

## **Making Queensland Safer Bill 2024**

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**Submitter Comments:**

In reply please quote: 7228601; 578545/9

3 December 2024

Dr Amanda Cavill  
Committee Secretary  
Justice, Integrity and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

**By e-mail:** JICSC@parliament.qld.gov.au

Dear Dr Cavill,

**Re: Inquiry into the Making Queensland Safer Bill 2024**

Thank you for your correspondence of 29 November 2024 inviting the Queensland Sentencing Advisory Council (Council) to contribute to the Justice, Integrity and Community Safety Committee's review of the proposed Making Queensland Safer Bill 2024.

The Council is established under Part 12 of the *Penalties and Sentences Act 1992* (Qld). Our statutory functions include to inform and engage with the community about sentencing, to research matters in relation to sentencing, to promote community understanding of sentencing, to publish information about sentencing, and to advise the Attorney-General on sentencing matters at her request. More information about the Council can be found on [our website](#).

Due to the short time frame provided for submissions to be made to the Committee, our response is limited to information previously published by the Council and a high-level analysis of Queensland sentencing trends.

## 1. Sentenced cases and current sentencing practices in Queensland

In 2023-24, 6 per cent of all sentenced cases in Queensland involved children aged 10–17 (see **Figure 1**). The volume of cases sentenced involving children has generally been decreasing over the last 19 years and, as a whole, has remained relatively stable across the most recent 5-years period (see **Figure 2**).

The types of offences children are sentenced for are different to those for which adults are sentenced. Over the last five years (from July 2019 to June 2024), based on the standard ANZSOC offence categories and focusing on the most serious offence sentenced in a case, most childhood offending sentenced involved theft (*eg. unlawful use of a motor vehicle, and stealing*), unlawful entry (*eg. of dwelling or business*) and acts intended to cause injury (*eg. assault occasioning bodily harm and common assault*) offences. In comparison, the offences adults are most commonly sentenced for include traffic and vehicle related offences, offences against justice and government (including breaches of domestic and family violence orders) and drug offending.

Over that 5-year period, 61 per cent of all sentenced children aged 10–13 years and 46 per cent of all sentenced children aged 14-17 years were Aboriginal and Torres Strait Islander. Over the same period, 69 per cent of all sentenced children aged 10-13 years and 74 per cent of all sentenced children aged 14-17 years were boys.

The Council undertook a separate analysis of sentenced cases for the 13 prescribed offences under the Bill to assist the Committee in understanding current volumes of case sentenced for these offences. **Figure 3** provides for each of the prescribed offences, by age group, the total volume of sentenced cases over the last five years, where that offence was the most serious offence (MSO) sentenced. **Figure 4** (and **Table 1**) further provide a summary of the volume of cases sentenced (MSO) for prescribed offences involving a child offender, each year for the last five years. With the exception of section 408A Unlawful use of a motor vehicle, the volume of cases sentenced involving the prescribed offences has remained relatively stable over the last 5 years.

**Table 2** provides a summary of all cases sentenced in the last 5 years, involving each of the 13 prescribed offences. This information is disaggregated by the age group of the offender and provides sentencing outcomes for both children and young adults, and for each offence we note the following information:

- total number of cases sentenced – both where it was the most serious offence (MSO) sentenced in a matter, and where there was another more serious offence sentenced at the same,
- the most common (mode) penalty type received, where the offence was the most serious offence sentenced,
- the number and proportion of cases sentenced that received a sentence of imprisonment or detention, where the offence was the most serious offence sentenced, and
- the average, median and maximum duration of detention or imprisonment, where the offence was the most serious offence sentenced.

As is evident from the information provided, when these offences are sentenced, they are often the most serious offence for which a young person is sentenced. For those

offences where they have been co-sentenced with another more serious offence, the other more serious offence was often another prescribed offence, though not always.

For each of the prescribed offences, generally the likelihood of a custodial penalty increases with age, as does the duration of the custodial penalty received.

## 2. Council publications and resources

The Council has published several resources that may be of relevance to the Committee's work including:

- An online [Sentencing Datahub](#) which provides statistical information about sentences imposed by Queensland's criminal courts for over 90 select offences. The Datahub allows sentencing trends to be viewed based on whether the person was sentenced as a child under the *Youth Justice Act 1992* (Qld) or as an adult and includes data up to June 2024.
- A [Guide to the Sentencing of Children in Queensland](#), which explains how Queensland courts currently sentence children found guilty of an offence under the *Youth Justice Act 1992* (Qld). It is intended to provide members of the community with information about the principles and factors that currently guide the sentencing of children in Queensland, as well as information about the role of the courts, who is involved in the sentencing process and how the courts decide the sentence. The most recent edition of the guide was published in June 2024;
- Reports released as part of our *Sentencing Profiles* series, that focus on sentencing outcomes for specific cohorts of individuals. In particular:
  - [‘Kids in Court: The Sentencing of Children in Queensland’](#) published in November 2021. This report examines Queensland courts sentencing outcomes for cases involving children aged 10–17 sentenced in Queensland from July 2005 to June 2019;
  - [‘Connecting the Dots: The Sentencing of Aboriginal and Torres Strait Islander Peoples in Queensland’](#) published in March 2021. This report examines sentencing outcomes for cases involving Aboriginal and Torres Strait Islander peoples, including children, sentenced in Queensland between July 2005 and June 2019. It examines trends and patterns and provides insight into the sentencing of Aboriginal and Torres Strait Islander peoples in Queensland.
  - [‘Engendering Justice: The Sentencing of Women and Girls in Queensland’](#) published in August 2022. This report examines sentencing outcomes for cases involving women and girls sentenced in Queensland between July 2005 and June 2019, examining trends and patterns in the sentencing and provides insight into factors that contribute to women and girls becoming involved in the Queensland Criminal Justice System.
- A [Research Brief on the sentencing of offences committed by children aged under 14 in Queensland](#) reporting on trends in sentencing from July 2005 to June 2022;
- [General information on our website about the sentencing of children](#) targeted at a general community audience.

## 3. Findings of our earlier publications and research

Key findings based on our previous research are summarised briefly below. More information can be found in these publications.

Our [\*Kids in Court: The Sentencing of Children in Queensland\*](#):

- noted reports published by both the Queensland Government Statisticians Office (QGSO) and the Queensland Family and Child Commission (QFCC), that provide a comprehensive summary of risk and protective factors for offending, as they apply to children;<sup>1</sup>
- acknowledged research on youth offending suggests that children and young people who enter the youth justice system, especially those who have served time in custody, are most likely to present with an array of vulnerabilities and complex needs.<sup>2</sup>
- acknowledged that Aboriginal and Torres Strait Islander children were disproportionately represented.
- noted that the use of detention may be necessary in some cases as a way of keeping the community safe from serious and recidivist offending, though research also suggests that detention in particular can have far-reaching criminogenic effects, by encouraging anti-social behaviour through interaction with anti-social peers, and limiting access to education and rehabilitation programs.<sup>3</sup>
- acknowledged that evidence suggests that providing a range of options tailored to children's individual needs can also help keep the community safe.<sup>4</sup>

Our [\*Research Brief on the sentencing of offences committed by children aged under 14 in Queensland\*](#) outlined the reasons for and against raising the minimum age of criminal responsibility. It noted the Council's findings that:

- children sentenced for offences committed while they were under the age of 14 years are a very small proportion of all sentenced cases and were more likely to be 13 years of age, male and Aboriginal and Torres Strait Islander.
- most commonly the children in this cohort were sentenced for property-related offences and were rarely sentenced to detention. They made up a small percentage of children subject to community-based supervision.

#### 4. Impact on victims as a primary sentencing consideration

Clause 15, subclause (1) of the Bill inserts a new subsection into section 150 of the *Youth Justice Act 1992* (Qld) that will provide in sentencing a child for an offence, a court must have primary regard to any impact of the offence on a victim, including harm

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<sup>1</sup> Queensland Government Statistician's Office, Queensland Treasury, *Youth Offending: Research Brief (2021)*; and Queensland Family and Child Commission, *Changing the sentence: Overseeing Queensland's youth justice reforms (July 2021)*

<sup>2</sup> Garner Clancey, Sindy Wang and Brenda Lin, *Youth justice in Australia: Theme from recent inquiries* (Australian Institute of Criminology Trends and Issues No. 605. October 2020), 5.

<sup>3</sup> Garner Clancey, Sindy Wang and Brenda Lin, *Youth justice in Australia: Theme from recent inquiries* (Australian Institute of Criminology Trends and Issues No. 605. October 2020), 5.

<sup>4</sup> Matthew Willis, *Bail support: A review of the literature* (Australian Institute of Criminology Research Report No 4, June 2017) 24, 28-9.

(5)

mentioned in information relating to the victim given to the court under section 179K of the *Penalties and Sentences Act 1992*.

We note that a court in sentencing has always been required to consider any physical, mental or emotional harm done to a victim because of the offence as an important factor in sentencing, both in relation to children and adults.<sup>5</sup>

Under our current Terms of Reference, we have been asked to advise whether the current purposes and factors set out in the PSA, including with respect to victim harm, are adequate and appropriate as these apply to the sentencing of sexual assault and rape offences and to identify if any additional legislative guidance is required. Our final report and recommendations are due to be submitted to the Attorney-General by 16 December 2024. For more information, please visit our website.

#### 5. Concluding comments

The Council will continue to monitor and report on sentencing trends and outcomes for both children and young adults as part of its ongoing program of work.

I hope this information is of some assistance to the Committee. Should you require any further information, please feel free to contact [REDACTED]

Yours sincerely

[REDACTED]

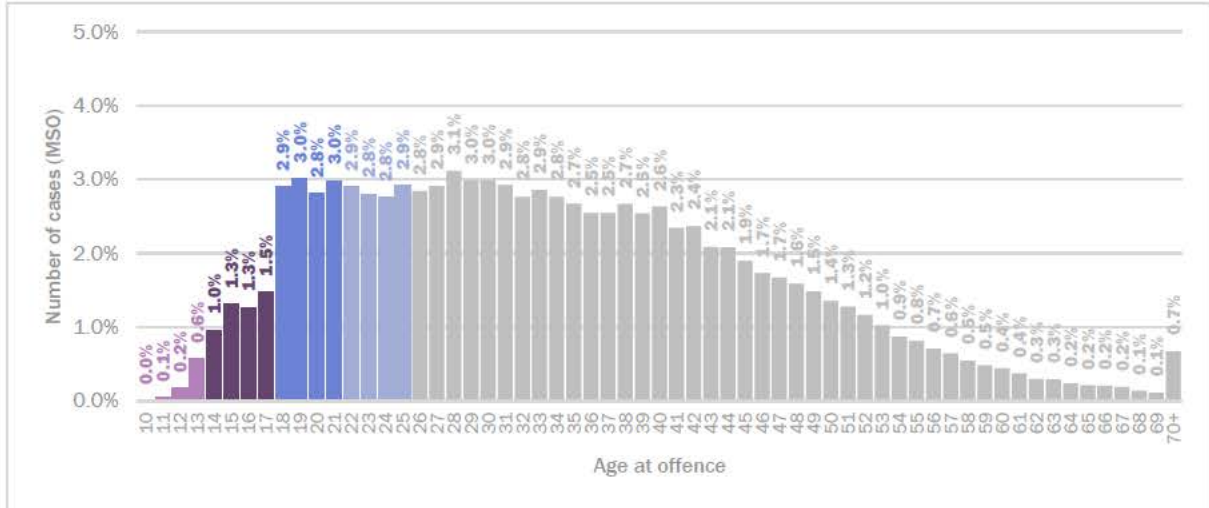
The Honourable Ann Lyons, AM  
**Chair**

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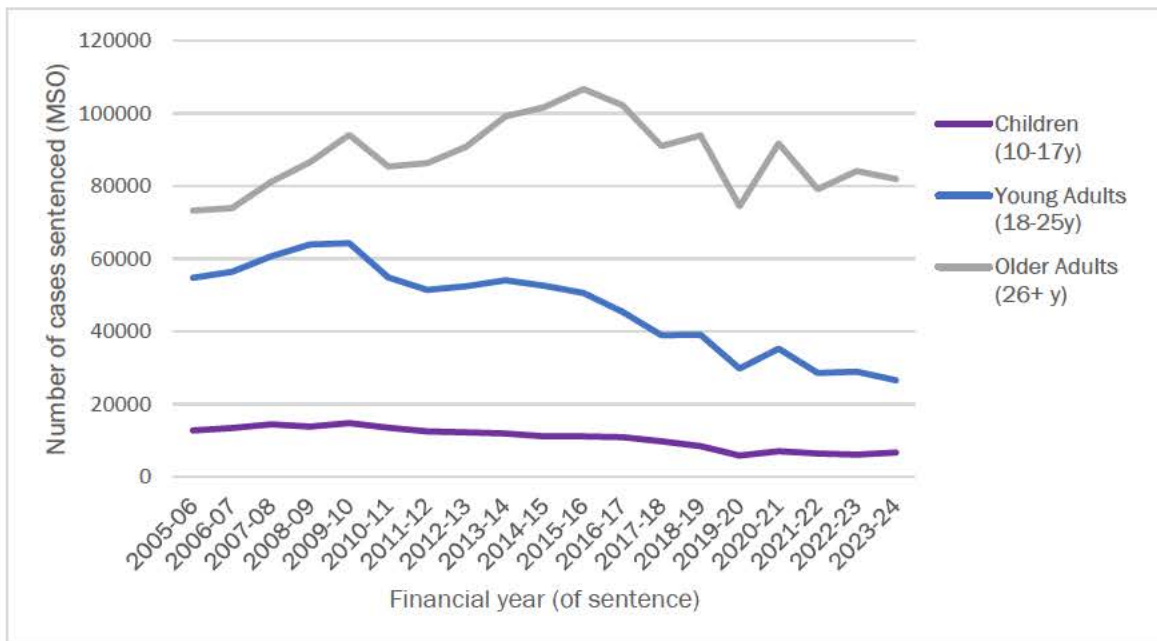
<sup>5</sup> *Youth Justice Act 1992 (Qld)* s 150(1)(j); *Penalties and Sentences Act 1992 (Qld)* s 9(2)(c)(i).

## SENTENCING OF CHILDREN AND YOUNG ADULTS IN QUEENSLAND

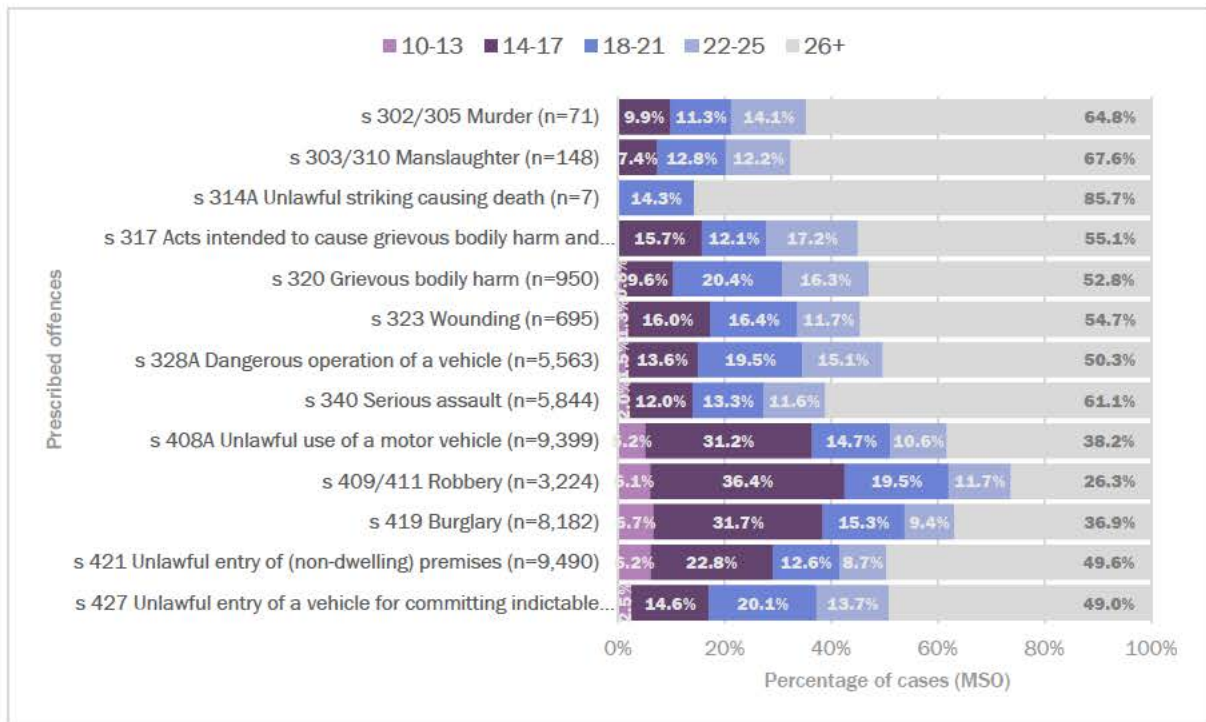
**Figure 1: Age of people sentenced at time of offence (MSO), 2023–24**



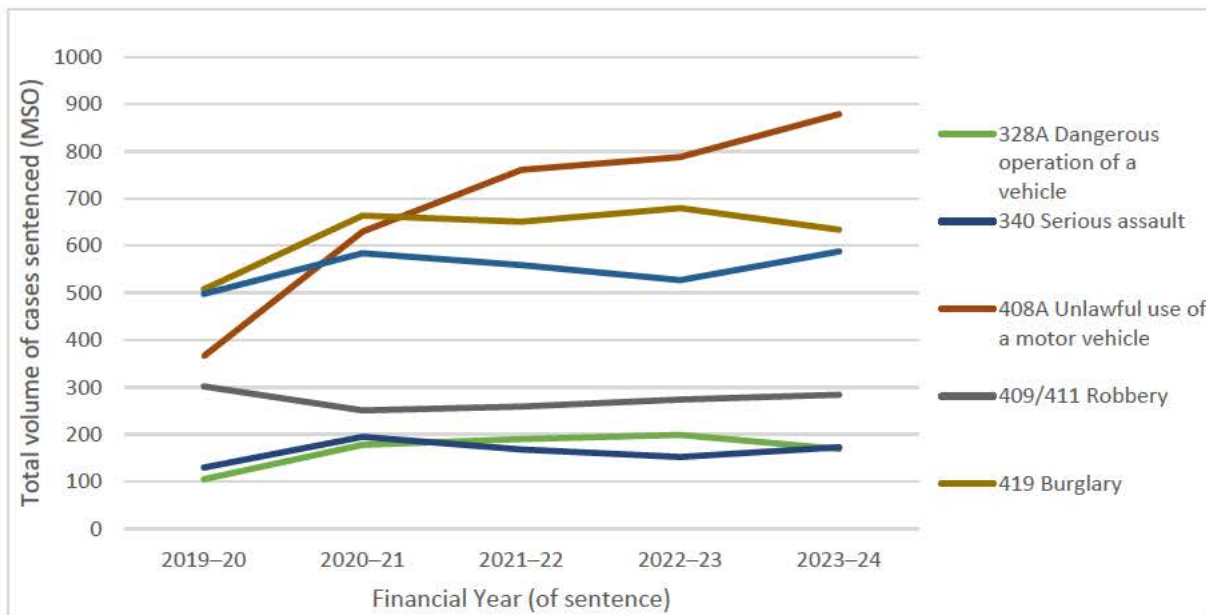
**Figure 2: Number of sentenced cases (MSO) by age group, 2005–06 to 2023–24**



**Figure 3: Sentenced cases (MSO) for prescribed offences, by age group, 2019–20 to 2023–24**



**Figure 4: Number of sentenced cases (MSO) for prescribed offences committed by children (10-17 at offence), 2019-20 to 2023-24<sup>6</sup>**



<sup>6</sup> The figure displays only those offences where the total number of sentenced cases committed by a child exceeded 30 cases per year. The data provided in Table 1 provides the total volume of cases sentenced for all prescribed offences.



**Table 1: Number of sentenced cases (MSO) for prescribed offences committed by children (10-17 at offence), 2019-20 to 2023-24**

Prescribed offence	2019-20	2020-21	2021-22	2022-23	2023-24
302/305 Murder	0	2	0	4	1
303/310 Manslaughter	2	0	1	2	6
317 Acts intended to cause grievous bodily harm and other malicious acts	8	2	2	14	5
320 Grievous bodily harm	18	24	20	24	13
323 Wounding	23	21	26	25	25
328A Dangerous operation of a vehicle	105	178	190	199	169
340 Serious assault	130	195	168	152	173
408A Unlawful use of a motor vehicle	366	630	761	788	879
409/411 Robbery	302	251	259	274	284
419 Burglary	508	664	651	680	634
421 Unlawful entry of (non-dwelling) premises	498	584	559	527	588
427 Unlawful entry of a vehicle for committing indictable offence	16	13	11	5	9

**Table 2: Cases sentenced involving prescribed offences, and sentencing outcomes where it was the Most Serious Offence (MSO) sentenced in the matter**

Includes cases sentenced between 2019-20 and 2023-24

Does not include attempts, conspiracies or accessory after the facts to offences.

Age (at offence)	Total Cases Sentenced where MSO	Total Cases Sentenced where Non-MSO*	Most common penalty type (Mode) (MSO)	Most common penalty classification (Mode) (MSO)†	Total receiving a sentence of imprisonment or detention (MSO)‡	Percent receiving a sentence of imprisonment or detention (MSO)‡	Average duration of detention or imprisonment (years) (MSO)‡	Median duration of detention or imprisonment (years) (MSO)‡	Maximum duration of detention or imprisonment (years) (MSO)‡
<b>s 302/305 – Murder</b>									
10-13	0	0							
14-17	7	0	Detention	Serve time in custody	7	100.0%	11.6	10.0	20.0
18-21	8	0	Imprisonment	Serve time in custody	8	100.0%	-	Life	Life
22-25	10	0	Imprisonment	Serve time in custody	10	100.0%	-	Life	Life
<b>s 303/310 - Manslaughter</b>									
10-13	0	0							
14-17	11	0	Detention	Serve time in custody	11	100.0%	6.4	7.0	10.0
18-21	19	1	Imprisonment	Serve time in custody	19	100.0%	8.3	8.5	10.0
22-25	18	0	Imprisonment	Serve time in custody	17	94.4%	8.5	9.0	15.0
<b>s 314A - Unlawful striking causing death</b>									
10-13	0	0							
14-17	0	0							
18-21	1	0	Imprisonment	Serve time in custody	1	100.0%	8.5	8.5	8.5
22-25	0	0							
<b>s 317 - Acts intended to cause grievous bodily harm and other malicious acts</b>									
10-13	0	0							
14-17	31	2	Detention	Serve time in custody	28	90.3%	3.5	3.0	8.0
18-21	24	2	Imprisonment	Serve time in custody	24	100.0%	6.4	6.8	9.0
22-25	34	3	Imprisonment	Serve time in custody	34	100.0%	7.2	7.0	9.5

Age (at offence)	Total Cases Sentenced where MSO	Total Cases Sentenced where Non-MSO	Most common penalty type (Mode) (MSO)	Most common penalty classification (Mode) (MSO)†	Total receiving a sentence of imprisonment or detention (MSO)‡	Percent receiving a sentence of imprisonment or detention (MSO)‡	Average duration of detention or imprisonment (years) (MSO)‡	Median duration of detention or imprisonment (years) (MSO)‡	Maximum duration of detention or imprisonment (years) (MSO)‡
<b>s 320 - Grievous bodily harm</b>									
10-13	8	1	Probation	Non-custodial supervised order	0	0.0%	-	-	-
14-17	91	6	Probation	Non-custodial supervised order	21	23.1%	1.4	1.5	3.0
18-21	194	11	Imprisonment	Serve time in custody	157	80.9%	3.1	3.0	6.0
22-25	155	12	Imprisonment	Serve time in custody	132	85.2%	3.3	3.0	9.0
<b>s 323 - Wounding</b>									
10-13	9	2	Probation	Non-custodial supervised order	0	0.0%	-	-	-
14-17	111	18	Probation	Non-custodial supervised order	16	14.4%	1.0	0.8	2.5
18-21	114	20	Imprisonment	Serve time in custody	86	75.4%	2.1	2.0	5.0
22-25	81	18	Imprisonment	Serve time in custody	69	85.2%	2.3	2.0	5.5
<b>s 328A - Dangerous operation of a vehicle</b>									
10-13	84	29	Probation	Non-custodial supervised order	8	9.5%	0.2	0.1	0.5
14-17	757	277	Probation	Non-custodial supervised order	145	19.2%	0.6	0.5	5.0
18-21	1087	365	Monetary	Serve time in custody	336	30.9%	1.5	1.2	8.0
22-25	838	344	Imprisonment	Serve time in custody	405	48.3%	1.5	1.3	9.0
<b>s 340 - Serious assault</b>									
10-13	115	94	Probation	Non-custodial supervised order	3	2.6%	0.5	0.7	0.8
14-17	703	420	Probation	Non-custodial supervised order	82	11.7%	0.5	0.4	2.5
18-21	777	256	Probation	Serve time in custody	237	30.5%	0.8	0.8	3.0
22-25	676	292	Imprisonment	Serve time in custody	300	44.4%	0.9	0.8	5.0
<b>s 408A - Unlawful use of a motor vehicle</b>									
10-13	491	1255	Court diversion referral	Non-custodial supervised order	6	1.2%	0.3	0.3	0.4
14-17	2933	6187	Court diversion referral	Non-custodial supervised order	174	5.9%	0.4	0.3	1.2
18-21	1383	2378	Imprisonment	Serve time in custody	492	35.6%	0.8	0.8	3.0
22-25	998	1541	Imprisonment	Serve time in custody	561	56.2%	0.9	0.8	2.5

Age (at offence)	Total Cases Sentenced where MSO	Total Cases Sentenced where Non-MSO	Most common penalty type (Mode) (MSO)	Most common penalty classification (Mode) (MSO)†	Total receiving a sentence of imprisonment or detention (MSO)‡	Percent receiving a sentence of imprisonment or detention (MSO)‡	Average duration of detention or imprisonment (years) (MSO)‡	Median duration of detention or imprisonment (years) (MSO)‡	Maximum duration of detention or imprisonment (years) (MSO)‡
<b>s 409/411 - Robbery</b>									
10-13	197	51	Probation	Non-custodial supervised order	11	5.6%	0.7	0.9	1.4
14-17	1173	235	Probation	Non-custodial supervised order	183	15.6%	1.1	1.0	3.5
18-21	629	74	Imprisonment	Serve time in custody	524	83.3%	2.8	3.0	7.0
22-25	376	47	Imprisonment	Serve time in custody	353	93.9%	3.0	3.0	8.0
<b>s 419 - Burglary</b>									
10-13	545	451	Probation	Non-custodial supervised order	19	3.5%	0.3	0.3	0.5
14-17	2592	2162	Probation	Non-custodial supervised order	340	13.1%	0.5	0.4	2.5
18-21	1254	658	Imprisonment	Serve time in custody	690	55.0%	1.4	1.3	7.0
22-25	769	377	Imprisonment	Serve time in custody	548	71.3%	1.7	1.5	10.0
<b>s 421 - Unlawful entry of (non-dwelling) premises</b>									
10-13	589	970	Court diversion referral	Non-custodial supervised order	10	1.7%	0.5	0.3	2.0
14-17	2167	3580	Court diversion referral	Non-custodial supervised order	90	4.2%	0.4	0.3	1.5
18-21	1196	1179	Imprisonment	Serve time in custody	363	30.4%	1.1	1.0	6.3
22-25	827	623	Imprisonment	Serve time in custody	444	53.7%	1.2	1.0	5.0
<b>s 427 - Unlawful entry of a vehicle for committing indictable offence</b>									
10-13	8	67	Reprimand	Nominal penalties	0	0.0%	-	-	-
14-17	46	308	Reprimand	Nominal penalties	7	15.2%	1.3	1.0	2.5
18-21	63	134	Imprisonment	Serve time in custody	28	44.4%	2.0	2.0	4.0
22-25	43	87	Imprisonment	Serve time in custody	27	62.8%	2.2	2.0	5.0

**Notes**

\* Includes cases where the MSO charge was not another charge of the same offence.

† See the penalty classification in Table 3 below for a list of penalties that are grouped together.

‡ Includes partially suspended imprisonment. Does not include other custodial orders served in the community, such as conditional release orders (for children), wholly suspended sentences (for adults), or intensive correction orders (for adults).

**Table 3: Penalty classification to allow for comparison between child and adult penalties**

<b>Penalty classification</b>	<b>Child penalties</b>	<b>Adult penalties</b>
<b>Serve time in custody</b>	Detention	Imprisonment (including rising of the court)
		Partially suspended imprisonment
<b>Custodial order served in the community</b>	Conditional release order	Wholly suspended imprisonment
		Intensive correction order
<b>Non-custodial supervised order</b>	Intensive supervision order	Probation
	Probation	
	Restorative justice order	
<b>Community service</b>	Community service order (including graffiti removal orders)	Community service order (including graffiti removal orders)
<b>Fines, recognisance, other monetary</b>	Fines (and other monetary penalties)	Fines (and other monetary penalties)
	Good behaviour, recognisance	Good behaviour, recognisance
<b>Court diversion referral</b>	Court diversion referral	
<b>Disqualification of driver's licence</b>	Disqualification of driver's licence	Disqualification of driver's licence
<b>Nominal penalties</b>	Reprimand	Convicted, not further punished
	Convicted, not further punished	