Murder*	Murder *	Murder *	Murder	Murder	Murder *
Treason	Trafficking in controlled drug	Murder of a police officer*	Manslaughter	Demands with menaces upon agencies of government (aggravated)*	Treason	Treason	Manslaughter
	Manufacturing controlled drug for selling	Drug offences involving commercial quantities or cultivation for a commercial purpose (excl. cannabis leaf)	Attempt to murder	Repeat serious child sex offences*	Conspiring or soliciting to commit murder	Conspiracy to murder or commit treason	Attempt to unlawfully kill
	Cultivating controlled plant for selling	Drug offences involving manufacture or production in presence of children or procuring children to supply prohibited drugs	Terrorism	Riots causing grievous bodily harm to a person or an explosive substance to explode, or destroying a building, vehicle or machinery	Manslaughter	Incitement	Perjury (to convict a person for an offence punishable by life imprisonment)

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
	Selling controlled plant	Aggravated sexual assault in company	Perjury (to procure a guilty finding for an offence punishable with life imprisonment)	Crime of piracy	Criminal neglect where the victim dies	Unintentional killing in the course of a crime of violence	Procuring etc suicide
	Supplying controlled drug to child for selling	Persistent sexual abuse of a child	Forcibly rescues a person in custody sentenced for murder or terrorism	(Serious) Perjury	Causing death or harm by dangerous use of vehicle or vessel (aggravated)	Trafficking in a drug of dependence (large commercial)	Preventing the birth of a live child
	Procuring child to traffick in controlled drug	Sexual intercourse – child under 10	Assisting and encouraging suicide	Conspiracy to bring false accusations	Leaving accident after causing death or harm by careless use of vehicle or vessel (aggravated)	Trafficking in a drug of dependence (large commercial) for a criminal organisation	Robbery involving an offensive weapon or instrument
			Killing an unborn child when it is about to be delivered	Engaging in penile intercourse with a child under 16	Rape	Cultivation of narcotic plants (large commercial)	Aggravated assault with intent to rob
			Disabling (choke, suffocate, strangle) a person in order to commit an indictable offence	Abuse of person with an impairment of the mind (engaging in unlawful penile intercourse)	Triggering child sex offences*	Aggravated home invasion for anyone aged 14 and over sentenced in the County Court	Criminal damage where property destroyed by fire

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
			Stupefying in order to commit an indictable offence	Obtaining commercial sexual services from person who is not an adult – child under 12	Unlawful sexual intercourse with a person under 14	Aggravated carjacking for anyone aged 14 and over sentenced in the County Court	Possess with intent to sell, manufacture or sell a traffickable quantity of meth.
			Acts intended to cause serious harm or prevent apprehension	Incest	Sexual abuse of a child		
			Preventing escape from ship or aircraft that is in distress or wrecked	Repeated sexual conduct with a child	Sexual servitude (commercial) where child under 14		
			Intentionally endangering safety of person travelling by rail/road	Attempted murder	Use of child under 14 in commercial sexual acts		
			Intentionally endangering safety of person travelling by aircraft or ship	Accessory after the fact to murder	Arson by fire or explosives that damages property		
			Assault with intent to steal, using firearm and injuring	Manslaughter	Use a computer to commit or facilitate commission of an		

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
			victim by discharging it		offence outside the state		
			Causing sexual servitude of a child under 12	Aiding suicide	Robbery (aggravated)		
			Conducting business involving sexual servitude of a child under 12	Killing unborn child when a person is about to deliver the child	Sacrilege (breaks and enters place of worship and engages in relevant offence)		
			Sexual intercourse – without consent	Unlawfully assaults pregnant person and kills or seriously harms unborn child	Serious criminal trespass (aggravated)		
			Compelling sexual intercourse or penetration – without consent	Unlawful striking causing death	Piracy		
			Sexual intercourse – child under 10	Endangering the safety of a person in a vehicle with intent	Attempts to commit murder or treason		
			Causing sexual intercourse or penetration – child under 10	Disabling (e.g. chokes) in order to commit indictable offence	Trafficking controlled drug – large commercial quantity		

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
			Repeated sexual abuse – child under 16	Stupefying in order to commit an indictable offence	Trafficking commercial quantity where offender is a serious drug offender or aggravated offence		
			Robbery (aggravated)	Acts intended to cause grievous bodily harm or other malicious acts	Manufacturing controlled drug – large commercial quantity, with intent to sell		
			Burglary (aggravated)	Rape	Manufacturing controlled drug – commercial quantity with intent to sell. where offender is a serious drug offender or aggravated offence		
			Sabotage (involving major disruptions)	Obstructing rescue or escape from unsafe premises	Sale, manufacture etc of controlled drug – large commercial		

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
					quantity where offender is serious drug offender or aggravated offence		
			Arson	Endangering the safety of a person in a vehicle with intent	Cultivation and sale of controlled plants for sale – large commercial quantity		
			Endangering operation of aircraft	Sexual assault (aggravated)	Cultivation and sale of controlled plants for sale – commercial quantity where offender is a serious drug offender or aggravated offence		
			Conspiracy to lay a false charge that is punishable by life imprisonment	Armed or aggravated robbery	Sale or possession of controlled plants – large commercial quantity		

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
			Supply of a schedule 1 drug to a child – commercial quantity	Attempted armed or aggravated robbery	Sale or possession of controlled plants – commercial quantity where offender is a serious drug offender or aggravated offence		
			Supply of a schedule 1 drug to a child – less than commercial quantity	Extortion	Sale, supply or administration of controlled drug to a child		
			Cultivation of prohibited plant in presence of child – commercial quantity	Taking control of aircraft (aggravated)	Sale, supply or administration of controlled drug in a school zone		
			Manufacture dangerous drug – commercial quantity	Burglary (aggravated)	Procuring a child to commit an offence against Part 5 of the Act		
			Manufacturing dangerous schedule 1 drug in	Entering or being on a premise and committing			

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
			the presence of a child	indictable offences (aggravated)			
			Procuring a child to commit an offence under s43BG or s 43BH	Arson			
				Endangering the safe use of vehicles and related transport infrastructure			
				Destroying or damaging premises by explosion			
				Destruction of sea walls and other property			
				Communicating infectious diseases to animals			
				Attempts to commit indictable offence punishable by mandatory life imprisonment			
				Accessory after the fact to indictable offence punishable by			

TAS	ACT	NSW	NT	QLD	SA	VIC	WA
				mandatory life imprisonment where no other punishment provided			
				Trafficking dangerous drugs			
				Supplying dangerous drugs			

