

Re-imagining sentencing

The Queensland Sentencing Advisory Council

Thinking differently

Warren Strange
Council member



**Queensland Sentencing
Advisory Council**
Inform. Engage. Advise.

Questions

What's wrong with sentencing?

Is it just a PR problem?

Do we need to re-imagine it?

How can a sentencing council help?

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QLD NEWS

Woman who drove off with murder weapon given suspended sentence

Key Observer, court reporter, The Courier-Mail
October 23, 2019 5:02pm

The New York Times

Sentence in Aboriginal
Teen's Death Is Too Lenient
Protesters in Australia



Daily Telegraph 

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NSW

Judges criticised for 'outrageous leniency' on serious drink driving offenders

A judge has been slammed for 'outrageous' leniency after slashing prison terms for high-range drink drivers, one of whom crashed his car after drinking a bottle of scotch — and quashing the conviction of a woman of mid-range DUI. POLL VOTE

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Borce Ristovski and Joseph Esmaili manslaughter sentences prompt calls for law reform



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Convicted murderer and rapist Jonathan Bakewell to walk free in SA

Daily Mail - 7NEWS © Thursday, 17 October 2019 4:06 pm

national  queensland > crime

'Cruel' Queensland law letting rapists walk free
Justice is hard to come by for Queensland rape victims, thanks to a legal loophole that attackers are using to get off scot-free. It has to change.

Daily Mail
AUSTRALIA

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Mother-of-two who is one of Australia's worst female paedophiles and abused children as young as THREE will walk free from jail without being rehabilitated

THE AUSTRALIAN
Tuesday, October 22, 2019 Today's Paper Mind Games

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here'll be anger, tears and fears until we put a full stop to these short sentences

Michael Guider, who killed schoolgirl Samantha Knight, to walk free within days

Mother Tess Knight furious after judge rejects application to keep Sydney paedophile in jail for another year

Triple murderer Berwyn Rees walks free from prison, on parole for rest of life



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Queensland doctor walks free for sexual assault of patient

The West Australian

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Queensland court: Man walks free over airport bomb threat

Shae McDonald | The West Australian
Friday, 10 May 2019 4:30PM

Courier Mail 

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CRIME & JUSTICE

Courts are keeping public in the dark at least once a fortnight

Besides the horrendous nature of the crimes, what do the cases of Kmart predator Sterling Free and toddler killer William O'Sullivan have in common? Both are among the high number of cases our court system didn't want you to know about, writes Vanessa Marsh.

Vanessa Marsh, Crime Reporter, The Courier Mail

Published only | October 22, 2019 12:00am

A case in point

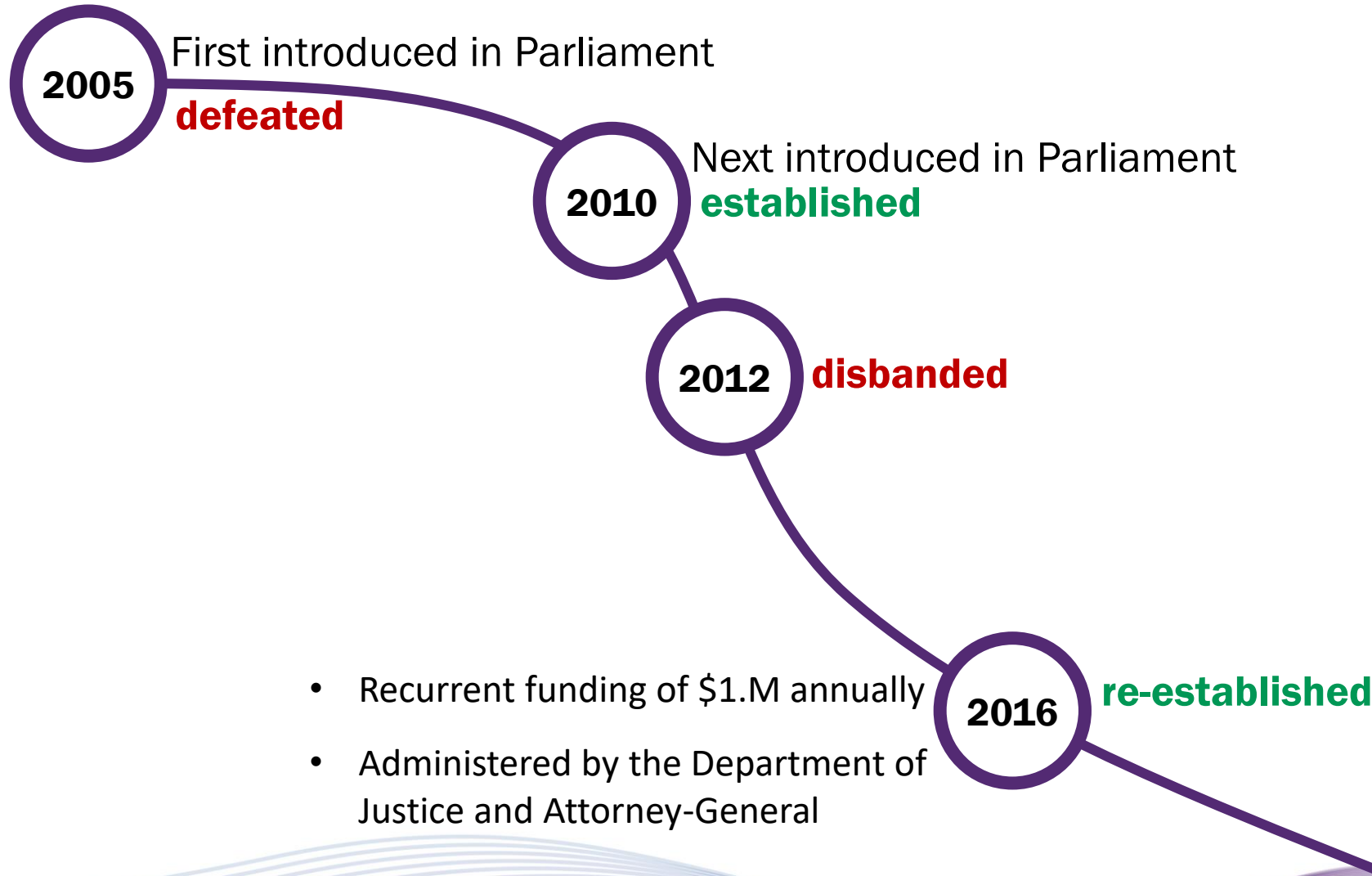
Explanatory Notes for the Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2019 (Cth):

*The Commonwealth Director of Public Prosecutions **currently appeals a high number of child sex offending cases** due to manifestly inadequate sentences imposed by judges at first instance and for repeat offenders. (p.7, emphasis added)*

Evidence arising from the Committee process established:

- 13 appeals lodged in the period 2015-19 (of which 7 were dismissed)
- there were 188 sentencing decisions in 2018-19 alone, but ... *“No prosecution appeals were initiated by the CDPP against sentences imposed in 2018-19 in relation to Commonwealth child sex offences prosecuted by the CDPP.”*

A checkered history in Queensland



About the Queensland Council

Independent statutory body (up to 12 members) supported by a Secretariat (public service employees) established to:



Provide advice to the AG about sentencing matters, if asked



Give information to the community to enhance knowledge of sentencing



Publish information about sentencing



Research sentencing matters and publish the outcomes



Obtain the **community's views** on sentencing



Provide advice to the Court of Appeal on the giving or reviewing of a **guideline judgment**, if asked

QSAC Aboriginal and Torres Strait Islander Advisory Panel

(established November 2018)



Provides expert advice as the Council works to understand and address the over-representation of Aboriginal and Torres Strait Islander people in Queensland's criminal justice system



Eight independent
members from across
Queensland

- a stronger voice to Aboriginal and Torres Strait Islander communities
- a better sense of how Queensland communities are affected by current sentencing
- insight into what changes might be made to improve outcomes

Our work on Terms of Reference

July
2017

Classification of child
exploitation material for
sentencing purposes



October
2018

Sentencing for
offences arising from
the death of a child



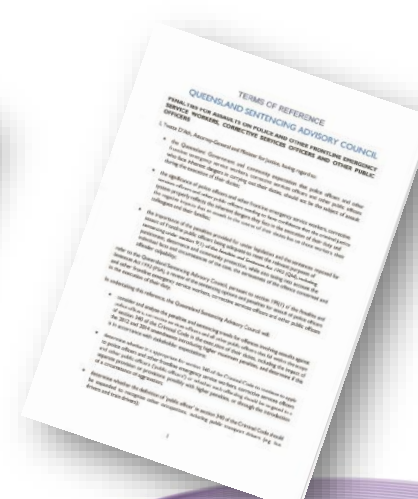
July
2019

Community-based
sentencing orders,
imprisonment and
parole options



June
2020

Penalties for
assaults of public
officers



Child homicide

The Council found that penalties imposed for child homicide offences did not adequately reflect the unique vulnerabilities of this group or appropriately reflect community views

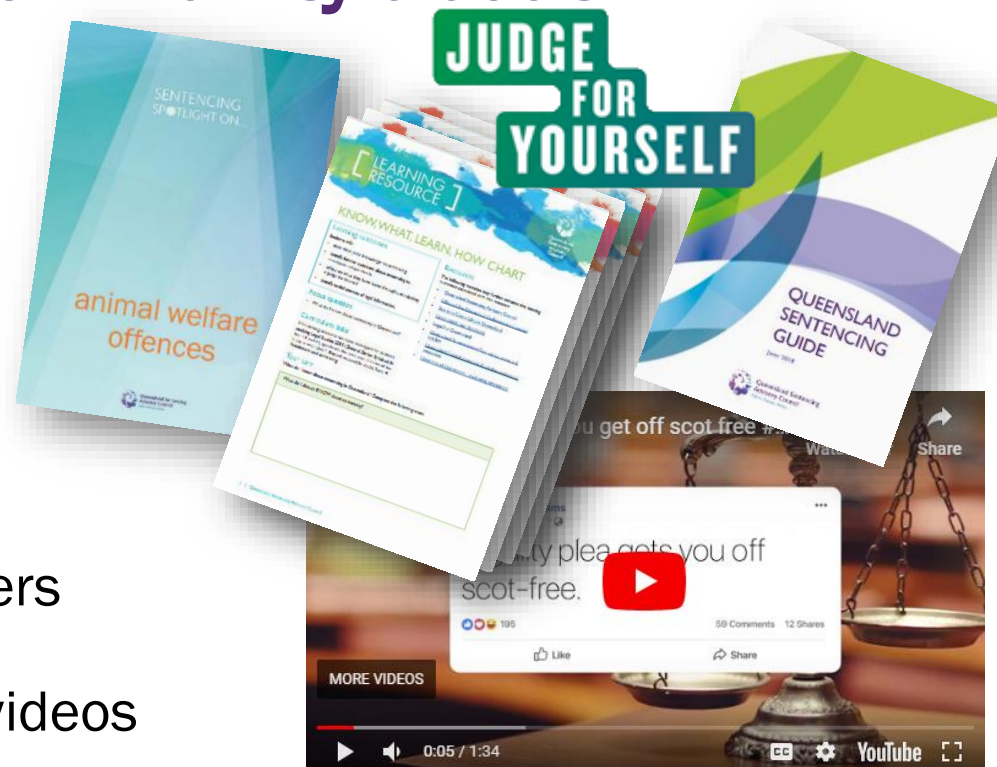
8 recommendations, including:



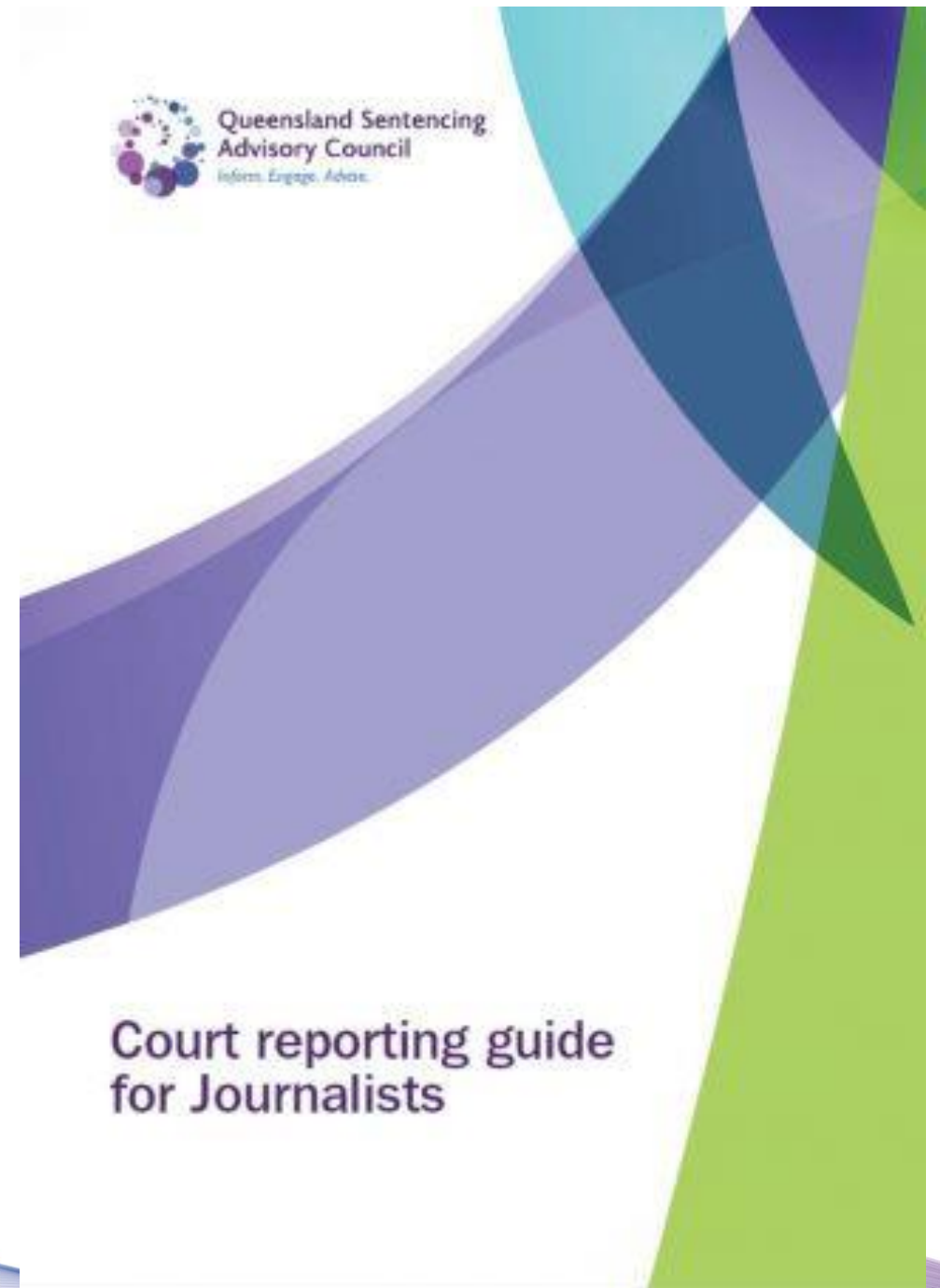
- A new aggravating factor for manslaughter of a child aged under 12 years
- Improved support and information for families of child victims of homicide
- The need to publish relevant sentencing remarks in a timely manner
- Better identification of child homicide offences to assist with research and reporting

Engaging with the community about sentencing

- *Sentencing Spotlight* series
- *Judge for Yourself*
- *Queensland Sentencing Guide*
- Education resources for teachers
- *Sentencing myths* – series of videos
- *Sentencing Matters* podcast series
- *Court reporting guide for Journalists*



A new resource



Judge for Yourself

Four interactive court cases based on real-life events



- **Magistrates Court**
 - Unauthorised dealing with shop goods
- **District Court**
 - Dangerous operation of a vehicle causing death
- **Supreme Court**
 - Trafficking in a dangerous drug
- **Childrens Court**
 - Assault occasioning bodily harm

DANGEROUS DRIVING CAUSING DEATH

JOSEPH'S CASE



JUDGE
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YOURSELF

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qld.gov.au/judgeforyourself



Judge for Yourself process



Initial sentence

- Following brief information about the case, participants are asked to select their initial sentence

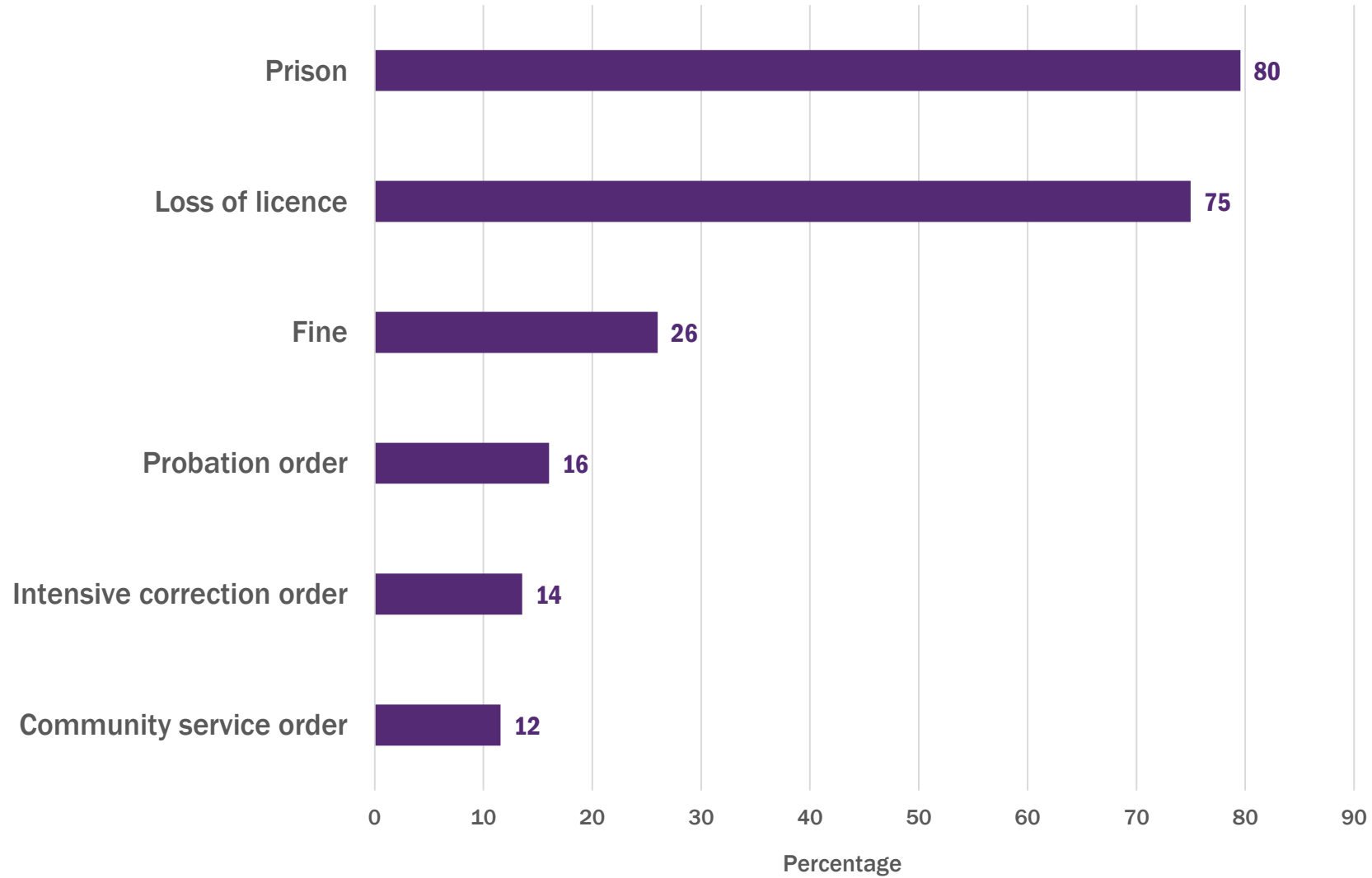
Additional information

- Participants are provided with further details: statements from both the prosecution and defence, the exact circumstances of the case, and an account of Joseph's character

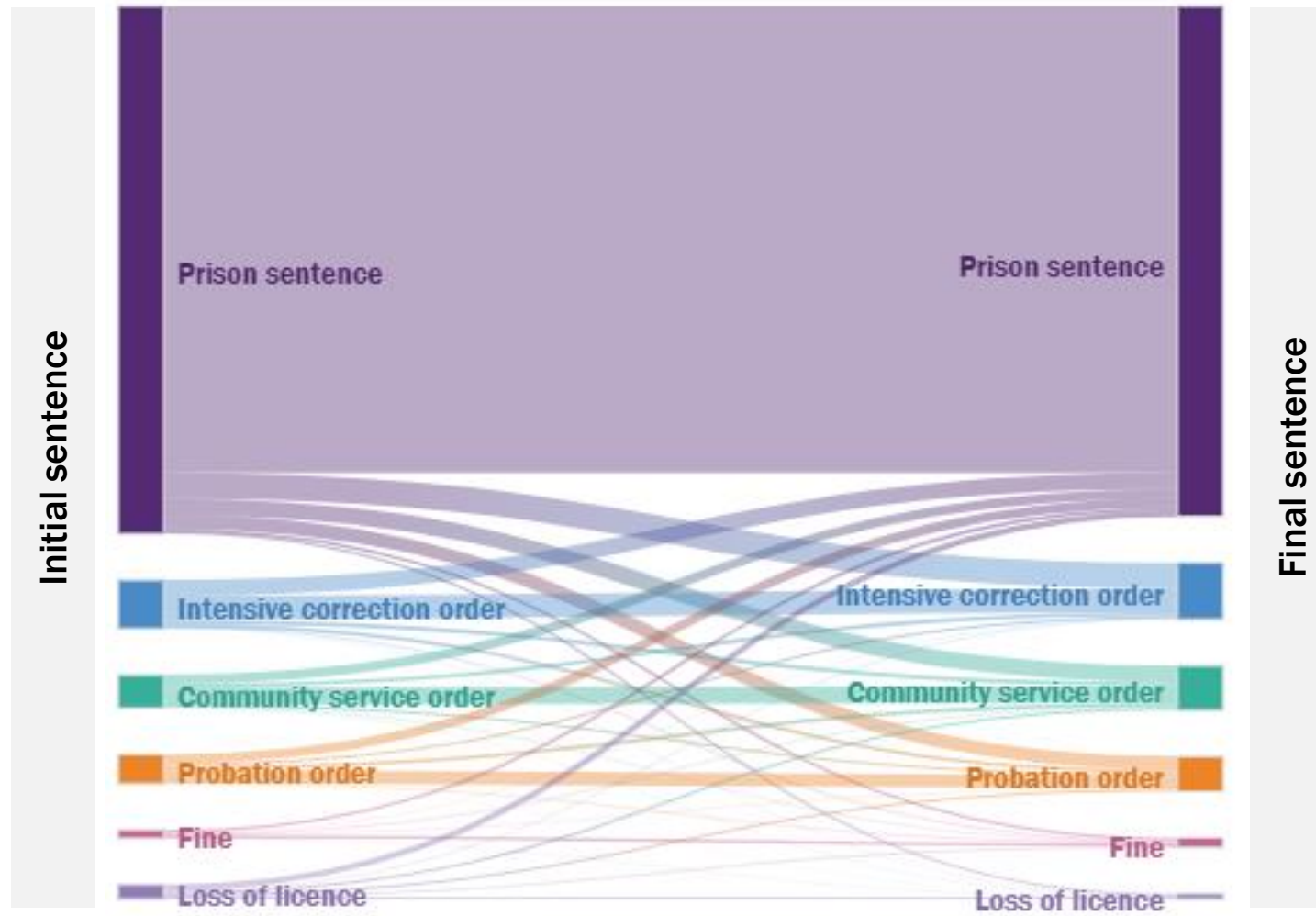
Final sentence

- After participants select their final sentence, they are provided with the Judge's sentence

Initial sentence given to Joseph (N=3,845)



Most serious penalty given at initial sentence compared to final sentence




The actual sentence

- 3 years' imprisonment – head sentence
- 9 months to be served in prison, prior to release on parole
- Loss of driver's licence for 2 years



Coming up in 2020

- *Sentencing at a Glance* – a new series providing key stats on sentencing for specific offences on a single page as issues emerge in public discourse (e.g. sentencing for arson)
 - *Doing Justice Differently* – videos focused on sentencing in the specialist magistrates courts
 - Enhanced and additional education resources for teachers
 - Video series of simple explanations of key sentencing terms – tailored to Aboriginal and Torres Strait Islander peoples but useful for all community members
 - *Cases in Context* – simple explanations of key Court of Appeal sentencing decisions
- 

Answers

What's wrong with sentencing?	It's high profile, it's complex and it's technical
Is it just a PR problem?	Everyone has an opinion, and often in a factual vacuum
Do we need to re-imagine it?	Sentencing is only 're-imagined' insofar as different voices are drawn in to clarify its parameters and meaning, and then packaged to encourage engagement
How can a sentencing council help?	Interpretation, explanation, clarification, advice, evidence

Queensland Sentencing Advisory Council



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