

Imprisonment

In some circumstances a period of imprisonment will be the only appropriate option or the only option available in sentencing an offender charged with an offence committed in the context of domestic and family violence.

Australian and international studies demonstrate that offenders in general who are sentenced to a term of imprisonment are no less likely to reoffend than offenders given a non-custodial sanction. In fact, a prison sentence may increase the likelihood of reoffending where the offender has the opportunity to learn criminal behaviour and attitudes while in custody, or the stigma of having been incarcerated reduces their prospects of leading a non-criminal way of life on release [Trevena & Weatherburn 2015].

A New South Wales lower courts study has shown that domestic and family violence related offenders are less likely than those convicted of other offences to be sentenced to imprisonment; and, when imprisoned, they receive significantly shorter terms [Bond & Jeffries 2014]. A judicial study conducted in the Northern Territory reported however that imprisonment of **Aboriginal and Torres Strait Islander offenders** is currently the most common form of punishment in domestic and family violence related matters. It observed that while incarceration may give the victim some respite from the violence, it may not be effective in deterring the offender or like-minded offenders from violence in the future or in positively changing offender behaviours [Blokland 2016]. A US study found that offenders who served a prison sentence or were placed in a community corrections facility or received a suspended sentence exhibited much higher rates of recidivism, and that imprisonment proved effective only when combined with mandated treatment of the offending behaviour [Klein 2009].

The Australian Law Reform Commission review [ALRC/NSWLRC 2010] of legal responses to domestic and family violence highlighted the drawbacks of imprisonment as a sentencing option for domestic and family violence related offenders. While it may be a means of serving traditional sentencing objectives and providing a period of safety for victims during the offender's time in custody, it may be damaging to family relationships and financial wellbeing and to the offender's capacity to live a socially productive life.