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<i>Hong Minh Nguyen trading as Mobile PC Doctor v Sensis Pty Ltd</i> [2016] QDC 304	99/16	Test for abuse of process. See [19], [25] and [33]

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<i>Laurent v Commissioner of Police</i> [2015] QDC 160	29/15	Application for an adjournment was refused based upon the defendant's ill health, natural justice
<i>Cox v The Commissioner of Police</i> [2015] QDC 183	42/15	Refusal of adjournment
<i>Parbery & Ors v QNI Metals Pty Ltd & Ors</i> [2018] QSC 276	-	Parties are entitled to have their civil dispute quelled by a final judgment or order by an impartial judge and through a fair trial (at [76]-[92])
<i>Branch v Commissioner of Police</i> [2019] QCA 19	27/19	Adjournment, brief provided on morning of trial
<i>Gebicki v Commissioner of Police</i> [2019] QDC 108	69/19	Refusal to allow adjournment upon the close of the prosecution case so the defendant can call a witness
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<i>PM v Childrens Court of the Australian Capital Territory & Ors</i> [2018] ACTSC 258	-	Whether a person born on 29 February 2000 was a child or an adult on 28 February 2018
<i>R v KAK</i> [2020] QDC 244	80/20	Doli Incapax, rebuttal of presumption that a person under the age of 14 years of age is not criminally responsible pursuant to s.29 <i>Criminal Code</i> 1899

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<i>Usherwood v Keegan & Ors</i> [2020] QSC 263	63/20	Outlines process when making an order to return seized animals

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<i>Taurino v Commissioner of Police</i> [2015] QDC 322	109/15	No onus on Crown to establish the absence of provocation or self defence if not raised on the evidence
<i>Isitt v The Commissioner of Police</i> [2016] QDC 308	8/17	Intention to apply force
<i>Harvey v Queensland Police Service & Director of Public Prosecutions (Queensland)</i> [2019] QCA 5	19/19	Attempted or threatened application of force
<i>HKY v Queensland Police Service</i> [2019] QDC 218	13/20	Prosecution failed to prove that the assault of the complainant caused bodily harm. Definition of "bodily harm"

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<i>Charisteas v Charisteas</i> [2021] HCA 29	73/21	Family Law property settlement. Communications between Judge and Counsel.

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<i>Williams & Hughes, Re an Application for Bail</i> [2016] QDC 204	79/16	Guilty plea to serious offences – exceptional circumstances
<i>Director of Public Prosecutions (Cth) v Turner & Anor</i> [2016] QSC 107	8/19	Whether there is a discretion to forfeit an undertaking on a fail to appear. s31(1) of <i>Bail Act 1980</i>
<i>TDR v The Queen</i> [2018] QChC 11	87/18	Child placed in custody without revoking bail

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<i>Harvey v Commissioner of Police</i> [2017] QDC 150	65/17	Breach of bail conditions – emergency defence raised
<i>Re DNV</i> [2020] QSC 276	79/20	Variation of conditions – jurisdiction of courts to excuse compliance with conditions

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<i>De Waal v Commissioner of Police</i> [2016] QDC 26	21/16	Whether change in circumstance needs to be shown

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<i>Re GJA</i> [2020] QDC 170	48/20	Defendant failed to establish exceptional circumstances. See <i>R v Martens (No 1)</i> [2010] 1 Qd R 564 as an example where exceptional circumstances were demonstrated.
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KP v Director of Child Protection Litigation Unit & Anor [2020] QChC 16	42/20	Delay, temporary custody order, exception to 3 month rule
Director of Child Protection Litigation v SYA & Anor [2021] QChC 5	27/21	Long-term Guardianship Order. Take into account views or wishes of the child

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<i>YJ Pty Ltd & Ors v Huang's Properties Pty Ltd</i> [2018] QDC 240	9/19	Whether the Magistrates Court has jurisdiction to order recovery and delivery of possession of premises where the tenancy has been determined by forfeiture
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Attorney-General for the State of Queensland v Di Carlo [2017] QSC 171	85/17	Punishment of legal practitioner for contempt of court
King v Queensland Police Service [2019] QDC 131	1/20	Comparable cases do not mark the outer bounds of permissible sentencing discretion with numerical precision
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McDonald v Commissioner of Police [2020] QDC 193	56/20	Serious assault of corrective services officer – flicking blood from a wound, deliberate move of the arm

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Marshall v Queensland Police Service [2015] QDC 261	79/15	Whether assault was unlawful
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Banks v Commissioner of Police [2018] QDC 232	5/19	Unlawful possession of a prohibited weapon (whether a fishing knife is a weapon)

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McDonald v Holeszko [2018] QDC 204	7/19	Carrying out assessable development without an effective development permit
Walden v Queensland Police Service [2019] QDC 63	56/19	“Evidentiary onus” of the defence of mistake of fact

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McNamara v Queensland Police Service [2015] QCA 99	40/15	Honest and reasonable belief that would be run off the road
Prince v Queensland Police Service [2015] QDC 187	46/15	Failing to stop at red light
Rowley v Commissioner of Police [2017] QDC 88	49/17	Disobeying the speed limit
Mizikovsky v QPS [2018] QDC 249	11/19	Failing to keep left of a dividing line. Section 24 was open but not considered.

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<i>Manning v Queensland Police Service</i> [2016] QDC 326	15/17	Driving whilst disqualified by court order
<i>Clampett v Queensland Police Service</i> [2016] QCA 345	19/17	Driving a motor vehicle whilst his driver's licence was suspended
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<i>Caddies v Birchell</i> [2017] QDC 274	107/17	s 267 Criminal Code Act 1889
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<i>Caddies v Birchell</i> [2017] QDC 274	107/17	Whether an omission can amount to provocation
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<i>Commissioner of Police v Joseph</i> [2018] QMC 12	67/18	Application for disclosure: production of documents; public interest immunity; warrants: disclosure of applications for search warrants
<i>Cotter v Commissioner of Police</i> [2020] QDC 91	33/20	Where defence raised on the evidence and not challenged by the prosecution through cross-examination of the defendant
<i>R v Turner</i> [2020] QDCPR 108	5/21	Whether disclosure of a redacted document was contrary to public interest

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<i>REW v Commissioner of Police</i> [2018] QDC 213	89/18	Contravening release conditions
<i>OSE v HAN</i> [2020] QDC 309	13/21	No case to answer

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KAV v Magistrate Bentley & Anor [2016] QSC 46	33/16	Withdrawal of an application. All three elements of s.157(2) must be met before costs awarded.
NBE v PRT & Anor [2018] QDC 29	30/18	Costs on a civil application – where magistrate made costs order without hearing the application in the absence of the aggrieved

DOMESTIC VIOLENCE – CROSS-APPLICATIONS[\(back to index\)](#)

SRV v Commissioner of the Queensland Police Service & Anor [2020] QDC 208	73/20	Interpretation of section 4(2)(e) – orders can be made in both cross applications
RIS v DOL & Anor [2021] QDC 154	67/21	Procedural fairness when considering cross applications, in circumstances where the applications were decided without a hearing and without proper consideration of section 151

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MS v Commissioner of Police [2021] QCA 31	37/21	Section 24 Criminal Code (mistake of fact) did not apply to a mistake by the appellant in the interpretation of the Family Court Order

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PRH v LPL & Anor. [2020] QDC 17	36/21	Appeal against making a 7 year ouster order; procedural fairness
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<i>SMF v PDF & Anor</i> [2020] QDC 174	50/20	Procedural fairness, reasonable opportunity to present a case
<i>PRH v LPL & Anor.</i> [2020] QDC 17	36/21	Not allowing significant proportions of evidence before the court amounted to a denial of natural justice
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R v Hickey [2016] QDC 119	53/16	Wanted for questioning in relation to outstanding matters, attempted to destroy evidence, concerns further evidence would be lost
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R v Tanner (No 2) [2015] QDC 267	84/15	Search warrant not validly issued
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Beazley v Chevathun [2018] QDC 28	21/18	Whether unlawful, whether the police had reasonable suspicion

R v Morrison [2020] QSCPR 19	51/20	Circumstances must be sufficient to induce a “reasonable suspicion” in the mind of a police officer in those circumstances
R v Swayn [2021] QSC 116	56/21	Police officer provided details re indicia forming basis for reasonable suspicion
R v Clarke and Warren [2021] QSCPR 12	68/21	Police officer did not provide justification for reasonable suspicion
R v Paull [2021] QSCPR 22	97/21	Search of pedestrian. Held that none of the prescribed circumstances in ss.29 and 41 PPRA were present to allow police to stop and detain him and requiring him to produce ID – consequent search and discovery of drugs was then unlawful

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R v Bennett [2016] QDC 108	50/16	Whether clip seal bag located via torch light through windows sufficient to amount to a search
R v Hickey [2016] QDC 119	53/16	Wanted for questioning in relation to outstanding matters, attempted to destroy evidence, concerns further evidence would be lost
R v BXT [2016] QSC 211	92/16	Reasonable suspicion – indicia, failed to provide licence which was in the vehicle, information on police computer system
R v Watson [2017] QSC 4	53/17	Use of hire car associated with drug offending

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R v Cahill [2016] QSC 275	7/17	Police did not expressly detain the vehicle and occupants, consented to search
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R v Barbaro & Anor [2015] QSC 346	98/15	No post-search approval obtained, not within parameters of s31 of the <i>Police Powers and Responsibilities Act 2000</i> , Crown conceded search was unlawful
R v P & Anor [2016] QSC 49	46/16	Post search application not made for 28 days after search
R v Purdon [2016] QSC 128	55/16	Vehicle not intercepted for any of the prescribed purposes under s60(3) of the <i>Police Powers and Responsibilities Act 2000</i>
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<i>Isitt v The Commissioner of Police</i> [2016] QDC 308	8/17	Intention to apply force in an assault
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<i>Carrick v Queensland Police Service</i> [2018] QDC 72	44/18	Obligation to ensure natural justice
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<i>Ryan v Queensland Police Service</i> [2021] QDC 206	76/21	See <i>R v Cunningham</i> [2005] QCA 321: To impose a penalty without allowing the person affected to have an opportunity to respond is a clear breach of the rule of natural justice that a court is required to follow
<i>Lee v Queensland Police Service</i> [2021] QDC 262	91/21	Where magistrate failed to afford the parties an opportunity to make submissions on the imposition of a fine

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<i>R v Gibb</i> [2018] QCA 120	34/18	Judicial intervention, revocation of bail, refusal of adjournment, fitness for trial
<i>Mizikovsky v QPS</i> [2018] QDC 249	11/19	Judicial Notice, Judicial Officers ‘entering the arena’. Magistrate engaged in cross-examination. See <i>Yuill v Yuill</i> [1945] P 15 and <i>Jones v National Coal Board</i> [1957] 2 QB 55.

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<i>R v Sanderson</i> [2015] QDC 106	15/15	Follows <i>R v Dibble ex parte Attorney-General (Qld)</i> [2014] QCA 8
<i>Brown v Latter</i> [2016] QDC 35	26/16	Appeal against an order of a magistrate to stay a charge
<i>JWD v The Commissioner of Police</i> [2019] QDC 29	33/19	One act constituted 3 different offences.

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R v Rodgers [2021] QCA 97	50/21	Conviction would require defendant to be subject to requirements of the <i>Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004</i>
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Bamsang Pty Ltd v The Commissioner of Taxation [2016] QDC 189	72/16	7 x fail to lodge income tax returns and 31 x failing to lodge GST returns
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Davy v Commonwealth Director of Public Prosecutions [2017] QDC 241	95/17	Dishonesty pursuant to the <i>Bankruptcy Act 1966</i>
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Clarkson v Ingram [2021] QDC 153	93/21	Example of the process of determination in imposing a s19B order
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Laine v Senior Constable DG Hubbard [2016] QDC 47	35/16	Compensation order time to pay
Townsend v Commissioner of Police [2017] QDC 45	43/17	Compensation for injury to police officer and damage to spectacles
Randall-Salam v Commissioner of Police [2019] QDC 65	55/19	Restitution different from compensation; procedural fairness in sentencing and considering compensation order
Hemmings v Commissioner of Police [2021] QDC 172	74/21	Potential consequences of a restitution order (and capacity to pay) are relevant to consideration of overall appropriate sentence
Goltz v Commissioner of Police [2021] QDC 220	84/21	There was no evidence before the court that the appellant had capacity to pay compensation

SENTENCE – COMPENSATION – IMPRISONMENT[\(back to index\)](#)

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Goodwin v Commissioner of Police [2016] QDC 349	23/17	Coupling a compensation order and actual imprisonment
Owens v Commissioner of Police [2021] QDC 143	60/21	Restitution different from compensation; see ss35 and 36 <i>Penalties and Sentences Act 1992</i> . Where order made necessary to articulate orders with reference to statutory provision

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SENTENCE – CO-OPERATION[\(back to index\)](#)

R v Melrose [2016] QCA 202	84/16	Lack of co-operation by defendant
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SENTENCE – CRIMINAL HISTORY[\(back to index\)](#)

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Roll v QPS [2015] QDC 296	95/15	Use to be made of criminal histories
Gemmell v Commissioner of Police [2015] QDC 318	106/15	Youthful adult offender, juvenile criminal history, Offender Report Integrated Revenue Protection System Qld. Evade fare
Knight v The Commissioner of Police [2016] QDC 37	30/16	Cumulative sentence offence by prisoner and whether it was mandatory
Ehlers v Queensland Police Service [2017] QDC 6	33/17	Receipt of inadmissible children's court history

SENTENCE – CRIMINAL HISTORY – RELEVANCE[\(back to index\)](#)

Smalley v Commissioner of Police [2016] QDC 322	13/17	Sentencing principle: sentences do not inevitably increase due to an accrued criminal history
Hoger v Commissioner of Police [2018] QDC 145	62/18	Extensive criminal history was a relevant feature at sentence

<i>Dawkins v Queensland Police Service</i> [2018] QDC 161	68/18	Criminal history had overwhelmed the judicial officer's sentencing discretion. Undue and excessive weight given.
<i>Richardson v Commissioner of Police</i> [2018] QDC 102	93/18	Sentencing principle: an offender's criminal history cannot be given so much weight that the penalty imposed for the offence is disproportionate to the offence itself
<i>Ruhland v Commissioner of Police</i> [2020] QDC 265	4/21	Regard had to prior offences and factual matrix around sentencing

SENTENCE – CRIMINAL HISTORY – RELEVANCE – TRAFFIC[\(back to index\)](#)

<i>Ayling v Commissioner of Police</i> [2017] QDC 42	42/17	Traffic record was considered indicative of continuing attitude of disobedience of the law
<i>Harman v Queensland Police Service</i> [2018] QDC 146	65/18	Relevance of dated traffic convictions

SENTENCE – CUMULATIVE[\(back to index\)](#)

<i>R v Thiemann</i> [2015] QCA 195	71/15	Reasons for cumulative sentences
<i>Green v Queensland Police Service</i> [2015] QDC 341	19/16	Amount of weight placed on deterrence, review aggregate sentence
<i>Komar v Commissioner of Police</i> [2016] QDC 79	45/16	Approach: identify a starting point, to consider then the overall effect of the sentence, bearing in mind its cumulative aspects, and to ensure that it is not disproportionate to the overall offending
<i>ATC v Commissioner of Police</i> [2016] QDC 351	24/17	Whether cumulative instead of concurrent rendered sentence manifestly excessive
<i>R v Kussrow</i> [2018] QCA 195	69/18	s 9(2)(l) of the <i>Penalties and Sentences Act</i> 1992 – regard to “sentences already imposed on the offender that have not been served”
<i>Hemmett v Commissioner of Police</i> [2021] QDC 318	2/22	A cumulative sentence cannot be suspended

SENTENCE – CUMULATIVE – PAROLE[\(back to index\)](#)

<i>Addo v Senior Constable Jacovos</i> [2016] QDC 271	3/17	Whether offences committed while “released on parole” within meaning of s156(1)(b)(ii)
<i>Norwood v Queensland Police Service</i> [2018] QDC 170	70/18	Mandatory cumulative sentence - s156A <i>Penalties and Sentences Act</i> 1992
<i>BAB v Commissioner of Police</i> [2019] QDC 118	73/19	Impermissibility of partial accumulation of sentence under s156 of the <i>Penalties and Sentences Act</i> ; requirement to impose a cumulative sentence for an offence of AOBH under s156A of the <i>Penalties and Sentences Act</i>

SENTENCE – CUMULATIVE – TOTALITY[\(back to index\)](#)

<i>Szucs v Queensland Police Service</i> [2015] QDC 190	39/15	Must ensure that the aggregation of sentences imposed on an offender is a just and appropriate measure of the total criminality involved
<i>McIlwain v Commissioner of Police</i> [2015] QDC 332	3/16	Cumulative sentence resulted in an unusually heavy sentence. <i>R v Kitson</i> [2008] QCA 86: an unusually heavy sentence should not be imposed without opportunity to be heard

<i>Brase v Queensland Police Service</i> [2016] QDC 24	20/16	Aggregate of the sentences imposed by the magistrate was considered too crushing and disproportionate to the overall criminality
<i>SAE v Commissioner of Police</i> [2017] QDC 254	99/17	Suspended sentence activated cumulatively, appropriate consideration given to totality principle
<i>Goulding v Commissioner of Police</i> [2021] QDC 52	45/21	Impact on totality, manifestly excessive sentence

SENTENCE – CUMULATIVE – TOTALITY – DETERRENCE[\(back to index\)](#)

<i>Green v Queensland Police Service</i> [2015] QDC 341	19/16	Amount of weight placed on deterrence, review aggregate sentence
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SENTENCE – DANGEROUS OPERATION OF A MOTOR VEHICLE[\(back to index\)](#)

<i>Skinner v The Commissioner of Police</i> [2016] QDC 138	56/16	Police chase
<i>EPN v Queensland Police Service</i> [2020] QDC 34	23/20	In contravention of a domestic violence order

SENTENCE – DANGEROUS OPERATION OF A MOTOR VEHICLE – ADVERSELY AFFECTED[\(back to index\)](#)

<i>Cook v Commissioner of the Queensland Police Service</i> [2016] QDC 187	71/16	Adversely affected by a drug, other driving and dishonesty offences
<i>Nielson v Radcliffe (Constable)</i> [2016] QDC 213	81/16	Adversely affected by an intoxicating substance. 0.194 grams of alcohol per 200 litres of breath. See <i>The Queen v Tabakovic</i> [2005] QCA 90.
<i>Heydt v The Commissioner of Police</i> [2017] QDC 104	51/17	Adversely affected by an intoxicating substance – amphetamine (0.01 mg/kg), methylamphetamine (0.05 mg/kg), diazepam (0.28 mg/kg), and nordiazepam (0.14 mg/kg)
<i>Pendlebury v Queensland Police</i> [2017] QDC 166	68/17	Adversely affected by amphetamines and methylamphetamines. See [18] – [23]: <i>Heydt v The Commissioner of Police</i> [2017] QDC 104

SENTENCE – DELAY[\(back to index\)](#)

<i>R v BCY</i> [2015] QCA 200	74/15	Delay between offending and sentence
<i>R v Melrose</i> [2016] QCA 202	84/16	The “7 guiding principles” at [23]
<i>LIB v Queensland Police Service</i> [2018] QDC 259	15/19	Delay in complaint Longman warning

SENTENCE – DEPORTATION[\(back to index\)](#)

<i>R v UE</i> [2016] QCA 58	61/16	Canada. Lived and worked in Australia for 10 years. 29 at offence, 31 at sentence. Deportation can be a relevant sentencing factor. Prospect of deportation. See <i>Guden</i> (2010) 28 VR 288. Require proof of special hardship. See [9] – [24].
<i>R v Pearson</i> [2016] QCA 212	82/16	New Zealand. Lived in Australia since 12. 16, 18 and 19 at offences, 20 at sentence. Referred to <i>R v UE</i> [2016] QCA 58: sentencing court cannot be asked to speculate about the prospect of deportation or the impact of deportation on the offender. Require proof of special hardship. See [22] – [25].
<i>R v Norris; Ex parte Attorney-General (Qld)</i> [2018] QCA 27	29/18	New Zealand. Lived in Australia since 2. 53 at sentence. Prospect of an ultimately unfavourable decision with respect to the respondent’s prospective deportation was entirely speculative – see application in [46] – [47].

R v MG [2018] QDC 194	82/18	New Zealand. Lived in Australia since approximately 8. 17 at offence, 18 at sentence. Referred to <i>R v UE</i> [2016] QCA 58. See [33] – [34], [44] – [48]. Note: On 7 December 2018 the Court of Appeal upheld an appeal against this decision reported as <i>R v GBD</i> [2018] QCA 340
R v GBD [2018] QCA 340	13/19	New Zealand. Lived in Australia since he was 8. 17 at offence and 18 at sentence. Referred to <i>R v UE</i> [2016] QCA 58. See [14], [51] – [54].
R v DBT; R v HMM; R v ACA; R v NY [2020] QCA 170	58/20	Iran, 16 at offending. Non-citizen refugee with protection visa, parents sought asylum in Australia when defendant was 10 years old. Proof of hardship is required. Referred to <i>R v UE</i> [2016] QCA 58. See [152] – [159].
Osbourne v Commissioner of Police [2020] QDC 249	77/20	New Zealand. 30 had been in Australia since 2006. The defendant's visa was a relevant consideration: see <i>R v Norris; ex parte Attorney-General</i> [2018] 3 Qd R 420. See [39] – [41].
SENTENCE – DETERRENCE		(back to index)
R v Chitty; Ex parte Attorney-General (Qld) [2021] QCA 2	12/21	Need for general deterrence – public violence
Benson v Commissioner of Police [2021] QDC 98	57/21	Need for personal deterrence – disqualified driving offence – ‘persistent disregard for orders of the court’
SENTENCE – DISCRETION		(back to index)
EH v QPS; GS v QPS [2020] QDC 205	64/20	Ruled out possibility of a bond before hearing any further submissions – unduly fettered sentencing discretion
SENTENCE – DISHONESTY (*see also: SENTENCE – COMMONWEALTH)		(back to index)
Irwin v Commissioner of Police [2015] QDC 136	18/15	Magistrate did not have sufficient regard to mitigating factors, including repayment and letter of apology
Meiers v Commissioner of Police Queensland [2018] QDC 30	32/18	Stealing as a servant; fraudulently falsifying or destroying a record/ value of drugs stolen from pharmacy \$20,747
Anderson v Commissioner of Police [2019] QDC 136	4/20	Stealing – sentence must not be disproportionate to the criminality of the offending
SENTENCE – DISOBEYING THE SPEED LIMIT		(back to index)
Hartwig v Commissioner of Police [2021] QDC 56	28/21	123km/hr in a 110km/hr zone
SENTENCE – DISPUTED FACTS		(back to index)
Russell v Commissioner of Police [2016] QDC 102	41/16	Unlawfully supplying cannabis
Syrmis v Commissioner of Police [2017] QDC 225	90/17	Possession of things used in connection with the smoking of a dangerous drug. See <i>Hurst v Henry</i> [1994] QCA 383
Farrell v Queensland Police Service [2018] QDC 233	6/19	Driving whilst a relevant drug (THC and Meth) was present in his body and activated suspended sentences

<i>R v RBE</i> [2021] QCA 146	61/21	Considers the application of s. 132C of the <i>Penalties and Sentences Act 1992</i> in situations where the prosecution has not submitted upon any particular inferences being drawn from the statement of facts
SENTENCE – DISQUALIFICATION OF LICENCE		(back to index)
<i>SPJ v Queensland Police Service</i> [2015] QDC 217	52/15	Cumulative disqualification periods
<i>Johnson v QPS</i> [2015] QDC 264	80/15	State reasons for imposing a disqualification beyond the minimum
<i>Thimble v Queensland Police Service</i> [2016] QDC 190	73/16	Possessing liquor in a restricted area – transported by car. Licence disqualification removed
<i>Bulmer v Queensland Police Service</i> [2016] QDC 197	77/16	Possessing liquor in a restricted area. Transported by car. Interests of justice
<i>Hughes v Commissioner of Police</i> [2016] QDC 325	14/17	Use of car in offending. Abuse of the privilege of driving.
SENTENCE – DISQUALIFICATION OF LICENCE – DISCRETION		(back to index)
<i>Miller v Commissioner of Police</i> [2015] QDC 213	51/15	Discretion to order disqualification
<i>Healey v Commissioner of Police</i> [2016] QDC 192	75/16	Driving without due care and attention. Exercise of discretion.
SENTENCE – DISQUALIFICATION OF LICENCE – REMOVE ABSOLUTE DISQUALIFICATION		(back to index)
<i>Anderson v Commissioner of Police</i> [2021] QSC 254	78/21	See [36]. See also <i>R v Shirley</i> [1969] 1 WLR 1357, <i>Morgan v Commissioner of Police (Qld)</i> [2007] QDC 10, <i>Slivo v Commissioner of Police</i> [2016] QDC 46, <i>Kennedy v Queensland Police Service</i> [2009] QDC 181 and <i>Burton v Commissioner of Police (Qld)</i> (1990) 10 MVR 329.
SENTENCE – DISQUALIFIED DRIVING		(back to index)
<i>Spencer v Commissioner of Police</i> [2017] QDC 273	104/17	Notice under s 47 <i>Justices Act 1886</i>
<i>Williams v The Commissioner of Police</i> [2019] QDC 86	60/19	Use of statistics on sentence, prevalence of offending at sentence, importance of age of an offender at sentence
<i>Senesie Bull v The Commissioner of Police</i> [2020] QDC 35	25/20	Where applicant sentenced for burglary and disqualified driving offences, discussion of comparable cases
<i>Riddell v The Commissioner of Police</i> [2021] QDC 92	55/21	Where actual imprisonment was ‘unreasonable or plainly unjust’
<i>Benson v Commissioner of Police</i> [2021] QDC 98	57/21	Drove away from police upon being identified as a disqualified driver – lack of remorse
SENTENCE – DISQUALIFIED DRIVING – HISTORY		(back to index)
<i>Angel v Commissioner of Police</i> [2018] QDC 56	38/18	Disqualified by court order. History of like offending
<i>Ayling v Commissioner of Police</i> [2017] QDC 42	42/17	History of like offending. Whether there had been a mathematical approach to sentencing
<i>Harman v Queensland Police Service</i> [2018] QDC 146	65/18	Disqualified by court order. Relevance of dated traffic history
SENTENCE – DOMESTIC VIOLENCE		(back to index)
<i>R v Hutchinson</i> [2018] QCA 29	26/18	Retrospectivity of section 9(10A) of the <i>Penalties and Sentences Act 1992</i>

OWL v Queensland Police Service [2021] QDC 5	35/21	Totality principle, a summary of the allegations and all other pertinent and relevant matters should be stated in open court to adequately assist the court
NJB v Commissioner of Police [2021] QDC 42	39/21	Dismissal of appeal against conviction; finding of credibility
SENTENCE – DOMESTIC VIOLENCE – CHILD NAMED ON ORDER (back to index)		
JMM v Commissioner of Police [2018] QDC 130	57/18	1 x breach DVO. 12 year old son. Was on probation for previous breach DVO
SENTENCE – DOMESTIC VIOLENCE – CROSS-ORDERS (back to index)		
EAV v Commissioner of Police [2016] QDC 237	95/16	1 x Breach DVO. Cross-orders. Physical dispute. Previous breach of order
SENTENCE – DOMESTIC VIOLENCE – DETERRENCE (back to index)		
MAR v Queensland Police Service [2015] QDC 144	26/15	See [40] – [41]. “while the mental condition of the appellant reduces his moral culpability and the impact of general deterrence on the sentence, it does not necessarily follow that personal deterrence is of no or little consequence”
SAE v Commissioner of Police [2017] QDC 254	99/17	See [17] – general and personal deterrence. See <i>Smith v QPS</i> [2015] QDC 152; <i>R v James</i> [2012] QCA 256; and <i>Toby v QPS</i> (Harrison, DCJ, Mount Isa District Court, 22 September 2016)
SENTENCE – DOMESTIC VIOLENCE – DOMESTIC VIOLENCE OFFENCE (back to index)		
NAS v Queensland Police Service [2017] QDC 173	73/17	Assault occasioning bodily harm whilst armed – domestic violence offence
R v Kelley [2018] QCA 18	24/18	Assault occasioning bodily harm (domestic violence offence)
Caddies v Birchell [2018] QDC 180	81/18	Assault occasioning bodily harm (domestic violence offence). Physical altercation.
Bye v Commissioner of Police [2018] QDC 74	45/18	1 x common assault; 1 x deprivation of liberty, 1 x assault occasioning bodily harm; and 1 x breach bail condition. Grabbed complainant by neck, bound complainant with rope, punched complainant to forehead.
SENTENCE – DOMESTIC VIOLENCE – MENTAL HEALTH (back to index)		
MAR v Queensland Police Service [2015] QDC 144	26/15	Borderline personality disorder
LJS v Sweeney [2017] QDC 18	37/17	Post-traumatic stress disorder, antisocial personality traits, borderline intellectual impairment, substance abuse, and victim of child sexual and emotional abuse
SENTENCE – DOMESTIC VIOLENCE – PHYSICAL (back to index)		
MAR v Queensland Police Service [2015] QDC 144	26/15	3 x Breach DVO. Punch to the head, covered mouth and held forearm against throat. 4 x previous breaches. Borderline personality disorder
IFM v Queensland Police Service [2016] QDC 140	57/16	2 x Breach DVO. Punch to jaw, grabbed throat, kicked, dragged. Second breach of DVO committed

		while on bail for first breach. Previous breaches, including one on same aggrieved
LJS v Sweeney [2017] QDC 18	37/17	2 x Breach DVO. Punched aggrieved, grabbed arm, pushed head into fence. Called and messaged aggrieved. Previous breaches
SAE v Commissioner of Police [2017] QDC 254	99/17	1 x Breach DVO. Punched to head while sleeping, other punches to head and ribs, threats. Suspended sentence 2 days prior for AOBH on same aggrieved
RJD v Queensland Police Service [2018] QDC 147	64/18	3 x Breach DVO. Struggle, threats. 6 previous breaches, same aggrieved
BHN v Queensland Police Service [2019] QDC 129	3/20	1 x Breach DVO. Punched aggrieved in stomach slapped her on the chin and bit her hand. Was on parole for 2 x previous breaches involving same complainant

SENTENCE – DOMESTIC VIOLENCE – NON-PHYSICAL[\(back to index\)](#)

TZL v QPS [2015] QDC 171	36/15	1 x Breach DVO. Brief personal contact at child care centre and sending emails. 10 x previous breaches, 8 involving the same aggrieved
NVZ v Queensland Police Service [2018] QDC 216	92/18	1 x Breach DVO. Threats made while in custody.
Queensland Police Service v JSB [2018] QDC 120	54/18	1 x Breach DVO. Verbal abuse. 6 previous breaches, same aggrieved
CBC v Queensland Police Service [2019] QDC 3	18/19	1 x contravention of domestic violence order (aggravated), breach no contact condition

SENTENCE – DOMESTIC VIOLENCE – NON-PHYSICAL – PHONE[\(back to index\)](#)

Green v Queensland Police Service [2015] QDC 341	19/16	1 x Breach DVO. Contacted aggrieved 60 times via mobile to withdraw complaint. 9 previous breaches, 8 involving same aggrieved
JHL v Commissioner of Police [2016] QDC 346	22/17	3 x Breach DVO. Contacted aggrieved via text with threats made. 22 x previous breaches
CDX v Queensland Police Service [2017] QDC 96	60/17	1 x Breach DVO. Contacted aggrieved. Previous breaches, different aggrieved

SENTENCE – DOMESTIC VIOLENCE – RESENTENCE PREVIOUS BREACHES[\(back to index\)](#)

AMD v The Commissioner of Police [2019] QDC 22	31/19	Contravention of domestic violence order (aggravated), contravene direction or requirement; 2 x assault or obstruct police; breach of bail condition; trespass; resentenced for 6 x contravene DVO
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SENTENCE – DOMESTIC VIOLENCE – SAME AGGRIEVED – NON-PHYSICAL[\(back to index\)](#)

TZL v QPS [2015] QDC 171	36/15	1 x Breach DVO. Brief personal contact at child care centre and sending emails. 10 x previous breaches, 8 involving the same aggrieved
Green v Queensland Police Service [2015] QDC 341	19/16	1 x Breach DVO. Contacted aggrieved 60 times via mobile to withdraw complaint. 9 x previous breaches, 8 involving same aggrieved
JHL v Commissioner of Police [2016] QDC 346	22/17	3 x Breach DVO. Contacted aggrieved via text with threats made. 22 x previous breaches
Queensland Police Service v JSB [2018] QDC 120	54/18	1 x Breach DVO. Verbal abuse. 6 previous breaches, same aggrieved

SENTENCE – DOMESTIC VIOLENCE – SAME AGGRIEVED – PHYSICAL[\(back to index\)](#)

IFM v Queensland Police Service [2016] QDC 140	57/16	2 x Breach DVO. Punch to jaw, grabbed throat, kicked, dragged. Second breach of DVO committed while on bail for first breach. Previous breaches, including one on same aggrieved
BHN v Queensland Police Service [2019] QDC 129	3/20	1 x Breach DVO. Punched aggrieved in stomach slapped her on the chin and bit her hand. Was on parole for 2 x previous breaches involving same complainant

SENTENCE – DOMESTIC VIOLENCE – SECTION 16 CRIMINAL CODE ACT[\(back to index\)](#)

ETB v Commissioner of Police [2018] QDC 26	33/18	2 x Breach DVO, 1 x common assault (punched aggrieved). See [17] – [20]. No contravention of section 16 as each offence was a separate and distinct criminal offence.
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SENTENCE – DRIVING UNDER THE INFLUENCE[\(back to index\)](#)

Mayne v Purtill [2016] QDC 124	54/16	Error in exercise of jurisdiction. P Plater. 0.185 BAC. Recording a conviction – impact on offender's economic or social wellbeing or changes of finding employment – real estate agent
Taylor v Commissioner of Police [2017] QDC 236	94/17	Prior relevant traffic history
Spencer v Commissioner of Police [2017] QDC 273	104/17	Notice under s 47 <i>Justices Act</i> 1886
Hinge v Commissioner of Police [2018] QDC 8	16/18	Keys in ignition, indicia of intoxication
Williams v The Commissioner of Police [2019] QDC 86	60/19	Use of statistics on sentence, prevalence of offending at sentence, importance of age of an offender at sentence

SENTENCE – DRIVING UNDER THE INFLUENCE – DISQUALIFICATION[\(back to index\)](#)

Purcell v Commissioner of Police [2016] QDC 342	25/17	Regard to the statutory minimum and maximum disqualification periods. 0.149 BAC
Hay v Commissioner of Police [2016] QDC 358	38/17	Magistrate declined to hear submissions as to length of disqualification
Harper v Queensland Police Service [2017] QDC 68	46/17	Magistrate imposed disqualification period greater than allowed. 0.147 BAC
Bailey v Queensland Police Service [2020] QDC 168	44/20	0.21% and 12 months disqualification. Useful discussion of comparable decisions.

SENTENCE – DRIVING WITHOUT DUE CARE AND ATTENTION[\(back to index\)](#)

Miller v Commissioner of Police [2015] QDC 213	51/15	Falling asleep at wheel of a truck
Healey v Commissioner of Police [2016] QDC 192	75/16	Falling asleep at wheel of vehicle. Discretion to order disqualification
Smyl v Commissioner of Police [2019] QDC 194	9/20	Injured complainant while parking; culpability – terrible error of judgment vs momentary inattention. Effect of disqualification on finances

SENTENCE – DRUGS[\(back to index\)](#)

Beveridge v The Commissioner of Police [2016] QDC 8	12/16	14 drug related offences
Russell v Commissioner of Police [2016] QDC 102	41/16	Unlawfully supplying cannabis

Chapman v Queensland Police Service [2016] QDC 141	58/16	Possession of a dangerous drug
Abboud v The Commissioner of Police [2019] QDC 273	22/20	Possession of 9.7 grams of methylamphetamine
Neale v Commissioner of Police [2020] QDC 233	71/20	13.89 grams of methylamphetamine with a purity of 6.347 grams
R v Kopjar [2021] QCA 219	77/21	Possession of 3.298 grams of MDMA, 1.969 grams of cocaine, 2.115 grams of psilocybin mushrooms, 2 grams of cannabis and 58 millimetres in two bottles of cannabinal oil. Sentencing judge took into account the defendant's rehabilitation, visa ramifications, variety and quantity of drugs

SENTENCE – EACH CHARGE[\(back to index\)](#)

George v Queensland Police Service [2015] QDC 163	34/15	Necessity to sentence on each charge. See [34]
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SENTENCE – EXTRA CURIAL PUNISHMENT[\(back to index\)](#)

Crowley v Queensland Police Service [2018] QDC 117	49/18	Significant physical and psychological injuries
Caddies v Birchell [2018] QDC 180	81/18	Physical injuries

SENTENCE – FAIL TO STOP[\(back to index\)](#)

Doig v The Commissioner of Police [2016] QDC 320	98/16	Forbes v Jingle [2014] QDC 204 not followed
Cronin v Commissioner of Police [2016] QDC 63	39/16	See [13]. s754(5) – action taken to avoid being intercepted. Magistrate fettered sentencing discretion believing no sentencing options other than a mandatory minimum fine were available.
Gibson v Queensland Police Service [2016] QDC 264	106/16	Concurrent probation and parole
Powley v Queensland Police Service [2017] QDC 152	58/17	Minimum penalty – imprisonment vs fine
Holden v Queensland Police Service [2018] QDC 217	94/18	Verdins principles; Mental Health

SENTENCE – FAIL TO STOP – COMMUNITY BASED ORDERS[\(back to index\)](#)

Sbresni v Commissioner of Police [2016] QDC 18	15/16	Forbes v Jingle [2014] QDC 204 . Combined probation and community service order.
Skinner v The Commissioner of Police [2016] QDC 138	56/16	Probation as a sentencing option. Forbes v Jingle [2014] QDC 204
Campbell v Galea [2019] QDC 53	49/19	Whether a probation order could be imposed for a s754(2) PPRA offence of failing to stop a motor vehicle
Commissioner of Police v Broederlow [2020] QCA 161	38/20	Discussion of minimum and maximum penalties in s.754(2) at [32]-[34]

SENTENCE – FAMILY CONSIDERATIONS[\(back to index\)](#)

Bolton v Queensland Police Service [2018] QDC 114	53/18	Hardship on the family of the offender
R v Hannan; Ex parte Attorney-General (Qld) [2018] QCA 201	73/18	Relevance of family considerations to sentence especially separation of mother and child

SENTENCE – FASD[\(back to index\)](#)

<i>Pora v The Queen</i> [2015] UKPC 9	21/15	Prone to confabulate – not intentional, feature of executive brain impairment
<i>Churnside v The State of Western Australia</i> [2016] WASCA 146	1/17	Over representation of Aboriginals in the Criminal Justice System

SENTENCE – FINE[\(back to index\)](#)

<i>Kelly v Commissioner of Police</i> [2017] QDC 156	69/17	Defendant sentenced to imprisonment for a fine only offence
<i>Ballard v Commissioner of Police</i> [2017] QDC 174	70/17	Infringement notice penalty doesn't fetter discretion to impose lower fine. Requirements under s51 Penalties and Sentences Act 1992 to make order at the time of sentence.
<i>Harvey v The Commissioner of Police</i> [2018] QDC 131	59/18	Quantum of fine imposed excessive having regard to mitigating factors.
<i>NHR v The Commissioner of Police</i> [2021] QDC 67	42/21	Quantum of fine did not take into account the defendant's earning capacity. See <i>EBH v Commissioner of Police</i> [2019] QDC 115; <i>Nolan v Queensland Police Service</i> [2012] QDC 179; <i>R v Hollis</i> [2020] QCA 7; <i>R v Ball</i> [2012] QCA 51; and <i>R v Lude</i> ; <i>R v Love</i> [2007] QCA 319. See [8] – [14].

SENTENCE – FINE – CAPACITY TO PAY[\(back to index\)](#)

<i>Doyle v The Commissioner of Police</i> [2015] QDC 155	28/15	Defendant's financial circumstances were not taken into account. Single fine imposed in relation to four offences. Fine imposed was beyond defendant's means.
<i>Russell v Commissioner of Police</i> [2016] QDC 102	41/16	Magistrate did not take into account the requirements set out in s 48 <i>Penalties and Sentences Act</i> 1992. See [18].
<i>Young v White</i> [2016] QDC 159	67/16	Magistrate did not take into account the requirements set out in s 48 <i>Penalties and Sentences Act</i> 1992 and the burden the payment would be. See [72] – [74].
<i>Avery & Ors v Queensland Police Service</i> [2019] QDC 21	28/19	Financial considerations of an offender is a mandatory consideration in determining fine quantum. See <i>Sgroi v R</i> (1989) 40 A Crim R 197. See [26].
<i>Nolin v Commissioner of Police</i> [2019] QDC 171	10/20	Magistrate erred by imposing a sentence the did not consider the defendant's ability to pay. See [17].

SENTENCE – FINE – CAPACITY TO PAY – BURDEN[\(back to index\)](#)

<i>Fourmile v Queensland Police Service</i> [2016] QDC 182	68/16	Fine imposed created 'substantial burden' on defendant. Fine amount to be relative to matters set out in s48 <i>Penalties and Sentences Act</i> 1992. See [7] – [10].
<i>Johnson v RSPCA Queensland</i> [2016] QDC 185	70/16	Defendant was vision impaired and on disability pension. Magistrate did not consider the financial circumstances of the defendant or the nature of the burden the fine created. See [11] – [14].

<i>Ratcliffe v Queensland Police Service</i> [2019] QDC 144	6/20	See [18]. The defendant did not have employment or any reasonable prospects of paying the fine.
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SENTENCE – FINE – CAPACITY TO PAY – DETERRENCE[\(back to index\)](#)

<i>Bulmer v Queensland Police Service</i> [2016] QDC 197	77/16	Magistrate allowed general deterrence to overwhelm other considerations. Fine was beyond capacity to pay and had little or no deterrent effect. See [27].
<i>Levinge v Department of Agriculture and Fisheries</i> [2020] QDC 179	53/20	Fine amount was disproportionate to the defendant's circumstances, despite the need for personal and general deterrence. See <i>Bone v Mothershaw</i> [2001] QDC 255 re deterrence.

SENTENCE – FINE – CAPACITY TO PAY – SPER[\(back to index\)](#)

<i>Johnson v QPS</i> [2015] QDC 264	80/15	Fine was held to not be excessive. Payment arrangements through SPER reflect personal circumstances of defendant to pay. See [18] – [19].
<i>Kues-Sales v Commissioner of Police</i> [2016] QDC 53	38/16	Defendant's financial situation was not taken into account. Although referred to SPER did not have a real prospect of paying it off in the foreseeable future. Breach of s48 <i>Penalties and Sentences Act</i> 1992. See [17].

SENTENCE – FINE – TOTALITY[\(back to index\)](#)

<i>Waterloo Car Centre Pty Ltd v Commissioner of Police</i> [2017] QDC 149	64/17	Totality principle applies to fines
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SENTENCE – FOOD[\(back to index\)](#)

<i>Higgin v Nguyen</i> [2013] QDC (unreported)	3/18	Council appealed adequacy of sentence
<i>Woolworths Limited v Stacey Maree Spletter</i> [2018] QDC 13	20/18	Displaying foods past their use-by date

SENTENCE – HARDSHIP[\(back to index\)](#)

<i>R v Ibbetson</i> [2020] QCA 214	74/20	Effect of sentence on family, consequences must be exceptional
<i>Kemp v The Commissioner of Police</i> [2021] QDC 30	19/21	Petrol drive-off, had made arrangements to pay for fuel but forgot to return.

SENTENCE – IMPRISONMENT[\(back to index\)](#)

<i>R v MacDonald</i> [2015] QCA 253	97/15	Whether "imprisonment" in s 9(12) of the P&S Act should be read as actual imprisonment or include wholly suspended imprisonment and imprisonment with immediate parole
<i>Greenwood v Tom</i> [2016] QDC 196	76/16	Imprisoning a defendant on appeal that is otherwise at liberty
<i>Allen v Commissioner of Police</i> [2019] QDC 34	41/19	Whether to declare the day of sentence as time served
<i>Senesie Bull v The Commissioner of Police</i> [2020] QDC 35	25/20	Imprisonment as a sentence of last resort
<i>R v Rogan</i> [2021] QCA 269	87/21	Utility of short terms of imprisonment

SENTENCE – INDIGENOUS[\(back to index\)](#)

Churnside v The State of Western Australia [2016] WASCA 146	1/17	Over representation of Indigenous persons in the Criminal Justice System
Goodman v Commissioner of Police [2017] QDC 252	97/17	Social disadvantage, particularly in indigenous communities. <i>Bugmy v The Queen</i> (2013) 249 CLR 571
R v JPG [2019] QChC 10	53/19	Sentence discretion miscarried by perceived prevalence of offending of Indigenous youths

SENTENCE – INTERSTATE IMPRISONMENT (RELEVANCE)[\(back to index\)](#)

AMD v The Commissioner of Police [2019] QDC 22	31/19	Application of s9(2)(k) Penalties and Sentences Act. Regard to be had to sentences imposed on, and served by, the offender in another State or a Territory for an offence committed at, or about the same time, as the offence with which the court is dealing
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SENTENCE – LAND CLEARING[\(back to index\)](#)

Hill v Holeszko [2017] QDC 35	41/17	Contravening s 578(1) of the <i>Sustainable Planning Act 2009</i>
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SENTENCE – LEAVING A CHILD UNDER 12 UNATTENDED[\(back to index\)](#)

AJM v Commissioner of Police [2019] QDC 25	32/19	4 year old child left in car in car park
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SENTENCE – LIQUOR[\(back to index\)](#)

Fourmile v Queensland Police Service [2016] QDC 182	68/16	Possession of liquor in a restricted area. Community Service Order imposed in place of fine.
Thimble v Queensland Police Service [2016] QDC 190	73/16	Possession of liquor in a restricted area. Fine imposed had little or no deterrent effect. See <i>Callope v Senior Constable B Elsey</i> (Unreported, Qld District Court, White DCJ, Cairns, 8 March 2005). See [23] – [26].
Bulmer v Queensland Police Service [2016] QDC 197	77/16	Possession of liquor in a restricted area. Magistrate allowed general deterrence to overwhelm the defendant's personal circumstances. See [20] re prevalence of alcohol-fuelled violence in the local restricted area.
Noble v Queensland Police Service [2016] QDC 295	5/17	Possession of liquor in a restricted area. Fine imposed reduced. See <i>Callope v Senior Constable B Elsey</i> (Unreported, Qld District Court, White DCJ, Cairns, 8 March 2005); <i>Thimble v Queensland Police Service</i> [2016] QDC 190; and <i>Bulmer v Queensland Police Service</i> [2016] QDC 197.
Street v Queensland Police Service [2018] QDC 60	39/18	Possession of liquor in a restricted area. See <i>Callope v Senior Constable B Elsey</i> (Unreported, Qld District Court, White DCJ, Cairns, 8 March 2005).

SENTENCE – MAXIMUM PENALTY[\(back to index\)](#)

Ross v Commissioner of Police [2015] QDC 315	7/16	Approach to follow where there has been an increase in the maximum penalty
Komar v Commissioner of Police [2016] QDC 79	45/16	Maximum penalty imposed
Bird v Commissioner of Police [2021] QDC 49	46/21	Sentence imposed exceeding maximum penalty

SENTENCE – MENTAL IMPAIRMENT[\(back to index\)](#)

<i>Shelley v Queensland Police Service</i> [2015] QDC 218	54/15	Sentencing mentally impaired offenders. See <i>R v Goodger</i> [2007] QCA 377.
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SENTENCE – MENTAL IMPAIRMENT – DETERRENCE[\(back to index\)](#)

<i>R v Stephens</i> [2017] QCA 173	84/17	Verdins principles referred to. See [21]. See also [22] reference to <i>R v Goodger</i> [2007] QCA 377: a mental disorder short of insanity may lessen the moral culpability of an offender and so reduce the claims of general or personal deterrence upon the sentencing discretion
<i>ROV v Commissioner of Police</i> [2017] QDC 324	14/18	Impaired mental functioning. General deterrence was of little relevance. See [16] – [18]. See <i>R v Goodger</i> [2007] QCA 377
<i>Bye v Commissioner of Police</i> [2018] QDC 74	45/18	Magistrate referred to importance of general deterrence without moderating due to psychiatric condition. See [22]. Referred to Verdins principles.
<i>McClintock v Commissioner of Police</i> [2020] QDC 147	46/20	Magistrate considered the limited relevance of deterrence where there is a mental disorder. See <i>R v Yarwood</i> [2011] QCA 367. Whether a personality disorder could constitute mitigating circumstances that engage the “Verdins” principle not considered.

SENTENCE – MENTAL IMPAIRMENT – EVIDENCE[\(back to index\)](#)

<i>RJD v Queensland Police Service</i> [2018] QDC 147	64/18	See [34] - [39]. See <i>LJS v Sweeney</i> [2017] QDC 18. See also <i>R v Goodger</i> [2009] QCA 377: reduction of penalty where relevant psychiatric evidence affecting and related to the offending.
<i>Dawkins v Queensland Police Service</i> [2018] QDC 161	68/18	See [54] – [56]. Insufficient material placed before court re defendant suffering a psychiatric illness in terms of <i>R v Goodger</i> [2009] QCA 377; <i>R v Yarwood</i> [2011] QCA 367; <i>R v Verdins</i> [2007] 16 VR 269; and <i>Muldock v The Queen</i> [2011] HCA 39.
<i>NVZ v Queensland Police Service</i> [2018] QDC 216	92/18	See [50] – [54]. No compelling evidence that the defendant’s mental health was connected to offending. See <i>R v Goodger</i> [2009] QCA377 and <i>R v Verdins</i> [2007] 16 VR 269.
<i>Holden v Queensland Police Service</i> [2018] QDC 217	94/18	See [34] – [35] and [57]. Lack of evidence about the defendant’s mental health at sentence. See <i>R v Goodger</i> [2009] QCA 377; <i>R v Neumann; ex parte A-G</i> [2007] 1 Qd R 53; <i>R v Yarwood</i> (2011) 200 A Crim R 497; <i>R v Tsiaras</i> [1996] 1 VR 398 and <i>R v Verdins</i> (2007) 16 VR 269.

SENTENCE – MENTAL IMPAIRMENT – RECORDING A CONVICTION[\(back to index\)](#)

<i>Hurley v The Commissioner of the Queensland Police Service</i> [2017] QDC 297	9/18	Recording of a conviction. See [149], [155] – [158]. See <i>R v Tsiaras</i> [1996] 1 VR 398; <i>R v Verdins</i> [2007] VSCA 102; <i>R v CBQ</i> [2016] QCA 125; and <i>R v Rix</i> [2014] QCA 278.
<i>Ahmad v Commissioner of Police</i> [2020] QDC 212	70/20	Useful example of the impact the Verdins principles have on the exercise of the discretion to record a conviction.

SENTENCE – MENTAL IMPAIRMENT – VOLUNTARY INTOXICATION[\(back to index\)](#)

R v Bowley [2016] QCA 254	105/16	Relevance of mental abnormality not amounting to a defence and voluntary intoxication alcohol/drugs, referred to the Verdins principles: [33], [34], [40]
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SENTENCE – OBSTRUCT POLICE[\(back to index\)](#)

CSN v The Queensland Police Service [2019] QDC 43	43/19	Obstruct police, manifest excessiveness, error of fact as to the assessment of criminality as “amongst the most serious of obstruct police charges”
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SENTENCE – PARITY[\(back to index\)](#)

George v Queensland Police Service [2015] QDC 163	34/15	See [38] – [46]. <i>Lowe v The Queen</i> (1984) 154 CLR 606; <i>R v Edwards</i> [2013] QCA 216
Young v White [2016] QDC 159	67/16	Role in conduct. See [46] – [47] and [55] – [56]. See <i>Lowe v R</i> [1984] 154 CLR 606 and <i>Clarke-Davis v Commissioner of Police</i> [2014] QDC 61.
Burmeister v Queensland Police Service [2017] QDC 278	106/17	Consider the details of charges, mitigating factors and aggravating circumstances. See [10] – [11] and [15] – [16]
R v MCP [2018] QCA 154	58/18	Distinguishing features
Beardsley v Queensland Police Service [2020] QDC 172	49/20	<i>Cox v The Queen</i> (1991) 55 A Crim R 396: sufficient discrepancy between sentences

SENTENCE – PARITY – CUMULATIVE[\(back to index\)](#)

Snyder v Detective Sergeant SR Carr [2016] QDC 153	60/16	Cumulative sentences and parity
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SENTENCE – PAROLE[\(back to index\)](#)

Gibson v Queensland Police Service [2016] QDC 264	106/16	Combined Parole / Probation order under s92(1)(a) deferring reporting to 2 business days post release rather than immediate release on probation. See <i>Sysel v Dinon & Ors</i> [2002] QCA 385. See [15].
Bye v Commissioner of Police [2018] QDC 74	45/18	Ordering parole on last day of sentence
Smallwood v Queensland Police Service [2021] QDC 43	24/21	Likelihood defendant will be required to serve entirety of sentence
Hemmett v Commissioner of Police [2021] QDC 318	2/22	A prisoner is still serving a term of imprisonment even if on parole and the parole order is suspended

SENTENCE – PAROLE – CANCELLATION[\(back to index\)](#)

Maclure v Queensland Police Service [2018] QDC 122	55/18	Relevance of criminal history, parole cancellation s 205 parole eligibility date, cumulative sentencing
Douglas v Commissioner of Police [2021] QDC 229	81/21	Relevant consideration at sentence

SENTENCE – PAROLE – CUMULATIVE SENTENCING[\(back to index\)](#)

Turnbull v Commissioner of Police [2016] QDC 36	28/16	Cumulative sentences setting a parole date. See <i>R v Herbert</i> [2013] QCA 62 at [16].
Maclure v Queensland Police Service [2018] QDC 122	55/18	Relevance of criminal history, parole cancellation s 205 parole eligibility date, cumulative sentencing

SENTENCE – PAROLE – DELAYS[\(back to index\)](#)

<i>Stuurman v Queensland Police Service</i> [2021] QDC 80	53/21	Delays with Parole Board considering parole applications
<i>R v Jason</i> [2021] QCA 151	63/21	Example of the Court of Appeal considering delay in consideration of parole applications (that was not raised at the original sentencing hearing) and weighing that issue with other factors that supported the imposition of a parole eligibility date
<i>R v Eru-Guthrie</i> [2021] QDC 174	69/21	Incorrect assumption that the defendant would be considered for parole when eligible meant sentencing discretion miscarried as sentence could not be given effect due to circumstances not known to the court at the time of sentence
<i>Burnett v Commissioner of Police</i> [2021] QDC 251	83/21	Impact of Parole Board delays on fixing the appropriate parole eligibility date
SENTENCE – PAROLE - OFFENDING ON PAROLE		(back to index)
<i>Chevathen v Queensland Police Service</i> [2016] QDC 270	2/17	Offending while on a suspended parole order, fixing a parole release date
<i>Addo v Senior Constable Jacovos</i> [2016] QDC 271	3/17	Offending while parole suspended whether parole eligibility date or parole release date
<i>The Queen v Hall</i> [2018] QSC 101	40/18	Effect of imposing a sentence for an offence committed while on parole
SENTENCE – PAROLE – SETTING DATE		(back to index)
<i>Lannigan v The Commissioner of Police</i> [2015] QDC 192	45/15	Setting a parole eligibility date on a fresh sentence, should be proportionate
<i>Murray v The Queen</i> [2015] QDC 219	53/15	Setting a parole eligibility date. Error in applying s60F <i>Penalties and Sentences Act 1992</i>
<i>Chevathen v Queensland Police Service</i> [2016] QDC 270	2/17	Offending while on a suspended parole order, fixing a parole release date
<i>Trott v Commissioner of Police</i> [2018] QDC 165	77/18	Reopening and correcting error about parole release date and eligibility
SENTENCE – PAROLE – SETTING DATE – HALFWAY AND BEYOND		(back to index)
<i>Williams v The Commissioner of Police</i> [2019] QDC 86	60/19	Parole release date set on the full-time date of sentence
<i>Hemmings v Commissioner of Police</i> [2021] QDC 172	74/21	Requirement to give reasons
<i>Pamtoonda v Commissioner of Police</i> [2021] QDC 207	80/21	Parole release date set at halfway point rather than one third. See [53] – [58]. See also <i>R v Nagy</i> [2004] 1 Qd R 63.
SENTENCE – PAROLE – REASONS		(back to index)
<i>BAB v Commissioner of Police</i> [2019] QDC 118	73/19	Failure to give reasons for deferring a parole eligibility date
SENTENCE – PAROLE – SECTION 60F PENALTIES AND SENTENCES ACT 1992		(back to index)
<i>Murray v The Queen</i> [2015] QDC 219	53/15	Setting a parole eligibility date. Error in applying s60F <i>Penalties and Sentences Act 1992</i>
<i>Norwood v Queensland Police Service</i> [2018] QDC 170	70/18	Parole eligibility/release date s 160F <i>Penalties and Sentences Act 1992</i>

R v Degn [2021] QCA 33	22/21	Application of s 160F of the <i>Penalties and Sentences Act 1992</i> , does not “...[prescribe] any sentencing methodology.”
SENTENCE – PAROLE – TOTALITY (back to index)		
CBC v Queensland Police Service [2019] QDC 3	18/19	Imprisonment resulting in parole eligibility date had a “crushing effect”. See [36] – [37].
SENTENCE – PENALTIES AND SENTENCES ACT 1992 (back to index)		
R v Townshend [2021] QCA 106	51/21	Construction of s. 9 of the <i>Penalties and Sentences Act 1992</i> and the usefulness of authorities where there was a different statutory regime in force
SENTENCE – PIN CODES (back to index)		
Ross v Commissioner of Police [2018] QDC 99	52/18	Contravening order about information necessary to access information stored electronically
Ross v Commissioner of Police [2019] QCA 96	42/19	Appeal against CM Note 52/18. Appeal dismissed.
Calvet v The Commissioner of Police [2020] QDC 161	43/20	Sentence of imprisonment – contravening order about information necessary to access information stored electronically.
SENTENCE – PLEA OF GUILTY (back to index)		
R v Haddou [2019] QDC 152	7/20	No allocutus administered
SENTENCE – PLEA OF GUILTY – TAKEN INTO ACCOUNT (back to index)		
TZL v QPS [2015] QDC 171	36/15	State how plea of guilty taken into account
Roll v QPS [2015] QDC 296	95/15	<i>R v Safi</i> [2015] QCA 13 and <i>R v Taki</i> [2015] QCA 60 in relation to the obligation imposed by s 13(3) <i>Penalties and Sentences Act 1992</i> to state in open court how plea of guilty is taken into account
Andrews v Queensland Police Service [2018] QDC 89	47/18	Magistrate erred in not stating how guilty plea was taken into account. See <i>R v Safi</i> [2015] QCA 13. See [4] – [5] and [22] – [23].
Russell v Commissioner of Police [2016] QDC 102	41/16	Whether sufficiently taken into account
Williamson v The Commissioner of Police [2019] QDC 56	48/19	Failure to explain how a plea of guilty is taken into account pursuant to s13(3) of the <i>Penalties and Sentences Act 1992</i>
SENTENCE – PLEA OF GUILTY – SENTENCE REDUCTION (back to index)		
Smalley v Commissioner of Police [2016] QDC 322	13/17	Magistrate erred by not stating in open court that the plea of guilty had been taken into account and did not provide reasons for reducing sentence upon the plea of guilty. See [21] and [37] – [38].
SENTENCE – PLEA OF GUILTY – WEIGHT (back to index)		
Gavey v Mellor [2015] QDC 282	90/15	Weight to be given to a plea of guilty
Nielson v Radcliffe (Constable) [2016] QDC 213	81/16	See [20] – [21]. Magistrate failed to deal with the pleading in open court or give sufficient weight to plea of guilty. See <i>The Queen v Mallon</i> [1997] QCA 058.
SENTENCE – POLICE OFFICER (back to index)		

ROV v Commissioner of Police [2017] QDC 324	14/18	Computer hacking and misuse / police computer, range of sentences
Punchard v Commissioner of Police [2020] QDC 211	67/20	9 x using a restricted computer without consent and cause or intend to cause detriment, damage or gain. See <i>Hughes v R</i> [2014] NSWCCA 15 per Hall J Overturned by Court of Appeal [2021] QCA 166
Commissioner of Police v Punchard [2021] QCA 166	72/21	9 x use of restricted computer without consent and cause or intend to cause detriment, damage or gain (appeal from 67/20)

SENTENCE – PRESENTENCE CUSTODY[\(back to index\)](#)

R v Byriel [2016] QDC 43	32/16	Pre-sentence custody declaration
R v NT [2018] QCA 106	48/18	Taking into account pre-sentence custody
R v OCS [2019] QChC 9	52/19	Sentencing Magistrate incorrectly informed as to level of pre-sentence custody
Stuurman v Queensland Police Service [2021] QDC 80	53/21	Consideration to be given to the overall sentence
The Queen v Whitely [2021] QSC 154	54/21	Consideration of the construction of s159A(1) of the <i>Penalties and Sentences Act 1992</i>

SENTENCE – PRESENTENCE CUSTODY – CERTIFICATE[\(back to index\)](#)

TZL v QPS [2015] QDC 171	36/15	Pre-sentence custody certificate
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SENTENCE – PRESENTENCE CUSTODY – NON-DECLARABLE[\(back to index\)](#)

R v Lappan [2015] QCA 180	63/15	Giving effect to non-declarable pre-sentence custody in relation to the effective head sentence
R v McCusker [2015] QCA 179	6/16	Allowance for non-declarable pre-sentence custody.
R v Carter [2016] QSC 86	47/16	Non-declarable pre-sentence custody
R v Houkamau [2016] QCA 328	12/17	Reducing the head sentence to take into account non-declarable pre-sentence custody
The Queen v Whitely [2021] QSC 154	54/21	Consideration of the construction of s159A(1) of the <i>Penalties and Sentences Act 1992</i>

SENTENCE – PRISON HARDSHIP[\(back to index\)](#)

R v KAX [2020] QCA 218	78/20	Effect of the restrictions imposed on prisoners as a result of the COVID-19 pandemic
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SENTENCE – PROBATION[\(back to index\)](#)

R v Naidu [2019] QDC 94	62/19	Application to revoke probation order pursuant to ss122 and 120 <i>Penalties and Sentences Act 1992</i> ; whether discretion to record or not record a conviction under s12 of the PSA is available upon re-sentence on revocation of a probation order
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SENTENCE – PROBATION – COMBINATION ORDER[\(back to index\)](#)

Skinner v The Commissioner of Police [2016] QDC 138	56/16	Probation order with suspended sentence
Gibson v Queensland Police Service [2016] QDC 264	106/16	Combined Parole / Probation order

SENTENCE – PROBATION – CONSENT[\(back to index\)](#)

MEG v Commissioner of Police [2017] QDC 302	12/18	Defendant's consent
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<i>Bye v Commissioner of Police</i> [2018] QDC 74	45/18	Defendant's consent
<i>R v RLP</i> [2019] QChC 11	59/19	Requirement to seek child's willingness to do probation; method to seek such consent; requirement to consider restorative justice process

SENTENCE – PROSTITUTION[\(back to index\)](#)

<i>Lee v Commissioner of Police</i> [2021] QDC 296	1/22	Appeal against conviction and sentence for knowingly carrying on the business of providing unlawful prostitution
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SENTENCE – RECORD CONVICTION[\(back to index\)](#)

<i>Rees v The Commissioner of Police</i> [2015] QDC 305	101/15	Magistrate erred in stating, "the default position is that convictions are recorded." Held to be appellable error. See <i>R v Cay, Gersch and Schell ex parte Attorney-General (Qld)</i> [2005] QCA 467. See also [3] and [7].
<i>Maloney v The Commissioner of Police</i> [2016] QDC 191	74/16	Magistrate erred in acting on mistaken belief as to starting point for sentencing which had potential to affect the balance of considerations.
<i>JWD v The Commissioner of Police</i> [2019] QDC 29	33/19	Relevance to determination if a sentence is excessive. <i>Thompson v State of Queensland</i> [2009] QDC 242.
<i>Taylor v Queensland Police Service</i> [2021] QDC 144	62/21	Magistrate relied heavily on impermissible aggravating features when assessing the appellant's character which resulted in error

SENTENCE – RECORD CONVICTION – COMMONWEALTH[\(back to index\)](#)

<i>Kerr v Simpson</i> [2016] QDC 34	25/16	Whether the magistrate erred in not discharging under s 19B <i>Crimes Act</i> 1914 without recording a conviction
<i>Iesha Lillian Nixon v The Commissioner of Police (Qld)</i> [2018] QDC 188	79/18	s 19B <i>Crimes Act</i> 1914 (Cth). See <i>Commissioner of Taxation v Baffsky</i> [2001] NSWCCA 332.

SENTENCE – RECORD CONVICTION – CRIMINAL HISTORY[\(back to index\)](#)

<i>WPT v QPS</i> [2021] QDC 250	75/21	Do not allow the criminal history to overwhelm or unduly infect the sentencing discretion
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SENTENCE – RECORD CONVICTION – DRUGS[\(back to index\)](#)

<i>EKL v The Commissioner of Police</i> [2021] QDC 193	79/21	Possession of a dangerous drug (cocaine)
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SENTENCE – RECORD CONVICTION – EMPLOYMENT[\(back to index\)](#)

<i>Mayne v Purtill</i> [2016] QDC 124	54/16	Defendant studying for a real estate licence
<i>MB v Queensland Police Service</i> [2020] QDC 325	34/21	Employment considerations
<i>NHR v The Commissioner of Police</i> [2021] QDC 67	42/21	Blue card – impact on employment
<i>Amin v Queensland Police Service</i> [2020] QDC 260	3/21	Medical profession. APRHA guidelines indicated that mere finding of guilt on the three charges may be sufficient to affect participation in the medical profession

SENTENCE – RECORD CONVICTION – EMPLOYMENT – PRINCIPLES[\(back to index\)](#)

<i>Hurley v QPS</i> [2015] QDC 045	2/15	Employment, enunciating principles in s 12(2) <i>Penalties and Sentences Act</i> 1992
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Weston v Commissioner of Police [2015] QDC 221	55/15	Employment, See <i>R v Cay, Gersh and Schell; ex parte Attorney General Queensland</i> [2005] QCA 467: authority for the proposition that the offer of work is more than a mere chance of employment. s 12(2) <i>Penalties and Sentences Act 1992</i> ,
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SENTENCE – RECORD CONVICTION – MENTAL HEALTH[\(back to index\)](#)

Hurley v The Commissioner of the Queensland Police Service [2017] QDC 297	9/18	Relevance of Verdins principles
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SENTENCE – RECORD CONVICTION – OPPORTUNITY TO BE HEARD[\(back to index\)](#)

Opitz v Commissioner of Police [2015] QDC 293	93/15	Defendant's solicitor did not make and was not invited to make submissions about the recording of a conviction and requested to be heard after sentence. Impact on employment and Family Court proceedings. Judicial officer should invite submissions prior to any determination. See [11] – [14] and [31].
Greenwood v Tom [2016] QDC 196	76/16	Requirement to hear parties as to recording of a conviction. See [39] – [40].
AHL v Commissioner of Police [2017] QDC 176	71/17	s 179(2) of the <i>Domestic and Family Violence Protection Act 2012</i> . Opportunity to be heard. See <i>R v Cunningham</i> [2005] QCA 321.

SENTENCE – RECORD CONVICTION - PREVIOUS CONVICTIONS[\(back to index\)](#)

Embleton v Commissioner of Police [2016] QDC 282	9/17	See [8] – [17]. Defendant had a very dated previous offending with no previous conviction. No evidence placed before the court in relation to the defendant's economic or social wellbeing or chances of finding employment. See <i>R v Siler</i> [2003] QCA 217.
Spencer v Commissioner of Police [2017] QDC 273	104/17	s 47(5) <i>Justices Act 1886</i> – Notice of prior conviction
R v Everett [2018] QCA 248	39/19	Relevance of previous convictions
Taylor v Queensland Police Service [2021] QDC 144	62/21	Child criminal history where no conviction recorded

SENTENCE – RECORD CONVICTION – REASONS[\(back to index\)](#)

Thrush v The Commissioner of the Queensland Police Service [2015] QDC 272	85/15	Must provide reasons for recording a conviction, See <i>The Queen v Dodd</i> [2010] QCA 31.
Payne v Commissioner of Police [2015] QDC 294	102/15	No consideration of s 12(2) <i>Penalties and Sentences Act 1992</i> . See <i>R v Cay; Ex parte A-G (Qld)</i> (2005) 158 A Crim R 488.
Poile v Queensland Police Service [2018] QDC 61	41/18	No reasons were given by the Magistrate in recording a conviction.
Faircloth v Commissioner of Police [2021] QDC 205	66/21	Magistrate did not state reasons for recording a conviction

SENTENCE – RECORD CONVICTION - REHABILITATION[\(back to index\)](#)

To'a v Commissioner of Police [2018] QDC 82	46/18	Consider impact of conviction for certain offences on future employment or rehabilitation prospects. See <i>R v Cay, Gersch & Schell; ex parte A-G (Qld)</i> [2005] QCA 467. See [15] – [21].
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<i>R v Lovett (a pseudonym)</i> [2021] QCA 46	49/21	No error is exercise of discretion, poor prospects of rehabilitation and criminal history
SENTENCE – RECORD CONVICTION – REPORTABLE OFFENDER		(back to index)
<i>R v ZB</i> [2021] QCA 9	10/21	Reportable offender within the meaning of the <i>Child Protection (Offender Reporting and Offender Prohibition Order) Act</i> 2004.
SENTENCE – RECORD CONVICTION – TRAFFIC		(back to index)
<i>Parker v Commissioner of Police</i> [2016] QDC 354	27/17	Recording convictions for traffic matters
SENTENCE – REHABILITATION		(back to index)
<i>George v Queensland Police Service</i> [2015] QDC 163	34/15	See [63] – [66]. <i>R v Bell</i> [1982] Qd R 216; <i>R v Molina</i> (1984) 12 A Crim R 76
<i>R v BCY</i> [2015] QCA 200	74/15	Allowance for rehabilitation
<i>Lamont v Queensland Police Service</i> [2018] QDC 10	18/18	Relevance of a defendants tentative steps towards rehabilitation
<i>Aramoana v The Commissioner of Queensland Police Service</i> [2021] QDC 19	16/21	Important aspect of sentencing distraction to assist defendant to rehabilitate
SENTENCE – RE-OPENING		(back to index)
<i>R v WBH</i> [2020] QDC 324	8/21	Clear factual error of substance
SENTENCE – RESTITUTION		(back to index)
<i>Fry v Queensland Police Service</i> [2016] QDC 33	24/16	Restitution when actual imprisonment is imposed. Section 35 Penalties and Sentences Act.
<i>Komar v Commissioner of Police</i> [2016] QDC 79	45/16	Restitution where imprisonment is ordered
<i>Nolin v Commissioner of Police</i> [2019] QDC 171	10/20	Awarding restitution in circumstances where there was no power to do so
<i>Monsell v Commissioner of Police</i> [2020] QDC 250	76/20	Hierarchy of enforcement options under the State Penalties Enforcement Act 1999
SENTENCE – RESTITUTION vs COMPENSATION		(back to index)
<i>Randall-Salam v Commissioner of Police</i> [2019] QDC 65	55/19	Restitution different from compensation; procedural fairness in sentencing and considering compensation order
<i>Owens v Commissioner of Police</i> [2021] QDC 143	60/21	Restitution different from compensation; see ss35 and 36 <i>Penalties and Sentences Act</i> 1992. Where order made necessary to articulate orders with reference to statutory provision
SENTENCE – RIOT		(back to index)
<i>Young v White</i> [2016] QDC 159	67/16	Bandidos at Broadbeach mall.
SENTENCE – SERIOUS ASSAULT		(back to index)
<i>Townsend v Commissioner of Police</i> [2017] QDC 45	43/17	Biting (2 officers), assault occasioning bodily harm, crushed officer's glasses
<i>To'a v Commissioner of Police</i> [2018] QDC 82	46/18	Punched police officer in the jaw. Recording conviction
<i>Dawkins v Queensland Police Service</i> [2018] QDC 161	68/18	Kicked a police officer in the eye, spat at police officer

<i>Fuller v Commissioner of Police</i> [2021] QDC 96	58/21	Police require protection of the courts – require sentences that act as a personal and general deterrent
SENTENCE – SERIOUS ASSAULT – SPITTING (back to index)		
<i>Ross v Commissioner of Police</i> [2013] QDC 315	107/15	Spitting on face of police officer – not into mouth
<i>Burke v Commissioner of Police</i> [2015] QDC 328	1/16	Spitting on face of police officer – intoxicated
<i>Harvey v Queensland Police Service</i> [2017] QDC 310	6/18	Spitting at police officer
<i>Dawkins v Queensland Police Service</i> [2018] QDC 161	68/18	Kicked a police officer in the eye, spat at police officer
SENTENCE – SERIOUS ASSAULT – SPITTING – AMBULANCE OFFICER (back to index)		
<i>Greenwood v Tom</i> [2016] QDC 196	76/16	Spitting in the face of an ambulance officer
SENTENCE – SERIOUS ASSAULT – SPITTING – BUS DRIVER (back to index)		
<i>Harris v Queensland Police Service</i> [2018] QDC 27	19/18	Public officer (spitting on a bus driver)
SENTENCE – SERIOUS ASSAULT – SPITTING – CIVILIAN (back to index)		
<i>Williams v Commissioner of Police</i> [2015] QDC 168	38/15	Spitting common assault - civilian
SENTENCE – SEXUAL OFFENCES (back to index)		
<i>R v Devenish</i> [2016] QDC 236	94/16	s 9(4) <i>Penalties and Sentences Act</i> 1992 whether committed ‘in relation to a child’.
<i>Braga v Commissioner of Police</i> [2018] QDC 48	42/18	Indecent assault. Short term of imprisonment wholly suspended not outside sentencing discretion.
<i>The Commissioner of Police v Lloyd-West</i> [2018] QDC 153	66/18	Indecent treatment of a child under 16 years, grooming a child under 16. Too much weight given to complainant child’s consent. Premeditation and persistence. See <i>R v Clifford; ex parte A-G (Qld)</i> [2006] QCA 492 and <i>GAF v QPS</i> [2008] QCA 190.
<i>Andersen v Commissioner of Police</i> [2020] QDC 23	21/20	Sexual assault. Defendant and complainant now known to each other, early plea of guilty, letter of apology, no criminal history in past 30 years. See <i>Braga v Commissioner of Police</i> [2018] QDC 48; <i>R v Harper</i> [2002] QCA 107; <i>R v Goodman</i> [2016] QCA 56; <i>R v Bradford</i> [2007] QCA 293 and <i>R v SDF</i> [2018] QCA 316.
<i>Jenkins v Commissioner of Police</i> [2021] QDC 289	96/21	Sexual assault. While the complainant was asleep, the applicant touched her buttocks, pulled down her underwear, took photos, and touched her thighs. Held on appeal that magistrate erred in finding he had little insight. Actual imprisonment reduced to suspension after time served.
SENTENCE – SEXUAL OFFENCES – EXCEPTIONAL CIRCUMSTANCES (back to index)		
<i>R v GAW</i> [2015] QCA 166	62/15	Meaning of “exceptional circumstances”. See <i>R v Gallagher; ex parte Attorney-General (Qld)</i> [1999] 1 Qd R 200, <i>R v Pham</i> [1996] QCA 3; <i>R v Quick; ex parte Attorney-General (Qld)</i> (2006) 166 A Crim R

		588 at 590 [8] and <i>R v Tootell; ex parte Attorney-General (Qld)</i> [2012] QCA 273. See [53] – [54].
R v BCX [2015] QCA 188	69/15	Meaning of “exceptional circumstances”. See <i>R v Quick; ex parte Attorney-General (Qld)</i> (2006) 166 A Crim R 588 and <i>R v Tootell; ex parte Attorney-General (Qld)</i> [2012] QCA 273. See [29] – [36].
R v Theohares [2016] QCA 51	29/16	Exceptional circumstances, low level offending s 9(4),(5) and (6) of the <i>Penalties and Sentences Act 1992</i>
R v MG [2018] QDC 194	82/18	Exceptional circumstances. See <i>R v Tootell ex parte Attorney-General</i> [2012] QCA 273. Note: On 7 December 2018 the Court of Appeal upheld an appeal against this decision reported as <i>R v GBD</i> [2018] QCA 340
SENTENCE – SEXUAL OFFENCES – INCEST (back to index)		
R v AS [2016] QDC 80	48/16	Incest, relationships, validity of charge – adopted brother and sister. See [21] – [23] by virtue of s28 of the <i>Adoption of Children Act 1964</i> the defendant was in the eyes of the law, the natural brother of the complainant and the charge was valid. See <i>R v Stanley</i> (1903) 23 NZLR 378, <i>R v Campbell</i> [1968] TASSR 38, <i>R v R, WD</i> (2005) 91 SASR 522.
SENTENCE – SEXUAL OFFENCES – SECTION 9(2)(a) (back to index)		
Biswa v Queensland Police Service [2016] QDC 333	16/17	Sexual Assault. Magistrate made no express reference to the requirements of s 9(2)(a) <i>Penalties and Sentences Act 1992</i> (imprisonment as a last resort)
SENTENCE – SEXUAL OFFENCES – SECTION 9(4)(b) (back to index)		
R v DNR [2016] QDC 240	97/16	Whether s9(4)(b) <i>Penalties and Sentences Act 1992</i> has retrospective operation (imprisonment as a last resort)
SENTENCE – SHIPS (back to index)		
Von Stieglitz v Dixon (No 2) [2017] QDC 16	36/17	Failing to have clean-up costs insurance by shipowner
SENTENCE – STALKING (back to index)		
McNicol v Queensland Police Service [2016] QCA 102	62/16	Stalked female gym instructor
SENTENCE – SUSPENDED SENTENCE (back to index)		
R v Kendrick [2015] QCA 027	6/15	Activating suspended sentences
Skinner v The Commissioner of Police [2016] QDC 138	56/16	Probation order with suspended sentence
SAE v Commissioner of Police [2017] QDC 254	99/17	Suspended sentence activated cumulatively, totality
Black v The Commissioner of Police [2019] QDC 14	24/19	Suspended sentence activated cumulatively, totality

<i>Tierney v Commissioner of Police</i> [2020] QDC 4	16/20	Length of restraining order. Definition of “personal injury”
SENTENCE – TOTALITY		(back to index)
<i>George v Queensland Police Service</i> [2015] QDC 163	34/15	See [47] – [49]: totality principles. <i>Mill v R</i> (1988) 83 ALR 1
<i>Spizzirri v Commissioner of Police</i> [2015] QDC 222	57/15	Where the Magistrates Court sentences an offender previously sentenced by a higher court on other charges after committing the offence before the magistrate. Magistrate failed to address considerations of totality.
<i>CXS v Commissioner of Police</i> [2017] QDC 205	82/17	See [25] and <i>Mill v R</i> (1988) 166 CLR 59. Magistrate started too high in imposing penalty and erred in relation to totality.
<i>Moore v Queensland Police Service</i> [2018] QDC 192	80/18	See <i>R v Williams</i> [1995] QCA 522; <i>Postiglione v The Queen</i> (1997) 189 CLR 295; and <i>R v Hill</i> [2017] QCA 177. Magistrate did not apply totality principle to the bottom of the sentence imposed to ensure not crushing.
<i>R v Degn</i> [2021] QCA 33	22/21	Need for just and appropriate sentence that is not crushing. See [10] – [11]. See also <i>Postiglione v The Queen</i> (1997) 189 CLR 295 and <i>R v Baker</i> [2011] QCA 104.
SENTENCE – TOTALITY – CUMULATIVE		(back to index)
<i>Nielson v Radcliffe (Constable)</i> [2016] QDC 213	81/16	Cumulative disqualification orders. See [37]. See <i>Santillan v The Queensland Police Service</i> [2008] QDC 33 in relation to the making of cumulative disqualification orders and the totality principle.
<i>SAE v Commissioner of Police</i> [2017] QDC 254	99/17	Suspended sentence activated cumulatively, totality
<i>Pearce v The Commissioner of Police</i> [2019] QDC 12	22/19	Where cumulative sentence imposed. Magistrate reduced the sentence and period spent in custody prior to parole eligibility to avoid it being a crushing sentence.
<i>Age v Queensland Police Service</i> [2020] QDC 169	47/20	Section 156A Penalties and Sentences Act 1992. Application of totality principle when imposing cumulative sentence.
SENTENCE – TOTALITY – EXISTING SENTENCE		(back to index)
<i>Green v Queensland Police Service</i> [2015] QDC 341	19/16	See [23] – [26]: must take into account any existing sentence so that the total period is adequate and takes into account the totality of the criminality
<i>Smalley v Commissioner of Police</i> [2016] QDC 322	13/17	Offender serving an existing sentence. See [14]. See <i>Mill v R</i> [1988] 166 CLR 59: a judicial officer is required to review the aggregate sentence and consider whether it is just and appropriate.
<i>PFM v Queensland Police Service</i> [2017] QDC 210	83/17	Totality when offender serving an existing sentence, contravention of a domestic violence order
<i>Hoger v Commissioner of Police</i> [2018] QDC 145	62/18	See [46]. See <i>R v Hill</i> [2017] QCA 177: combined effect of an original sentence and a sentence imposed in relation to a later offence should not create a “crushing” burden on the defendant.

Norwood v Queensland Police Service [2018] QDC 170	70/18	Totality where there is an existing sentence. Sentencing judge must take into account any existing sentence.
SENTENCE – TOTALITY – FINES (back to index)		
Eastwood v The Commissioner of Police [2015] QDC 182	41/15	Fine reduced to reflect offences of the same nature committed on the same day.
Waterloo Car Centre Pty Ltd v Commissioner of Police [2017] QDC 149	64/17	Totality principle applies to fines. See <i>Sgroi v R</i> (1989) 40 Australian Criminal Reports 197.
SENTENCE – TOTALITY – PAROLE (back to index)		
Heydt v The Commissioner of Police [2017] QDC 104	51/17	Determination as to the parole eligibility date as part of the overall determination of a just sentence
Pearce v The Commissioner of Police [2019] QDC 12	22/19	Where cumulative sentence imposed. Magistrate reduced the sentence and period spent in custody prior to parole eligibility to avoid it being a crushing sentence.
SENTENCE – TOTALITY – PRESENTENCE CUSTODY (back to index)		
Komar v Commissioner of Police [2016] QDC 79	45/16	See <i>R v Kendrick</i> [2015] QCA 27. See [10] – [11]. Magistrate did not consider an undeclared period of time served.
NVZ v Queensland Police Service [2018] QDC 216	92/18	See [65]. Sentence moderated to take into account total time spent in custody.
AMD v The Commissioner of Police [2019] QDC 22	31/19	Principle in <i>Mill v The Queen</i> (1988) 166 CLR 59. See also <i>R v Beattie; Ex parte Attorney-General</i> (2014) 244 A Crim R 177. See [25] and [28]. Take into account time spent in custody interstate.
SENTENCE – TRESPASS (back to index)		
Newell v Weston [2015] QDC 158	30/15	Compliance with s 634 <i>Police Powers and Responsibilities Act 2000</i>
North v Queensland Police Service [2015] QDC 207	47/15	Banned from entering a chemist – threatening /harassing behaviour towards employees
Hendrey v Bowdern [2017] QDC 240	96/17	Entered yard of a dwelling
Cleret v Commissioner of Police [2019] QDC 20	29/19	Whether defendant remained on property
EH v QPS; GS v QPS [2020] QDC 205	64/20	Trespass when obstructing a railway
SENTENCE – TRESPASS – PROTEST (back to index)		
Avery & Ors v Queensland Police Service [2019] QDC 21	28/19	Protest at a port
EH v QPS; GS v QPS [2020] QDC 205	64/20	Trespass when obstructing a railway
SENTENCE – UNCHARGED CONDUCT (back to index)		
R v BCY [2015] QCA 200	74/15	Taking into account on sentence
SENTENCE – UNLAWFUL USE OF A MOTOR VEHICLE (back to index)		
Rongo v Commissioner of Police [2017] QDC 258	101/17	Reliance on circumstance of aggravation
Tobin v The Commissioner of Police [2019] QDC 52	51/19	Principles concerning regard to be had to the circumstances of an offence but being precluded from sentencing an offender for an offence as if

guilty of an circumstance of aggravation, or more serious offence

SENTENCE – VICTIM IMPACT STATEMENT

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<i>R v BCY</i> [2015] QCA 200	74/15	Uncharged conduct
<i>R v Smith</i> [2016] QCA 9	10/16	Use in sentencing
<i>Wagstaff v Commissioner of Police</i> [2016] QDC 344	21/17	Victim impact statement inconsistency with facts

SENTENCE – WORKPLACE

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<i>Williamson v VH & MG Imports Pty Ltd</i> [2017] QDC 56	44/17	Breach of s 32 of the <i>Work Health and Safety Act</i> 2011
<i>Steward v Mac Plant Pty Ltd and Mac Farms Pty Ltd</i> [2018] QDC 20	28/18	<i>Work Health and Safety Act</i> 2011 and the <i>Work Health and Safety Regulation</i> 2011
<i>Guilfoyle v Wild Breads Pty Ltd</i> [2021] QDC 58	31/21	Breach of duty under s19 <i>Work Health and Safety Act</i> by exposing a worker to a risk of death or serious injury contrary to s32

SENTENCE – YOUNG ADULTS

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<i>Tooth v The Commissioner of Police</i> [2021] QDC 326	3/22	Reminder that all the circumstances of a case, including youthful age and personal circumstances of a defendant, need to be considered when imposing a penalty
<i>R v Tilling</i> [2022] QCA 5	7/22	Discusses balancing mitigating circumstances (ie youth) with aggravating features such as offending whilst on bail for a domestic violence offence and a commercial possession of a Schedule 1 drug

SENTENCE – YOUTH JUSTICE ACT

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<i>Doolan v Commissioner of Police</i> [2014] QChC 9	14/15	See [17]. Imprisonment likely to expose youth to corrupting influences.
<i>KPC v Queensland Police Service</i> [2017] QChC 12	92/17	Whether s 108B of the <i>Penalties and Sentences Act</i> 1992 applies to a child
<i>R v MG</i> [2018] QDC 194	82/18	See <i>R v Dullroy and Yates</i> [2005] QCA 219 re: sentencing youthful offenders. Note: On 7 December 2018 the Court of Appeal upheld an appeal against this decision reported as <i>R v GBD</i> [2018] QCA 340
<i>R v NMQ</i> [2019] QChC 6	46/19	Proper reflection of criminality, same sentence for each offence without declaring a global penalty; special circumstances in relation to release on detention
<i>MOJ v The Queen</i> [2019] QChC 45	17/20	Consideration of the time spent in detention
<i>GJY v The Queen</i> [2020] QChC 1	17/20	Importance of ensuring a sentence reflects the criminality of the offending
<i>ARR v The Commissioner of Police</i> [2020] QChC 8	28/20	The penalty to convict and not further punish is not available under the YJA
<i>R v HCG</i> [2021] QCA 200	94/21	Reminder of the importance of the application of the sentencing principles in the <i>Youth Justice Act</i>

SENTENCE – YOUTH JUSTICE ACT – COMMITTED ON BAIL

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R v S; R v L [2015] QChC 003	4/15	Offence committed on bail, s59A <i>Youth Justice Act</i> 1992
SENTENCE – YOUTH JUSTICE ACT – COMMUNITY SERVICE ORDER (back to index)		
R v OPR [2019] QChC 17	5/20	Sentencing magistrate did not enquire as to willingness to comply community service order: s 194 of the YJA
SENTENCE – YOUTH JUSTICE ACT – DETENTION (back to index)		
EW v QPS [2015] QDC 308	105/15	Juvenile offender, detention order, undesirability of short custodial orders
R v SCR [2017] QCA 60	48/17	Detention for a child – special circumstances 70% rule, s 227(2) <i>Youth Justice Act</i> 1992
Vaevae v Queensland Police Service [2018] QDC 66	43/18	Youthful offender, imprisonment as a last resort. Recording a conviction.
R v GBD [2018] QCA 340	13/19	Sentencing as adult or child – Transitional Regulation. Imprisonment likely to expose a youth to corrupting influences. See <i>R v Dullroy; Ex parte Attorney-General (Qld)</i> [2005] QCA 219.
JBZ v The Office of the Director of Public Prosecutions [2020] QChC 23	57/20	Sufficient reasons required when finding a detention order the only available sentencing option
SENTENCE – YOUTH JUSTICE ACT – DETENTION – DETERRENCE (back to index)		
EKJ v Office of the Director of Public Prosecutions [2020] QChC 21	57/20	General deterrence, imprisonment as a last resort
SENTENCE – YOUTH JUSTICE ACT – DETENTION – MENTAL DISABILITY (back to index)		
R v Neuman (a pseudonym) [2021] QCA 13	29/21	Mental disability as a mitigating factor
SENTENCE – YOUTH JUSTICE ACT – FIRST OFFENCE (back to index)		
R v Kelley [2018] QCA 18	24/18	Youthful first offender
R v Hamstra [2020] QCA 185	68/20	See [24] per Sofronoff P re considerations that a Court should have regard to before deciding to order a youthful first offender to serve a short period of actual custody
SENTENCE – YOUTH JUSTICE ACT – INDIGENOUS (back to index)		
R v SCU [2017] QCA 198	88/17	Indigenous offender, role of Community Justice Group
R v JPG [2019] QChC 10	53/19	Sentence discretion miscarried by perceived prevalence of offending of Aboriginal youths
R v MXD [2019] QChC 12	58/19	Pre-sentence custody, age of the child and views of the Community Justice Group
SENTENCE – YOUTH JUSTICE ACT – INTENSIVE SUPERVISION ORDER (back to index)		
LRM v The Queen [2019] QChC 3	35/19	Conditional Release Order discharged and an Intensive Supervision Order imposed. Custodial order held to be excessive where Intensive Supervision Order not canvassed in presentence report or with defendant child.
SENTENCE – YOUTH JUSTICE ACT – PARITY (back to index)		

R v MCP [2018] QCA 154	58/18	Parity in sentencing. See <i>Lowe v The Queen</i> (1984) 153 CLR 606. Distinguishing features between conduct.
SENTENCE – YOUTH JUSTICE ACT – PRESENTENCE CUSTODY		(back to index)
R v MKL [2016] QCA 249	104/16	Child, length of a probation order, taking into account non-declarable pre-sentence custody
R v OCS [2019] QChC 9	52/19	Sentencing Magistrate incorrectly informed as to amount of pre-sentence custody
MOJ v The Queen [2019] QChC 45	17/20	Consideration of the time spent in detention
R v KRM [2020] QChC 4	26/20	Whether time in pre-sentence detention was adequately taken into account
SENTENCE – YOUTH JUSTICE ACT – PROBATION		(back to index)
R v MKL [2016] QCA 249	104/16	Child, length of a probation order, taking into account non-declarable pre-sentence custody
SENTENCE – YOUTH JUSTICE ACT – RECORDING CONVICTION		(back to index)
R v MKM [2018] QCA 233	83/18	See [22]. Prima facie a conviction should not be recorded. See <i>R v SCU</i> [2017] QCA 198. See factors under s184 <i>Youth Justice Act</i> 1992.
MSE v The Office of the Director of Public Prosecutions [2020] QChC 22	57/20	Recording of a conviction is not a mathematical exercise. See <i>R v SCU</i> [2017] QCA 198 and <i>R v TAO</i> [2020] QCA 4.
R v MDD [2021] QCA 235	92/21	Consideration by COA of the principles and exercise of the discretion to record a conviction under YJA
SENTENCE – YOUTH JUSTICE ACT – RECORDING CONVICTION – EMPLOYMENT		(back to index)
EMR v Commissioner of Police [2016] QChC 6	85/16	See <i>R v Cunningham</i> [2014] QCA 88; <i>R v WAJ</i> [2010] QCA 87; <i>R v Cay, Gersch and Schell; ex parte A-G (Qld)</i> [2005] QCA 467. See [28] – [37]. Prospects of rehabilitation and employment would be adversely affected.
MBD v Commissioner of Police [2016] QChC 8	102/16	See <i>R v WAJ</i> [2010] QCA 87. Uncertainty surrounding future employment. Magistrate did not take into account effect on rehabilitation and employment.
SENTENCE – YOUTH JUSTICE ACT – RECORDING CONVICTION – PERIOD OF OFFENDING		(back to index)
R v Michael (a pseudonym) [2021] QCA 140	59/21	Offending occurred over a short period, a recorded conviction ought not to be recorded in circumstances
SENTENCE – YOUTH JUSTICE ACT – RECORDING CONVICTION – PREVIOUS OFFENDING		(back to index)
R v FDM [2020] QChC 10	30/20	History of like offending. See <i>R v SCU</i> [2017] QCA 198. Considerations in ss183 and 184 <i>Youth Justice Act</i> .
R v FAY [2020] QCA 154	66/20	Example of a situation where a conviction should not be recorded even for a serious offence where a child has previous convictions
R v DBU [2021] QCA 51	40/21	Consequences of recording a conviction, steps towards rehabilitation taken

SENTENCE – YOUTH JUSTICE ACT – RECORDING CONVICTION – REHABILITATION[\(back to index\)](#)

IAU v The Queen [2018] QChC 10	86/18	See [15]. Child should be given opportunity to focus on rehabilitation and reintegration into the community without the burden of a conviction. Magistrate did not state reasons for recording a conviction.
R v DBU [2021] QCA 51	40/21	Consequences of recording a conviction, steps towards rehabilitation taken

SENTENCE – YOUTH JUSTICE ACT – REHABILITATION[\(back to index\)](#)

Russell v Commissioner of Police [2018] QDC 183	78/18	Youthful offender with limited criminal history and promising prospects of rehabilitation. See <i>R v Lovi</i> [2012] QCA 24; <i>R v Mules</i> [2007] QCA 47; and <i>R v Horne</i> [2005] QCA 218. Mitigation for disclosure of offence. See <i>AB v The Queen</i> (1999) 198 CLR 111.
R v HBV [2019] QCA 21	25/19	Disadvantaged upbringing; intellectual disabilities; recent insight and efforts at rehabilitation

SENTENCE – YOUTH JUSTICE ACT – RESTORATIVE JUSTICE[\(back to index\)](#)

R v LN [2018] QChC 027	2/19	Youth Justice, Restorative Justice Orders, enter premises and commit indictable offence, 14 yrs, no criminal history
R v AN [2018] QChC 029	4/19	Restorative Justice Orders s 162 of YJ Act
MLN v The Queen [2018] QChC 32	16/19	Requirement to consider restorative justice
R v TWL [2019] QChC 5	45/19	Mandatory consideration of restorative justice and requirement for the consideration to be noted on the record
R v PBD [2019] QCA 59	47/19	Unlawful grievous bodily harm; juvenile defendant; failure to consider restorative justice referral under s162(2) of the Youth Justice Act
R v RLP [2019] QChC 11	59/19	Requirement to seek child's willingness to do probation; method to seek such consent; requirement to consider restorative justice process
R v BWR [2019] QChC 15	70/19	Requirements to consider factors when declining a restorative justice order; requirement that a child indicate willingness to comply with a probation order that is sought to be imposed
R v ASR [2019] QChC 16	71/19	Failure to consider the offence for a restorative justice process
R v MBD [2019] QChC 43	17/20	Importance of considering restorative justice processes; consideration of the time spent in detention

SENTENCE – YOUTH JUSTICE ACT – SECTION 150[\(back to index\)](#)

R v GN [2018] QChC 028	3/19	Magistrate did not apply the sentencing principles in s150 of the <i>Youth Justice Act 1992</i>
R v JPL [2019] QChC 4	44/19	Requirements of s150 of the <i>Youth Justices Act 1992</i> considered. See <i>R v SCU</i> [2017] QCA 198

SERVICE[\(back to index\)](#)

Leyden v Venkat [2015] QDC 028	1/15	s 39A(1)(c) <i>Acts Interpretation Act</i> 1954 - adequate service
STALKING (back to index)		
Grott v The Commissioner of Police [2015] QDC 142	24/15	Constructing fake social media profiles
Ralph v Commissioner of Police [2015] QDC 206	50/15	Whether particularised acts amount to stalking
Porter v Queensland Police Service [2016] QDC 335	17/17	Proof of elements and sentence
Tierney v Commissioner of Police [2020] QDC 4	16/20	Conduct proved to be intentionally directed at the complainant permitted a conclusion that it was a genuine apprehension which reasonably arose in the circumstances.
STRANGULATION (back to index)		
R v HBZ [2020] QCA 73	18/20	Clarification of the definition of “chokes”
SUSTAINABLE PLANNING ACT 2009 (back to index)		
Hill v Holeszko [2017] QDC 35	41/17	Contravening s 578(1) of the <i>Sustainable Planning Act</i> 2009
McDonald v Holeszko [2018] QDC 204	7/19	Carrying out assessable development without an effective development permit
Logan City Council v Brookes [2020] QDC 24	72/20	Carrying out assessable development without an effective development permit
Powe v David Hansen on behalf of Logan City Council [2021] QDC 12	18/21	Carrying out assessable development without an effective development permit, failing to comply with a government approval, failing to comply with an enforcement notice
TRAFFIC (back to index)		
Giffin v The Commissioner of Police [2015] QDC 81	12/15	Driving with a dealer plate
Sheldrick v Commissioner of Police [2015] QDC 140	23/15	Time served for licence suspension between charge and conviction
Van Der Walt v Winston [2015] QDC 303	99/15	Driving a vehicle that was not unsafe but defective
Lea v Snajdara [2016] QDC 353	26/17	Failure to provide specimen of breath for analysis
Branch v Commissioner of Police [2019] QCA 19	27/19	Unlawful edge filtering
TRAFFIC – DISQUALIFICATION OF LICENCE (back to index)		
Walsh v Commissioner of Police [2015] QDC 273	86/15	Removal of absolute disqualification
Cassidy v Gooch [2015] QDC 275	88/15	Matters to be considered on disqualification
Slivo v Commissioner of Police [2016] QDC 46	34/16	Removal of licence disqualification
Hopper v Commissioner of Queensland Police [2016] QDC 210	89/16	Application to remove an absolute disqualification
TRAFFIC – DRIVING UNDER THE INFLUENCE (back to index)		
McCurley v Commissioner of Police [2017] QDC 80	47/17	Being in charge of a motor vehicle
Harvey v Queensland Police Service [2017] QDC 310	6/18	Whether magistrate should have excluded certificate of analysis
Harvey v Queensland Police Service & Director of Public Prosecutions (Queensland) [2019] QCA 5	19/19	Discretion to admit BAC certificate where non compliance

Scarce v The Commissioner of Police [2021] QDC 246	90/21	Statutory penalty is a relevant factor in fixing the appropriate penalty
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TRAFFIC – DRIVING WITHOUT DUE CARE AND ATTENTION[\(back to index\)](#)

Brown v Commissioner of Police [2015] QDC 227	61/15	Collision with vehicle while overtaking at high speed
Cogliati v Queensland Police Commissioner [2019] QDC 24	30/19	Inadvertently hit police car. 15 prior speeding convictions
De Silva v Commissioner of Police [2020] QDC 241	1/21	Meaning of “due care and attention”

TRAFFIC – FAIL TO GIVE WAY[\(back to index\)](#)

Koelbel v Commissioner of Police [2015] QDC 290	91/15	Collision while changing lanes
Peauril v Commissioner of Police [2018] QDC 136	60/18	Intersection with a give-way sign
Storry v Commissioner of Police [2017] QDC 282	2/18	Intersection with a stop sign
Storry v Commissioner of Police [2018] QCA 291	91/18	Intersection with a stop sign
Gregory v The Commissioner of Police [2019] QDC 36	38/19	Fail to give way to a bicycle rider – failed to stop at the scene of the crash

TRAFFIC – FAIL TO STOP[\(back to index\)](#)

Williams v Commissioner of Police [2015] QDC 134	19/15	Whether stopped vehicle as soon as reasonably practicable
Prince v Queensland Police Service [2015] QDC 187	46/15	Fail to stop at red light. Raised emergency and mistake defences
Buckley v Queensland Police Service [2016] QDC 323	11/17	Whether <i>Briginshaw v Briginshaw</i> applies to a defence in s 756(4) <i>Police Powers and Responsibilities Act 2000</i>
Davies v Commissioner of Police [2018] QDC 201	88/18	s 756(4) <i>Police Powers and Responsibilities Act 2000</i> defence
Stancombe (No 2) v Commissioner of Police [2020] QDC 173	54/20	Fail to stop at yellow light

TRAFFIC – FAIL TO STOP – INTENT[\(back to index\)](#)

Cronin v Commissioner of Police [2016] QDC 63	39/16	See [13]: if “in failing to stop the driver took action to avoid being intercepted, then the failure to stop as soon as reasonably practicable in circumstances in which a reasonable person would stop, would be made out”
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TRAFFIC – DISOBEYING THE SPEED LIMIT[\(back to index\)](#)

Brown v Commissioner of Police [2015] QDC 227	61/15	Collision with vehicle while overtaking at high speed on motorcycle
Queensland Police Service v Messer [2016] QDC 214	83/16	Whether defendant was driver. Direct evidence to link the infringement notice and the alleged offence.
Ring v Commissioner of Police [2019] QDC 32	37/19	Admissibility of staged video and traffic experts report
Boulas v The Commissioner of Police [2020] QDC 162	45/20	Exceed limit more than 40km/hr. Practical application of s 121A TORUM.
Hartwig v Commissioner of Police [2021] QDC 56	28/21	123km/hr in a 110km/hr zone. Defendant requested copy of device manufacturer manual

TRAFFIC – DISOBEYING THE SPEED LIMIT – DELEGATION[\(back to index\)](#)

Embelton v Scrivener [2017] QDC 5	34/17	Whether delegation validly delegated power to certify exhibits
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TRAFFIC – DISOBEYING THE SPEED LIMIT – DEVICES[\(back to index\)](#)

<i>Attorney-General for the State of Queensland v Morris & Anor</i> [2015] QCA 112	32/15	Photo detection, validity of s 114 of the <i>Transport Operations (Road Use Management) Act</i> 1995
<i>Al Shakarji v The Commissioner of Police</i> [2015] QDC 176	43/15	Radar device
<i>Cooper v Commissioner of Police</i> [2017] QDC 214	86/17	Speed camera Vitronic Poliscan model FM1, Adequacy of notice to challenge
<i>Neucom v Commissioner of Police</i> [2017] QDC 244	1/18	Laser based detection device

TRAFFIC – DISOBEYING THE SPEED LIMIT – DEVICES – LIDAR[\(back to index\)](#)

<i>Prus-Butwilowicz v Winston</i> [2016] QDC 232	93/16	Operation of LIDAR device
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TRAFFIC – DISOBEYING THE SPEED LIMIT – DEVICES – TRUCAM[\(back to index\)](#)

<i>Crossman v The Commissioner of Police</i> [2015] QDC 265	82/15	Accuracy of TruCam speed camera system
<i>Rotar v Commissioner of Police</i> [2018] QDC 209	1/19	TruCAM laser speed detection device. Whether properly calibrated.

TRAFFIC – DISOBEYING THE SPEED LIMIT – EVIDENCE[\(back to index\)](#)

<i>Crossman v Queensland Police Service</i> [2019] QDC 132	2/20	Effect of sections 124(1) and 124(4) and (5) of the TORUM
<i>Crossman v Queensland Police Service</i> [2020] QDC 122	37/20	Speed detection device calibration: s 120(2A) of the TORUM and s 210F of the Regulation

TRAFFIC – DISOBEYING THE SPEED LIMIT – INTENTION[\(back to index\)](#)

<i>Queensland Police Service v Morris</i> [2016] QMC 5	63/16	s 23 <i>Criminal Code Act</i> 1899 defence raised – held not to be available as a defence where not the driver. See [15].
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TRAFFIC – DISOBEYING THE SPEED LIMIT – SERVICE[\(back to index\)](#)

<i>Da Costa v Commissioner of Police</i> [2016] QDC 38	31/16	s 19(3) <i>State Penalties Enforcement Act</i> 1999 In the absence of evidence that the defendant had been served with a copy of the declaration the prosecution must fail.
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TRAFFIC – FAIL TO KEEP LEFT OF A DIVIDING LINE[\(back to index\)](#)

<i>Mizikovsky v QPS</i> [2018] QDC 249	11/19	Motorcycle. Magistrate engaged in cross-examination. See <i>Yuill v Yuill</i> [1945] P 15 and <i>Jones v National Coal Board</i> [1957] 2 QB 55. Section 24 not considered by the Magistrate.
<i>Mizikovsky v Commissioner of Police</i> [2021] QCA 22	21/21	Exception under section 139(2) places the burden on the defendant to prove existence of exception. See <i>Vines v Djordjevitch</i> (1955) 91 CLR 512. Note: appeal following remitting original appeal (11/19) to Magistrates Court
<i>Hamilton v Queensland Police Service</i> [2021] QDC 60	41/21	Defendant claimed lack of memory, not supported by medical evidence

TRAFFIC – HELMETS[\(back to index\)](#)

<i>Reid v Queensland Police Service</i> [2020] QDC 340	17/21	Riding a bicycle without an approved safety helmet
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TRAFFIC – IMPOUNDED VEHICLE[\(back to index\)](#)

<i>Commissioner of the Queensland Police Service v Gough</i> [2015] QDC 254	68/15	Jurisdiction to order return of impounded vehicle. Differences between impoundment, forfeiture and immobilisation.
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TRAFFIC – INTERSTATE HISTORY[\(back to index\)](#)

<i>Elliott v Queensland Police Service</i> [2015] QDC 90	11/15	Interstate history outside of the preceding 5 year period. No previous Queensland traffic history.
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TRAFFIC – UNLICENSED DRIVING[\(back to index\)](#)

<i>Austin v Commissioner of Police</i> [2018] QDC 41	36/18	Holder of interstate licence: meaning of <i>reside</i>
<i>Austin v Commissioner of Police</i> [2017] QDC 159	66/17	Repeat unlicensed driver, whether interstate licence authorised driving, whether resident of Qld
<i>Parr v Department of Transport and Main Roads</i> [2020] QDC 153	40/20	Special hardship order, stay of suspension
<i>Edwards v Commissioner of Police</i> [2021] QDC 194	65/21	Relevant consideration of community protection in sentencing for the offence of unlicensed driving
<i>Bel-Gttiba v Commissioner of Police</i> [2021] QDC 155	64/21	Summary of the operation of s. 123C of the <i>Transport Operations (Road Use Management) Act 1995</i> .

UNLAWFUL USE OF MOTOR VEHICLE[\(back to index\)](#)

<i>Malayta v Queensland Police Service</i> [2018] QDC 37	31/18	Elements of the offence, whether proof of a mental element required
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UNLICENSED BUILDING WORK[\(back to index\)](#)

<i>Mar v Queensland Building & Construction Commission</i> [2017] QDC 304	13/18	Unlicensed building work
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WEAPONS[\(back to index\)](#)

<i>Rule v Commissioner of Police</i> [2016] QDC 64	40/16	Whether circumstance of aggravation must be pleaded in charge
<i>Banks v Commissioner of Police</i> [2018] QDC 232	5/19	Unlawful possession of a prohibited weapon (whether a fishing knife is a weapon)
<i>Commissioner of Police v Broederlow</i> [2020] QCA 161	38/20	Imposition of mandatory minimum penalties for possession of weapons

WEAPONS – FOREITURE[\(back to index\)](#)

<i>Fraser v The Commissioner of Police</i> [2017] QDC 116	55/17	Forfeiture of weapons and ammunition
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WEAPONS – RECORDING A CONVICTION[\(back to index\)](#)

<i>Opitz v Commissioner of Police</i> [2015] QDC 293	93/15	Recording a conviction
<i>Glenn Jon Williams v Queensland Police Service</i> [2019] QDC 275	24/20	Recording of a conviction

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<i>Paul Olaf Grajewski v Director of Public Prosecutions (NSW)</i> [2019] HCA 8	34/19	Requires alteration to the physical integrity of the property, even if only temporarily
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WILFUL EXPOSURE[\(back to index\)](#)

Winston v QPS [2015] QDC 306	103/15	“wilful” and “reasonable excuse”
WORKCOVER (back to index)		
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Connors v Wilmar Sugar Pty Ltd [2019] QDC 73	57/19	Prosecution appeal against the dismissal of a complaint: <i>Work, Health and Safety Act 2011</i>
Guilfoyle v J Hutchinson Pty Ltd [2021] QDC 221	70/21	Amendment of a complaint: <i>Work, Health and Safety Act 2011</i>
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