

# The prosecution of non-fatal strangulation cases:

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## An examination of finalised prosecution cases in Queensland, 2017 – 2020

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# **The prosecution of non-fatal strangulation cases: An examination of finalised prosecution cases in Queensland, 2017 – 2020**

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## Key points

- **Children:** Children feature in the case files both as direct victims of Non-Fatal Strangulation (NFS) and as being present during the NFS incident (see section [3.1.3](#)). There should be further consideration of this issue from the perspective of the kinds of support that children may need in the aftermath of witnessing non-fatal strangulation (NFS) and policies regarding children testifying in NFS cases, especially where both the complainant and defendant are their parents (see section [4.2](#))
- **Aboriginal and or Torres Strait Islander people:** Aboriginal and or Torres Strait Islander people were overrepresented in the data and accounted for one in five defendants, and one in four complainants. This overrepresentation was evident at all levels from bail refusal for NFS charges, to prosecution, conviction and receiving a custodial sentence for NFS. (See section [3](#), generally). This raises questions about system biases. Consideration should be given to the possibility of hearing non-fatal strangulation charges, including applications for bail, in the Magistrates Courts/Murri Courts (on this point see section [4.4](#)), and the introduction of Murri Courts at the District Court level (see section [4.3](#))
- **Time:** The average time from ODPP file opening to file finalisation was 276 days, or roughly 9 months (see section [3.2](#)). The longer the processing time, the higher the risk that the complainant will withdraw from the prosecution. The longer the period of time the complainant is involved in the legal process, the more stress she or he may experience. The length of the processing time has implications for the time defendants spend on remand, (see section [3.6](#)), where there is a lack of access to behaviour change programs and potential flow on effects regarding future employment. Consideration should be given to law reform to allow some non-fatal strangulation matters to be heard in the magistrate's courts to reduce the processing time of NFS matters (see section [4.4](#)).
- **Complainant withdrawal:** The data suggests that around 41% of complainants withdrew from the prosecution of NFS (see section [3.7.2](#)). Consideration should be given to reducing the processing time of matters (noted above) and the kinds of support needed for victims to keep them engaged in the prosecution where safe to do so (see section [4.5](#)).

## 1. Introduction

An offence of non-fatal strangulation (NFS), titled 'Choking, suffocation or strangulation in a domestic setting', was introduced into Queensland law in 2016. It is set out in the *Queensland Criminal Code 1899* (Qld) (QCC) section 315A, and its introduction follows many American states that established discrete offences of non-fatal strangulation throughout the 2000s (Pritchard, Reckdenwald & Nordham, 2017). The introduction of NFS offences recognises that strangulation carries significant risk of future harm and death in the context of domestic and family violence (Funk & Schuppel, 2003; Turkel, 2007).

### 1.1. The aim of the report

Given the recent introduction of the NFS offence, there has been little examination of the prevalence and outcomes of charges and convictions for the offence (Douglas & Fitzgerald, 2021; Queensland Sentencing Advisory Council [QSAC], 2019), and no study deriving from prosecutions data. This report presents first findings from a sample of finalised NFS case files drawn from the Office of the Director of Public Prosecutions (ODPP) Queensland. The aim of the report is to provide an initial overview of case-defendant- and complainant-characteristics for NFS-related cases charged and / or prosecuted since the introduction of the offence. Before turning to findings, we briefly discuss the ODPP role in prosecuting NFS, and data available in relation to the offence.

### 1.2. The role of the ODPP and what case files include

The process of prosecution of NFS in Queensland commences with a Queensland police investigation. In most cases a complaint of NFS is made when police officers are either called to attend a domestic and family violence incident or a victim reports the matter to the police. It is Queensland police officers who initially investigate the case and take statements from relevant witnesses and determine what charges should initially be laid. In Queensland, NFS is an indictable offence that is not able to be finalised in the magistrate's courts (see QCC ch. 58A). In many cases the ODPP will take over the prosecution of the matter around the time of the committal. Once the ODPP take over the prosecution of the matter, the ODPP will open a file.

The prosecution of NFS typically involves a committal process which is finalised in the magistrate's court.<sup>1</sup> As part of this process the accused is provided with a brief of evidence that has been collected, largely by investigating police, to support the charge. The committal provides an opportunity for the charged person to have a close look at the evidence underpinning the charge and generally a chance for the strengths and weaknesses of the case to be identified. Around the committal stage there may

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<sup>1</sup> On some occasions where NFS is not initially charged by police, a decision may be made after committal to proceed with a prosecution of NFS. In that case the ODPP will present an ex officio indictment (QCC (Qld) s. 560; DJAG, 2016, p. 11).

be some discussion about proceeding with other charges (e.g., assault bodily harm (QCC 1899 (Qld) s.339) if there is insufficient evidence of NFS. At the end of the committal procedure the matter may be resolved in the magistrate's court if a decision is made *not* to proceed with the NFS charge or any other charge or to proceed with an offence that can be determined in the magistrate's court.

If NFS is to proceed, either to trial or for a plea of guilty and sentence, the matter will be committed to the District Court and the ODPP will file an indictment (a special form of the charge) in the District Court.<sup>2</sup> The ensuing trial preparation, trial or negotiation towards a plea of guilty will be managed by lawyers working in the ODPP. The files held by the ODPP can be expected to include copies of witness statements taken by Queensland Police during their investigations and provided to the ODPP. The material available in the files may be limited depending on what information and statements are provided to the ODPP by Queensland Police. Once the ODPP takes control of the case they may also determine that further evidence is needed, for example to prove the elements of the NFS offence (i.e., to prove that the accused exerted 'some pressure that results at least in the restriction of the victim's breathing' (*R v HBZ*, 2020) and in identifying whether the accused may have a defence available (e.g., consent, self-defence, etc.). The information in the files is generally focussed on evidence and communications that are relevant in each prosecution and may not be a complete record of all enquiries made by police and ODPP lawyers in relation to the case.

The ODPP files contain police statements associated with the investigation and usually include a statement of the complainant and sometimes a statement of the accused. The files also include statements of other witnesses, including those present who saw the incident, neighbours and others who heard noises that may have been associated with the incident or who know something of the history of the relationship between the accused and the complainant. ODPP files also contain statements from paramedics if they attended. If the complainant attended at a hospital or visited a health practitioner, reports or statements from these individuals or services may also be on file. Some files also contain photographs.

In many cases, the ODPP will be advised at an early stage that the accused plans to plead guilty to NFS and in such cases there may be no need to obtain fulsome medical reports. Given the range of statements and reports that are made available to the accused through the committal process it is not possible to identify whether there was a key piece of evidence that will encourage or convince an accused person to plead guilty or to contest a charge or underpin the ODPP decision not to continue with a charge.

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<sup>2</sup> With the exception of ex officio indictment cases, see fn1.

Notably, people may plead guilty for reasons that may not be related to the strength of the evidence in the case. For example, they may feel remorse generally for what they did (without necessarily believing they are guilty of the specific offence with which they are charged), they may not be able to afford or retain legal representation making a potential trial extremely difficult, they may want to spare the victim from giving evidence or they may hope to receive a discount to their sentence for a plea of guilty (see generally *Cameron v R*, 2002; QSAC, 2021, p. 18; *Penalties and Sentences Act 1992* (Qld), s13). Generally, research suggests that a strong evidence base in criminal trials is more likely to lead to a guilty verdict (Devine et al., 2008; 2016).

## 2. Method

The research draws on a statewide sample of 210 finalised ODPP case files, including one or more NFS charges, and finalised during the four-year period from 2017 to 2020. Following Department of Justice and Attorney General (DJAG) approval, The Directorate staff of the ODPP drew the sample with consideration of the year of finalisation, the location (ODPP Chambers), and the type of file. There were three possible casefile types:

- (1) NFS charges were **prosecuted** (n = 92, 44%) – including cases in which an NFS charge was finalised with a plea of guilty and or proceeded to trial resulting in either a guilty or not guilty verdict,
- (2) the case was **discontinued** (n = 62, 30%) – including cases in which all charges related to the matter were discontinued, and
- (3) an **alternative** charge was prosecuted (n = 56, 27%) – including cases in which NFS charge(s) were dropped but alternative charges proceeded to finalisation.

Our reference to ‘alternative charge’ files in this study applies to two different contexts:

- (1) Commonly, NFS was charged by police along with other offences including assaults, drug matters, etc., depending on the context and circumstances. Sometimes the NFS charge was withdrawn, and the prosecution proceeded with some or all the other remaining charges.
- (2) In other cases, the NFS charge was withdrawn and replaced with a different charge (most commonly an assault-related offence).

There are often complex discussions and negotiations underpinning these decisions (see generally Douglas & Fitzgerald, 2021). Drawing on the ODPP casefiles, the precise circumstances and rationales underpinning the withdrawal of NFS charges from the ODPP files was not always evident. As a result, for the purposes of this report, we combine the two contexts noted above into a single ‘alternative charge’ variable.

It is important to note that the sample was designed to achieve a reasonable number of cases across the three casefile types, the years of operation of the NFS offence, and the location. However, it was not possible for us to determine the extent to which the sample is representative of the total number of NFS-related cases prosecuted by filetype, year or location. For example, the smaller number of NFS-prosecuted case files in 2020 (see Table 1) may not reflect a drop in the total number of NFS cases prosecuted by the ODPP in this year, rather it simply reflects the number of cases drawn by the ODPP staff.

After the sample was identified, using a standardised data collection form, six researchers worked at the Brisbane ODPP office to collect de-identified data from each file over a period of six weeks. The data captured through this process were extensive. To increase the reliability of the analysis of the resulting data file, we used multiple coders who double-coded some portion of the variables to ensure agreement.

## 2.1. Description of the sample

Table 1 presents sample characteristics for the included cases.

Casefiles were roughly equally distributed across the four years and were drawn from a total of 14 Chambers distributed across Queensland. Just over one-third (35%) of cases derived from one of six Chambers located in Brisbane, while the remaining cases (65%) were drawn from one of eight regional Chambers including Beenleigh, Cairns, Maroochydore, Ipswich, Rockhampton, Southport, Toowoomba, and Townsville.

Table 1. Sample Characteristics

|   | Total |       | NFS Prosecuted |       | Alternative Charge Prosecuted |       | Matter Discontinued |       |
|---|-------|-------|----------------|-------|-------------------------------|-------|---------------------|-------|
|   | n     | %     | n              | %     | n                             | %     | n                   | %     |
| ODPP File type  | 210   | 100.0 | 92             | 100.0 | 56                            | 100.0 | 62                  | 100.0 |
| NFS Prosecuted  | 92    | 43.8  | ...            | ...   | ...                           | ...   | ...                 | ...   |
| Matter Discontinued                                   | 62    | 29.5  | ...            | ...   | ...                           | ...   | ...                 | ...   |
| Alternative Charge (315A drops out)                   | 56    | 26.7  | ...            | ...   | ...                           | ...   | ...                 | ...   |
| Year of file finalisation                             |       |       |                |       |                               |       |                     |       |
| 2017  | 53    | 25.2  | 20             | 21.7  | 18                            | 32.1  | 15                  | 24.2  |
| 2018  | 55    | 26.2  | 27             | 29.3  | 13                            | 23.2  | 15                  | 24.2  |
| 2019  | 58    | 27.6  | 33             | 35.9  | 12                            | 21.4  | 13                  | 21.0  |
| 2020  | 44    | 21.0  | 12             | 13.0  | 13                            | 23.2  | 19                  | 30.6  |
| Chambers location                                     |       |       |                |       |                               |       |                     |       |
| Brisbane Chambers                                     |       |       |                |       |                               |       |                     |       |
| (n = 6 Chambers, $\bar{x}$ = 12 matters per Chambers) | 73    | 34.8  | 31             | 33.7  | 19                            | 33.9  | 23                  | 37.1  |
| Regional Chambers                                     |       |       |                |       |                               |       |                     |       |
| (n = 8 Chambers, $\bar{x}$ = 17 matters per Chambers) | 137   | 65.2  | 61             | 66.3  | 37                            | 66.1  | 39                  | 62.9  |

... not applicable.

**Note:** The number of observations is 210 cases.

Data source: ODDP case files, 2017-2020.



### 3. Findings

#### 3.1. Defendant and complainant characteristics

##### 3.1.1. Gender, age and Aboriginal and/or Torres Strait Islander status

The gender distribution among defendants and complainants in the sample was consistent with Australian research (Australian Institute of Health and Welfare [AIHW], 2019) showing that women are at far greater risk of domestic violence victimisation than men. **In the total sample, men accounted for the majority (88%) of defendants, and women, the majority (90%) of complainants** (see Table 2). In this study, the gender distribution held irrespective of the prosecution of NFS. Thus, there were no statistical differences in the gender distribution between casefiles in which NFS was prosecuted, dropped for an alternative charge, or completely discontinued.

On average, defendants were 34 years of age (SD = 10.3), a few years older than the mean age of complainants (31 years, SD = 11.3). The age distributions were consistent across the three file types, with the majority of defendants and complainants falling between the ages of 25 and 44 years whether NFS was prosecuted, dropped or discontinued.

In nearly **7% of casefiles, the complainant associated with the case was a child (under the age of 18 years)**. Among NFS-prosecuted cases and alternative charge cases child complainants accounted for 9% and 7% of complainants, respectively, however, and this figure dropped to 3% for discontinued matters.

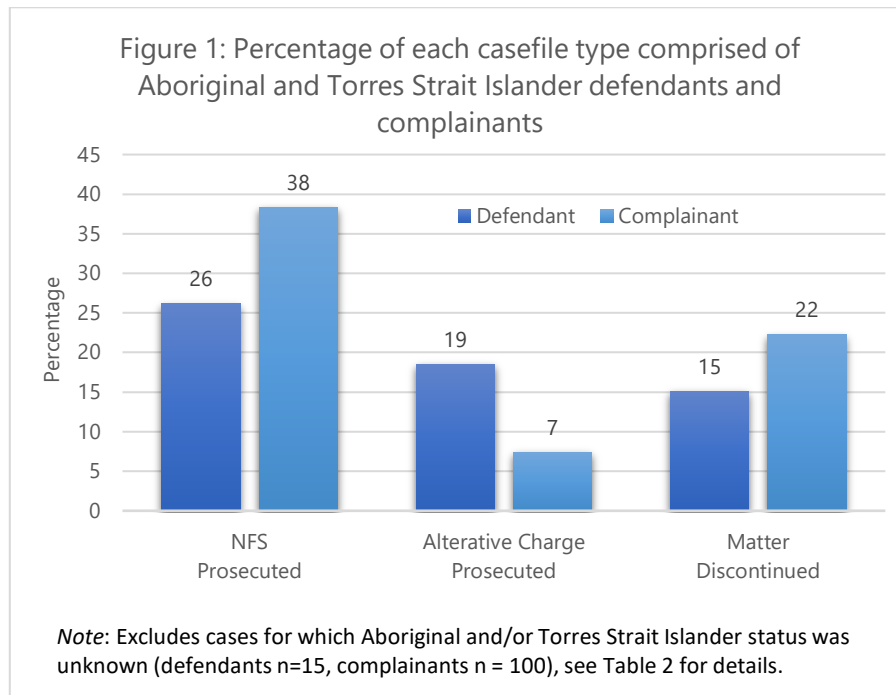
Notably, the findings demonstrate a **large overrepresentation of Aboriginal and or Torres Strait Islander people** as defendants and complainants relative to their roughly 4.6% share of the Queensland general population (Queensland Government, 2018). Among individuals for whom Aboriginal and Torres Strait Islander status was known, Indigenous people accounted for one in five (21%, n = 41) defendants, and one in four (26%, n = 28) complainants.<sup>3</sup>

**The proportion of Aboriginal and or Torres Strait Islander defendants and complainants was highest among NFS-prosecuted casefiles.** Although Indigenous people were overrepresented relative to their 4.6% share of the general population irrespective of the casefile type, Figure 1 shows that there was some variation. Where Indigenous status was known, Indigenous defendants accounted for a greater proportion (26%, n = 23) of NFS-prosecuted casefiles than they did for either alternative charge cases (19%, n = 10) or discontinued matters (15%, n = 8). Complainants who were Indigenous

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<sup>3</sup> The proportion of cases in which Aboriginal and or Torres Strait Islander status was unknown or not stated in the file was much higher for complainants (48%) than defendants (7%, see Table 2).

people also accounted for a larger share of NFS-prosecuted files (38%,  $n = 18$ ) than was the case for either alternative charge (7%,  $n = 2$ ) or discontinued matters (22%,  $n = 8$ ).



### 3.1.2. The defendant-complainant relationship

For most casefiles in the study, **defendants and complainants were involved in *current* intimate partner relationships (69%), rather than *ex- or separated* intimate partner relationships (20%) or other family relationship (11%)** which were most commonly parent-child relationships (Table 2). This pattern was relatively consistent across the three casefile types, with a slightly higher proportion of ex- or separated intimate partner relationships among NFS-prosecuted files (25%) than alternative charge (20%) or discontinued casefiles (13%, differences not statistically significant).

### 3.1.3. Children and child witnesses of NFS

Apart from child complainants, children associated with either complainants, defendants or both were mentioned in over one-half (58%,  $n = 122$ ) of the casefiles (Table 2). In the remaining cases, there were no associated children (30%,  $n = 62$ ) or there was a lack of information in the file as to the existence of associated children (12%,  $n = 26$ ).

Among the cases in which associated children were mentioned ( $n = 122$ ), there was evidence in the file most (43%,  $n = 52$ ) files that the associated children had been present at or witnessed the NFS incident(s), while the remainder of cases were evenly split between those in which there was clear

information that the child(ren) had not been present or witnessed the NFS (30%, n = 36) or a lack of clear information in the file about the location and awareness of associated children (30%, n = 34).

Table 2. Individual Characteristics

|  | Total |       | NFS<br>Prosecuted |       | Alternative Charge<br>Prosecuted |       | Matter<br>Discontinued |       |
|--|-------|-------|-------------------|-------|----------------------------------|-------|------------------------|-------|
|  | n     | %     | n                 | %     | n                                | %     | n                      | %     |
| ODPP File type   | 210   | 100.0 | 92                | 100.0 | 56                               | 100.0 | 62                     | 100.0 |
| <b>Defendant Characteristics</b>   |       |       |                   |       |                                  |       |                        |       |
| Gender   |       |       |                   |       |                                  |       |                        |       |
| Male   | 185   | 88.1  | 81                | 88.0  | 49                               | 87.5  | 55                     | 88.7  |
| Female   | 25    | 11.9  | 11                | 12.0  | 7                                | 12.5  | 7                      | 11.3  |
| Age at time of offence ( $\bar{x}$ = 34 years, SD = 10.3).   |       |       |                   |       |                                  |       |                        |       |
| 17 to < 25 years   | 38    | 18.1  | 17                | 18.5  | 14                               | 25.0  | 7                      | 11.3  |
| 25 to < 35 years   | 72    | 34.3  | 34                | 37.0  | 18                               | 32.1  | 20                     | 32.3  |
| 35 to < 45 years   | 57    | 27.1  | 26                | 28.3  | 10                               | 17.9  | 21                     | 33.9  |
| 45+ years  | 35    | 16.7  | 12                | 13.0  | 12                               | 21.4  | 11                     | 17.7  |
| Unknown  | 8     | 3.8   | 3                 | 3.3   | 2                                | 3.6   | 3                      | 4.8   |
| Aboriginal and or Torres Strait Islander person  |       |       |                   |       |                                  |       |                        |       |
| Yes  | 41    | 19.5  | 23                | 25.0  | 10                               | 17.9  | 8                      | 12.9  |
| No   | 154   | 73.3  | 65                | 70.7  | 44                               | 78.6  | 45                     | 72.6  |
| Unknown  | 15    | 7.1   | 4                 | 4.3   | 2                                | 3.6   | 9                      | 14.5  |
| <b>Complainant Characteristics <sup>1</sup></b>  |       |       |                   |       |                                  |       |                        |       |
| Gender   |       |       |                   |       |                                  |       |                        |       |
| Female   | 188   | 89.5  | 82                | 89.1  | 51                               | 91.1  | 55                     | 88.7  |
| Male   | 22    | 10.5  | 10                | 10.9  | 5                                | 8.9   | 7                      | 11.3  |
| Age at time of offence ( $\bar{x}$ = 30.6 years, SD = 11.3).                                       |       |       |                   |       |                                  |       |                        |       |
| < 18 years   | 14    | 6.7   | 8                 | 8.7   | 4                                | 7.1   | 2                      | 3.2   |
| 18 to < 25 years   | 56    | 26.7  | 24                | 26.1  | 15                               | 26.8  | 17                     | 27.4  |
| 25 to < 35 years   | 62    | 29.5  | 28                | 30.4  | 14                               | 25.0  | 20                     | 32.3  |
| 35 to < 45 years   | 46    | 21.9  | 22                | 23.9  | 14                               | 25.0  | 10                     | 16.1  |
| 45+ years  | 21    | 10.0  | 8                 | 8.7   | 7                                | 12.5  | 6                      | 9.7   |
| Unknown  | 11    | 5.2   | 2                 | 2.2   | 2                                | 3.6   | 7                      | 11.3  |
| Aboriginal and or Torres Strait Islander person  |       |       |                   |       |                                  |       |                        |       |
| Yes  | 28    | 13.3  | 18                | 19.6  | 2                                | 3.6   | 8                      | 12.9  |
| No   | 82    | 39.0  | 29                | 31.5  | 25                               | 44.6  | 28                     | 45.2  |
| Unknown  | 100   | 47.6  | 45                | 48.9  | 29                               | 51.8  | 26                     | 41.9  |
| <b>Defendant-Complainant Relationship</b>  |       |       |                   |       |                                  |       |                        |       |
| Intimate Partner   | 144   | 68.6  | 57                | 62.0  | 41                               | 73.2  | 46                     | 74.2  |
| Ex or Separated Intimate Partner   | 42    | 20.0  | 23                | 25.0  | 11                               | 19.6  | 8                      | 12.9  |
| Other Family   | 24    | 11.4  | 12                | 13.0  | 4                                | 7.1   | 8                      | 12.9  |
| <b>Any mention of non-complainant children associated with case</b>                                |       |       |                   |       |                                  |       |                        |       |
| Yes  | 122   | 58.1  | 57                | 62.0  | 27                               | 48.2  | 38                     | 61.3  |
| No   | 62    | 29.5  | 24                | 26.1  | 25                               | 44.6  | 13                     | 21.0  |
| Unknown  | 26    | 12.4  | 11                | 12.0  | 4                                | 7.1   | 11                     | 17.7  |
| <b>Any mention of child(ren) witness(es) of NFS among cases with associated children (n = 122)</b> |       |       |                   |       |                                  |       |                        |       |
| Yes  | 52    | 42.6  | 24                | 26.1  | 12                               | 21.4  | 16                     | 25.8  |
| No   | 36    | 29.5  | 18                | 19.6  | 10                               | 17.9  | 8                      | 12.9  |
| Unknown  | 34    | 29.9  | 15                | 16.3  | 5                                | 8.9   | 14                     | 22.6  |

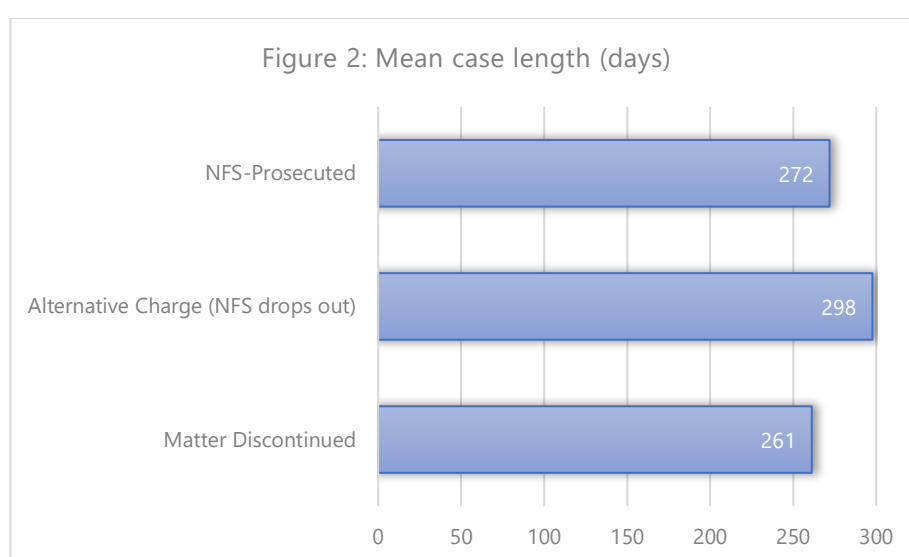
**Note:** The number of observations is 210 cases.

<sup>1</sup> There were four cases with multiple complainants. In three of these cases, only one complainant had been strangled, that complainant is included in the table. In the remaining case, multiple complainants had been strangled and only the first named complainant in the file is included for the purposes of analysis in this table.

Data source: ODDP case files, 2017-2020.

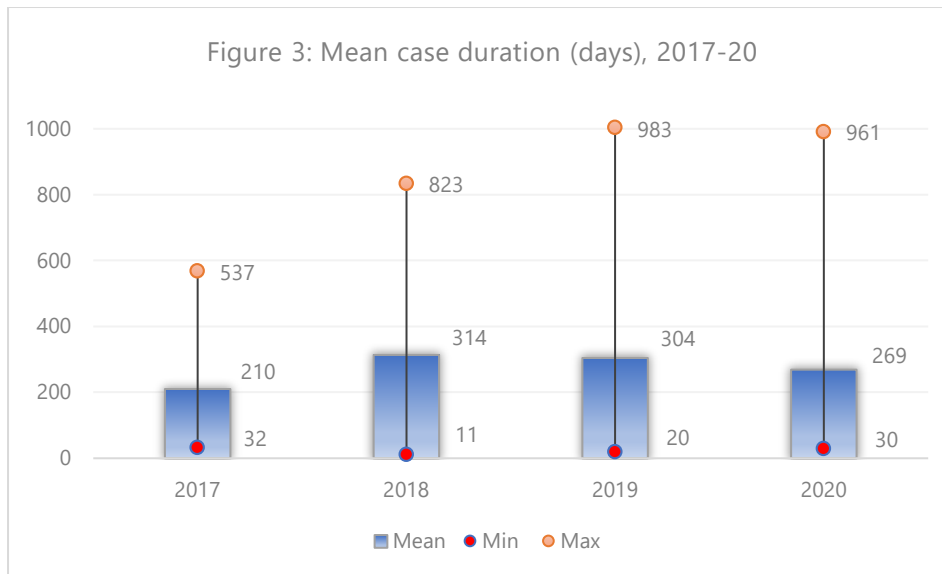
### 3.2. What is the average case completion time?

The average length of cases from ODPP file opening to finalisation was 276 days (or approximately 9.2 months) (SD = 178.2) and this varied slightly between case types (Table 3). Predictably, discontinued cases were finalised in the shortest mean number of days (roughly 261 days, or 8.7 months), followed by NFS-prosecuted cases (272 days or 9 months) (Figure 2). Matters for which an alternative charge is prosecuted spanned the greatest average number of days (approximately 298). The average difference between the length of discontinued cases and cases where alternative charge is successfully prosecuted is 36.5 days.



There have been annual changes in the average case length. Following a peak in 2018, the mean number of days dropped in the subsequent two years (Table 3). The range of average casefile days has increased over time from a low of 505 days (minimum 32, maximum 537) in 2017, to a peak of 963 days in 2019 and 931 days in 2020 (Figure 3).

It should be noted that, it will not be possible to determine the effect of the COVID-19 pandemic on NFS prosecution, case duration and other factors until subsequent years of data have become available.



**Cases finalised in regional chambers had a mean completion time that was 85 days shorter ( $p < .001$ ) than cases completed in Brisbane** (Table 3). However, the range of case durations was very similar in both chambers; 271 days in Brisbane Chambers, and 272 days in Regional Chambers.

Table 3. Mean case duration - ODDP file open to finalisation date, in days

|                                    | n   | Mean      | Minimum | Maximum | SD    |
|------------------------------------|-----|-----------|---------|---------|-------|
| Total sample                       | 210 | 275.6     | 11      | 983     | 178.2 |
| ODPP File Type                     |     |           |         |         |       |
| NFS-Prosecuted                     | 92  | 271.9     | 20      | 983     | 159.7 |
| Alternative Charge (NFS drops out) | 56  | 297.7     | 11      | 823     | 188.0 |
| Matter Discontinued                | 62  | 261.2     | 30      | 961     | 195.6 |
| Year of file finalisation          |     |           |         |         |       |
| 2017 (reference)                   | 53  | 210.3     | 32      | 537     | 112.1 |
| 2018                               | 55  | 313.6 *** | 11      | 823     | 181.2 |
| 2019                               | 58  | 304.3 *** | 20      | 983     | 186.5 |
| 2020                               | 44  | 269.0 *   | 30      | 961     | 208.8 |
| Chambers location                  |     |           |         |         |       |
| Brisbane Chambers (reference)      | 73  | 331.0     | 20      | 961     | 188.3 |
| Regional Chambers                  | 137 | 246.1 *** | 11      | 983     | 165.9 |

**Notes:** The number of observations is 210 cases. Reference refers to the category to which others are compared with.

\*\*\* Category is statistically different from reference category,  $p < .001$ .

\* Category is statistically different from reference category,  $p < .05$ .

Data source: ODDP case files, 2017-2020.

### 3.3. Defendant DVO and criminal history

Australian research shows that a significant proportion of domestic violence offenders in contact with the criminal justice system have had a prior history of offending and or domestic violence-related

offending more specifically (see, Hulme et al., 2019). This was consistent with defendants charged and or convicted of NFS offences in this study.

### **3.3.1. Domestic Violence Order (DVO)**

Most NFS defendants (83%) had a domestic violence order (DVO) in place at the time of prosecution (Table 4). In roughly one-half of casefiles (48%), the DVO was already in place at the time of the NFS incident, and in the remaining cases the DVO was lodged in conjunction with the current set of charges.

Defendants in NFS-prosecuted case files had a higher proportion of DVOs (86%) than those in alternative charge (80%) and discontinued cases (81%). DVOs were more likely to be in place at the time of the incident for NFS-prosecuted (52%) and alternative charge cases (53%) than was the case for discontinued cases (38%,  $\chi^2 = 2.378$ ,  $p = .123$ ).

### **3.3.2. Criminal History**

A large proportion (77%) of defendants in the sample had a prior criminal history, and these were evenly split between those with violent (46%) and non-violent (46%) offence histories (with 8% having an unknown offence type).

A significantly larger proportion (53%) of defendants associated with NFS-prosecuted matters had a history of violent offences than was the case for those associated with alternative charge matters (30%).

Nonetheless, the mix of violent and non-violent offence types across casefile types is consistent with evidence that many domestic violence offenders are generalists for whom domestic violence and other violent offences form only part of an overall offending behaviour pattern (e.g., Boxall et al., 2015; Weatherburn & Rahman, 2018).

Table 4. Defendant DVO, Criminal History

|                                | Total |       | NFS Prosecuted |       | Alternative Charge |        | Matter Discontinued |       |
|--------------------------------|-------|-------|----------------|-------|--------------------|--------|---------------------|-------|
|                                | n     | %     | n              | %     | n                  | %      | n                   | %     |
| ODPP File type                 | 210   | 100.0 | 92             | 100.0 | 56                 | 100.0  | 62                  | 100.0 |
| <b>Current DVO</b>             |       |       |                |       |                    |        |                     |       |
| Yes                            | 174   | 82.9  | 79             | 85.9  | 45                 | 80.4   | 50                  | 80.6  |
| <i>Already in place</i>        | 84    | 48.3  | 41             | 51.9  | 24                 | 53.3   | 19                  | 38.0  |
| <i>New DVO</i>                 | 90    | 51.7  | 38             | 48.1  | 21                 | 46.7   | 31                  | 62.0  |
| No                             | 22    | 10.5  | 5              | 5.4   | 8                  | 14.3   | 9                   | 14.5  |
| Unknown                        | 14    | 6.7   | 8              | 8.7   | 3                  | 5.4    | 3                   | 4.8   |
| <b>Any criminal history</b>    |       |       |                |       |                    |        |                     |       |
| Yes                            | 162   | 77.1  | 75             | 81.5  | 43                 | 76.8   | 44                  | 71.0  |
| <i>Violent offence(s)</i>      | 74    | 45.7  | 40             | 53.3  | 13                 | 30.2 * | 21                  | 47.7  |
| <i>Non-violent offence(s)</i>  | 74    | 45.7  | 29             | 38.7  | 23                 | 53.5   | 22                  | 50.0  |
| <i>Type of offence unknown</i> | 14    | 8.6   | 6              | 8.0   | 7                  | 16.3   | 1                   | 2.3   |
| No                             | 41    | 19.5  | 15             | 16.3  | 9                  | 16.1   | 17                  | 27.4  |
| Unknown                        | 7     | 3.3   | 2              | 2.2   | 4                  | 7.1    | 1                   | 1.6   |

**Note:** The number of observations is 210 cases.

\* Alternative charge violent/non-violent distribution is statistically different from the NFS-prosecuted distribution,  $p < .05$ .

Data source: ODDP case files, 2017-2020.

### 3.4. Are defendants bailed?

The defendant was given bail in around one-half (54%) of all cases (Table 5). However, there were significant differences in bail outcomes across the file types. Bail was proportionately less likely to be granted to defendants in NFS-prosecuted matters (45%) and most likely for those in discontinued matters (71%,  $\chi^2 = 22.597$ ,  $p < .001$ )

Table 5. Bail for Current Matter

|   | Total |       | NFS Prosecuted |       | Alternative Charge |       | Matter Discontinued |          |
|---|-------|-------|----------------|-------|--------------------|-------|---------------------|----------|
|   | n     | %     | n              | %     | n                  | %     | n                   | %        |
| ODPP File type                                    | 210   | 100.0 | 92             | 100.0 | 56                 | 100.0 | 62                  | 100.0    |
| <b>Defendant received bail for current matter</b> |       |       |                |       |                    |       |                     |          |
| Yes   | 113   | 53.8  | 41             | 44.6  | 28                 | 50.0  | 44                  | 71.0 *** |
| No  | 59    | 28.1  | 40             | 43.5  | 15                 | 26.8  | 4                   | 6.5      |
| Unknown   | 38    | 18.1  | 11             | 12.0  | 13                 | 23.2  | 14                  | 22.6     |

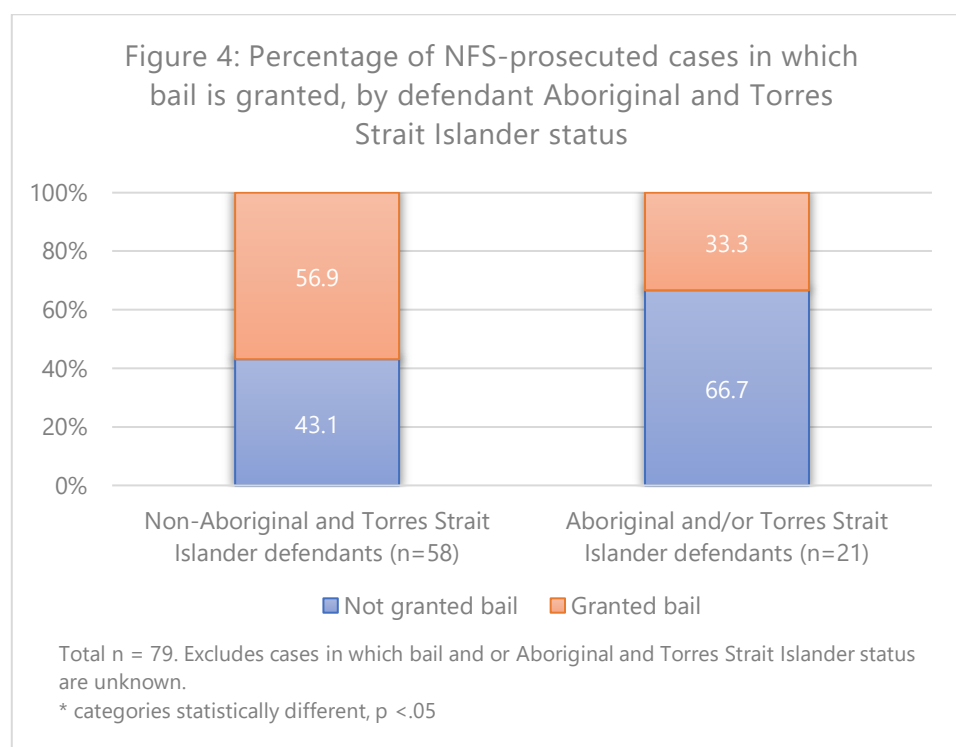
\*\*\* Category is statistically different than NFS-prosecuted  $p < .001$ .

**Note:** The number of observations is 210 cases.

Data source: ODDP case files, 2017-2020.

**Among NFS-prosecuted casefiles, Aboriginal and or Torres Strait Islander defendants were proportionately less likely to receive bail (33%) than was the case for non-Indigenous defendants (57%) (Figure 4).** This finding is consistent with evidence that, net of other factors, Aboriginal and

Torres Strait Islander people are nearly two times more likely than others to be refused bail (Weatherburn & Snowball, 2012).



### 3.5. Pleas and outcomes

Where NFS charges or alternative charges were prosecuted, files contained a variety of pleas, penalty types and sentence lengths (Table 6 and 7).

#### 3.5.1. Pleas

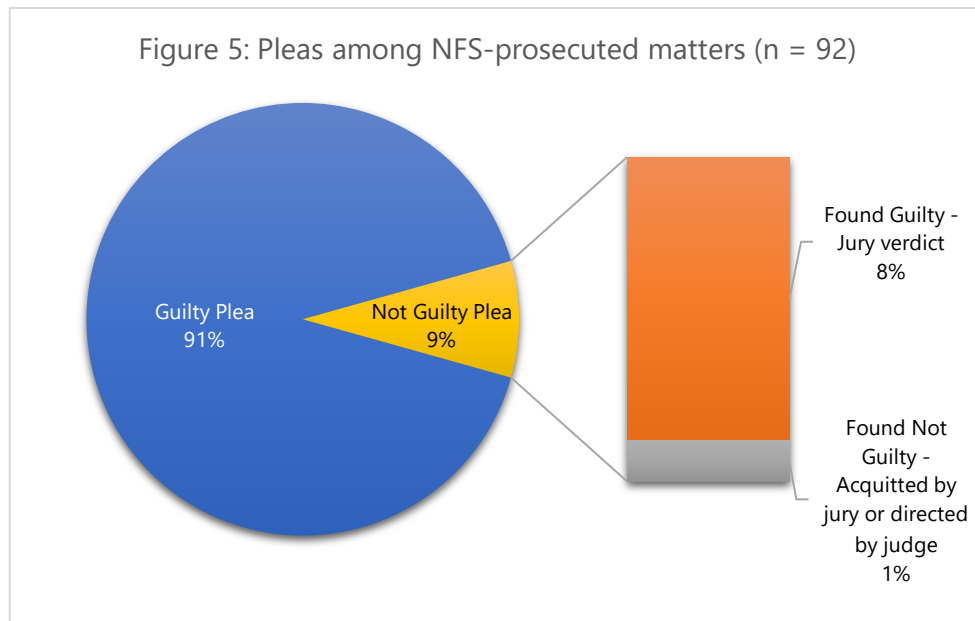
##### *NFS-prosecuted casefiles*

Among NFS-prosecuted matters, the majority (91%) of defendants pleaded guilty to one or all of the NFS charge(s) (Table 6). This figure is higher than the rate of guilty pleas across all criminal matters – e.g., in NSW about eight in ten (78%) of all defendants pleaded guilty (ABS, 2021). However, our findings are consistent with previously observed outcomes whereby the majority (99%) of NFS convictions result from guilty pleas (QSAC, 2019).

Notably, guilty pleas avoid the need for the complainant to give evidence at trial which can be a stressful experience in addition to avoiding the expense of trial (QSAC, 2021, p. 18).



Of the remaining nine percent of NFS-prosecuted matters, the defendant pleaded not guilty resulting in a trial. Of these cases, all but one resulted in an acquittal by a jury or at the direction of the judge (Figure 5).



#### *Alternative charge casefiles*

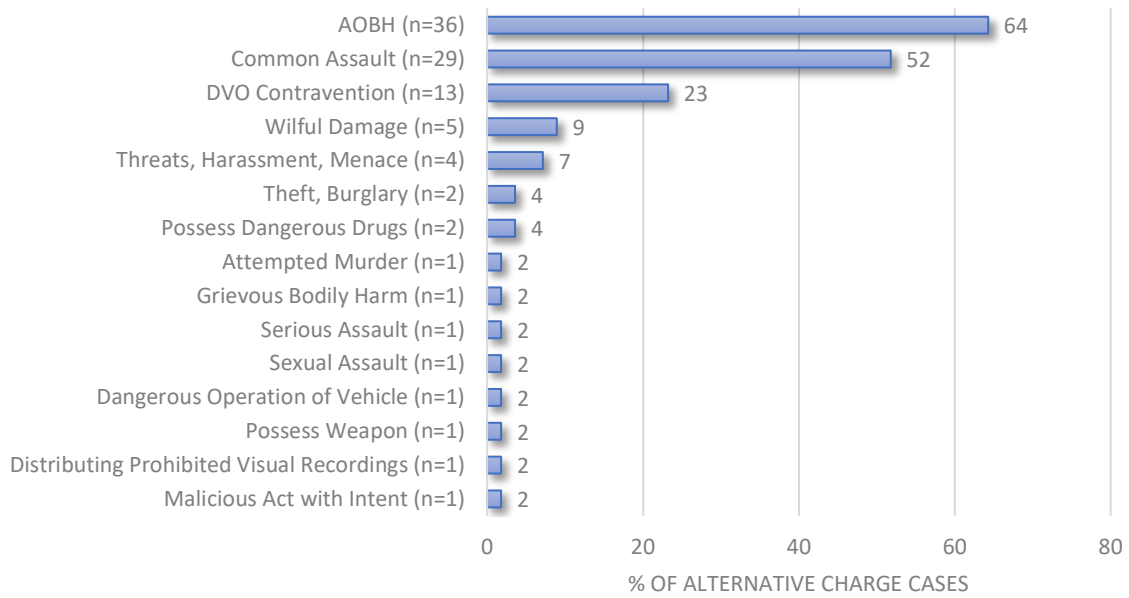
Among alternative charge matters, nearly all (98%) pleaded guilty to all charges. In one alternative charge case the defendant pleaded not guilty to common assault, however, following a trial was found guilty of the prosecuted offence. In many matters multiple alternative charges proceeded.

**Assault occasioning bodily harm (AOBH; QCC s.339) is the most frequent alternative charge** (Figure 6). Almost two thirds (64%) of alternative charge cases included AOBH charge(s). All (100%) of the defendants in these cases pleaded guilty to the AOBH offence(s). Almost half (52%) of the alternative charge cases included common assault (QCC s.335) charge(s).

We remind the reader here that in this study a reference to 'alternative charges' applies to two different contexts:

- (1) Commonly NFS was charged by police along with other offences including assaults, drug matters, etc., depending on the context and circumstances. Sometimes the NFS charge was withdrawn, and the prosecution proceeded with some or all the other remaining charges.
- (2) In other cases, the NFS charge was withdrawn and replaced with a different charge (most commonly an assault-related offence).

Figure 6: Alternative charge offences sentenced



Notes: N=56 alternative file cases. Numbers in figure refer to the percentage of cases involving each offence.

### 3.5.2. Penalty Type

Among NFS-prosecuted cases for which the defendant pleaded guilty to one or more NFS charges or was found guilty (n=85), a large majority (94%, n = 80) received a penalty of imprisonment – custodial sentences accounted for 79% of all penalty types, followed by wholly (9%) and partially (6%) suspended sentences (Table 6). Among alternative charge cases in which one or more charges were pleaded to or found guilty (n = 56), the proportion of custodial sentences drops to 73%.

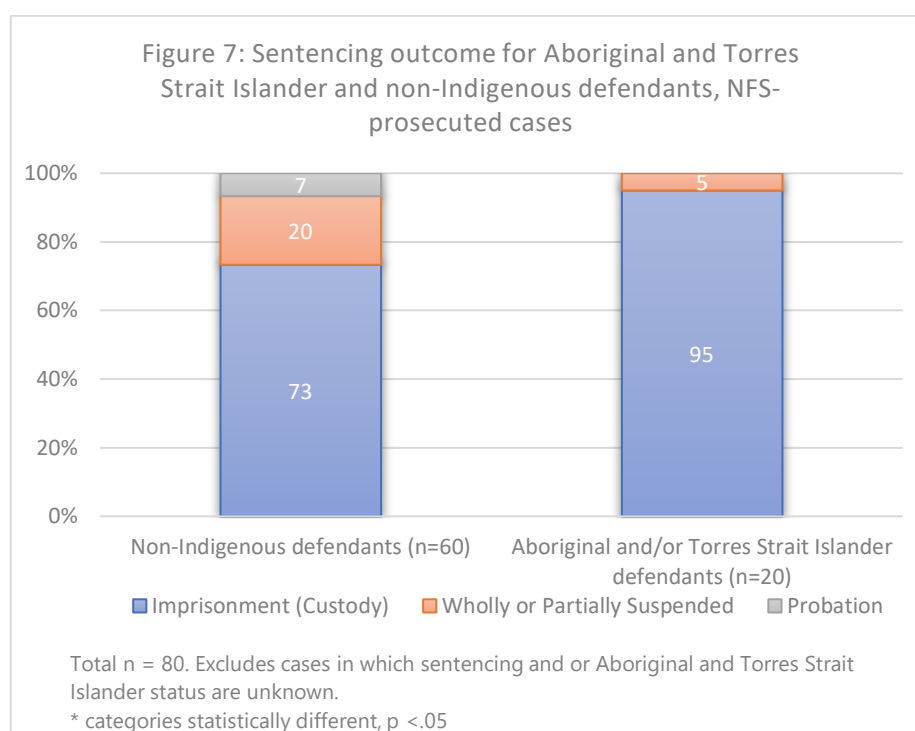
Table 6. Plea and outcome for NFS-prosecuted and alternative charge cases

|  | NFS-Prosecuted<br>(n = 92) |      | Alternative Charge<br>(n = 56)  |       |
|--|----------------------------|------|---------------------------------|-------|
|  | Count of NFS<br>charges    |      | Count of alternative<br>charges |       |
|  | n                          | %    | n                               | %     |
| <b>Plea</b>  |                            |      |                                 |       |
| Plea of Guilty (one or all charges)  | 84                         | 91.3 | 55                              | 98.2  |
| Plea of Not Guilty (all charges)   | 8                          | 8.7  | 1                               | 1.8   |
| <i>Found Guilty - Jury verdict (one or all charges)</i>                        | 1                          | 12.5 | 1                               | 100.0 |
| <i>Found Not Guilty - Acquitted by jury or directed by judge (all charges)</i> | 7                          | 87.5 | 0                               | 0.0   |
| <b>Penalty type (where pleaded or found guilty)</b>                            |                            |      |                                 |       |
| Imprisonment   | 80                         | 94.1 | 41                              | 73.3  |
| Custody - Adult imprisonment   | 67                         | 78.8 | 32                              | 57.1  |
| Partially suspended  | 5                          | 5.9  | 4                               | 7.1   |
| Wholly suspended   | 8                          | 9.4  | 5                               | 8.9   |
| Community-based sentence   | 4                          | 4.7  | 15                              | 26.8  |
| Probation  | 4                          | 4.7  | 12                              | 21.4  |
| Fine   | ...                        | ...  | 2                               | 3.6   |
| Recognisance Order   | ...                        | ...  | 1                               | 1.8   |
| Unknown  | 1                          | 1.2  | ...                             | ...   |

Note: Numbers in the table refer to a count of cases.

Data source: ODDP case files, 2017-2020.

Among those sentenced for NFS (n = 80), Aboriginal and Torres Strait Islander defendants were proportionately more likely to have received a custodial imprisonment sentence than was the case for non-Indigenous defendants (95% and 73%, respectively) (Figure 7).



### 3.5.3. Sentence Length

NFS-prosecuted cases with convictions returned a mean sentence length of around 25 months (SD = 10.3, Table 7). Among NFS-prosecuted cases sentenced to imprisonment (79%) – excluding partially and wholly suspended sentences – the mean sentence length was 26 months and ranged from three to 54 months (Table 7).

Alternative charge convictions resulted in a shorter mean sentence length (17 months, SD = 19.4), attributable to the possible downgrading of NFS charges to a lesser offence. Sentence lengths amongst alternative charge imprisonment outcomes ranged widely from 1 month to 108 months, demonstrative of the wide variety of charges and contexts of alternative charges.

Community-based probation sentence lengths were greater amongst NFS convictions in comparison to alternative charge convictions, with respective means of 22 (SD = 10) and 16 months (SD = 7.4).

Table 7. Average sentence length, in months

| Table 7: Average sentence length, in months  |          |                         |         |         |      |
|--|----------|-------------------------|---------|---------|------|
|  |          | Sentence Length, months |         |         |      |
|  | <i>n</i> | Mean                    | Minimum | Maximum | SD   |
| <b>Penalty type for NFS-Prosecuted matters (found/pleads guilty, <i>n</i> = 84)</b>                |          |                         |         |         |      |
| <b>Total</b>   | 84       | 24.7                    | 3.0     | 54.0    | 10.3 |
| Imprisonment   |          |                         |         |         |      |
| Custody - Adult imprisonment   | 67       | 25.7                    | 3.0     | 54.0    | 9.6  |
| Partially suspended  | 5        | 28.6                    | 12.0    | 48.0    | 17.9 |
| Wholly suspended   | 8        | 15.4                    | 9.0     | 18.0    | 3.7  |
| Community-based sentence   |          |                         |         |         |      |
| Probation  | 4        | 21.8                    | 12.0    | 36.0    | 10.8 |
| Fine   | ...      | ...                     | ...     | ...     | ...  |
| Recognisance Order   | ...      | ...                     | ...     | ...     | ...  |
| <b>Penalty type for Alternative Charge Prosecuted matters (found/pleads guilty, <i>n</i> = 56)</b> |          |                         |         |         |      |
| <b>Total</b>   | 56       | 16.8                    | 0.0     | 108.0   | 19.4 |
| Imprisonment   |          |                         |         |         |      |
| Custody - Adult imprisonment   | 32.0     | 19.7                    | 1.0     | 108.0   | 24.2 |
| Partially suspended  | 4.0      | 16.8                    | 6.0     | 36.0    | 13.4 |
| Wholly suspended   | 5.0      | 9.6                     | 3.0     | 18.0    | 5.8  |
| Community-based sentence   |          |                         |         |         |      |
| Probation  | 12.0     | 15.8                    | 6.0     | 24.0    | 7.4  |
| Fine   | 2.0      | ...                     | ...     | ...     | ...  |
| Recoanisance Order   | 1.0      | 4.0                     | 4.0     | 4.0     | ...  |

... 0 cases or not applicable.

**Notes.** Excludes cases where sentence type and length are unknown.

Data source: ODDP case files, 2017-2020.

### 3.6. Estimated time in custody

Among defendants who were eventually sentenced to imprisonment for at least one NFS charge, and were not bailed ( $n = 40$ ), we had information about the length of pre-sentence custody and parole eligibility dates for most cases (95%,  $n = 38$ ). Using this information, we estimated the *expected* total time in custody from the commencement of pre-sentence custody to the parole eligibility date at which time the sentencing court deemed it is possible for the prisoner to apply for release to Parole Board Queensland. This reflects the sentencing court's expectation of an approximate release date, and for a number of reasons, including backlog, this release date may be missed.<sup>4</sup> Nonetheless, this is a reasonable estimate of release timing given that the parole board is bound by the sentencing court's recommendation except 'if the board receives information not available to the court at the time of sentencing' and deems it to make 'the prisoner not suitable for release at the recommended time' (*Corrective Services Act 2006 (Qld) s.192*).

To illustrate the range of custody lengths for the 38 cases, Figure 8 shows the pre-sentence custody and sentence lengths in days as well as indicating the number of days after sentencing that the sentencing court deemed the defendant to be eligible for parole.

On average defendants spent 274 days in pre-sentence custody, ranging from 33 days to 614 days. Sentence lengths in this sample were on average 274 days and ranged from 91 days to 1,644 days.

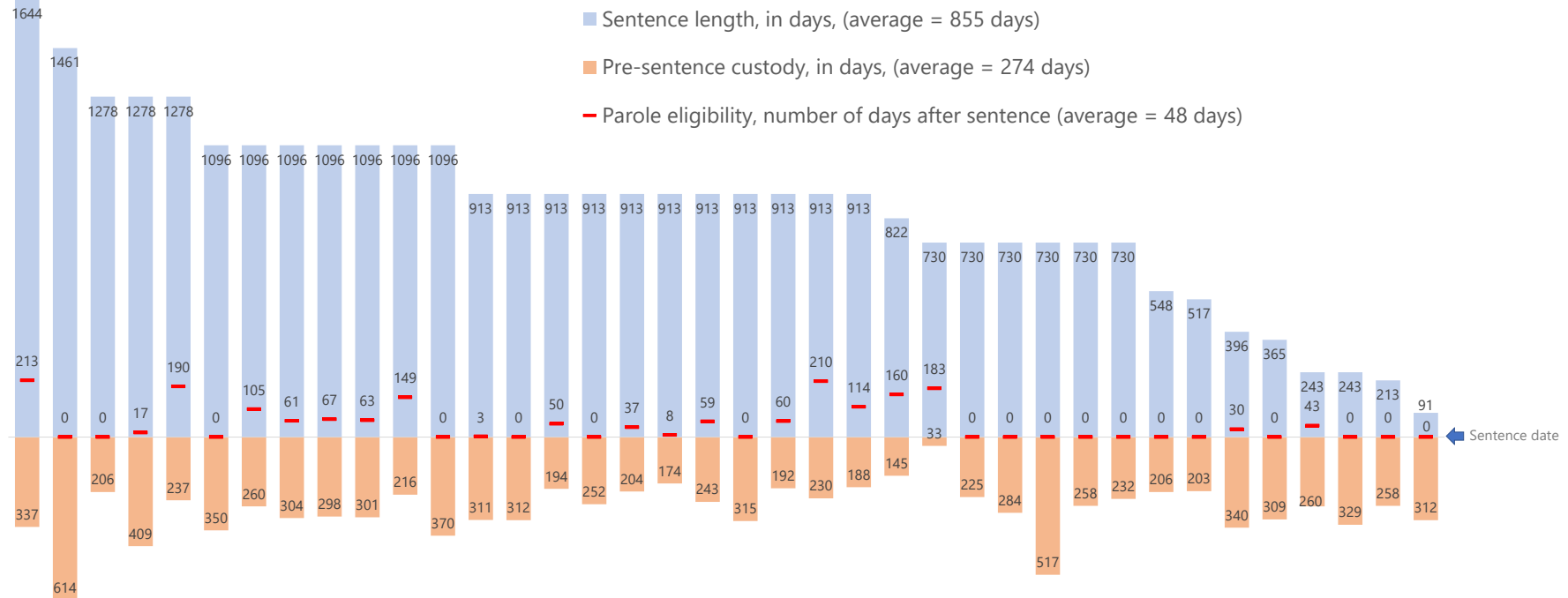
With respect to the estimated total time in custody – ending at the parole eligibility date, those sentenced to NFS were spending on average 86% of their time in custody on remand. In fact, 47% ( $n = 18$ ) had an immediate parole eligibility date, such that they were eligible for parole on the day of sentencing.

On average the *expected* amount of 'sentenced' time those in the sample were spending in custody was 48 days, and this ranged from zero to 213 days.

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<sup>4</sup> Parole Board Queensland (2021) has indicated that in 2020/21 there had been a significant increase in imprisonment numbers causing a delay in the Board's handling of parole applications, suggesting that at times of backlog, prisoners will serve time past their parole eligibility date. This would primarily have implications for the last year of our ODPP sample (2020).

Figure 8: NFS Sentence, pre-sentence custody and parole eligibility, days



Note: N = 38 cases including NFS-sentenced prisoners who were not bailed, and for whom pre-sentence custody and parole eligibility were known.

### 3.7. How often do complainants withdraw and at what stage?

Evidence suggests that complainants retract their statements and or withdraw from prosecutions in an estimated 50% of domestic violence-related matters (Robinson & Cook, 2006). We investigated the extent to which complainants withdraw in the sample of discontinued and alternative charge case files. For the purposes of this analysis, we defined 'withdrawal' as evidence in the prosecution file that the respondent indicated a lack of willingness to proceed, changed their statement, denied that the incident(s) had occurred in the way that they had first indicated, or denied that the incident had occurred at all, disputed statements by other witnesses, and or eventually became unreachable by the ODPP. We aggregated withdrawal types into two possible categories (1) recanted – including cases in which there was evidence of the complainant changing or withdrawing support for the prosecution and (2) not contactable – including cases in which the complainant could not be reached.

#### 3.7.1. Frequency of Complainant Withdrawal

Among all discontinued and alternative casefiles over three-quarters (76%) of complainants withdrew from the prosecution – this excludes three cases for which it was unclear whether the complainant had withdrawn (Table 8). The rate of withdrawal was highest among discontinued cases where there was evidence that most (90%) complainants had withdrawn, in contrast to 59% of complainants associated with alternative charge cases ( $\chi^2 = 14.852$ ,  $p < .001$ ).

Table 8. Frequency of complainant withdrawal in alternative charge and discontinued matters

|   | Total |       | Alternative Charge |       | Matter Discontinued |          |
|---|-------|-------|--------------------|-------|---------------------|----------|
|   | n     | %     | n                  | %     | n                   | %        |
| ODPP File type                            | 115   | 100.0 | 54                 | 100.0 | 61                  | 100.0    |
| <b>Complainant withdrew from the case</b> |       |       |                    |       |                     |          |
| Yes                                       | 87    | 75.7  | 32                 | 59.3  | 55                  | 90.2 *** |
| No  | 28    | 24.3  | 22                 | 40.7  | 6                   | 9.8      |

\*\*\* Category is statistically different than Alternative Charge  $p < .001$ .

**Note:** The number of observations is 115 cases, excludes NFS prosecuted cases ( $n = 92$ ) and withdrawal unknown ( $n = 3$ ).

Data source: ODDP case files, 2017-2020.

#### 3.7.2. Reasons for Complainant Withdrawal

Among complainants who withdrew ( $n = 87$ ), three-quarters (75%) recanted their earlier statement, and this was more likely to be the case among discontinued matters (78%) than alternative charge matters (69%). Missing or non-contactable complainants accounted for about 12% of all files.

In five alternative charge cases (15.6%) complainants agreed to an alternative charge(s) in lieu of a full recantation or formal withdrawal.

Table 9. Reasons for withdrawal in alternative charge and discontinued cases

|                                    | Total |       | Alternative Charge |       | Matter Discontinued |       |
|------------------------------------|-------|-------|--------------------|-------|---------------------|-------|
|                                    | n     | %     | n                  | %     | n                   | %     |
| ODPP File type                     | 87    | 100.0 | 32                 | 100.0 | 55                  | 100.0 |
| <b>Reasons for withdrawal</b>      |       |       |                    |       |                     |       |
| Recanted                           | 65    | 74.7  | 22                 | 68.8  | 43                  | 78.2  |
| Missing/not contactable            | 10    | 11.5  | 3                  | 9.4   | 7                   | 12.7  |
| Recanted & missing/not contactable | 1     | 1.1   | 1                  | 3.1   | ...                 | ...   |
| Agreed to alternative charge(s)    | 5     | 5.7   | 5                  | 15.6  | ...                 | ...   |
| Other                              | 2     | 2.3   | ...                | ...   | 2                   | 3.6   |
| Unknown                            | 4     | 4.6   | 1                  | 3.1   | 3                   | 5.5   |

... 0 cases or not applicable.

**Note:** The number of observations is 87 cases, excludes NFS prosecuted cases (n = 92) and withdrawal unknown or not withdrawn cases (n = 31).

Data source: ODDP case files, 2017-2020.

## 4. Discussion and conclusion

The research drew on a sample of finalised ODPP casefiles from Queensland related to the prosecution of the offence of s315A QCC, 'Choking, suffocation or strangulation in a domestic setting'. The aim of the report was to provide an initial descriptive overview of the prosecution of the offence in the first four years of operation. We examined case characteristics across three file types: NFS-prosecuted files, alternative charge files, and discontinuations.

### 4.1. Non-fatal strangulation is highly gendered

Research consistently shows that women are more likely than men to experience domestic and family violence (AIHW, 2019). The results presented here highlight that the non-fatal strangulation offence is highly gendered – 90% of complainants are women and 88% of defendants are men (see section 3.1.1). These figures can be compared to statistics for Domestic and Family Violence Protection orders made in Queensland from June 2021 to January 2020 where respondents were men and the aggrieved were women and girls in 68.6% of cases and respondents were women and the aggrieved were men and boys in 15.9% of cases (Queensland Courts, 2022).<sup>5</sup> This suggests that as domestic and family violence becomes more severe (physically) it becomes more gendered. This is consistent with research showing that the long-held belief that men account for the majority of victims of violent crime is disproved when sexual and domestic violence offences are accounted for (Cooper & Obolenskaya, 2021).

<sup>5</sup> Note that in domestic and family violence protection order cases 7.8% were both women and 7.7% were both men (Queensland Courts, 2022).



## **4.2. The involvement of children in NFS cases**

Children feature in the case files both as direct victims of NFS and as being present during the NFS incident.

### **4.2.1. Children as direct victims of NFS**

Across case files 7% of complainants were children under 18 years of age (see section [3.1.3](#)). Children were complainants in 9% of NFS prosecuted matters, 7% of alternative charges and in 3% of discontinued NFS charges.

Other studies have identified that children are sometimes strangled in the context of DFV (Smith & Ferguson, 2020, p. 32; White et al., 2021, p. 3). While it is more unusual for children to be strangled in the context of DFV as compared to adult victims, research suggests that children are particularly vulnerable if strangled not just because of their anatomical differences, which make death and brain injury more common, but also because of the on-going psycho-social trauma associated with their experience of NFS (Dunn et al., 2021; Sep & Thies, 2007).

To date children have been identified as a small but extremely vulnerable group of direct victims of NFS in the context of DFV. There is very little research about children as direct victims of NFS in the context of DFV and more research may be helpful in determining how best to identify these events (both in the health and criminal justice context) and also how to support children and their families after an NFS event.

### **4.2.2. Children as indirect victims of NFS**

Children were mentioned in 122 cases and there was evidence they were present or witnessed the NFS incident in 52 (43%) cases (see section [3.1.3](#)). It is not clear whether children's exposure to NFS reported in this study represents an accurate counting of the actual rate of children's exposure to NFS.

In their study of 204 NFS cases reported to a sexual assault referral centre for a forensic medical examination, White and colleagues (2021) found that in 33% of cases, children lived in the home where the NFS occurred. Self-report victimization survey data suggests the rate of childhood exposure to domestic violence more broadly is between 60% and 80% (Richards, 2011; Tomison, 2000).

Evidence demonstrates that men who witness domestic violence in childhood are more likely to commit such acts in adulthood (Roberts, et al., 2010), and both men and women exposed to domestic violence as children are more likely to also be victims of domestic violence in adulthood (ABS, 2017).

Children witnessing NFS may be more common than our reporting suggests. It would be useful to undertake further research to determine how often children are present at NFS events.

It is likely that witnessing NFS is a particularly traumatic experience for children. There should be further consideration of this issue from the perspective of considering the kinds of support that children may need in the aftermath of witnessing NFS. Generally, children should be protected from testifying in NFS cases, especially where both the complainant and defendant are their parents.

We note that one study has suggested that it would be useful to explore whether the presence of children influences charge decisions (Garza et al., 2021, p. 849). This may also be worth further consideration as presumably this should not affect decision-making.

#### **4.3. Aboriginal and Torres Strait Islander People**

Aboriginal and or Torres Strait Islander defendants were overrepresented in the case files. Aboriginal and or Torres Strait Islander people accounted for one in five (21%, n = 41) defendants, and one in four (26%, n = 28) complainants (see section [3.1.1](#)). Aboriginal and or Torres Strait Islander defendants were overrepresented at all levels from prosecution to bail and sentencing.

**Charge:** Aboriginal and or Torres Strait Islander defendants accounted for 26% (n = 23) of all casefiles, 19% (n = 10) of alternative charge cases and 15% (n = 8). Notably, Aboriginal and or Torres Strait Islander complainants accounted for over one-third of NFS-prosecuted files (38%, n = 18) (see section [3.1.1](#)).

**Bail:** Among NFS-prosecuted casefiles, Aboriginal and or Torres Strait Islander defendants were proportionately less likely to receive bail (see section [3.4](#))

**Sentence:** Among those sentenced for NFS (n = 80), Aboriginal and Torres Strait Islander defendants were proportionately more likely to receive a custodial imprisonment sentence than was the case for non-Indigenous defendants (95% and 73%, respectively) (see section [3.5.2](#)).

While there is significant debate within the Aboriginal and Torres Strait Islander and the wider community about the role of criminalisation as a response to DFV (see e.g., Watego et al., 2021) some Aboriginal and Torres Strait Islander representatives and scholars have supported the introduction of an NFS offence. For example, Langton and her colleagues (2020) recommended that acts of choking, strangulation or suffocation in a family violence context should be made a separate and additional offence within the relevant state or territory legislation as part of the recognition of the severity of violence experienced by Aboriginal women (Langton et al., 2020, p. 17). At the same time, Langton and colleagues (2020, p. 17) also highlighted the need to support Aboriginal women's engagements with health services and with reporting family violence to the range of services (police, health and legal). Similarly, the Central Australian Aboriginal Family Legal Unit (2020) supported the introduction of an offence of NFS in the NT. It highlighted high rates of domestic violence in the communities they work

with and the need to monitor repeat offenders but also identified the need to consider alternative interventions stating that although there was 'widespread acceptance' of NFS laws, there were questions about the role of imprisonment and consideration of rehabilitation programs should be encouraged (Central Australian Aboriginal Family Legal Unit, 2020).

It is important that systems recognise the severity of violence against Aboriginal and Torres Strait Islander women (Commonwealth Government, 2018). However, the disproportionate imprisonment of Aboriginal and Torres Strait Islander people has been recognised as a 'national disgrace' (Australian Law Reform Commission [ALRC], 2018, p. 22). The findings in the data presented in our report are consistent with earlier research showing increased odds of imprisonment for domestic violence-related convictions perpetrated by Aboriginal and Torres Strait Islander people compared to non-Indigenous people, irrespective of other factors related to sentencing (Fitzgerald et al., 2019; Thorburn & Weatherburn, 2018). These results suggest 'the criminal justice handling of domestic violence contributes strongly to Indigenous overrepresentation' (Fitzgerald et al., 2021, p. 10589)

The ALRC (2018) provided something of a roadmap to respond to the issue of over-representation of Aboriginal and Torres Strait Islander people in custody and many of the ALRC's suggestions would, at the same time as addressing over incarceration, respond, ultimately, to the aspiration of keeping women safe. The problem of over-representation is reflected in the context of the criminal response to NFS (and generally DFV related crime) but it is not specific to it. Thus, the ways outlined by the ALRC to address the problem are directed to the broad context of criminalization rather than DFV or NFS specifically. For example, the ALRC recommended that the reinvestment of resources from the criminal justice system to community-led, place-based initiatives that address the drivers of crime and incarceration should be promoted (ALRC, 2018, p. 13); that systems and models should be introduced that allow the presentation of 'Indigenous Experience reports' so that courts are better informed of the issues that need to be addressed and the options available (ALRC, 2018, p. 14) and that (safe) community-based options be expanded. In relation to bail the ALRC (2018) suggested that standalone provisions that require bail authorities to consider any issues that arise due to a person's Aboriginality, including cultural background, ties to family and place, and cultural obligations so that bail conditions can be appropriately facilitated (ALRC, 2018, p. 13).

As noted below, in Queensland NFS must be sentenced in the District Court. While Murri courts provide special bail programs for Aboriginal and Torres Strait Islander people and hear sentencing pleas of guilty in the Magistrates Courts in Brisbane, they do not operate in the District Courts (Radke & Douglas, 2020). There is precedent in Victoria for extending the operation of the Murri Court model into the District Court (County Court Victoria, 2022). Extension of the Murri Court to the District Court should be considered in Queensland, as this may assist in ensuring Aboriginal and Torres Strait Islander people

have better access to culturally appropriate bail and sentencing options in response to NFS (and other matters finalized in the District Courts). We note also that based on our comments about the length of time until finalisation of NFS matters, consideration could be given to allowing some NFS matters to be heard in the magistrate's court (see below), this would also allow those matters to be heard by the Murri Court in its current form.

#### **4.4. Time**

The average time from the ODPP opening a file to closing the file is about 276 days (or 9 months) but this has extended out to up to 931 days (approximately 30 months) in some cases (see section [3.2](#))

There is no unequivocal research suggesting that speeding up the court process reduces recidivism (Butters et al., 2020), however, research does suggest interconnected benefits of speeding up legal processes and reducing time until matter finalisation for both victims and the successful prosecution of cases. Prosecutors have identified that the reduction in the quality of evidence and the chance the victim will retract her statement increases as the duration from the complaint to the finalisation of the court processes increases (Douglas & Fitzgerald, 2021, pp. 362, 365; Westera & Powell, 2017, pp. 165-167).

Magistrate Pauline Spencer (2016) outlines the ways in which extended time between complaint and finalisation can undermine the goals of victim safety and perpetrator accountability in family violence cases. Spencer notes that it may allow time for the defendant to pressure the victim to withdraw her support for charges, undermine the wellbeing of the victim due to the protracted stress of on-going proceedings and allow the defendant to use the legal process as a form of harassment (Spencer, 2016, p. 226). In Bell and Colleagues' (2011) interviews with 376 women about their experience of court in relation to DFV matters, the majority of participants reported that multiple postponements of court dates had significant implications for them beyond effecting their emotional well-being. Multiple trips to court and to court-related appointments required women to arrange for childcare and take time off work each time (Bell et al., 2011, p. 79). Sometimes this became unsustainable and so women dropped out of the system (Bell et al., 2011, p.79).

One of the effects of processing time is that defendants who are unsuccessful in applying for bail – 46% of the case files we examined – will spend on average 8 to 9 months on remand. Notably, as defendants have usually not entered a plea at that stage, they do not tend to be provided with access to rehabilitative programs such as men's behaviour change programs. The absence of such opportunities was identified in a 2016 review of Queensland's parole system (Sofronoff, 2016, p. 430). Such programs are generally reserved for sentenced prisoners. Notably many offenders sentenced for NFS are released on the basis of time served on remand. Results showed that those sentenced to custody were spending on average 86% of their time in custody on remand. This has implications for post-release outcomes

since evidence demonstrates that Australian remandees typically have limited access to services available in prison such as rehabilitation programs (Productivity Commission, 2021, p. 19).

There are other concerns associated with the duration from complaint to finalisation. The *Human Rights Act 2019* (Qld) ss32(2)(c) and 30 highlights the importance of trial without delay and the need for humane treatment when deprived of liberty. It has been observed elsewhere that remand can be difficult given its uncertain time limit and the lack of targeted support and programming; it is often a worse experience for the person detained than the sentence itself (Brown & Wilkie, 2002, p. 11). A Danish study found that remand imposes unique costs on the individual noting that remand resulted in worse labour market outcomes than those who were convicted but not held on remand and also that the harms of remand were not counterbalanced by reduced recidivism (Wakefield & Anderson, 2020, pp. 359-360). The Danish research suggests that while remand may postpone recidivism it does not prevent it (see also Canton & Padfield, 2020, p. 540). Notably the Danish study was general rather than focussed on DFV related matters.

Reducing the time spent in processing cases should result in the defendant spending less time on remand and having more time serving an actual sentence where their access to appropriate programming is improved. This has potentially positive implications in the longer term for victim safety and may also improve outcomes for offenders (in terms of both behaviour change and employment).

One way to reduce the processing time would be to allow some NFS matters to be sentenced in the magistrate's court. This would require reform of Chapter 58A of the QCC. Notably other serious offences including sexual assault and stalking can be dealt with in the magistrate's court in certain circumstances. While the maximum penalty available to magistrates is 3 years imprisonment (QCC s.552H(1)(b)) our case file analysis in this report shows that the average sentence for NFS was 25 months (e.g., see Figure 8 in section 3.6), and therefore well within the jurisdiction of the Magistrates Court.<sup>6</sup>

This change to Chapter 58A of the QCC is likely to have the benefit of reducing the processing time and, relatedly, help to improve complainants' experience of the criminal justice system, reduce the number of complainants withdrawing from the prosecution of NFS (discussed below), reduce costs (associated with ODPP prosecution) and potentially lead to more successful prosecutions of NFS. A benefit of more NFS charges being successfully prosecuted (as opposed to alternative charges such as assault

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<sup>6</sup> We note that an alternative reading of the current average sentence length could be that judicial officers do not yet understand the seriousness of NFS offending and that average sentence lengths could grow over time.

occasioning bodily harm) is that NFS would be identified on the offender's criminal record, which is an important flag for police about the potential risk of an individual (Douglas & Fitzgerald, 2014, p. 240).

As observed earlier, a change to Chapter 58A QCC, would also allow the Murri Court to hear some NFS matters.

There would need to be some limits on when NFS matters could be heard in the magistrate's court. For example, some requirements may include that the defendant plead guilty and not have prior convictions for DFV flagged offences. The magistrate is already required to abstain from jurisdiction where they determine the sentence would be inadequate (QCC s.552D(1)) and in some cases it would no doubt be appropriate to abstain.

#### **4.5. Complainant withdrawal**

Consistent with DFV research generally (Robinson & Cook, 2006), there was evidence in the ODPP case files that a high number of complainants (41%, n=87) withdrew from the prosecution (see section [3.7](#)). In those cases where the complainant withdrew the result was that the NFS charge was withdrawn and an alternative charge or charges proceeded, or the matter was discontinued.

In previous research reporting on interviews with Queensland defence and prosecution lawyers Douglas and Fitzgerald (2021) explored the complex reasons why complainants may withdraw and highlighted ways to improve the retention of the complainant in the process. Suggested approaches included recognising the effects of trauma on the victim, responding to her safety and material concerns and explaining the potential credibility problems the complainant may face in future if there are multiple versions of events on file (Douglas & Fitzgerald, 2021, p. 365). Douglas and Fitzgerald (2021, p. 365) also highlighted the effect of an extended processing time in providing time for the defendant to influence the complainant to toward withdrawal. Notably some complainants will carefully assess the pros and cons of remaining in the process and may decide to withdraw regardless (Douglas & Fitzgerald, 2021, p. 366).

Given the high rate of victim withdrawal consideration should be given to the kinds of support needed for victims to keep them engaged in prosecution where safe to do so.

## References

- Australian Law Reform Commission. (2018). *Pathways to justice-Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander Peoples*, (133).  
<https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/>
- Australian Bureau of Statistics. (2017). *Personal safety, Australia, 2016* (No.4906.0).  
<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release#key-findings>
- Australian Bureau of Statistics. (2021). *Criminal courts, Australia*. Retrieved February 14, 2022.  
<https://www.abs.gov.au/statistics/people/crime-and-justice/criminal-courts-australia/latest-release#queensland>
- Australian Institute of Health and Welfare. (2019). *Family, domestic and sexual violence in Australia: Continuing the national story, 2019*. (No. FDV 3). <https://www.aihw.gov.au/reports/domestic-violence/family-domestic-and-sexual-violence-in-australia-c/summary>
- Bell, M., Perez, S., Goodman, L. A., & Dutton, M. A. (2011). Battered women's perceptions of the civil and criminal court helpfulness: The role of court outcome and process. *Violence Against Women*, 17(1), 71-88. <https://doi.org/10.1177/1077801210393924>
- Boxall, H, Payne, J., & Rosevear, L. (2015). *Prior offending among family violence perpetrators: A Tasmanian sample* (493). Australian Institute of Criminology.  
<https://aic.gov.au/publications/tandi/tandi493>
- Brown, D., & Wilkie, M. (2002). *Prisoners as citizens: Human rights in Australian prisons*. Federation Press.
- Butters, R., Prince, K., Walker, A., Worwood, E. B., & Sarver, C. M. (2020). Does reducing case processing time reduce recidivism? A study of the early case resolution court. *Criminal Justice Policy Review*, 31(1), 22-41. <https://doi.org/10.1177/0887403418789465>
- Cameron v R* [2002] 209 CLR 339; [2002] HCA 6.
- Canton, R., & Padfield, N. (2019). Why Punish? *The Howard Journal of Crime and Justice*, 58(4), 535-553. <https://doi.org/10.1111/hojo.12342>
- Central Australian Aboriginal Family Legal Unit. (2020). Submission to the Northern Territory Legislation Scrutiny Committee.  
[https://parliament.nt.gov.au/\\_data/assets/pdf\\_file/0008/794798/113-2019-Submission-5-Central-Australian-Aboriginal-Family-Legal-Unit.pdf](https://parliament.nt.gov.au/_data/assets/pdf_file/0008/794798/113-2019-Submission-5-Central-Australian-Aboriginal-Family-Legal-Unit.pdf)
- Commonwealth of Australia. (2018). *Closing the Gap: Prime Minister's Report*. Department of the Prime Minister and Cabinet, <https://www.pmc.gov.au/sites/default/files/reports/closing-the-gap-2018/sites/default/files/ctg-report-20183872.pdf?a=1>
- Cooper, K., & Obolenskaya, P. (2021) Hidden victims: The gendered data gap of violent crime. *British Journal of Criminology*, 61(4), 905-925. <https://doi.org/10.1093/bjc/azaa100>
- Corrective Services Act 2006* (Qld) s.192 (Austl.).
- County Court Victoria. (2022). *County Koori Court*. <https://www.countycourt.vic.gov.au/learn-about-court/court-divisions/county-koori-court>
- Department of Justice and Attorney General Queensland. (2016). *Director's Guidelines As at 30 June 2016*. [https://www.justice.qld.gov.au/\\_data/assets/pdf\\_file/0015/16701/directors-guidelines.pdf](https://www.justice.qld.gov.au/_data/assets/pdf_file/0015/16701/directors-guidelines.pdf)
- Devine, D. J., Buddenbaum, J., Houp, S., Studebaker, N., & Stolle, D. P. (2008). Strength of evidence,

- extraevidentiary influence, and the liberation hypothesis: Data from the field. *Law and Human Behavior*, 33(2), 136–148. <https://doi.org/10.1007/s10979-008-9144-x>
- Devine, D. J., Krouse, P. C., Cavanaugh, C. M., & Basora, J. C. (2016). Evidentiary, extraevidentiary, and deliberation process predictors of real jury verdicts. *Law and Human Behavior*, 40(6), 670–682. <https://doi.org/10.1037/lhb0000209>
- Douglas, H., & Fitzgerald, R. (2014). Strangulation, domestic violence and the legal response. *The Sydney Law Review*, 36(2), 231–254. <http://classic.austlii.edu.au/au/journals/SydLawRw/2014/11.html>
- Douglas, H., & Fitzgerald, R. (2021). Proving non-fatal strangulation in family violence cases: A case study on the criminalisation of family violence. *International Journal of Evidence & Proof*, 25(4), 350–370. <https://doi.org/10.1177/13657127211036175>
- Dunn, R. J., Sukhija, K., & Lopez, R. (2021). *Strangulation injuries*. StatPearls Publishing. <https://www.ncbi.nlm.nih.gov/books/NBK459192/>
- Fitzgerald, R., Douglas, H., & Heybroek, L. (2021). Sentencing, domestic violence, and the overrepresentation of Indigenous Australians: Does court location matter? *Journal of Interpersonal Violence*, 36(21), 10588–10613. <https://doi.org/10.1177/0886260519885916>
- Funk, M., & Schuppel, J. (2003). Strangulation injuries. *Wisconsin Medical Journal*, 102(3), 41–45. <https://pubmed.ncbi.nlm.nih.gov/12822289/>
- Garza, A., Goodson, A., & Franklin, C. A. (2021) Policing non-fatal strangulation within the context of intimate partner violence. *Policing: An International Journal of Police Strategies & Management*, 44(5), 838–852. <https://doi.org/10.1108/PIJPSM-12-2020-0190>
- Hulme, S., Morgan, A., & Boxall, H. (2019). *Domestic violence offenders, prior offending and reoffending in Australia*. (580). Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi580>
- Human Rights Act 2019* (Qld)
- Langton, M., Smith, K., Eastman, T., O'Neill, L., Cheesman, E., & Rose, M. (2020). *Improving family violence legal and support services for Aboriginal and Torres Strait Islander women* (25). Australia's National Research Organisation for Women's Safety. [https://20ian81kynqg38bl3l3eh8bf-wpengine.netdna-ssl.com/wp-content/uploads/2019/02/AT.19.03\\_Langton\\_RR-FVsupport-Women.pdf](https://20ian81kynqg38bl3l3eh8bf-wpengine.netdna-ssl.com/wp-content/uploads/2019/02/AT.19.03_Langton_RR-FVsupport-Women.pdf)
- Parole Board Queensland. (2021). Media Release – PBQ delays. <https://www.pbq.qld.gov.au/wp-content/uploads/2021/08/PBQ-delays.pdf>
- Penalties and Sentences Act 1992* (Qld)
- Pritchard, A., Reckdenwald, A., & Nordham, C. (2017). Non-fatal strangulation as part of domestic violence: A review of research. *Trauma, Violence and Abuse*, 18(4), 407–424. <https://doi.org/10.1177/1524838015622439>
- Productivity Commission. (2021). *Australia's prison dilemma: Research paper*. Australian Government. <https://www.pc.gov.au/research/completed/prison-dilemma/prison-dilemma.pdf>
- Queensland Courts. (2022). *Queensland Courts' domestic and family violence (DFV) statistics*. Retrieved March 6, 2022. <https://www.courts.qld.gov.au/court-users/researchers-and-public/stats>
- Queensland Criminal Code 1899* (Qld) s.315A (Austl.).
- Queensland Government. (2018). *Population, Aboriginal and Torres Strait Islander Queenslanders, 30 June 2016*. Queensland Government Statistician's Office. <https://www.qgso.qld.gov.au/issues/2791/population-aboriginal-torres-strait-islander-qlders->



201606.pdf

- Queensland Sentencing Advisory Council. (2019). *Sentencing spotlight on choking, suffocation or strangulation in a Domestic Setting*.  
[https://www.sentencingcouncil.qld.gov.au/\\_data/assets/pdf\\_file/0004/614749/sentencing-spotlight-on-choking-suffocating-or-strangulation-in-a-domestic-setting.pdf](https://www.sentencingcouncil.qld.gov.au/_data/assets/pdf_file/0004/614749/sentencing-spotlight-on-choking-suffocating-or-strangulation-in-a-domestic-setting.pdf).
- Queensland Sentencing Advisory Council. (2021). *Queensland sentencing guide*.  
[https://www.sentencingcouncil.qld.gov.au/\\_data/assets/pdf\\_file/0004/572161/queensland-sentencing-guide.pdf](https://www.sentencingcouncil.qld.gov.au/_data/assets/pdf_file/0004/572161/queensland-sentencing-guide.pdf)
- R v HBZ* (2020). 4 QR 171; [2020] QCA 73.
- Radke, A., & Douglas, H. (2020). Indigenous Australians, specialist courts, and the intergenerational impacts of child removal in the criminal justice system. *The International Journal of Children's Rights*, 28(2), 378-400. <https://doi.org/10.1163/15718182-02802005>
- Richards, K. (2011). *Children's exposure to domestic violence in Australia* (419). Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi419>
- Roberts, A. L., Gilman, S. E., Fitzmaurice, G., Decker, M. R., & Koenen, K. C. (2010). Witness of intimate partner violence in childhood and perpetration of intimate partner violence in adulthood. *Epidemiology (Cambridge, Mass.)*, 21(6), 809-818.  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3108188/>
- Robinson, A., & Cook, D. (2006). Understanding victim retraction in cases of domestic violence: Specialist courts, government policy, and victim-centred justice. *Contemporary justice review*, 9(2), 189-213. <https://doi.org/10.1080/10282580600785017>
- Sep, D., & Thies, K. (2007). Strangulation injuries in children. *Resuscitation*, 74(2) 386-391.  
<https://doi.org/10.1016/j.resuscitation.2006.09.019>
- Sharman, L., Douglas, H., & Fitzgerald, R. (2021). *Medical evidence in criminal prosecutions of the non-fatal strangulation offence: A rapid systematic review*. Queensland Health.
- Smith D., & Ferguson, K. (2020). The long, hard-fought journey with non-fatal strangulation. *Medicus*, 60(8): 31-33.
- Sofronoff, W. (2016). Queensland Parole System Review: Final Report.  
<https://parolereview.premiers.qld.gov.au/assets/queensland-parole-system-review-final-report.pdf>
- Spencer, P. (2016). Strengthening the web of accountability: Criminal courts and family violence offenders. *Alternative Law Journal*, 41(4), 225-229.  
<https://doi.org/10.1177/1037969X1604100402>
- Thorburn, H., & Weatherburn, D. (2018). Effect of Indigenous status on sentence outcomes for serious assault offences. *Australian & New Zealand Journal of Criminology*, 51(3), 434-453.  
<https://doi.org/10.1177/0004865817748179>
- Tomison, A. (2000). *Exploring family violence: Links between child maltreatment and domestic violence* (13). Australian Institute of Family Studies. <https://aifs.gov.au/cfca/publications/exploring-family-violence-links-between-child-maltreatment>
- Turkel, A. (2007). Understanding, investigating and prosecuting strangulation cases. *The Prosecutor* 41(6), 20-23. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/understanding-investigating-and-prosecuting-strangulation-cases>
- Wakefield, S., & Anderson, L. (2020). Pretrial detention and the costs of system overreach for employment and family life. *Sociological Science*, 7(14), 342-366.  
<https://doi.org/10.15195/v7.a14>

- Watego, C., Macoun, A., Singh, D. & Strakosch, E. (2021, May 25). *Carceral feminism and coercive control: When Indigenous women aren't seen as ideal victims, witnesses or women*. The Conversation. <https://theconversation.com/carceral-feminism-and-coercive-control-when-indigenous-women-arent-seen-as-ideal-victims-witnesses-or-women-161091>
- Weatherburn, D. & Rahman, S. (2018). *General offending by domestic violence offenders* (215). Crime and Justice Bulletin: NSW Bureau of Crime Statistics and Research. [https://www.bocsar.nsw.gov.au/Pages/bocsar\\_publication/Pub\\_Summary/CJB/cjb215-General-offending-by-domestic-violence-offenders.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CJB/cjb215-General-offending-by-domestic-violence-offenders.aspx)
- Weatherburn, D., & Snowball, L. (2012). The effect of Indigenous status on the risk of bail refusal. *Criminal Law Journal*, 36(1), 50-57.
- Westera, N. J., & Powell, M. B. (2017). Prosecutors' perceptions of how to improve the quality of evidence in domestic violence cases. *Policing and Society*, 27(2), 157-172. <https://doi.org/10.1080/10439463.2015.1039002>
- White, C., Martin, G., Schofield, A. M., & Majeed-Ariss, R. (2021). 'I thought he was going to kill me': Analysis of 204 case files of adults reporting non-fatal strangulation as part of a sexual assault over a 3 year period. *Journal of Forensic and Legal Medicine*, 79, 102128. <https://doi.org/10.1016/j.jflm.2021.102128>