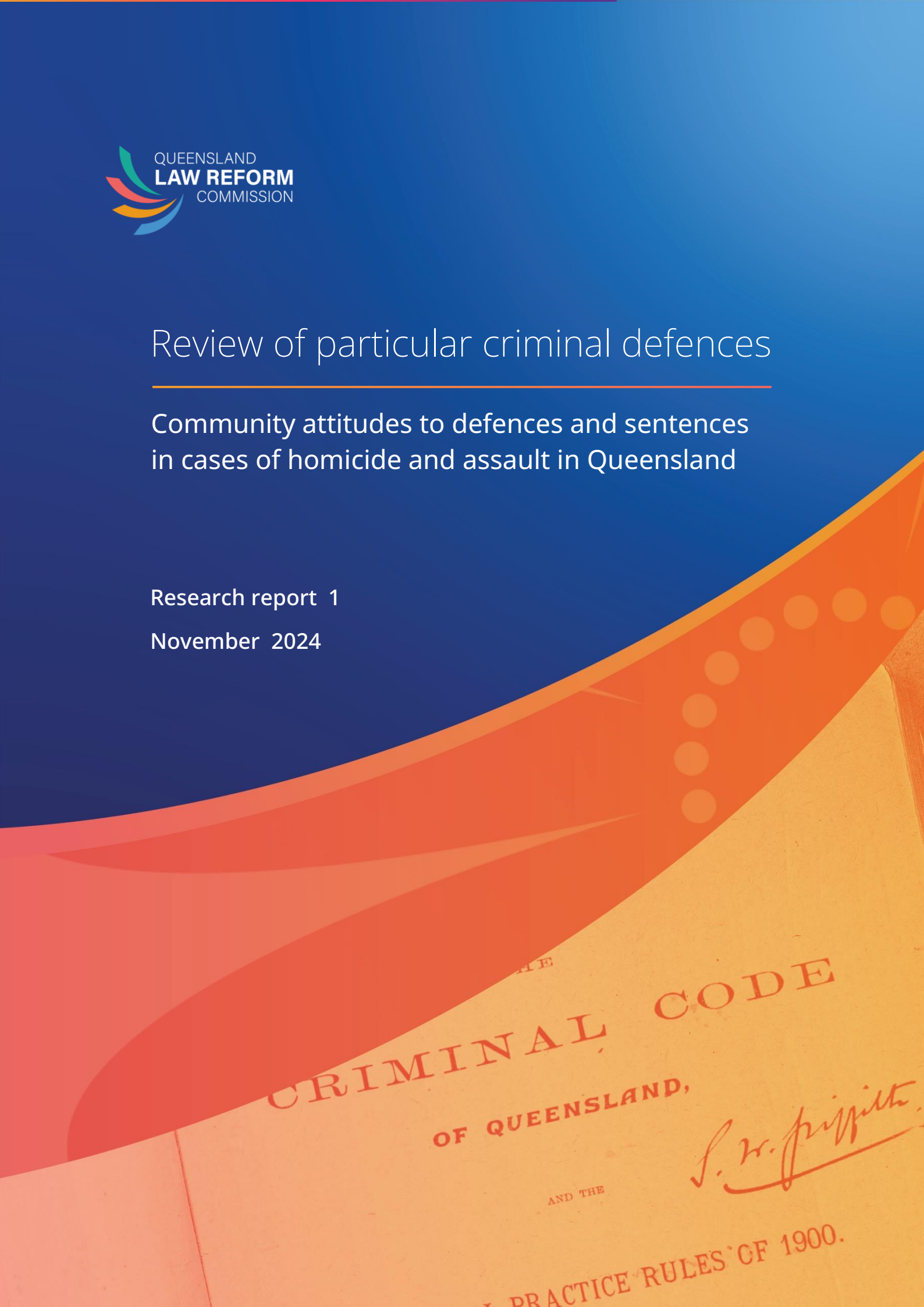
QUEENSLAND LAW REFORM COMMISSION

Review of particular criminal defences

Community attitudes to defences and sentences in cases of homicide and assault in Queensland

Research report 1

November 2024



QUEENSLAND LAW REFORM COMMISSION

Review of particular criminal defences

Preface

The Commission encourages everyone with an interest in the criminal laws of Queensland to consider the findings from this research which paints a rich picture of contemporary attitudes with respect to criminal culpability, domestic and family violence, and the appropriateness of the mandatory sentence of life for murder. This is an important piece of research which the Commission hopes will contribute to research and policy development beyond the work of the Commission in this specific review of particular criminal defences.

This report has been prepared for the Queensland Law Reform Commission by a team of researchers led by Dr Hayley Boxall, a Research Fellow at the Australian National University's Centre for Social Policy Research. The research team has been supported by the Social Research Centre which conducted the quantitative component of the project. The Commission is grateful for the excellent work that the research team undertook on behalf of the Commission as reflected in this report.

The Commission is proud to have commissioned, contributed to and published this research. The analysis and findings of the research are those of the research team and not the Commission.

This is the first time that the Queensland Law Reform Commission has commissioned a state-wide survey and focus group research to understand community views on the laws that the Commission has been tasked to review.

It reflects that the Commission's approach to research has expanded beyond legal doctrinal research and face-to-face consultation and embraced qualitative and quantitative research methodologies from the social sciences. The use of a survey and focus groups has enabled the Commission to fulfil specific requirements in the terms of reference for this review that the commission must have regard to 'the need to ensure Queensland's criminal law reflects contemporary community standards.'

It also reflects that the Commission is deeply committed to understanding the diverse views from across the state of Queensland to ensure that our law reform recommendations are made having properly considered community attitudes. As Queensland's law reform body it essential that all Queenslanders are able to contribute to and inform our work.

As noted in this report, this is particularly important in this review which is focused on criminal defences and the mandatory penalty of life for murder. The criminal law should reflect social norms and community standards and yet our Criminal Code is over a century old. It is timely to consider whether the defences of self-defence, provocation, and domestic discipline continue to be consistent with current community values particularly given our increased understanding of the scourge of domestic and family violence. It is also timely to consider whether the more recently enacted defence of killing for preservation in a domestic relationship is consistent with contemporary attitudes.

Community attitudes together with our original research to understand current practices within the criminal justice system will inform consultation papers which we intend to release in early 2025. In those consultation papers, we will include proposals for reform on which we will seek feedback through formal submissions. We will also consult widely with key stakeholders and community organisations before settling our final recommendations.

Australian National University

Community attitudes to defences and sentences in cases of homicide and assault in Queensland : Report

Hayley Boxall, Kate Fitz -Gibbon, Lorana Bartels and Rebekah Ruddy

Department/School/Centre

Hayley.boxall@anu.edu.au

The Australian National University

Canberra ACT 2600 Australia

www.anu.edu.au

TEQSA Provider ID: PRV12002 (Australian University)

CRICOS Provider Code: 00120C

ISBN: 978-1-923274-96-9

Acknowledgments

We thank everyone, who generously gave their time and expertise to this report. In particular, we thank the Queensland Law Reform Commission Secretariat staff, for their assistance in facilitating this research.

We are very grateful to the survey and focus group participants, who shared their time and insights about this topic. We also appreciate the support of the organisations that supported recruitment.

The Social Research Centre provided tireless support for the quantitative component of the project.

We especially appreciate the input of Napau Namok and Davina Hickling, who shared their wisdom and knowledge, to ensure that the project was culturally appropriate for Aboriginal and Torres Strait Islander peoples.

Acronyms

ABS	Australian Bureau of Statistics
ADHD	Attention deficit/hyperactivity disorder
AIHW	Australian Institute of Health and Welfare
ALRC	Australian Law Reform Commission
ANU	Australian National University
DFV	Domestic and family violence
IAG	Indigenous Advisory Group
IPV	Intimate partner violence
NCAS	National Community Attitudes towards Violence against Women Survey
QLRC	Queensland Law Reform Commission
QSAC	Queensland Sentencing Advisory Council
SRC	Social Research Centre
ToR	Terms of Reference

Contents

Tables

Figures

Executive summary

It is generally accepted that the criminal law, including defences, should reflect social norms and community standards (see e.g., Robinson & Darley, 1995), as it is the 'formal embodiment of a set of elementary moral values' (Funk, 2021: 15). However, community attitudes vary over time, in response to various factors, including social movements, individual and organisational advocacy, and media coverage of high-profile court matters.

In no other area is this more apparent than domestic and family violence (DFV). Over the past 10 years, criminal legislation in Australia has been reformed substantially, to ensure the law reflects evolving contemporary understandings of different forms of DFV, including non-physical forms of abuse. This includes recent reforms to introduce an offence of coercive control and affirmative consent legislation (see e.g., Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 (Qld)).

In November 2023, the Queensland Law Reform Commission (QLRC) was asked to review particular defences and excuses in the *Criminal Code 1899* (Qld) (Code). The Terms of Reference for the review require the QLRC to examine the defence of self-defence (sections 271 and 272 of the Code); the excuse of provocation as a defence to assault (sections 268 and 269); the partial defence to murder of provocation (section 304); the partial defence of killing for preservation in an abusive domestic relationship (section 304B); and the defence of domestic discipline (section 280). The QLRC is also required to consider the mandatory penalty of life imprisonment for the offence of murder (see section 305 of the Code).

As part of the review, the QLRC must have regard to 'the need to ensure Queensland's criminal law reflects contemporary community standards.' The QLRC is also required to consult with the public generally.

This study aimed to address the following research questions:

1. What are the views of the Queensland community regarding whether particular conduct involving the use of force should be criminal?
2. If the view is that particular conduct involving the use of force should be criminal, what circumstances does the Queensland community believe should reduce the culpability of a defendant?
3. What are the views of the Queensland community regarding the offence of murder attracting a mandatory life sentence?
4. What are the views of the Queensland community regarding the factors and information that should be used in determining the application of a mandatory life sentence in cases of murder?
5. What does the Queensland community understand about DFV (including coercive control) and how it can impact on victim-survivors?
6. In relation to Questions 1-5, is there variance in the views of the community across specific groups, including Aboriginal peoples and Torres Strait Islander peoples and victim-survivors of DFV and other forms of violence?

Methods

We conducted an independent mixed methods study to answer these research questions. This involved:

- a weighted representative survey of approximately 2,500 people living in Queensland, and
- focus groups with 58 members of the Queensland community.

To assess community attitudes to the use of partial and complete defences, we presented community members with several scenarios describing situations where one person seriously harmed or killed another person. Participants were asked what they thought would be an appropriate outcome in each scenario. We tracked whether their answers changed based on changes in a number of manipulated conditions, if the defendant (whose name always started with D, e.g., Donald) was charged with the assault or murder of the alleged victim (whose name always started with V, e.g., Valerie), and why. In homicide scenarios, participants were also asked whether there were factors they believed should increase or reduce the defendant's sentence, if they were found guilty of murder. As part of the survey, we also asked participants about their sociodemographic characteristics, and questions to assess their understanding of and attitudes towards DFV.

Results

We used five scenarios to analyse community members' attitudes towards the use of defences (specifically, self-defence, provocation and domestic discipline) for assault and three scenarios to analyse community members' attitudes towards the use of complete and partial defences for homicide. These are described briefly in Table 1 below.

Table 1: Scenarios and factors impacting perceptions of culpability			
Scenario	**Manipulated conditions**	**Factors that increased defendant culpability (survey)**	**Factors that increased defendant culpability (focus groups)**
Assault scenarios			
1. Two acquaintances get into a fight at a park (self-defence and provocation)	• Initiation of the fight • Defendant's conduct (level of force) • Defendant's option to retreat • Injuries caused to the victim	• Defendant initiated the fight (vs victim initiated the fight) • Defendant had the option to retreat (vs could not retreat) • Defendant stomped on victim (vs punched) • Victim had serious injuries (vs minor injuries) • Participant was female (vs male)	• Defendant stomped on victim (vs more minor conduct) • Defendant had the option to retreat (vs could not retreat) • Participant was female (vs male) • There was a history of conflict in relationship between defendant and victim (vs no conflict)
2. A man harms his female partner after a dispute (provocation)	• Nature of the provoking conduct	• Participant had higher DFV victim-blaming attitudes (vs lower) • Participant had higher minimising attitudes towards DFV (vs lower)	N/A
3. A football fan assaults a fan, who is heckling them (provocation)	• Nature of the provoking conduct	• Victim was engaging in intrusive provoking conduct (vs minor) • Participant was female (vs male) • Participant was non-Indigenous (vs Aboriginal and/or Torres Strait Islander)	• Defendant had the option to retreat (vs could not retreat) • Defendant's conduct (proportionality of response)
4. A mother lays hands on her child, who is disobeying the rules of house (domestic discipline)	• Defendant's conduct (level of force) • Victim diagnosed with a disability	• Defendant used higher level of force and/or caused an injury (vs slapping on thigh no bruise) • Participant was born in non-English speaking countries (vs participants born in Australia) • Participant was living in urban centres (vs living in inner regional) • Participant had higher victim-blaming attitudes (vs lower)	• Defendant used higher level of force and/or caused an injury (vs no physical harms or minor forms of force) • Victim did not have ADHD (vs victim did have ADHD) • Defendant had a history of using violence against the victim (vs no history)

Table 1: Scenarios and factors impacting perceptions of culpability			
Scenario	**Manipulated conditions**	**Factors that increased defendant culpability (survey)**	**Factors that increased defendant culpability (focus groups)**
		• Participant had a lower understanding of gendered impacts of DFV participants (vs higher understanding)	• The victim reported the assault (vs was reported by someone else)
5. A teacher lays hands on a student, who is disobeying the rules of the class (domestic discipline)	• Defendant's conduct (level of force)	• Participant completed university (vs did not complete year 12) • Participant had experienced IPV (vs no history)	• Higher levels of force (vs minor force) • Use of force for the purpose of punishment (vs control)
Homicide Scenarios			
6. A primary victim of DFV kills the perpetrator (self-defence and killing for self-preservation)	• Nature of the abuse within the intimate partner relationship • Outcomes of any police engagement with the couple • Nature of the threat to kill • Timing of defendant's use of lethal violence	• Victim waited till defendant was asleep (vs did not wait till asleep) • Female participants (vs male) • Younger people (vs older) • Completed Year 12 (vs did not complete year 12). • IPV victimisation history (vs no history) • Higher victim-blaming attitudes (vs lower)	• Victim waited till defendant was asleep (vs did not wait till asleep) • Victim's history of IPV victimisation • Participant's history of DFV victimisation (vs no history)
7. Victim of sexual assault who kills the perpetrator (provocation)	• Defendant's gender • Victim's conduct • Defendant's emotional state • Defendant's conduct (lethal violence method)	• Victim pinned Defendant to the counter and started to take her underwear off (vs grabbed defendant on the bottom) • Defendant hit victim over the head with a wine bottle (vs stabbed with a knife) • Participant had higher victim-blaming attitudes (vs lower) • Participant had experienced DFV (vs had not)	N/A

Table 1: Scenarios and factors impacting perceptions of culpability			
Scenario	**Manipulated conditions**	**Factors that increased defendant culpability (survey)**	**Factors that increased defendant culpability (focus groups)**
8. An intimate partner kills their spouse, who they believe is having an affair (provocation)	• Nature of the provoking conduct	• Victim told defendant she was having affair and he was better in bed (vs victim said she was leaving with children) • Younger participants (vs older) • Aboriginal and/or Torres Strait Islander participants (vs non-Indigenous) • Participant had higher minimising attitudes towards DFV (vs lower)	• Victim's history of abusing the defendant • Defendant killed victim by choking her (vs other more 'spontaneous' methods)

Key Findings

The key findings from these results are as follows:

Key finding 1: Most community members don't blame victims for their abuse or have attitudes which minimise DFV.

Key finding 2: Individual attitudes and knowledge about DFV influenced whether people thought DFV defendants should have a defence.

Key finding 3: The community does not support provocation as a defence to assault if there is a risk of significant injury.

Key finding 4: Aboriginal and Torres Strait Islander participants had different views about defendant culpability than non-Indigenous participants in a small number of scenarios.

Key finding 5: Community attitudes align with traditional rules of self-defence, and participants were able to weigh relevant factors to assess culpability.

Key finding 6: The community support alternatives to criminal prosecution where parents use minimal force to discipline children.

Key finding 7: The community supports teachers' ability to use force for the purpose of management or control but not for discipline or correction.

Key finding 8: The community does not support provocation defences where the defendant's conduct is motivated by anger, jealousy, or a desire for control, particularly in cases involving DFV.

Key finding 9: The community expects individualised criminal justice responses to the use of lethal violence.

Key finding 10: There was strong community support for partial and complete defences and consideration of abuse for victim-survivors of DFV who kill an abusive partner.

Key finding 11: There was some support for a partial defence of excessive self-defence.

Key finding 12: The community does not support the mandatory penalty of life imprisonment for murder. The community expects sentencing to reflect the culpability of murder defendants.

Significance for QLRC Review

The key findings of the study highlight community attitudes particularly relevant to the QLRC review. This includes the community's view of factors relevant to assessing culpability and appropriate sentencing.

Self-defence

Participants demonstrated implicit understanding of self-defence, balancing necessity, reasonableness, options for retreat and proportionality to decide whether behaviour

should result in criminal culpability. This demonstrates that community attitudes accept and understand the traditional rules of self-defence (see Key Finding 5).

In addition, one in five survey participants thought an individual should be allowed to use lethal force in self-defence against an attempted sexual assault. Lethal force is lawful where a defendant had reasonable apprehension of death or grievous bodily harm (subsection 271(2) Code). Participants who said lethal force was an excessive response to sexual assault thought a murder conviction was not appropriate. These community attitudes suggest it may be appropriate to consider whether self-defence should apply where there is a reasonable apprehension of sexual assault and whether a partial defence of excessive self-defence is appropriate (see Key Findings 5 and 11).

Provocation defence for assault and murder

Community attitudes indicate a lack of support for the provocation defence to apply where:

- the provocation consists of 'words alone' (see Key Finding 3);
- the defendant was motivated by anger, jealously or desire for control (as opposed to fear for their life) (see Key Finding 8); or
- in cases of assault, where the defendant's conduct risked or caused significant injury (see Key Finding 3).

However, where the provocation was verbal insults or harassment in a public setting, Aboriginal and Torres Strait Islander participants were significantly more likely to support the defence of provocation to assault (see Key Finding 4). It is possible these views are shaped by individual or collective experiences of public harassment – particularly racism. Additional research is required to explore the relationship between personal experience, cultural context, and perceptions of violence.

Support for the defence of provocation was particularly low in the context of intimate partner assaults. Almost all participants (97%) thought the defendant in scenario 2 should be guilty of assault where he threw a glass at his female partner's head. This view did not change where the scenario included victim behaviour perceived as provoking by the defendant, including infidelity. This response reflects the finding of low levels of victim-blaming and minimising attitudes towards DFV (see Key Finding 1).

Intimate partner homicide and DFV

Where intimate partner homicide was committed by a victim-survivor of intimate partner violence (IPV) killing her abusive partner (see Scenario 6), over two-thirds of participants believed the most appropriate outcome was manslaughter. 16 percent said she should be acquitted (see Key Finding 10). This suggests community support fora partial defence in circumstances of IPV, such as killing for preservation (s304B of the Code), and reinforces the need for self-defence to be accessible by women who kill an abusive partner. Women, victim-survivors of IPV, and people 55 years and older were more likely to think the defendant should not be found guilty of murder.

As victim-blaming attitudes increased, the likelihood that the participant believed the defendant should be found guilty of manslaughter or not guilty decreased. However, views were also influenced by the imminence of the threat posed and the availability of other options besides lethal violence. This demonstrates a lack of community

understanding of the nature and impact of IPV (and coercive control), including entrapment within relationships. This observation is supported by the finding that participants who were victim-survivors of IPV were less likely to consider these factors as relevant, in their determination of Diana's culpability. Instead, participants who were victim-survivors of IPV used their own experiences to highlight the impact of abuse on the ability of victim-survivors to access effective safety options.

Where intimate partner homicide was committed by a person who was not a victim-survivor (see Scenario 8) most participants supported a murder conviction, regardless of any provocative conduct by their deceased partner (including perceptions of infidelity). Attitudes towards DFV were also associated with perceptions of the defendant's culpability. As minimising attitudes towards DFV increased, the likelihood that participants believed that the defendant should be found guilty of murder decreased. Victim-blaming attitudes, understanding of the impacts of non-physical forms of abuse and gendered impacts of DFV and victimisation experiences were not associated with perceptions of culpability.

Overall, the findings from the intimate partner homicide scenarios (Scenarios 6 and 8) demonstrate the community expects a more nuanced justice system response to the killing of an intimate partner by a victim-survivor of IPV than a murder charge.

That participants who were victim-survivors of IPV used their own experiences to highlight the impact of abuse on the entrapment of victim-survivors also underscores the need for effective and DFV-informed jury directions and expert evidence in cases involving a history of abuse by the deceased to explain the nature and impact of DFV, including entrapment (see Key Finding 10).

Domestic discipline

Participants were generally supportive for a defence to assault for parents where minimal force was used to discipline a child. Focus group participants did not support the use of violence against children for discipline but thought a criminal justice response was usually not appropriate. Many suggested increased social support was a more appropriate response. Participants were more likely to say a parent should be found guilty of assault if the perceived or potential harm to the child was greater, including where the parent used an implement, left bruising or slapped the child in the face. This suggests the consequences for the child were crucial for determining culpability of the parent (see Key Finding 6).

There was also broad support for the defence of domestic discipline where a teacher used very low levels of force for the purpose of management or control but not for the purposes of discipline or correction (see Key Finding 7).

Mandatory sentencing for murder

There was clear evidence that the community does not support the mandatory life sentence for murder. Instead, the community expects sentencing to reflect defendants' culpability, in the specific circumstances. Even though many focus group participants indicated their support for mandatory sentences, they nevertheless made statements implying they supported discretionary sentencing for murder. This suggests they may not have understood the full implications of the concept (see Key Findings 9 and 12).

1. Introduction

It is generally accepted that the criminal law should reflect social norms and community standards (see e.g., Robinson & Darley, 1995), as it is the 'formal embodiment of a set of elementary moral values' (Funk, 2021: 15). This of course includes defences (i.e., whether a person's acts were moral or immoral) and the morality of the punishment to be imposed, in the event of a determination of guilt (e.g., Colvin, 2009), as well as sentencing practices.

Community attitudes vary over time. In no other area is this more apparent than domestic and family violence (DFV). Over the past 10 years, criminal legislation in Australia has been reformed substantially to ensure the law reflects evolving contemporary understandings of different forms of DFV, including non-physical forms of abuse. This includes recent reforms to introduce an offence of coercive control and affirmative consent legislation (see eg *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024* (Qld)).

Against this backdrop, the operation of the complete and partial defences to murder and assault have continued to be the subject of considerable debate. Provocation has long been a controversial partial defence to murder and has been abolished in some Australian state and territory jurisdictions, and its application restricted in others (for further information, see Fitz-Gibbon, 2014; Plater et al., 2017). Specifically, the use of the partial defence of provocation, in cases where a male defendant has killed his female intimate partner in response to an allegation or suspicion of sexual infidelity, or in the context of relationship breakdown has been heavily debated (see, for example, Fitz-Gibbon, 2014; Horder & Fitz-Gibbon, 2015; Howe, 2018). Over the last decade, findings from numerous law reform commission inquiries in Australia and comparable jurisdictions have emphasised that the reduction of what would otherwise constitute murder to manslaughter in such circumstances is not in line with community attitudes to violence against women or expectations of human behaviour.

Despite such debates, a number of jurisdictions have retained restricted versions of provocation as a partial defence to murder – largely due to a belief that the partial defence *may* be needed in circumstances where a woman who kills her abusive intimate partner may not be able to raise the complete defence of self-defence. This view has often been put forward in recognition of substantive case law from Australia and comparable international jurisdictions which demonstrates that women who kill in the context of a long history of DFV confront barriers in accessing the complete defence of self-defence, in particular in relation to the application of the imminence and reasonable person test (see, for example, Crofts & Tyson, 2012; Sheehy, 2013; Sheehy, Stubbs & Tolmie, 2014).

Beyond the specifics of the partial defences to murder, an understanding of community attitudes towards the use of the criminal defences in cases where someone is charged with assault and murder in Australia is currently very limited. There has been a limited body of research, predominantly in the United States and United Kingdom, which examines community attitudes towards defences in cases of homicide. These studies found, for example:

- variation in the degree of support for self-defence in homicide cases. For example, 63% in a 'battered woman' case vs 23% in an alleged rape case (Finkel et al., 1991);
- support for the proposition that 'a killing that has some claim to be carried out in self-defence…[to] receive a mitigated punishment' (Robinson & Darley, 1995: 299); and
- although there were variations in moral culpability or gravity between homicides, there were few common factors affecting culpability (Mitchell, 2006; cf. Mitchell, 2004).

There is also a notable absence of research focusing on community attitudes towards the use of defences in cases of corporal punishment. Studies that have been undertaken in Australia have focused on experiences of corporal punishment, and perceptions of the acceptability of corporal punishment more generally (see for example Haslam et al. 2023), as opposed to a specific body of research which examines community views on the use of the defence of domestic discipline, and the culpability of defendants in such cases.

There is an extensive body of research on community attitudes in relation to sentencing issues generally (see e.g., Warner et al., 2011; Victorian Sentencing Advisory Council, 2018; Roberts, 2022), however, this literature has tended to focus on the accuracy and level of confidence among community members about their understanding of sentencing rather than their attitudes towards sentencing for particular criminal offences. For example, recent research by the Queensland Sentencing Advisory Council (QSAC) found that 'while community members may have a high level of confidence in their understanding of sentencing terms, they may not understand their precise meaning' (Jeffs et al., 2023: 2). Relevantly, although 85 per cent of respondents were confident they understood the meaning of a 'life sentence', this was not supported by their comments. Furthermore, almost all [the] comments and questions…came from participants who rated themselves as confident in their understanding' about this issue (Jeffs et al., 2023: 10).

While this research provides valuable insights into community understandings of key partial and full defences in cases of non-lethal physical violence and murder, there is a need for research exploring community attitudes towards the use of these defences more generally. This study seeks to directly address that gap in current understandings of views held across the Queensland community.

1.1 The current review

On 15 November 2023, then Queensland Attorney-General, Minister for Justice and Minister for the Prevention of Domestic and Family Violence, Yvette D'Ath MP, asked the Queensland Law Reform Commission (QLRC) to review particular defences and excuses in the *Criminal Code 1899* (Qld) (Code).

The Terms of Reference (ToR) for the review require the QLRC to examine:

- the defence of self-defence (ss 271 and 272 of the Code) and specifically whether:

    - it should be clarified and simplified or expanded to cover circumstances when a victim of domestic and family violence (DFV) (including of coercive control) acts reasonably to protect themselves from a perpetrator; and
    - the defence should distinguish between provoked and unprovoked assaults and be limited to circumstances of assault against a person;
- the excuse of provocation for an offence involving an assault (ss 268 and 269) and the partial defence to murder of provocation (s 304) and specifically whether either or both should be repealed or amended;
- the partial defence of killing for preservation in an abusive domestic relationship (s 304B); and
- the defence of domestic discipline (s 280).

As part of this Inquiry, the QLRC is also required to consider the mandatory penalty of life imprisonment for the offence of murder (see s 305 of the Code), its impact on the operation of those defences and excuses and whether it should be removed.

The relevant provisions of the Code are set out in Appendix G.

Paragraph 7(d) of the ToR specifies that, in making its recommendations on those defences and excuses, the QLRC must have regard to 'the need to ensure Queensland's criminal law reflects contemporary community standards'. The QLRC is also required as part of the Inquiry to consult with the public generally.

1.2 Research aims

To inform the development of the QLRC's findings and recommendations, a community attitudes research project on contemporary community standards was undertaken. The research project set out to answer the following research questions:

1. What are the views of the Queensland community regarding whether particular conduct involving the use of force should be criminal?
2. If the view is that particular conduct involving the use of force should be criminal, what circumstances does the Queensland community believe should reduce the culpability of a defendant?
3. What are the views of the Queensland community regarding the offence of murder attracting a mandatory life sentence?
4. What are the views of the Queensland community regarding the factors and information that should be used in determining the application of a mandatory life sentence in cases of murder?
5. What does the Queensland community understand about DFV (including coercive control) and how it can impact on victim-survivors?
6. In relation to Questions 1-5, is there variance in the views of the community across specific groups, including:
    - Aboriginal peoples and Torres Strait Islander peoples
    - Victim-survivors of domestic and family violence (DFV) and other forms of violence

- People from culturally and linguistically diverse backgrounds
- People from different Queensland locations (including urban, regional and remote areas and different regions e.g., North Western and South East Queensland)
- Males
- Females
- People in various age groups

This report presents the findings from that community attitudes research project.

1.3 Recognising the implications of this research for Aboriginal and/or Torres Strait Islander communities

In order to contextualise our findings, we recognise their specific application to Aboriginal and Torres Strait Islander people. Data from the Australian Bureau of Statistics (ABS, 2016) found that 35 per cent of Indigenous Australians aged 15 years and over reported that they had been treated unfairly in the previous 12 months, because they were Aboriginal or Torres Strait Islander. Furthermore, research by Markwick et al. (2019) found that Aboriginal and Torres Strait Islander people were four times more likely than non-Indigenous people to have experienced racism in the previous 12 months and such experiences were associated with a range of poor health outcomes.

These data goes some way towards explaining why Aboriginal and Torres Strait people are over-represented across all levels of the justice system, in addition to factors such as intergenerational trauma and lack of access to education, employment and housing (Australian Law Reform Commission (ALRC) 2017). In 2022-23, the crime rates recorded by police for homicide and assault were 4.6 and 11.9 times higher for Aboriginal and Torres Strait Islander people in Queensland than their non-Indigenous counterparts (Australian Bureau of Statistics (ABS), 2024b). An Aboriginal and Torres Strait Islander person in Queensland is 15 times more likely than a non-Indigenous person to be imprisoned (ABS, 2024a). As explained in the Uluru statement from the heart (First Nations National Constitutional Convention, 2017: np), this is not due to being 'an innately criminal people', but because of 'the structural nature of our problem'. Notably, Aboriginal and Torres Strait Islander peoples are both over-policed, in relation to their actions as (alleged) offenders, and under-policed, in relation to their experiences as (alleged) victims (see, for example, ALRC, 2017). Indeed, the Queensland Police Commissioner recently acknowledged that the Queensland 'police force has a "chequered past" with First Nations peoples' (Brennan, 2024).

Aboriginal and Torres Strait Islander people are over-represented as both perpetrators and victims of domestic and family violence, due to the ongoing effects of:

> *[c]olonisation, which involved the removal from land and cultural dispossession has resulted in social, economic, physical, psychological and emotional problems for First Nations people across generations. Family violence against First Nations people must be understood as both a cause*

> *and effect of social disadvantage and intergenerational trauma (Australian Institute of Health and Welfare (AIHW) 2024: np).*

Particular issues arise, in relation to Aboriginal and Torres Strait Islander women. As the AIHW acknowledged recently:

> *The gendered drivers of violence against First Nations women include the intersection of racism and sexism, and the impacts of colonial patriarchy on gender roles, and interpretation of what constitutes violence against women that can differ from western norms (2024: np; see also ALRC, 2017; Cripps, 2023).*

In recognition of this broader context, we have applied an Indigenous lens to this project, at all stages, including through our development of the data collection tools, collection of the data and data analysis.

1.4 Report structure

This report is structured into eight chapters:

- Chapter 2: Legal framework
- Chapter 3: Research methods
- Chapter 4: Queenslanders' attitudes towards DFV
- Chapter 5: Queenslanders' attitudes towards the use of (partial and full) defences in cases of assault
- Chapter 6: Queenslanders' attitudes towards the use of (partial and full) defences in cases of murder
- Chapter 7: Queenslanders' attitudes towards mandatory life sentences for murder
- Chapter 8: Discussion and conclusions

2. Legal framework

This section summarises the key legal framework relevant to the issues discussed throughout this report. Each of the specific legislative provisions are set out in Appendix F.

2.1 Defences

Depending on the circumstances, someone charged with a criminal offence may be able to rely on one or more defences. If successful, a defence may reduce the offence charged to a lesser offence (partial defence); or provide a complete defence to the charge, enabling the defendant to be acquitted of the offence (complete defence).

This report focuses on examining community attitudes towards the application of four criminal defences:

- provocation (complete or partial defence to assault and murder, depending on the circumstances);
- killing for preservation (partial defence);
- self-defence (complete defence); and
- domestic discipline (complete defence).

In cases involving a jury, the jury will be required to determine the facts of the case, including whether the defence is available in the circumstances. This may include consideration of issues such as the reasonableness of the defendant's response.

2.1.1 Provocation

Provocation and assault

The threat or use of force against a person without their consent is an assault (*Criminal Code 1899* (Qld), ss. 245, 246(2)). Under s. 245(1), this is unlawful unless it is authorised, justified or excused by law. If the use of force is covered by the defence of provocation, it is excused by law. This is because sections 268 and 269 of the Code provide a complete defence to various types of assault (common assault, assault occasioning bodily harm and some serious assaults: *Criminal Code 1899* (Qld), ss. 335, 339, 340). This means that a defendant who can demonstrate they were provoked under sections 268 and 269 is entitled to be acquitted of the assault. However, the complete defence is not available for more serious offences for which assault is not an element of the offence (e.g., grievous bodily harm).

Section 268 defines provocation for the defence. It requires a wrongful act or insult by the victim that was serious enough to cause an ordinary person to lose self-control and assault the victim (for recent consideration of this provision, see *R v DCE* [2024] QCA 165). The ordinary person test is a hybrid subjective/objective test for measuring the defendant's conduct (see QLRC, 2023f). Under section 269, the following requirements need for be fulfilled, for the defence to be made out:

- there was provocation for the assault;
- the provocation actually deprived the defendant of their power of self-control;

- the defendant acted on the provocation 'on the sudden', before there was time for their passion to cool; and
- the force they used was not out of proportion to the provocation and not intended or likely to cause death or grievous bodily harm.

There has been recent criticism of this complete defence to assault on the basis that it is only available for assault (see QLRC, 2023d; 2023f for discussion). Western Australia is the only other jurisdiction in Australia that currently has this defence.

Provocation and homicide

Under s 304 of the *Criminal Code 1899* (Qld), provocation provides a partial defence to murder (see 2.2 below). This means that, in certain circumstances, the homicide charge is reduced from murder to manslaughter.

At common law, provocation has been described as 'a concession to human frailty', which recognises that there may be circumstances where a person loses self-control and is not acting 'deliberately and in cold blood' when they kill (see, among others, *R v Chhay* (1994) 72 A Crim R 1, 11, see also Horder, 1992 for a history of the partial defence of provocation). The criminal law has therefore tried to balance this concession to human weakness with the need for objective standards of behaviour to protect the sanctity of human life (see, for example, *Johnson v R* (1976) 136 CLR 619).

Some Australian state jurisdictions, including Tasmania, Victoria and Western Australia, have abolished this partial defence to murder. As the QLRC (2023c; 2023d) has noted, the defence has long attracted controversy due to concerns that it is:

- outdated and gender-biased, as it was developed at a different time, when violent and lethal retaliation by men against women to particular conduct was more tolerated by society; and
- complicated, difficult to understand and difficult for judges to direct juries on; and may operate unjustly or inconsistently (for further discussion, see also de Pasquale & Howe, 2022; Fitz-Gibbon, 2014).

For those Australian state jurisdictions that have retained restricted versions of the defence, the partial defence of provocation to murder is generally no longer available where the provoking conduct constituted:

- words alone;
- anything done, or believed to be done, by the deceased to end or change the status or nature of their intimate partner relationship with the person; or
- an unwanted sexual advance.

2.1.2 Killing for preservation in an abusive domestic relationship

In Queensland, killing for preservation in an abusive domestic relationship is another partial defence to murder available specifically where the defendant is charged with murder and is a victim of DFV. This partial defence seeks to embed within the law of homicide a recognition of the needs of victims of prolonged abusive relationships who kill their abusers, and by virtue of the circumstances of their use of lethal violence

would otherwise be guilty of the offence of murder (for discussion, see QLRC, 2023b; 2023d).

Under section 304B of the Code, the defence of killing for preservation in an abusive domestic relationship reduces murder to manslaughter, if:

- the deceased committed domestic violence during the relationship;
- the defendant believed their actions were necessary for their preservation from death or grievous bodily harm; and
- this belief was reasonable.

The defence is available, even if:

- the relationship included acts of domestic violence that may seem minor or trivial, in isolation;
- the defendant also sometimes committed acts of domestic violence in the relationship; or
- the defendant's conduct in causing the victim's death would not be warranted in response to their particular act of domestic violence, except for the history of violence.

A domestic relationship means a 'relevant relationship' under section 13 of the *Domestic and Family Violence Protection Act 2012* (Qld), namely, an intimate personal relationship, family relationship or informal care relationship.

Domestic violence means behaviour, or a pattern of behaviour, towards a person in the relationship that is: physically, sexually, emotionally, psychologically or economically abusive; threatening; coercive; or in any other way controls or dominates the person and causes them to fear for their own or someone else's safety or wellbeing. It also includes intimidation, harassment, damage to property, and threats of death or injury (see *Domestic and Family Violence Protection Act 2012* (Qld), s. 8).

Queensland is the only jurisdiction in Australia with this partial defence. According to Nash and Dioso-Villa (2024), there are concerns with this model, because it:

- only provides a partial defence, in contrast with the complete defence of self-defence (and could undermine legitimate self-defence claims);
- does not apply where the person kills their abuser to protect someone else, such as a child or other family member (this is to be contrasted with the provocation defence above); and
- may be underused (see also QLRC, 2023b; 2023d).

2.1.3 Self-defence

In certain circumstances, a person can lawfully use force that is reasonably necessary to defend themselves from assault (even when this results in death). This is called the defence of self-defence and is a complete defence. The defence tries to balance the interests of the person who initiated the attack and the person who responds to it, as well as community values. The law differs, depending on whether the initial assault was unprovoked or provoked.

Self-defence in response to unprovoked assault

Section 271 of the Code provides for self-defence against an unprovoked assault. If a person is unlawfully assaulted and has not provoked the assault, they may use the force that is reasonably necessary to defend themselves, so long as it is not intended or likely to cause death or grievous bodily harm. However, if they reasonably fear death or grievous bodily harm from their attacker, they may use the force that is necessary to defend themselves, even if it may cause death or grievous bodily harm. Self-defence in response to provoked assault

Section 272 provides for self-defence against a provoked assault. This applies where a person who has unlawfully assaulted or provoked an assault then needs to defend themselves from retaliation. In such circumstances, they may use reasonable force to defend themselves, but only if the other person's response is so violent that the person reasonably fears death or grievous bodily harm. Where force has caused death or grievous bodily harm, self-defence is unavailable where:

- the person first begun the initial assault with intent to kill or to do grievous bodily harm to some person; or
- the person endeavoured to kill or do grievous bodily harm before the necessity of so preserving themselves from death or grievous bodily harm arose; or
- the person failed to decline further conflict and retreat as far as practicable, before the necessity of their preservation from death or grievous bodily harm arose.

In the recent case of *R v Dayney* [2023] QCA 62, Dalton JA considered section 272 to be ambiguous and suggested the Queensland provisions on self-defence need reform. They have previously been criticised, because:

- they are complex, difficult to understand and difficult for judges to direct juries on;
- some requirements have been given conflicting interpretations in case law; and
- in some circumstances, they may be difficult to run as a defence for a victim-survivor of DFV who uses force against their abuser (see QLRC, 2023d; 2023g).

Notably, no other Australian jurisdiction distinguishes between provoked and unprovoked assaults, in relation to self-defence.

2.1.4 Domestic discipline

As set out above, the unlawful use of force against someone is an assault (*Criminal Code 1899* (Qld), ss. 245, 246). One lawful justification is for the purposes of 'domestic discipline'. Under section 280:

> *It is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, discipline, management or control, towards a child or pupil, under the person's care such force as is reasonable under the circumstances.*

All other jurisdictions in Australia have a similar defence (see QLRC, 2023a; 2023d). However, critics of this defence argue that:

- physical punishment of children is inappropriate, ineffective and can result in long-term harm;
- the defence is unclear and open to different views about what is 'reasonable'; and
- the defence is out of line with modern views on the use of violence against children and with the protection of a child's best interests and their human rights (QLRC 2023a; 2023d; see also Havighurst et al., 2023; McInnes-Smith, 2022).

It is also important to recognise that there are a range of restrictions on physical punishment of children in other settings (e.g., school and youth detention) and, although this defence is available in school settings, the use of physical punishment is prohibited in government schools at a policy level (Queensland Department of Education and Training, 2016).

2.2 Murder

Murder is defined in section 302 of the *Criminal Code 1899* (Qld) and includes unlawful killing:

- with intent to cause death or grievous bodily harm;
- by acts done or omissions made with reckless indifference to human life;
- by acts likely to endanger human life that are done in the course of an unlawful purpose; and
- in particular circumstances, for the purpose of facilitating the commission of certain crimes or the flight of a person who has committed such crimes.

Under section 303 of the Code, an unlawful homicide that does not amount to murder is manslaughter.

Under certain circumstances, a person (the defendant) can be found guilty of a murder committed by someone else (their 'co-offender'), even if they did not in fact do any act that killed the victim. They are often described as 'parties to an offence' (see *Criminal Code 1899* (Qld), ss. 7, 8).

2.2.1 Sentencing

Section 305 of the Code sets out the penalty for murder, which is mandatory life imprisonment. This is the same as the position in South Australia and the Northern Territory. In Western Australia, there is a legal presumption that people convicted of murder will receive a life sentence. In the other Australian jurisdictions, by contrast, the maximum sentence is life imprisonment, but a court can usually set a lower sentence (this is known as discretionary sentencing).

The QLRC (2023d; 2023e) has recently summarised the arguments for and against mandatory life sentences for murder as follows:

Table 2.1: Arguments for and against mandatory life sentences for murder	
Arguments for mandatory life sentence	Arguments against mandatory life sentence
● Necessary to reflect the uniquely serious nature of murder. ● Helps protect the public from the risk of reoffending. ● Promotes consistency in sentencing and public confidence in the administration of justice.	● Limits the courts' ability to consider the circumstances of the individual case, which can result in injustice. ● Discourages pleas of guilty to murder, because there will be no reduction in the sentence. ● Does not represent truth in sentencing because a mandatory life sentence does not necessarily mean life-imprisonment (see below).

Adapted from QLRC, 2023d; 2023e

A person who is sentenced to life imprisonment for murder may become eligible for release on parole. They will then be subject to parole for the rest of their life. The minimum time they need to serve in prison before becoming eligible for parole (non-parole period) is:

- 20 years (for a single murder by someone who has not previously been sentenced for murder);
- 25 years, for the murder of a police officer in certain circumstances; or
- 30 years, for multiple murders or where they have committed or previously been sentenced for murder (see *Corrective Services Act 2006* (Qld), s. 181; *Criminal Code 1899* (Qld), s. 305).

A court can increase, but not decrease, this non-parole period (for discussion of sentencing practices for murder in Queensland, see Queensland Sentencing Advisory Council, 2017; 2021). Where a person is convicted of manslaughter (for example, if one of the partial defences discussed above applies), the maximum penalty of life imprisonment also applies (*Criminal Code 1899* (Qld), s. 310). However, the court can impose a lower sentence. Accordingly, for manslaughter, a court has the discretion to impose the sentence it considers appropriate, in all the circumstances.

Except when mandatory sentencing provisions apply, courts are required to follow a range of general sentencing rules. This includes, for example, that the only purposes of sentencing permitted in Queensland are to:

- punish the person;
- help rehabilitate the person;
- deter the person and others from committing the same type of offence;
- show that the community denounces the person's behaviour;

- protect the community (*Penalties and Sentences Act 1992* (Qld), s. 9(1); see also Queensland Sentencing Advisory Council, 2023).

Unless mandatory sentencing provisions apply, courts are also required to consider a range of other factors, which can aggravate (increase) or mitigate (reduce) the sentence. In violent offences, this can include:

- the risk of physical harm to the community, if a prison sentence is not imposed, and the need to protect the community from that risk;
- the victim's personal circumstances;
- the circumstances of the offence and the nature or extent of its violence;
- any disregard by the defendant for public safety;
- the defendant's past record, personal history, age and character;
- the defendant's remorse or lack of remorse; and
- any medical, psychiatric, prison or other relevant report about the defendant (*Penalties and Sentences Act 1992* (Qld), s. 9).

3. Research methods

To answer the research questions set out above, we conducted a mixed methods study, involving the collection and analysis of quantitative (survey) and qualitative (survey and focus group) data.

3.1 Survey

The research team, in consultation with the QLRC, developed an online survey, to be delivered to a representative sample of 2,500 people living in Queensland. The survey was administered by the Social Research Centre (SRC), which has access to online research panels comprised of individuals who have consented to be approached to participate in research of this nature. This includes the Life in Australia panel. The Life in Australia panel is the most methodologically rigorous online panel in Australia and is one of only a small number worldwide. Panel members are recruited via random digit dialling or address-based sampling and agree to provide their contact details to take part in surveys on a regular basis. However, to ensure a sufficient sample size, the Life in Australia sample was 'blended' with participants recruited from i-Link which is a non-probability external third-party provider panel.

The survey was sent to research panel members 18 years or older and living in Queensland. Proportional quota sampling, a non-probability sampling method, was used. Quotas were based on the Queensland adult population, stratified by age, sex, highest level of education completed, place of usual residence (Brisbane vs the rest of Queensland) and language spoken most of the time at home. Quotas were derived from Australian Bureau of Statistics (ABS) data.

Of the invitations sent to panel members, 21.5 per cent resulted in completed (and valid) surveys (see Appendix A). The survey took respondents an average of 19-24 minutes to complete.

Data were subsequently weighted by age, sex, highest education qualification, language spoken most of the time at home, place of usual residence and number of adults in the household, to reflect the spread of the Queensland population, using data from the ABS. All data presented in this paper are weighted.

Further information on the methodology, sampling strategy and safety protocols is provided in Appendix A.

3.1.1 Survey questions

As part of the survey, participants were asked to provide information about their socio-demographic status (e.g., gender identity and age), as well as whether they or someone else had been required to appear in court or been a victim of a violent crime. Participants were also asked to answer a series of questions aimed at assessing their attitudes towards and understanding of DFV and its impact on families and victim-survivors. Finally, participants were provided with a series of scenarios and asked to answer a series of closed and open-ended questions, in response to these scenarios (see Appendix B and D).

The scenarios were developed in partnership with the QLRC and informed by the research team's previous experience developing scenario studies (e.g., Strange et al.,

2023), as well as comparable tools that have been used previously (e.g., Mitchell & Roberts, 2012). The scenarios were designed to reflect typical scenarios that may lead to a charge of murder or assault and give rise to the defences under review. Key variables in the scenarios were manipulated, to identify the effect of the changes on the views and attitudes of community respondents (Moore, 2020). In every scenario, the name of the defendant (the person accused of murder or assault) began with D (e.g., Donald, Dora), while the name of the (alleged) victim began with V (e.g., Valerie, Vernon).

3.1.2 Survey analysis

The survey data was analysed in two stages. First, the attitudes of participants were described at an aggregate level (i.e., overall) and then at a bi-variate level, using chi-square tests of association and simple linear regression models. The bi-variate analyses focused on describing variations in attitudes across the community, by disaggregating the sample by factors such as participant gender (female, male, trans/non-binary) and place of usual residence (urban centre, regional and remote).

The second stage of the analysis involved the estimation of multivariate regression models to measure the independent effect of different variables, including experiences of DFV, on community attitudes to the use of criminal defences. Regression analysis allowed us to measure the relationship between our outcomes of interest (dependent variables) and multiple explanatory factors (independent variables).

Odds ratios (ORs) are reported for each of the logistic regression models and are a measure of association between an independent variable and the outcome. They are interpreted as the odds that an outcome will occur (in this case, a participant determining that the defendant should be found guilty of an offence), when the variable is present, relative to the odds of the outcome occurring, when that variable is not present. Because ORs can be difficult to interpret, we also estimate the average predictive margins, where relevant, adjusted for co-variates, using marginal standardisation, for variables of interest. Predictive margins indicate the average predicted probability of the outcome of interest being observed – in this case, for example, the view that the defendant should be found guilty of murder – when certain characteristics are present, controlling for the other variables in the regression model. These predictive margins can be easier to interpret than ORs, but they are estimated probabilities of the outcome, not a true measure of its prevalence in the sample.

3.1.3 Key definitions

Indigenous status

Participants were asked to self-identify whether they were Aboriginal, Torres Strait Islander or both. Participants were also able to not self-identify if they preferred not to say or did not know whether they were Aboriginal and/or Torres Strait Islander. Because of the small number of Aboriginal and/or Torres Strait Islander participants who completed the survey, for the purpose of the analyses of these data we have aggregated respondents into one cohort - Aboriginal and/or Torres Strait Islanders. We acknowledge that aggregating participants into one group hides significant variability in the experiences and views of peoples from these communities. As such, when

analysing the qualitative survey and focus group data we have disaggregated the sample again into the three cohorts.

Socio-economic disadvantage

The Socio-Economic Index for Areas (SEIFA) was included as a postcode-level measure of poverty and prosperity. The SEIFA is a measure of various indicators of wealth and income, which means that a more complete picture of economic status can be gained by using a single indicator.

Place of usual residence

Place of usual residence was measured using a small number of key variables. First, we differentiated between participants living in Brisbane and the rest of Queensland. We also disaggregated the sample by the regional classification of participants' postcode. Regional classification was calculated using the respondent's postcode and in concordance with the Australian Statistical Geography Standard (Australian Bureau of Statistics, 2018).

Gender identity

As part of the survey, participants were asked to provide their sex assigned at birth, and gender identity (which may differ from their sex). These variables were combined to categorise respondents into three groups: cisgender male (assigned male at birth and identify as male; hereafter referred to as male), cisgender female (assigned as female at birth and identify as female, hereafter referred to as female) and trans/non-binary (identify as a different gender to that assigned at birth and/or do not identify as male or female).

History of victimisation

Participants were asked questions about their experiences of violent crime as a primary and secondary victim. Specifically, participants were asked whether they had ever been subjected to intimate partner violence (IPV) perpetrated by a current or former intimate partner, or family violence perpetrated by a family member (e.g., parent, sibling, cousin, carer, grandparent etc). IPV and FV were defined for participants as including physical violence (e.g., pushing, punching, kicking), sexual violence (e.g., taking intimate pictures of the participant without their consent, forcing you to have sex), emotional abuse (e.g., calling the participant names), threats, financial abuse (e.g., not giving you access to shared money), stalking, monitoring, and controlling behaviours (e.g., telling the participant what to wear, restricting their relationships with family and friends).

Participants were also asked whether they themselves or a friend or family member (i.e., secondary victimisation) has ever been a victim of a violent crime. Violent crime was again defined broadly, including offences like assault, being threatened with a weapon or with physical harm etc.

Attitudes towards DFV

We included 12 items to measure participants' attitudes towards DFV. These were taken from the National Community Attitudes Survey (NCAS; see for example Coumarelos et al., 2023). We also included a small number of 'bespoke' items that were

informed by the literature which have examined the factors that contribute to community members' perceptions of the criminal justice system and the use of criminal defences to homicide and assault (see for example Mitchell & Roberts, 2012).

To simplify the analyses of the attitudinal data, we used Principal Components Factor Analysis to collapse the attitudinal items into a smaller number of factors, consisting of items that were measuring the same constructs (as assessed by a score of at least 0.40 loading against the factor). Principal Components Factor Analysis identified a three-factor solution; three factors had an eigenvalue of more than 1. The degree of variance explained by the two factors was 57.8 percent.

Factor 1 comprised six statements and measured attitudes that minimise the responsibility of the perpetrator for their abusive behaviours (see Table 3.1). As such, Factor 1 was labelled 'minimising attitudes'. The score range for Factor 1 was 1-30, with higher scores indicating higher levels of minimising attitudes. The Cronbach coefficient alpha for Factor 1 was 0.89 indicating a demonstrated acceptable level of .70 and above (Tabachnick & Fidell, 2007).

Factor 2 (Victim-blaming attitudes) comprised four survey items and measured attitudes that blame the victim-survivor of abuse. The score range for Factor 2 was 1-20, with higher scores indicating higher levels of victim-blaming attitudes. The Cronbach coefficient alpha for Factor 2 was 0.80.

The analysis found that the final two attitudinal survey items, while measuring factors that contribute to fear within abusive relationships (physical violence and gender), did not 'load' onto the same factor. This means that they were likely measuring different constructs. As such, both of these survey items were kept as discrete items, whose score ranges were 1-5 with higher scores indicating higher levels of underestimating the impacts of non-physical abuse and the gendered impacts of DFV (see Table 3.1).

Table 3.1: Description of factors used to measure participants attitudes towards DFV		
Factor	*Items*	*Score range*
Minimising attitudes	It's a woman's duty to stay in an abusive relationship to keep the family together	1-30
	Abuse against family members and intimate partners can be excused if the person using abuse was themselves abused as a child.	
	Abuse against family members and intimate partners can be excused if it results from people getting so angry that they temporarily lose control.	
	Abuse against family members and intimate partners can be excused if, afterwards, the person using abuse genuinely regrets what they have done.	
	Abuse against family members and intimate partners can be excused if the person using abuse is heavily affected by alcohol or other drugs.	
	A lot of abuse against family members and intimate partners is really just a normal reaction to day-to-day stress and frustration	
Victim-blaming attitudes	Women who stay in abusive relationships deserve less help from counselling and support services than women who leave	1-20
	Women in abusive relationships who do not leave are choosing to stay – they could leave if they wanted to.	
	A woman who refuses to cooperate with the police about the abuse she is being subjected to is less deserving of protection from the law.	
	If a woman does not report abuse to the police, then the abuse is probably not that severe.	
Attitudes towards the impact of non-physical abuse	Physical forms of abuse against intimate partners and family members are more likely to make someone afraid of the person using abuse than non-physical forms.	1-5
Attitudes towards the gendered impacts of DFV	Although both men and women can be impacted negatively by abuse in families and relationships, women are more likely to be scared their partner will cause them serious harm.	1-5

3.1.4 Survey sample characteristics

A total of 2,485 participants completed the survey. Overall, 50.4 per cent of the sample were female, 48.1 per cent were male and 1.5 per cent were trans or non-binary. Approximately half (51.8%) of participants were between the ages of 25-54, 11.5 per cent were 18-24 years old and 21.8 per cent were 65 years and older. Two per cent were

Aboriginal and/or Torres Strait Islander, 12.5 per cent were born in a country other than Australia where English was not the dominant language, and 14.1 per cent spoke a language other than English most of the time at home.

Almost two thirds (63.5%) of participants were living in a major city (e.g., Brisbane) at the time of completing the survey, 30 per cent were living in a regional area (inner = 14.3%, outer = 15.7%) and 6.5 per cent were living in remote (3.6%) or very remote (2.9%) parts of Queensland.

Victimisation experiences were common within the sample. One in five participants said that they had been a victim of a violent crime (21.3%) and 35 per cent said that a family member or friend had been. Meanwhile, approximately 30 per cent of participants said they had been subjected to abuse perpetrated by an intimate partner (29.9%; intimate partner violence) and/or a family member (29.1%; family violence). Finally, a significant proportion of participants reported that they had been required to appear in court as a:

- defendant/accused (12.5%)
- complainant/victim; 6.6%)
- witness (8.6%).

Table 3.2: Sociodemographic characteristics of survey participants (%) (weighted)

		n	%
Sex	Male	1212	48.8
	Female	1271	51.1
	Refused/Don't know	2	<1.0
Gender identity[a]	Cisgender male	1194	48.1
	Cisgender female	1251	50.4
	Trans or non-binary	38	1.5
Age (years	18-24	285	11.5
	25-34	449	18.1
	35-44	143	17.4
	45-54	405	16.3
	55-64	371	14.9
	65+	543	21.8
Indigenous status	Aboriginal and/or Torres Strait Islander	50	2.0
	Non-Indigenous	2,419	97.8
	Would prefer not to say	6	0.2
Highest level of education completed	Secondary: Year 9 or below	41	1.7
	Secondary: Year 10 or 11	259	10.5
	Secondary: Year 12	374	15.1
	Certificate (I – IV level)	646	26.2

Table 3.2: Sociodemographic characteristics of survey participants (%) (weighted)			
		n	%
	Advanced diploma and diploma level	436	17.6
	Bachelor degree	395	16.0
	Graduate diploma or graduate certificate	119	4.8
	Postgraduate degree	201	8.1
Place of usual residence	Urban city	1577	63.5
	Inner Regional	354	14.3
	Outer Regional	380	15.7
	Remote	90	3.6
	Very remote	71	2.9
Country of birth	Australia	1794	72.4
	Country other than Australia – Mainly English speaking	376	15.2
	Country other than Australia – Mainly non-English speaking	309	12.5
Language spoken most of the time at home	English	2135	85.9
	Language other than English	350	14.1
Socio-economic indexes for areas (SEIFA)	Quintile 1 – Most disadvantaged	458	18.5
	Quintile 2	521	21.0
	Quintile 3	531	21.4
	Quintile 4	620	25.0
	Quintile 5 – Least disadvantaged	353	14.2

a: Gender identity estimates are not available for the Queensland population as these questions are not asked in the Australian Census.

Source: Community attitudes to defences project, 2024 [Computer file]

3.2 Focus groups

In addition to the survey, the research team undertook 12 focus groups with 58 members of the Queensland community in September 2024. Participants were recruited through community-based organisations, which shared information about the study through their newsletters, social media pages and contact lists, and through social media (e.g, Linkedin and Facebook).

The focus groups used a subset of the scenarios included in the survey as a starting point, to allow the research team to gain more in-depth insights into why community members hold particular views on criminal responsibility in different scenarios involving the use of force, as well as their views on the merits of the defences to murder and assault, and the application of the mandatory life sentence for murder (see Appendix D). Importantly, each of the scenarios were described verbatim to focus group participants using the script provided in Appendix D. We then assessed how community attitudes regarding the culpability of defendants' changed based on variations to this script using follow-up questions and prompts (e.g., Would your view of the defendant's responsibility change if they used a weapon?).

The focus groups were held online via Zoom and lasted approximately 90 minutes, with 1-11 participants per group. To facilitate the collection of views from diverse members

of the Queensland community, focus groups comprised members of the following cohorts:

- victim-survivors of DFV
- Aboriginal and Torres Strait Islander people
- individuals from culturally and linguistically diverse communities
- members of the LGB+ community
- individuals living in rural and remote areas of Queensland

Each focus group participant was provided a $50 gift card, in recognition of their time and expertise. Focus groups were transcribed using the Zoom transcription function and entered into NVIVO for thematic analysis. The data was coded by members of the research team.

3.2.1 Focus group sample

Overall, 27.8 per cent of the sample were male, 69.0 per cent were female and 3.5 per cent were trans or non-binary. Approximately half (53.4%) of participants were between the ages of 25-44, 8.6 per cent were 18-24 years old and 12.1 per cent were 65 years and older. Twenty-three per cent were Aboriginal and/or Torres Strait Islander, and fourteen percent self-identified as LGB+. Although 22.4 per cent were born in a country other than Australia where English was not the dominant language only one participant spoke a language other than English most of the time at home (see Table 3.3). Although focus group participants were not asked to disclose their victimisation history, for privacy reasons, during the focus groups approximately six participants disclosed that they had experienced IPV, and another two disclosed that one of their family members had been murdered by an intimate partner.

Table 3.3: Sociodemographic characteristics of focus group participants (unweighted)

		n	%
Gender identity	Male	16	27.8
	Female	40	69.0
	Non-binary/Trans	2	3.5
Age (years)	18-24	5	8.6
	25-34	17	29.3
	35-44	14	24.1
	45-54	10	17.2
	55-64	5	8.6
	65+	7	12.1
Sexual identity[a]	Heterosexual	49	86.0

Table 3.3: Sociodemographic characteristics of focus group participants (unweighted)			
		n	%
	LGB+	8	14.0
Indigenous status[b]	Aboriginal and/or Torres Strait Islander	11	19.6
	Non-Indigenous	42	75.0
	Prefer not to say	1	1.8
Country of birth	Australia	41	70.7
	Country other than Australia – Mainly English speaking	4	6.9
	Country other than Australia – Mainly non-English speaking	13	22.4
Language spoken most of the time at home	English	57	98.3
	Language other than English	1	1.7

Source: Community attitudes to defences project, 2024 [Computer file]

a: Excludes 1 participant who did not provide this information.

b: Excludes 2 participants who said they did not know if they were Aboriginal and/or Torres Strait Islander

3.3 Limitations

There are some limitations associated with this research project. Although the survey sample was large and consistent with the spread of people living in Queensland, we acknowledge that specific sections of the community were underrepresented. In particular, the survey was not available in any languages other than English and was only administered to people who have access to the internet and are members of these online research panels. As such, the sample for the current study did not include adequate representation of Aboriginal and Torres Strait Islander peoples, especially from very remote parts of Queensland, who may be disproportionately impacted by the digital divide and/or not speak English fluently.

3.4 Ethics

The data collection tools and associated research protocols were approved by the ANU Human Research Ethics Committee (Protocol number 2024/0711).

We adopted a number of measures, in order to ensure that the project is culturally appropriate and meets the requirements of the *AIATSIS code of ethics for Aboriginal and Torres Strait Islander research* (Australian Institute for Aboriginal and Torres Strait Islander Studies, 2020). This included the involvement of Ms Rebekah Ruddy, a proud Mamu, Jirrbal, Yidinji and Guugu Yimithirr woman, in all stages of the project; consultation with a number of Aboriginal and Torres Strait Islander peoples from the Queensland community about the research instruments; the development of a specific

scenario for Aboriginal and Torres Strait Islander participants; engagement with a range of Aboriginal and Torres Strait Islander community organisations across Queensland, to recruit participants; and holding dedicated focus groups for Aboriginal and Torres Strait Islander participants.

4. Attitudes towards domestic and family violence

In this section, we provide an overview of the attitudes of survey participants towards DFV. Noting that Australia's National Research Organisation for Women's Safety have produced multiple reports benchmarking Queensland and other Australian states and territories against Australian community attitudes towards DFV and violence against women more generally (see for example Coumarelos et al., 2023), we do not provide comparisons between survey participant attitudes and items included in the NCAS here.

As demonstrated in Table 4.1, in general the vast majority of participants did not have minimising attitudes towards DFV. For example, less than two per cent of participants strongly agreed or agreed that it is a woman's duty to stay in an abusive relationship to keep the family together. Further, less than five per cent of participants believed that DFV could be excused, if:

- the person using abuse was themselves abused as a child (1.0%)
- it results from a people getting so angry that they temporarily lose control (1.7%)
- afterwards, the person using abuse genuinely regrets what they have done (3.1%)
- the person using abuse is affected by drugs and/or alcohol (1.8%).

Victim-blaming attitudes were also very low. Only 2.2 per cent of participants strongly agreed or agreed that women who stay in abusive relationships deserve less help from counselling and support services than women who leave, and 5.8 per cent agreed or strongly agreed that women who refuse to cooperate with the police about the abuse she is being subjected to is less deserving of protection from the law.

However, 12.8 per cent of survey participants strongly agreed or agreed that women in abusive relationships who do not leave are choosing to stay –they could leave if they wanted to. Similarly, a third of participants underestimated the impact of non-physical forms of abuse on victim-survivors, agreeing or strongly agreeing that physical forms of abuse are more likely than non-physical forms to make victim-survivors to be scared. This demonstrates that understanding of the impacts of non-physical forms of abuse, including social entrapment - the perceived and actual inability of victims-survivors to seek and receive support to leave abusive relationships safety - is still developing within the community.

Finally, 18.2 per cent of survey participants underestimated the gendered impacts of DFV, strongly disagreeing or disagreeing that women are more likely to be scared of their abusive partners than men.

Table 4.1: Attitudes and understanding of DFV (%) (weighted)					
	Strongly agree	Somewhat agree	Neither agree or disagree	Somewhat disagree	Strongly disagree
It's a woman's duty to stay in an abusive relationship to keep the family together.	<1.0	<1.0	2.6	16.2	80.4
Abuse against family members and intimate partners can be excused if the person using abuse was themselves abused as a child.	<1.0	1.0	3.6	27.9	67.1
Abuse against family members and intimate partners can be excused if it results from people getting so angry that they temporarily lose control.	<1.0	1.6	4.7	24.7	68.6
Abuse against family members and intimate partners can be excused if, afterwards, the person using abuse genuinely regrets what they have done.	<1.0	3.0	8.4	30.1	58.0
Abuse against family members and intimate partners can be excused if the person using abuse is heavily affected by alcohol or other drugs.	<1.0	1.7	2.4	18.5	76.7
A lot of abuse against family members and intimate partners is really just a normal reaction to day-to-day stress and frustration.	<1.0	2.9	7.8	30.3	58.5
Women in abusive relationships who do not leave are choosing to stay – they could leave if they wanted to.	2.7	10.1	20.1	30.7	36.4
Women who stay in abusive relationships deserve less help from counselling and support services than women who leave.	<1.0	2.1	5.3	26.7	65.2

Table 4.1: Attitudes and understanding of DFV (%) (weighted)					
	Strongly agree	Somewhat agree	Neither agree or disagree	Somewhat disagree	Strongly disagree
A woman who refuses to cooperate with the police about the abuse she is being subjected to is less deserving of protection from the law.	1.3	4.5	12.2	32.7	49.2
If a woman does not report abuse to the police, then the abuse is probably not that severe.	<1.0	1.7	5.3	30.7	62.1
Physical forms of abuse against intimate partners and family members are more likely to make someone afraid of the person using abuse than non-physical forms.	9.3	26.1	20.4	25.1	19.0
Although both men and women can be impacted negatively by abuse in families and relationships, women are more likely to be scared their partner will cause them serious harm.	24.6	43.5	13.7	10.2	8.0

Source: Community attitudes to defences project, 2024 [Computer file]

To examine whether the attitudes towards DFV differed across the community, we disaggregated the survey sample by:

- gender;
- Indigenous status;
- age;
- country of birth;
- place of usual residence; and
- victimisation history (e.g., experience of intimate partner violence).

For this stage of the analysis, we used the four attitudinal factors: minimising attitudes, victim-blaming attitudes, attitudes towards the impact of non-physical abuse, and attitudes towards the gendered impacts of DFV (see Table 3.1).

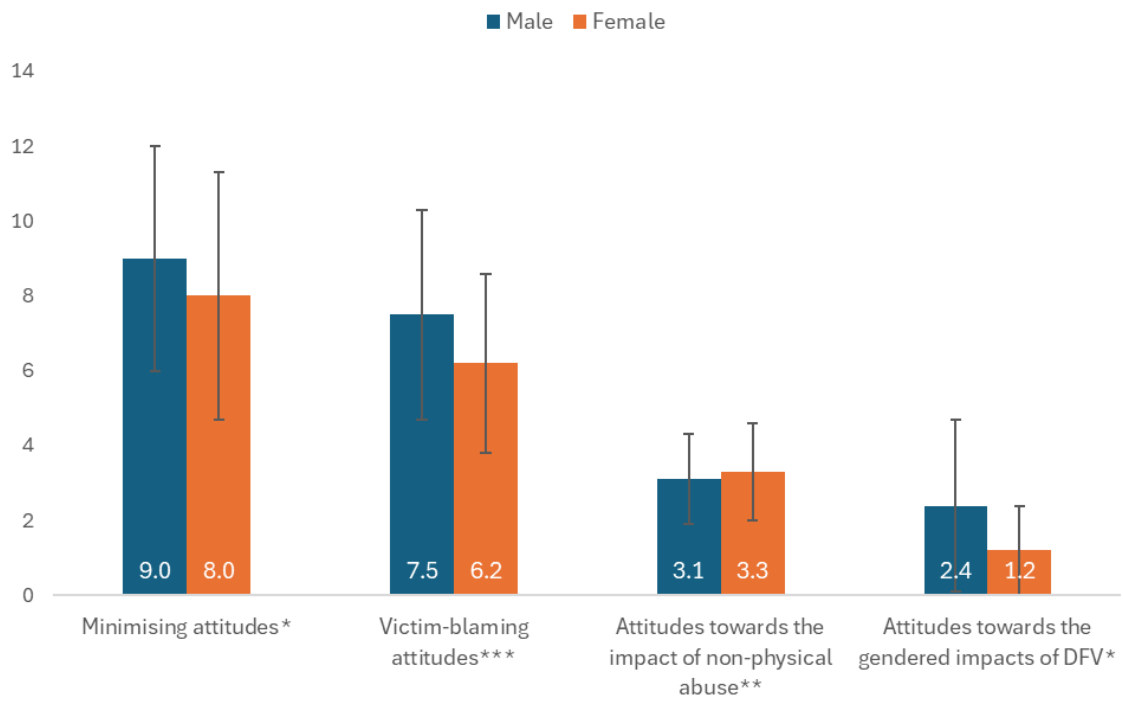
4.1 Gender

As demonstrated in Figure 4.1, the attitudes of male and female participants towards DFV differed significantly. Relative to women, men had higher minimising ($F(1)=4.53$, $p < 0.05$) and victim-blaming ($F(1)=130.13$, $p < 0.001$) attitudes. The mean score for

minimising and victim-blaming attitudes for women was 8.1 and 6.2 respectively, compared with 9.0 and 7.5 for men. However, it is important to acknowledge that this difference was actually relatively minor and that the means for both cohorts were overall very low, meaning that both cohorts had low levels of victim-blaming and minimising attitudes.

Further, compared to females, male respondents were more likely to have attitudes minimising the impact of non-physical forms of abuse and this difference was statistically significant (M = 2.9 vs 2.7, $F(1) = 15.95$, $p < 0.01$). They were also more likely to underestimate the gendered impact of DFV (M = 3.6 vs 3.7, $F(1) = 5.92$, $p < 0.05$).

Figure 4.1: Attitudes towards DFV, by gender (mean) (weighted)



***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

4.2 Age

There was some variation in participants' attitudes towards DFV, by age (see Figure 4.2):

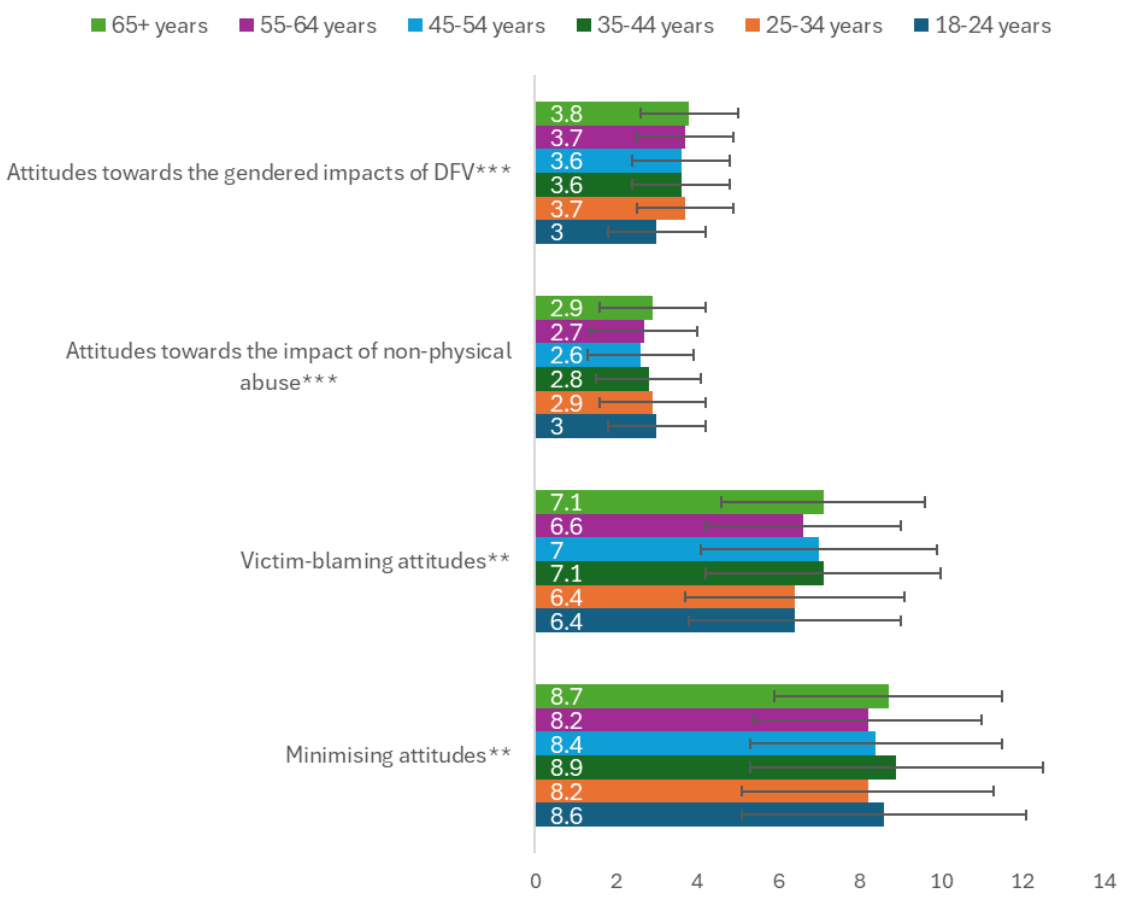
- *Minimising attitudes:* Compared to participants aged 18-24 (M = 8.6, sd = 3.5) and 35-44, (M = 8.9, sd = 3.6), those who were 65+ (M = 8.7, sd = 2.8) or 55-64 (M = 8.2, sd = 2.8) had lower rates of minimising attitudes $F(5) = 3.18$, $p < 0.01$). What this suggests is that young participants had higher minimising attitudes compared to older participants.
- *Victim-blaming attitudes:* Overall, there was a general trend that older participants had higher victim-blaming attitudes, compared to younger

participants ($F(5) = 4.54$, $p < 0.001$). Participants who were 65+ ($M = 7.1$, SD = 2.5) had higher victim-blaming attitudes compared to those who were 18-24 ($M = 6.4$, sd = 2.6) or 25-34 years old ($M = 6.4$, sd = 2.7). Further, participants aged 45-54 (7.0, sd = 2.9) had higher blaming attitudes compared to those aged 18-24 and 25-34. Meanwhile, those aged 25-34 had lower blaming attitudes, compared to those aged 35-44 ($M = 7.1$, sd = 2.9), 45-54 and 65+. In an exception to this general trend, participants who were 55-64 years old had lower blaming attitudes compared to those aged 25-34 and 35-44.

- *Attitudes towards the impact of non-physical forms of DFV:* There was a curvi-linear relationship between age and understanding of the impacts of non-physical forms of DFV. Generally, younger participants were more likely to have attitudes minimising the impact of non-physical forms of abuse, which decreased for participants aged 45-54 ($M = 2.6$, sd = 1.3) and 55-64 (2.7, sd = 1.3) and then increased among 65+ participants ($M = 2.9$, sd = 1.3, $F(5) = 5.09$, $p < 0.001$).

- *Attitudes towards the gendered impacts of DFV:* Participants who were 65+ ($M = 3.8$, sd = 1.2) were more likely to underestimate the gendered impacts of DFV, compared to participants who were younger (35-44; $M = 3.6$, sd = 1.2 or 45-54; $M = 3.6$, sd = 1.2).

Figure 4.2: Attitudes towards DFV, by age (mean) (weighted)



***p<0.001 **p<0.01 *p<0.05

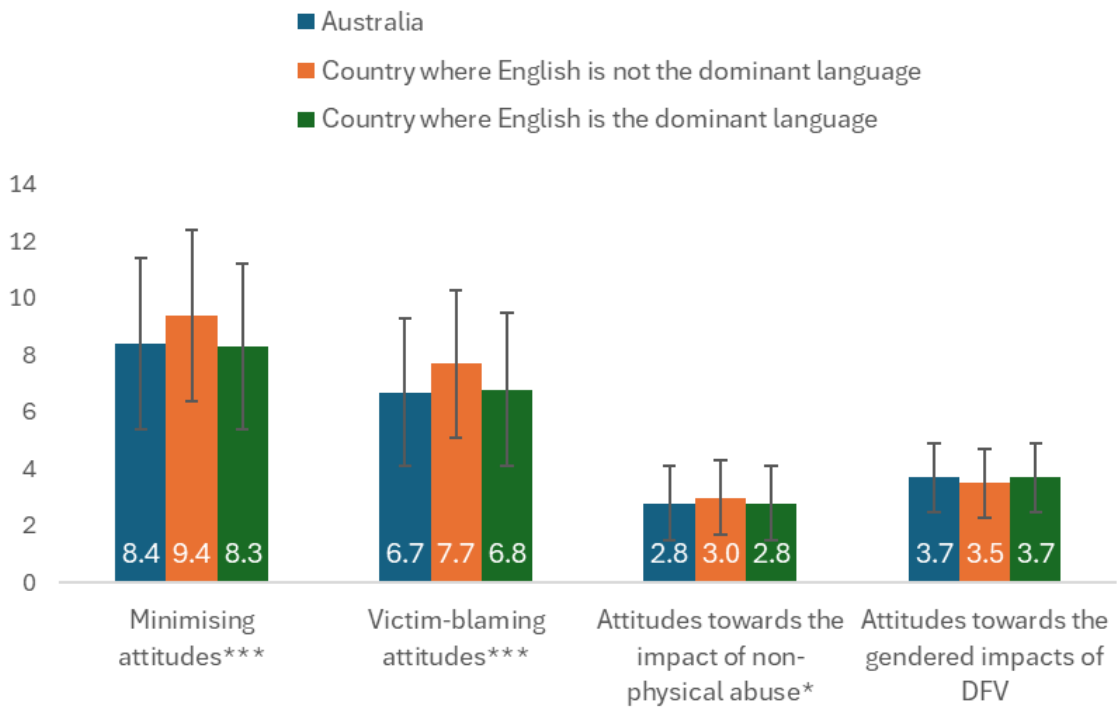
Source: Community attitudes to defences project, 2024 [Computer file]

4.3. Country of birth

Participants who were born in a non-English speaking country had higher minimising (M = 9.4, $F(2) = 16.99$, $p < 0.001$) and victim-blaming attitudes ($M = 7.7$, $F(2) = 12.76$, $p < 0.001$), compared to those born in Australia ($M = 8.4$ and 6.7 respectively) or in another predominantly English-speaking country ($M = 8.3$ and 6.8 respectively; see Figure 4.3).

Participants born in non-English speaking countries were more likely to underestimate the impacts of non-physical forms of abuse ($F(2) = 4.14$, $p < 0.05$) compared to people born in Australia or another predominantly English-speaking country ($M = 3.0$ vs 2.8 vs 2.8). However, there was no relationship between country of birth and understanding of the gendered impacts of DFV ($F(2) = 2.65$, $p = 0.707$.

Figure 4.3: Attitudes towards DFV, by country of birth (mean) (weighted)



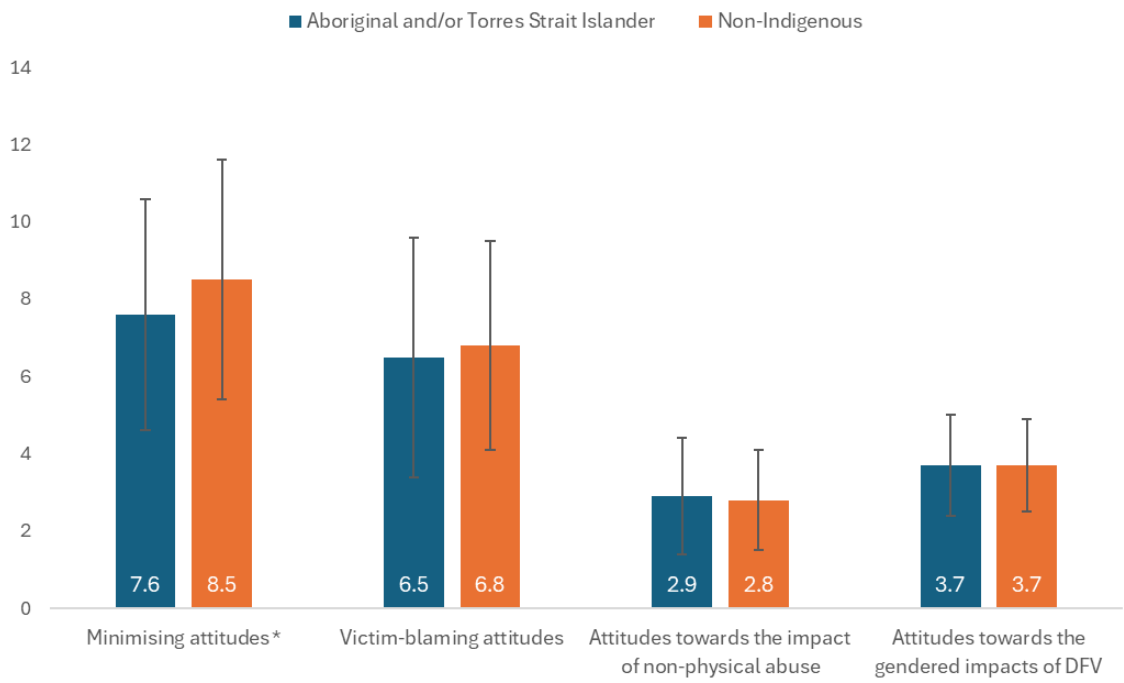
***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

4.4 Indigenous status

Aboriginal and/or Torres Strait Islander participants had lower minimising attitudes, compared to non-Indigenous participants (M = 7.6 sd = 3.0, vs M = 8.5 sd = 3.1, $p < 0.05$, $F(1) = 5.31$). However, there was no relationship between Aboriginal and Torres Strait Islander status and victim-blaming attitudes ($p = 0.574$, $F(1) = 0.32$), attitudes towards the impacts of non-physical forms of abuse (p =0.834, $F(1) = 0.04$) and the gendered impacts of DFV (p =0.751, $F(1) = 0.10$) (see Figure 4.4).

Figure 4.4: Attitudes towards DFV, by Indigenous status (mean) (weighted)



***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to partial and full defences project, 2024 [Computer file]

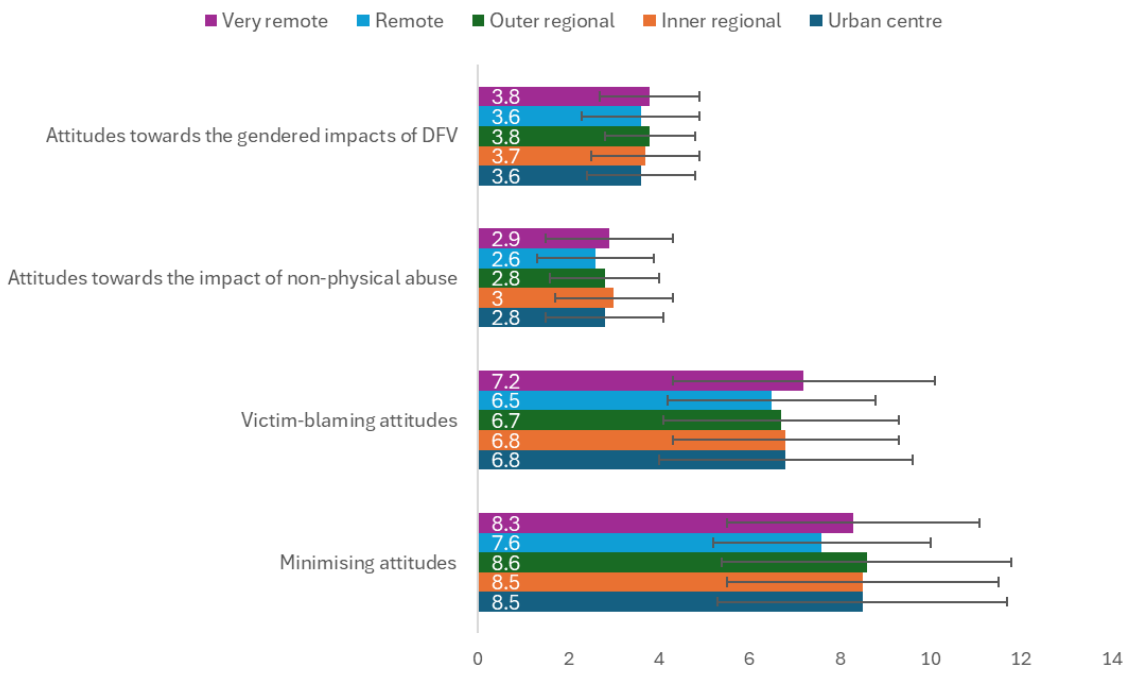
4.5 Place of usual residence

Interestingly, there was very little variation in participants' attitudes, based on their place of usual residence. As described in the methods section of this report, we used various measures of place of usual residence.

There was no difference in the attitudes of participants living in Brisbane, compared to those living in the rest of Queensland (see Figure 4.5). This was consistent for minimising attitudes (p = 0.115, $F(1)$ = 2.48), victim-blaming attitudes (p = 0.895, $F(1)$ = 0.02), attitudes towards the impacts of non-physical forms of abuse (p = 0.072, $F(1)$ = 3.24) and the gendered impacts of DFV (p = 0.081, $F(1)$ = 3.05).

We found similar results, when we disaggregated the sample by regional classification; overall, there was very little variation in community attitudes towards DFV between regions. However, there were a few notable exceptions to this general finding. First, people living in remote areas (M = 7.6 sd = 2.4) had lower minimising attitudes, compared to those living in inner regional areas (M = 8.5, sd = 3.0, p < 0.01), outer regional areas (M = 8.6, sd = 3.2, p < 0.01) and urban centres (M = 8.5, sd = 3.2, p < 0.01). Second, people living in inner regional areas were more likely to underestimate the impacts of non- physical forms of abuse (M = 3.0, sd = 1.3), compared to people living in urban centres (M = 2.8, sd = 1.3, p < 0.05), but people living in regional areas had higher rates of agreement with this statement than those living in remote areas (M = 2.6, sd = 1.3, p < 0.05).

Figure 4.5: Attitudes towards DFV, by place of usual residence (mean) (weighted)



***p<0.001 **p<0.01 *p<0.05

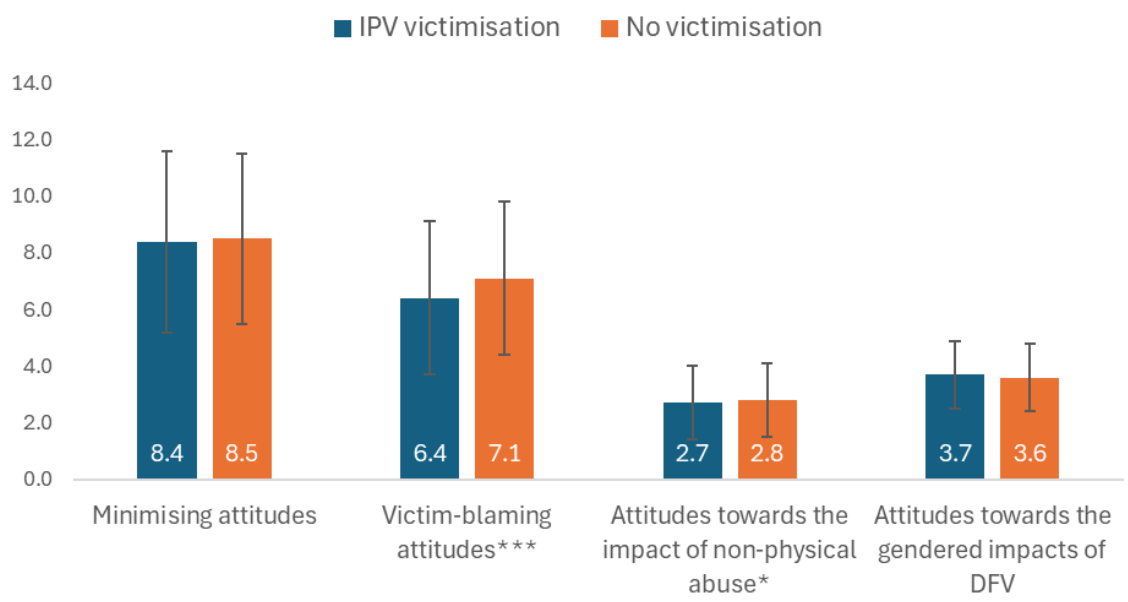
Source: Community attitudes to defences project, 2024 [Computer file]

4.6 History of IPV victimisation

Participants who indicated that they had been subjected to IPV had lower victim-blaming attitudes, compared to participants who did not have a history of victimisation (M = 6.4 sd = 2.7, vs M = 7.1 sd = 2.7, p < 0.001, $F(1)$ = 9.41) (see Figure 4.6). Further, IPV victim-survivors were less likely to underestimate the impact of non-physical forms of abuse (M = 2.7, sd = 1.3 vs 2.8 sd = 1.3, $F(1)$=4.31).

However, there was no relationship between IPV victimisation history and minimising attitudes (p = 0.100, $F(1)$ = 2.70), or understanding of the gendered impacts of DFV (p =0.198, $F(1)$ = 1.66).

Figure 4.6: Attitudes towards DFV, by experiences of IPV (mean) (weighted)



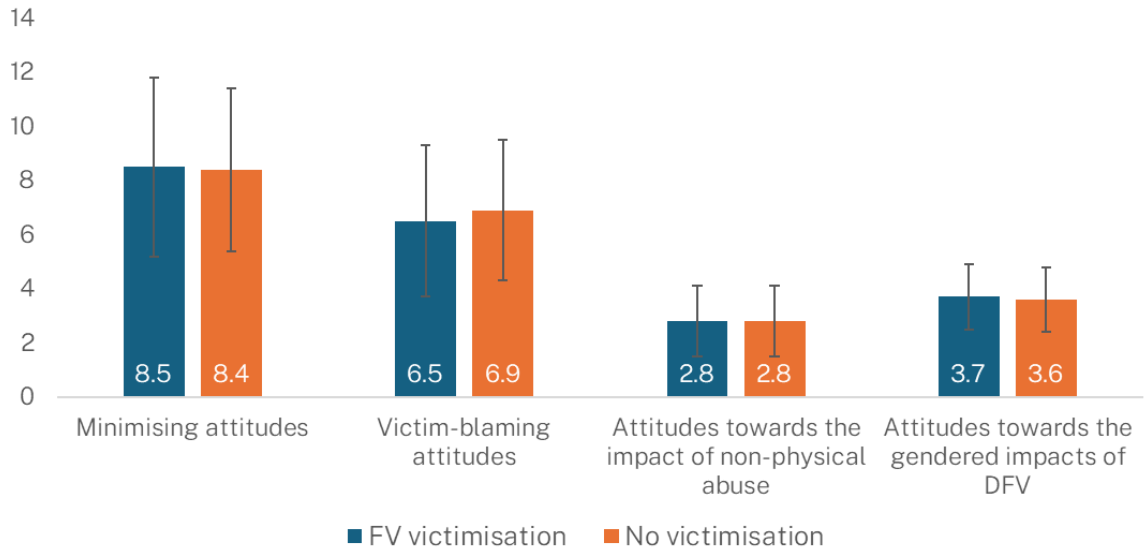
***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

4.6 History of FV victimisation

There was no relationship between FV victimisation history and attitudes towards DFV (see Figure 4.7). This was consistent for minimising attitudes ($F(1) = 3.67$, $p = 0.055$), victim-blaming attitudes ($F(1) = 2.87$, $p = 0.090$), understanding of the impacts of non-physical forms of abuse ($F(1) = 0.39$, $p = 0.534$), and understanding of the gendered impacts of DFV ($F(1) = 3.44$, $p = 0.064$).

Figure 4.7: Attitudes towards DFV, by experiences of FV (mean) (weighted)



***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

5. Attitudes towards the selected defences in cases of assault

In this section, we analyse community members' attitudes towards the use of defences (specifically, self-defence, provocation and domestic discipline) in cases of assault, across five scenarios:

- Scenario 1: Two known acquaintances get into a fight at a park (self-defence and provocation);
- Scenario 2: A man harms his female partner after a dispute (provocation);
- Scenario 3: A football fan assaults a fan, who is heckling them (provocation);
- Scenario 4: A mother lays hands on her child, who is disobeying the rules of house (domestic discipline); and
- Scenario 5: A teacher lays hands on a student, who is disobeying the rules of the class (domestic discipline).

5.1 Scenario 1: Two known acquaintances get into a fight at a park

The first scenario described a situation where two men who knew each other – Donald (the defendant) and Vaughan (the victim) –get into a fight in a park. The fight escalates, leading to Vaughan being injured by Donald. This scenario was used in the survey, and some of the focus groups.

The scenario was manipulated on four key factors:

- *Initiation of the fight*: Donald was described as either shoving Vaughan (i.e., Donald engaged in provoking conduct that led to the fight) or Vaughan punching Donald in the face out of nowhere (i.e., Vaughan engaged in provoking conduct that led to the fight).
- *Option to retreat*: Donald was described as having the option to escape before the fight escalated or as not having any way of getting away.
- *Level of force used by Donald*: Donald was described as either punching Vaughan in the face and stopping there or as punching him in the face, then stomping on his chest and face, after Vaughan fell to the ground.
- *Nature of injury Vaughan received*: Vaughan was described as either having some bruising to the face or having a broken jaw and concussion and requiring a stay in hospital.

This scenario was assessing community members' attitudes towards the use of self-defence and provocation, in cases of assault.

5.1.1 Community member views on whether Donald should be found guilty of an offence

Across all variations of this scenario, 65.6 per cent of survey participants believed Donald should be found guilty of assault, 32.9 per cent said he should be found not guilty and 1.5 per cent said they did not know what a suitable outcome would be.

Mirroring the survey data, the vast majority of focus group participants believed that Donald should be charged with and convicted of assault. This viewpoint was held by female and male focus group participants:

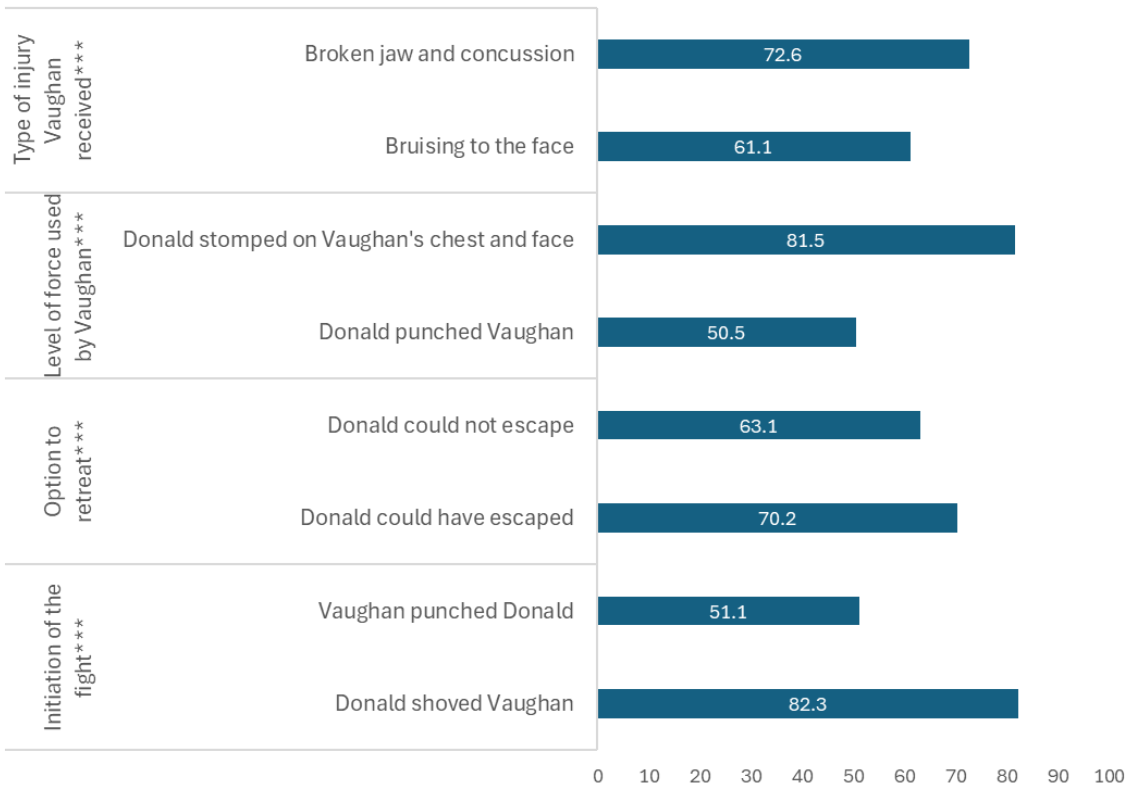
5.1.2 Factors influencing perceptions of Donald's accountability

Analysis of the quantitative survey data showed that the nature of the scenario influenced participants' beliefs about Donald's level of culpability. As shown in Figure 5.1, after controlling for a range of other factors, the following variables influenced participants' responses:

- *Initiation of the fight*: when Donald started the fight by shoving Vaughan, participants were 1.6 times more likely to say that Donald was guilty of assault, compared to participants who were told that Vaughan started the fight (82.3% vs 51.1%, OR = 6.0, $p < 0.001$);
- *Option to retreat*: when Donald had the option to retreat, but chose not to, participants were 1.1 times more likely to say Donald was guilty of assault, compared to participants who were told that Donald could not have retreated (70.2% vs 63.1%, OR = 1.5, $p < 0.001$);
- *Level of force used by Donald*: when Donald was described as stomping on Vaughan's chest and face, participants were 1.6 times more likely to say Donald was guilty of assault, compared to participants who were told Donald only punched Vaughan (81.5% vs 50.5%, OR = 5.9, $p < 0.001$); and
- *Nature of injury Vaughan received*: when Vaughan only received bruising, as a result of the fight, participants were 1.2 times less likely to say Donald was guilty of assault, compared to participants who were told that Vaughan had a broken jaw and concussion (72.6% vs 61.1%, OR = 2.0, $p < 0.001$).

There was only one other factor that influenced participants' views about Donald's level of culpability: gender. Female participants were 1.1 times more likely than men to say that Donald should be found guilty of assault (69.7% vs 63.4%, OR = 1.5, $p < 0.01$). No other socio-demographic factors or participants' victimisation history were related to views on Donald's culpability (see Appendix F, Table F1).

Figure 5.1: Predicted probability that participant believed Donald should be found guilty of assault, by scenario characteristics (%) (weighted)



Note: Other controls included in the model are language spoken most of the time at home, country of birth, place of usual residence, Indigenous status, gender, age, highest level of education completed, level of socio-economic advantage, victimisation history. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 38) and who did not provide valid data for the variables included in the model (see Table F1).

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Survey and focus group participants were asked to explain why they believed a finding of guilty or not guilty was appropriate in this case. The analyses of these data provide valuable context for understanding the findings from the analysis of the quantitative survey data, as well as extending our understanding of the factors that contributed to participants' views on Donald's culpability.

As demonstrated in the below quotes, many survey participants emphasised the role of the factors described above in their decision-making, particularly Donald's ability to escape, who initiated the fight and Donald's conduct. However, while the above analyses presented these factors in isolation from each other - as each was *independently* associated with participants' views on Donald's level of culpability - the qualitative data demonstrated that participants were considering multiple factors at the same time, when determining the appropriate outcome. For example, many survey participants noted that Donald's inability to run away made them more likely to believe that his actions were in self-defence and so he should be found not guilty. This was

particularly likely, when survey participants were also told that Vaughan had initiated the fight, by punching Donald in the face 'out of nowhere':

> *Donald's case would be self defence because he had tried all other options of getting away from Vaughan's violence (Female, 25-34 yrs, non-Indigenous, survey participant).*
>
> *Because Donald did not instigate the assault and had no way of removing himself from it - it was legitimate self-defence (Female, 45-54 yrs, non-Indigenous, survey participant).*
>
> *Vaughan initially provoked Donald and, having no way to avoid his further assault, Donald defended himself as best he could to stop being further injured (Female, 65+ yrs, non-Indigenous, survey participant).*

In the focus groups, we asked participants whether their opinion of Donald's culpability would shift, if he were to raise that he feared for his life, at the time that he assaulted Vaughan. The vast majority of focus group participants were sceptical of this claim and did not change their belief that Donald should be convicted of assault. For example, two participants responded:

> *I think it's hard to believe ... that he was scared for his life, because he provoked the situation in the first instance. So, you know, to then say, 'oh, I was fearful of my life'. Seems a bit disingenuous .... It would depend on the scenario and the context, but I think, in this particular scenario, it sounds like it would be a bit unbelievable (Female, 35-44 yrs, non-Indigenous, focus group participant).*
>
> *I don't think Donald can claim that he feared for his life. It was a gross overreaction. Therefore, he should be found guilty of assault and possibly grievous [bodily harm] (Male, 55-64 yrs, non-Indigenous, focus group participant).*

However, a small number of focus group participants observed that determining whether someone genuinely perceives a threat to their life is difficult, as it is likely to be influenced by a range of factors which may not be known. As noted by one focus group participant:

> *I think it's very hard to judge someone's fear response. I think it's a really complex matter. I think the fact that he could have chosen to run away is neither here nor there. The fact that he didn't, there may be all sorts of factors, why he didn't. And his fear response is a difficult thing for him to prove. That concept as well as the concept of being provoked. So he may feel that he was provoked. And one person can cope with being provoked and another person has a fight or flight response to being provoked, a very hard thing to determine without someone having a conversation with both the young men to determine exactly what was said, how it was said, was there an audience that would influence me? If there was a group, if there were others circled around who were watching, does that alter the responsibility? Does it alter the feeling of being provoked and does it alter*

the response of being afraid for your life? (Female, 65+ yrs, non-Indigenous).

Factors raised by focus group participants that could influence Donald's threat perception included:

- his emotional maturity,
- his prior experiences of victimisation, and
- the actions (or inactions) of any other bystanders.

Several focus group participants also suggested that understanding more about the history of conflict between Donald and Vaughan would also be helpful. It was suggested that, if on previous occasions, Vaughan had assaulted Donald or made threats against him, Donald could have genuinely been afraid for his life on this occasion.

Further, Donald's conduct, particularly if he had stomped on Vaughan after he had fallen to the ground, appeared to make participants more inclined to say he should be found guilty of assault, regardless of who started the fight or whether he had the option to retreat. As noted in the below quotes, survey participants appeared to believe that 'stomping' was disproportionate to the threat posed by Vaughan and so was described as excessive. It was also noted by a number of participants that Donald could have killed Vaughan, by stomping on his chest and face. All of the following participants considered Vaughan to be guilty of assault:

> *Well after he knocked his aggressor to the ground he proceeded to attack him while down, which based off the severity of the situation, was way out of line (Male, 18-24 yrs, non-Indigenous, survey participant).*
>
> *Because Donald appeared to do more than was necessary to just remove the immediate danger. Once Vaughn fell to the ground, he could have run away rather than inflicted further injuries on Vaughn (Female, 45-54 yrs, Non-Indigenous, survey participant).*
>
> *He needed to defend himself but should have stopped when [Vaughan] fell to the ground (Female, 65+ yrs, non-Indigenous, survey participant).*
>
> *Excessive force the one punch could have been it but knocking someone to the ground and stomping on them is over the top (Male, 35-44 yrs, Aboriginal, survey participant).*

The views of survey participants were echoed by community members who took part in a focus group; that the defendant stomped on the victim appeared to be highly influential in focus group participants' assessment of his culpability. In each focus group where this case was discussed, participants commented on the gravity of stomping. This is captured in the following comments:

> *Donald's actions escalated the situation, causing more severe injuries to Vaughan. If Donald was charged with assault and the case went to court, I think an appropriate outcome would be a guilty verdict (Female, 25-34 yrs, Torres Strait Islander, focus group participant).*

> *The fact that there was stomping, it's fairly serious. It means a lot of control in the perpetrator. So yes, I'd definitely be concerned and it makes it a much more serious assault (Female, 65+ yrs, non-Indigenous, focus group participant).*
>
> *Guilty. I'm the old-fashioned person. You never kick a man when he's down, definitely not on the chest (Male, 65 yrs plus, non-Indigenous, focus group participant).*
>
> *The fact that he has continued the assault and stomped on his chest and face is a serious, serious assault and the result and the broken jaw, is that the point. The fact that he intentionally kicked his chest and face is significant (Male, 55-64 yrs, non-Indigenous, focus group participant)*
>
> *When Vaughn fell to the ground, he then stomped on his chest and face. I think that that's actually, like, there was intent there, whilst he was down, to actually continue to assault him (Female, 25-34 yrs, non-Indigenous, focus group participant).*
>
> *I think that the fact that he stomped on his chest should increase, it wasn't just punching someone, but stomping on someone's chest is a lot of intent, so it should increase the sentence substantial[ly] ... that's an incredible crime to do to anybody and can have significantly more injuries associated with it than someone who's intentionally shoved someone (Female, 35-44 yrs, non-Indigenous, focus group participant).*

Consistent with the findings from the analysis of the quantitative survey data, there was a notable difference in the attitudes of men and women, regarding Donald's culpability, particularly when considering the role of who initiated the fight. In particular, several male survey participants who were told that Vaughan had punched Donald first referred to Vaughan 'starting it' and said that, if he had not wanted to be harmed, he should not have initiated the fight. Similarly, male survey participants referred to Donald's actions as being justifiable, as a form of revenge or reciprocation, even when Donald had responded by stomping on Vaughan's chest and face:

> *He didn't start the assault. He defended himself, maybe a little over vigorously (Male, 65+ yrs, non-Indigenous, survey participant).*
>
> *Eye for an eye (Male, 45-54 yrs, non-Indigenous, survey participant).*

This view did not appear to be shared by female participants to the same extent.

Finally, one focus group participant commented that the defendant's age was relevant to their assessment of the provoking behaviour and the defendant's overall culpability. This participant remarked:

> *For me, it's not just about the age, but it's also about the young person's capacity to cope with being provoked and their understanding of the consequences of their actions. Some 14 year olds are very capable of doing that and other 14 year olds are completely incapable. So, this idea of criminal responsibility at 14, at 10, I think there has to be a line in the sand,*

but there also has to be consideration around culpability of the perpetrator (Female, 65+, non-Indigenous, focus group participant).

This scenario raised both self-defence and provocation, as a defence to a charge of assault. The majority of both survey and focus group participants believed Donald should be found guilty of assault. In arriving at this conclusion, however, the focus group participants' responses give some important insights into the factors they considered in deciding guilt, namely, the proportionality of Donald's response and Donald's perception of risk to self. These factors align with the main elements of self-defence (that is, belief in the need to use defensive force and reasonableness of the response). Some of the other variables focus group members raised (e.g, whether Donald started the fight, options for retreat, degree of force, seriousness of injury) also aligned with principles of self-defence. These results suggest that the law of self-defence, as currently framed in Queensland, accords with contemporary community attitudes about use of defensive force and culpability.

This finding is significant because it suggests that the principles of the current framework are sound. However, it may be beneficial to simplify the provision, so jurors can account for different fact scenarios (e.g., assessing defendant's belief in need to use force, reasonableness of response).

The finding is also useful in considering any reform that would significantly expand or modify the law of self-defence or create a new defence and whether that aligns with community views.

5.1.3 Factors influencing Donald's sentence

In assessing the factors that should impact sentencing, several focus group participants questioned whether this was a first-time offence for Donald, or whether this scenario was representative of a wider pattern of violent behaviour. One participant remarked:

From my perspective, you need to look at if this is a pattern of behaviour that Donald's got. And again, that sliding scale, is this a one-off? Is this how Donald behaves for the issues he has in his own life? And surely, you're going to look at mitigating circumstances, but it seemed to be unprovoked in that situation (Male, 55-64 yrs, non-Indigenous, focus group participant)

In discussing the factors that should increase or decrease the sentence imposed, a number of focus group participants discussed the age of the defendant and victim in this scenario, commenting that a restorative intervention – potentially mediation – may be useful for an assault between two people. For example, one focus group participant commented:

I'm assuming, because of the scenario, that they're quite young, given that they're in a park, and it could be possible that some restorative justice could be achieved by mediation, rather than the process of finding the young person guilty (Female, 65+ yrs, non-Indigenous, focus group participant).

Donald's age was also raised by focus group participants in two focus groups, where the appropriateness of different sanctions was discussed. In these discussions, while participants often expressed a view that Donald should be convicted of assault, some participants did not think that a period of imprisonment would be a useful outcome. One participant commented:

> *I don't think prison is a solution. I do think, though, that Donald took it further than he needed to. You know, he'd made his point. And so there should be some kind of charge (Female, 55-64 yrs, non-Indigenous, focus group participant).*

The views of survey participants regarding an appropriate sentence in this case were relatively mixed. While several participants believed that a term of imprisonment was necessary in this case, because of the seriousness of Donald's conduct, a small number of other participants suggested that he should receive a short sentence and support and therapy, to understand why he had responded with such violence. This is reflected in the following quote:

> *Short prison time and therapy to figure out why he attacked like that (Trans/Non-binary, 18-24 yrs, non-Indigenous, survey participant).*

5.2 Scenario 2: A man harms his female partner after a dispute

The second scenario used in the survey described a situation, where the defendant may raise the defence of provocation, if charged with assault. This scenario was *not* included in any of the focus groups.

In this scenario, David (the defendant) was at a restaurant and harmed his partner Valerie (the victim), by throwing a glass at her head. David threw the glass at Valerie's head in response to her actions, which he perceived as provoking. The scenario was varied by the nature of this 'provoking' conduct. Specifically, participants were either told that David and Valerie were having dinner together and had an argument, leading to Valerie slapping David's hand away when he reached for it and knocking his plate off the table. Alternatively, David and Valerie were not having dinner together, but David observed her kissing a male co-worker at the restaurant they were both at.

5.2.1 Community member views on whether David should be found guilty of an offence

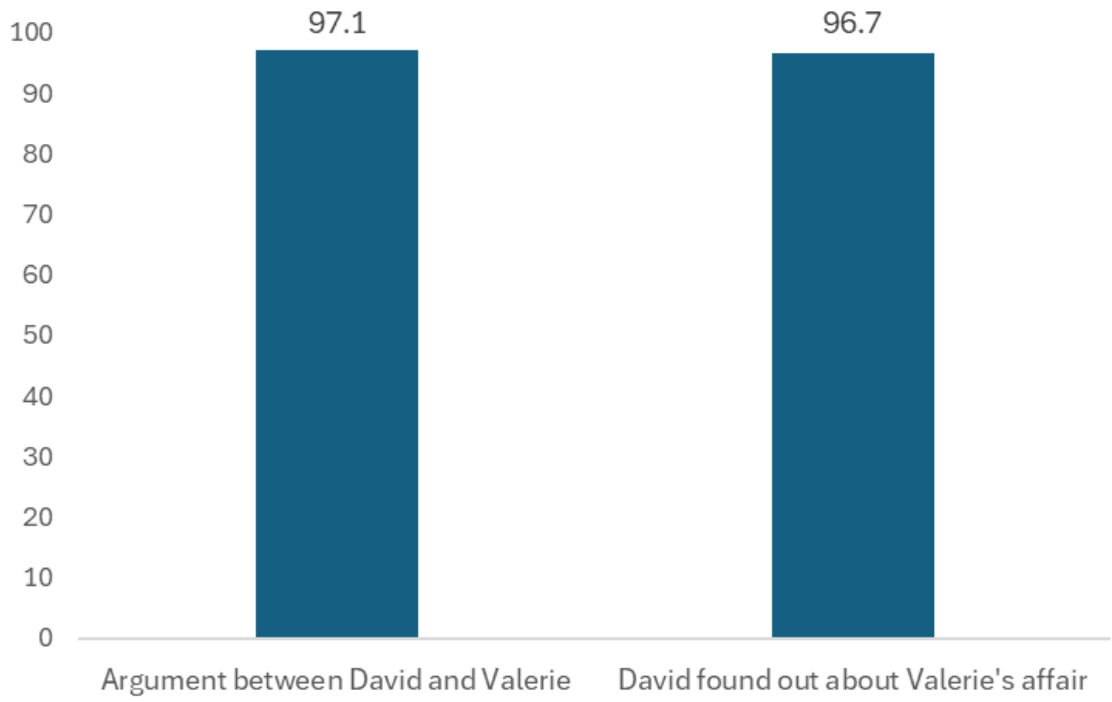
Almost all survey participants believed that David should be found guilty of assault (95.6%), with only 3.0 per cent saying he should be found not guilty, and 1.3 per cent saying they did not know.

5.2.2 Factors influencing perceptions of David's accountability

As demonstrated in Figure 5.2, analysis of the quantitative survey data shows that the attitudes of participants about David's culpability did not vary by the type of provoking conduct; regardless of whether David and Valerie had an argument or David finding out that Valerie was having an affair, participants still believed that he should be found guilty of assault (97.1% vs 96.7%, OR = 1.1, p =0.754).

The sociodemographic characteristics of participants were not independently associated with their views on David's culpability, nor were prior victimisation experiences. Attitudes towards DFV were associated with views about David's culpability. Participants who had higher victim-blaming attitudes (OR = 0.54, $p < 0.05$), and minimising attitudes (or = 0.27, $p < 0.001$) were less likely to believe that David should be found guilty. What this means is that as minimising and victim-blaming attitudes increased, David's perceived culpability decreased. However, participants' attitudes towards the gendered impacts of DFV, and the impacts of non-physical forms of DFV, were not significant (see Appendix F, Table F2).

Figure 5.2: Predicted probability that participant believed David should be found guilty of assault, by scenario characteristics (%) (weighted)



Note: Other controls included in the model are language spoken most of the time at home, country of birth, Indigenous status, gender, age, highest level of education completed, level of socio-economic advantage, victimisation history (secondary, IPV and FV), and attitudes towards DFV. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 16) and who did not provide valid data for the variables included in the model (see Table F2).

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

As noted above, the majority of survey participants believed that David should be convicted of assault, regardless of the nature of the provoking conduct. Analysis of the qualitative survey data identified several key factors which participants used to explain their assessment. First, many participants argued that Valerie's conduct was not sufficient to justify his behaviour. Although participants recognised that David was likely very emotionally heightened at the time of the incident (e.g., angry, jealous and embarrassed), this was not an excuse for using violence against her.

He hit her. Anger is not a defence (Male, 65+ yrs, non-Indigenous, survey participant).

He acted out of rage over a small incident that probably caused him embarrassment. His reaction was very aggressive, unnecessary and caused severe harm (Male, 35-44 yrs, non-Indigenous, survey participant).

Classic case of uncontrolled emotive response to a situation that doesn't constitute an extraordinary emergency or valid provocation (Female, 45-54 yrs, non-Indigenous, survey participant).

Although what he did was in retaliation to Valerie's actions, Valerie caused no physical harm to him or anyone else so his reaction was not warranted. It's not OK to injure someone just because your feelings are hurt (Female, 18-24 yrs, non-Indigenous, survey participant).

Relatedly, many participants raised the issue of proportionality; David's action - throwing a glass at Valerie's head - was viewed as egregious and exceeding any harm caused by Valerie's behaviours. In particular, several participants argued that throwing a glass could have significantly injured Valerie or even killed her. As demonstrated in the below quotes, participants appeared to be balancing the nature of Valerie's provoking conduct, against the potential harms associated with David's response.

...he could have easily killed her or caused serious injury or disability (Female, 25-34 yrs, Aboriginal, survey participant)

David lost control of his temper...he could have blinded her or killed her. He should have tried to control his anger, and call her aside to discuss the situation (Female, 65+ yrs, non-Indigenous, survey participant).

Valerie didn't cause harm, unlike David. He went to the extreme whereas Valerie just knocked his hand away. I feel different levels of violence deserve different outcomes and sentences (Female, 55-64 yrs, non-Indigenous, survey participant).

Throwing an object at someone, especially a breakable and potentially dangerous one, can cause serious injury (Trans/Non-binary, 35-44 yrs old, Indigenous status not provided, survey participant).

Among the small number of participants who believed that David should be found not guilty of assault, the main reasons identified was the perceived accidental nature of the incident and Valerie's provoking conduct. Among survey participants who believed that Valerie's conduct was sufficient to support a defence of provocation, almost all were told that Valerie had had an affair, which they believed was 'worse' than what David did. Importantly, the majority of these participants were men:

She shouldn't of [sic] done that (Male, 25-34 years old, non-Indigenous, survey participant)

Due to the circumstances of David's partner cheating on him and the glass only causing a small bruise (Male, 18-24 years old, non-Indigenous, survey participant)

David caused a minor injury in a moment of anger and heartbreak. He should definitely be punished for it, however not charged and convicted

with assault as that might change his eligibility for future employment. It will affect him for the rest of his life. What Valerie did in my opinion is the more wrong. She wrecked her home, his home, their children's home if they had children, she broke his heart, his faith in relationships and women, caused him months and months of future excruciating pain (Male, 35-44 years old, non-Indigenous, survey participant).

5.1.3 Factors influencing David's sentence

Even though the majority of survey participants believed David should be found guilty of assault, a small number suggested that Valerie's provoking conduct should be taken into consideration, as part of sentencing. This view was primarily limited to participants who were told that Valerie was discovered having an affair.

His reaction was not in physical defence, but lesser charge considering circumstances (Female, 18-24 years old, non-Indigenous, survey participant)

However, this was not a view shared by all participants. Certainly, many participants believed that David's anger was related to his perceived 'ownership' of Valerie and so her affair should not be considered provoking conduct.

David was behaving as if he owned her, and punishing her for doing something he didn't like. He is guilty (Female, 65+ years, non-Indigenous, survey participant).

While they are in a relationship, he doesn't own her (Male, 18-24 years old, non-Indigenous, survey participant)

In a similar vein, some participants suggested that if David was not charged with assault and received a sentence, it would send a message to the community that violence against partners is OK:

...relationships break down all the time, people cheat - you can get angry, but throwing a glass at someone's head is not the way to deal with it - and if people are not convicted on that basis, then that would suggest to the public that that sort of behaviour is ok whenever you are upset about something your partner does - which is not OK (Female, 45-54 years old, non-Indigenous, survey participant).

acting violent should be seemed [sic] as an assault to keep the general public in line (Male, 18-24 years old, non-Indigenous, survey participant).

5.3 Scenario 3: A football fan assaults another fan who is heckling them

The third scenario was also used in the survey and some focus groups, to test community attitudes on the use of provocation, as a defence to the charge of assault. In this scenario, Derek (the defendant) was at a football match with his girlfriend, Felicity. Vince (the victim), another spectator, who was supporting the opposing team, heckled Derek. This led to an altercation between the two and Vince being injured, after Derek punched him in the face, breaking his eye socket and jaw.

This scenario was varied by Vince's provoking conduct. He was described as either engaging in what could be described as low-level behaviour (telling Derek he was a loser who supported a loser team) or high-level behaviour (leaning in close to Derek's ear and chanting 'loser' in his ear and then making a derogatory comment about Felicity).

5.3.1 Community member views on whether Derek should be found guilty of an offence

Similar to Scenario 2, the majority of participants (84.6%) believed that, if this matter went to court, Derek should be found guilty of assault. In comparison, only 14.7 per cent said that he should be found not guilty, and 1 per cent did not know what a suitable outcome should be.

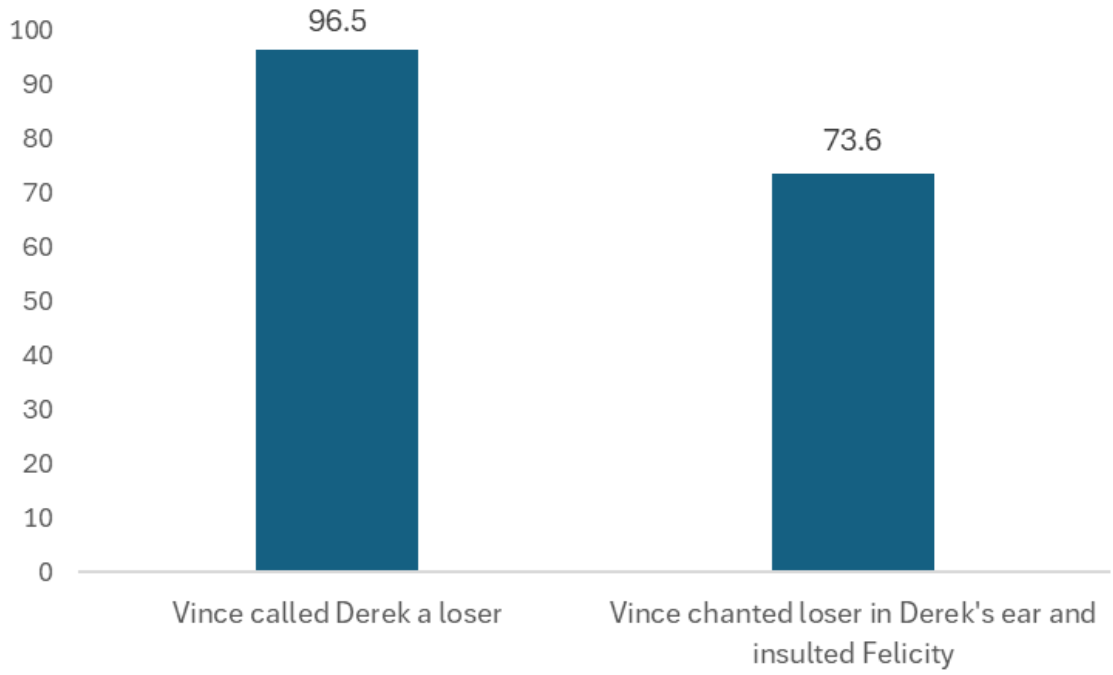
5.3.2 Factors influencing perceptions of Derek's accountability

As demonstrated in Figure 5.3, the analysis of the quantitative survey data found that in this scenario, the nature of the victim's provoking conduct *was* associated with participants' beliefs about Derek's culpability. Specifically, participants who were told that Vince had engaged in lower-level provoking conduct (i.e., calling Derek a loser) were 1.3 times more likely to say that Derek should be found guilty of assault, compared to participants who were told that Vince had engaged in higher-level provoking behaviour (i.e., chanting in Derek's ear and insulting Felicity; 96.5% vs 73.6%, OR = 11.0, $p < 0.001$).

The views of participants were also influenced by their sociodemographic characteristics. Compared to male participants, females were more likely to believe that Derek should be found guilty of assault (87.2% vs 82.4%, OR = 1.5, $p < 0.05$). Meanwhile, Aboriginal and/or Torres Strait Islander participants were *less* likely to believe Derek should be found guilty of assault (63.8% vs 85.0%, OR = 0.23, $p < 0.01$). However, the victimisation experiences of participants were not associated with their views on Derek's culpability (see Table 5.3 below).

Consistent with the findings from the analysis of the quantitative survey data, throughout the focus groups, participants overwhelmingly agreed that Derek should be convicted of assault and that there should be no defence for his behaviour.

Figure 5.3: Predicted probability that participant believed Derek should be found guilty of assault, by victim's conduct (%) (weighted)***



Note: Other controls included in the model are language spoken most of the time at home, country of birth, place of usual residence, Indigenous status, gender, age, highest level of education completed, level of socio-economic advantage, and victimisation history. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 9) and who did not provide valid data for the variables included in the model (see Table F3).

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

The qualitative survey and focus group data provide valuable context for explaining the findings from the quantitative data analysis. In their responses to the question of why they believe that Derek should be found guilty of assault, survey participants highlighted that Vince engaged in verbal, rather than physical, behaviours, which they believed increased Derek's culpability. As the quotes below demonstrate, although participants acknowledged that Vince's behaviour was provoking, numerous participants believed that, in such a scenario, 'words alone' should not be enough to reduce Derek's culpability in this case. This view is captured in the following survey and focus group participants' comments:

> *I begrudgingly chose this answer. The guy was being very unpleasant, and I would say he deserved some type of retribution. At the same time, we can't just hit each other (Male, 25-34 yrs, non-Indigenous, survey participant).*
>
> *Violence is not necessary just because you have differing views and opinions (Female, 25-34 yrs, non-Indigenous, survey participant).*
>
> *It was a savage attack on another person. Words from a person are annoying but shouldn't result in physical assault (Female, 25-34 yrs, non-Indigenous, survey participant).*

Vince didn't assault Derek at all. Derek shouldn't have taken Vince's words to heart (Female, 35-44 yrs, Aboriginal, survey participant).

I think that yes, he should be found guilty of assault. We've all grown up being told sticks and stones may break my bones but words will never hurt us and… in my opinion, his reaction should have been more along the lines of getting up and walking away and sitting elsewhere. That doesn't decrease the fact that Vince was provoking him. So that should have, well, there's still words. So perhaps, yeah, assault, in my opinion, is not the right reaction to have (Female, 65+ yrs, non-Indigenous, focus group participant).

I think absolutely there's nothing in that [scenario] that would give rise to him having any sort of reasonable explanation for how disproportionately he acted (Female, 45-54 yrs, non-Indigenous, focus group participant).

Focus group participants in particular highlighted the impact of Derek's assault on Vince as evidence of the disproportionality of his response:

He inflicted a broken cheekbone and eye socket. I don't think what happened really necessitated him to turn around and hit the guy. I thought they should have just walked away. It was only words. I mean, they've got to turn around and hit him instead (Female, 65+ yrs, non-Indigenous, focus group participant).

I think, for one, his reaction [was] disproportionate. So, although he reacted on the sudden to something that was upsetting, to me, his reaction [is] disproportionate to what was going on. So, I think he would be charged for assault in that situation … I think to break someone's broken eye socket and, yeah, to me that's disproportionate to what occurred (Female, 45-54 yrs, non-Indigenous, focus group participant).

Further, many survey and focus group participants argued that Derek had other options for de-escalating or resolving the situation, besides resorting to physical violence. In particular, several survey and focus group participants suggested that Derek and Felicity could have pursued other non-violent options - for example, they could have moved seats, asked for assistance from venue staff or simply asked Vince to stop. The presence of these alternative solutions, and that Derek chose not to use them, appeared to increase Derek's culpability, in the minds of the following participants, who again all considered Derek to be guilty of assault:

There were alternative ways of handling the situation without violence. They could move away, report the incident to security or ignore (Male, 45-54 yrs, non-Indigenous, survey participant).

This one is complicated. It was being harassed but he could have got the attention of someone else to have him removed not assaulting him (Trans/non-binary, 18-24 yrs, non-Indigenous, survey participant).

Derek didn't even try to handle the situation verbally or move seats or leave the stadium, He wasn't stuck in that seat he chose to sit there. Although he

did have motivation I feel as though he overreacted to the situation (Female, 18-24 yrs, non-Indigenous, survey participant).

He's in a public place. There's multiple other people around. There's security guards around [so] that he could have managed it in an entirely different fashion. He could have removed himself from it. It's not like he's walking down a dark lane way on his own (Female, 45-54 yrs, non-Indigenous, focus group participant).

He could have just removed himself from the situation. If he was that upset just walk away. Nothing was stopping him (Female, 45-54 yrs, non-Indigenous, focus group participant).

I would say Derek will be guilty of assault. Because he has the freedom, he has the freedom of walking away when such an instance was happening. So hitting somebody, I would say that's not a self-defence... I feel he is guilty of assault. He should have just walked away and that would have revolved or that would have solved a lot of troubles (Female, 25-34 yrs, non-Indigenous, focus group participant).

Finally, analysis of the qualitative survey data found no obvious differences in the reasons provided by Aboriginal and/or Torres Strait Islander participants that would explain why this cohort was less likely to believe that Derek should be found guilty of assault. Consistent with non-Indigenous participants, Aboriginal and/or Torres Strait Islander participants who said Derek should be found not guilty argued that Vince was deliberately provoking Derek. This is demonstrated in the below quotes from Aboriginal and/or Torres Strait Islander and non-Indigenous participants:

Vince assaulted him if you ask me. Why should he use abusive words on him because they aren't on the same team (Female, 35-44 yrs, Aboriginal, survey participant).

Derek did what any of us would want to do in that situation, shut the idiot up. The other guy deserved it (Female, 35-44 yrs, Torres Strait Islander, survey participant).

People have a right to go to a sporting event and cheer and support there [sic] team without being harassed [by] some idiot (Female, 55-64 yrs, non-Indigenous, survey participant).

He deserved what he got for being obnoxious (Male, 65+ yrs, non-Indigenous, survey participant).

That there were no observable differences in the reasons provided by Aboriginal and/or Torres Strait Islander and non-Indigenous participants' responses when explaining why Derek should be found not guilty, suggests that in general, more Aboriginal and/or Torres Strait Islander participants overall believed that Vince's behaviour was provoking that justified an aggressive response. Additional analyses and research are needed to unpack this finding, although it is discussed in more depth in later sections of this report.

5.3.3 Factors influencing Derek's sentence

Although focus group participants believed that Derek's response to Vince's provoking behaviour was excessive and unjustifiable, a small number felt that the victim's provoking behaviour should be taken into account, when sentencing the defendant for assault. They believed that the provocation should mitigate the sentence imposed. For example, one participant commented:

> *He [Derek] probably felt in the moment that that was a form of assault as well, even though he wasn't physically touched. I think yelling in someone's ear is a form of assault. Obviously, it didn't necessitate a physical punch, but I think that needs to, if I was involved in the sentencing, I would be taking that into consideration (Female, 45-54 yrs, non-Indigenous, focus group participant).*

5.4 Scenario 4: A parent lays hands on their child who is not obeying the rules of the house

The fourth scenario was used in the survey and all of the focus groups, to test community attitudes on the use of domestic discipline, as a defence to the charge of assault. This scenario described a situation involving Vicky (the victim) who is 11 years old and lives with her parents. One of the rules in Vicky's family is that children cannot have their mobile phones in their bedroom after 8 p.m. One evening, Vicky was in her room watching a video on her phone, something she has been doing a lot lately, despite her parents' repeated requests not to. At 8 p.m. Vicky's parents told her to hand over the phone. Vicky refused and swore at them, leading to an altercation with her mother Dora (the defendant).

In the survey and focus group discussion, the scenario was varied on two key factors:

- *Vicky's disability status:* Vicky was described as either having received a diagnosis of attention deficit/hyperactivity disorder (ADHD) or as being assessed for ADHD but not being diagnosed, in the year prior to the altercation with her mother.
- *The nature of Dora's conduct:* Dora was described as either slapping Vicky on the thigh, slapping Vicky on the thigh and leaving a bruise, hitting Vicky on the thigh with a spoon, slapping Vicky on the face, or gripping her hand tightly.

5.4.1 Community member views on whether Dora should be found guilty of an offence

Overall, 33.2 per cent of participants believed Dora should be found guilty of assaulting Vicky, while 64.4 per cent said she should be found not guilty and 2.5 per cent said they did not know what a suitable outcome would be.

Across the focus groups, there were mixed views on the availability and use of domestic discipline as a defence, where a parent has ostensibly assaulted a child. It is important to note that, in contrast to the other scenarios shared during the focus group, where participants often held clear views as to how the law should respond, numerous focus group participants commented on how difficult they found this

scenario. For example, when this scenario was read out to the focus groups, two focus group participants immediately commented:

> *I don't know what to say. Sorry, I actually don't know. I'm interested to hear what the other [participants] have to say (Female, 25-34 yrs, non-Indigenous, focus group participant).*
>
> *What a tough question that one is (Female, 65+, non-Indigenous, focus group participant).*

Similarly, a number of survey participants reflected the difficulty they had in determining what they thought would be an appropriate outcome in this case. This is reflected in the below quote from one survey participant:

> *I have a lot of difficulty answering these types of questions. I am against violence, in all forms, and against children, having been abused as a child, however, that being said, there is a difference here between abuse and parenting and when we are talking a slap on a thigh verses a hit, I honestly don't know how to answer, I don't like corporal punishment as a catchall, but that being said, as slap or a flick of some sort that doesn't cause physical pain or harm is different so I am torn here (Male, 45-54 years, non-Indigenous, survey participant).*

Focus group participants often grappled with what one participant described as 'the very fine line' between what constitutes parental discipline and what should constitute assault. That participant explained:

> *I do think there is a very fine line, obviously, between discipline and assault, like a full assault bashing to a kid. They are very different things, but that line is quite fine (Female, 25-34 yrs, Aboriginal, focus group participant).*

That said, the majority of focus group participants, who were told that Dora (Vicky's mother) had slapped her on the thigh, did not believe that Dora should be charged with nor convicted of assault. As captured in the following quotations, there were a range of reasons provided by focus group participants as to why the mother, in this scenario, should not be charged nor convicted of assault:

> *I would see the mother [as] not guilty of assault, I would not consider a slap on the thigh as an assault. The parents have to do parenting and have to be able to enforce what they want done in the house, Vicky misbehaved repeatedly and she didn't want to give the phone and even swore at the parents, so a reaction of the parents was warranted and I would see it within as an appropriate reaction of the parents (Male, 55-64 yrs, non-Indigenous, focus group participant).*
>
> *I think Dora was not guilty because actually Vicky was told about the consequences. Although she was told about not using her phone ... I think she violated the rule. So a mum has a right to do that to her (Male, 25-34 yrs, non-Indigenous, focus group participant).*

> *it doesn't really scream abuse to me, this scenario here. Yeah, I think if it was to be a charge of assault, I think that would be going too far … it sounds weird saying it out loud, but if it's a child, and it is, was just one smack on the thigh, yeah, to me, that's, yeah, there shouldn't be a guilty charge of assault for me (Male, 35-44 yrs, non-Indigenous, focus group participant).*

As shown in these quotes, while the majority of participants did not believe that Dora should be convicted of a criminal offence for this conduct, their reasons for arriving at that conclusion varied quite significantly. For a small number of participants, this view was informed by the belief that Dora's use of physical discipline was a private matter that should not be the subject of legal intervention. Two focus group participants commented:

> *I think how we discipline our children in our home, yeah, I think that's kind of a private matter. Obviously, there's a difference between abuse and the difference between really strict discipline, which might include slapping a child on the bottom, on the thigh. I actually do not have a problem with that … I think we've gone a little bit too soft (Female, 55-64 yrs, non-Indigenous, focus group participant).*

> *[Dora's] actions didn't warrant a punishment severe enough for court involvement. In my opinion, Dora isn't guilty of anything. The situation seems more like a family matter that doesn't justify legal consequences, and there's no need for Dora to be held responsible for Vicky's behaviour or the situation at hand (Male, 25-34 yrs, Torres Strait Islander, focus group participant).*

5.4.2 Factors influencing perceptions of Dora's accountability

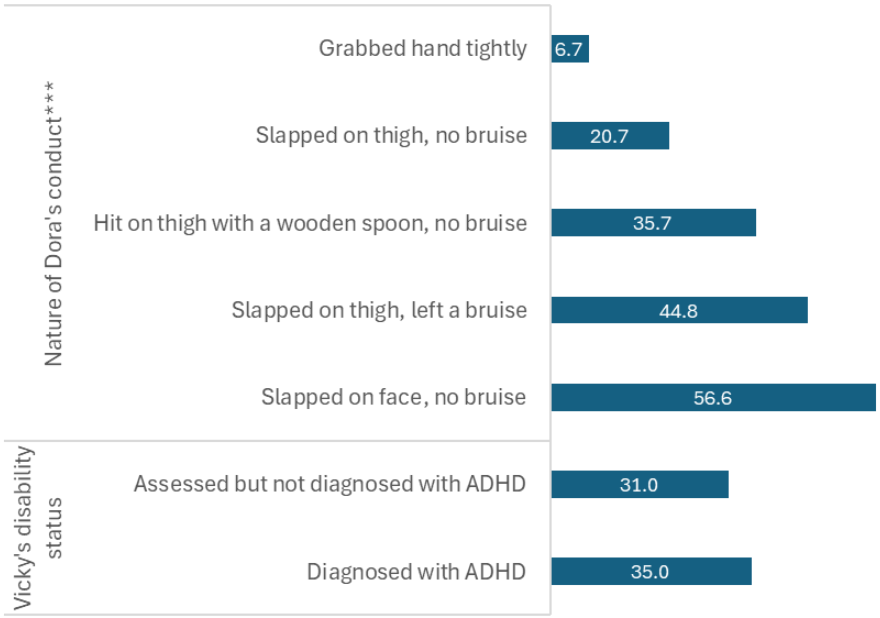
Analysis of the quantitative survey data identified that the nature of the violence and the injury inflicted on Vicky affected participants' views about Dora's culpability. As shown in Figure 5.4, after controlling for a range of other factors, participants who were told Dora had slapped Vicky on the face were the most likely to say she should be found guilty of assault (56.6%), followed by Vicky being slapped on the thigh, leaving a bruise (44.8%), hitting Vicky on the thigh with a wooden spoon (35.7%) and slapping Vicky on the thigh without leaving a bruise (20.7%). Participants who were told Dora had grabbed Vicky's hand tightly were by far the least likely to say that Dora should be found guilty of assault (6.7%). However, Vicky's disability status - whether she had or had not been diagnosed with ADHD - was not associated with participants' beliefs about Dora's level of culpability (OR = 0.79, p =0.128, 35.0% vs 31.0%).

As shown in Table F4 (Appendix F), there were a number of factors that influenced participants' views about Dora's level of culpability:

- *Country of birth:* participants born in non-English speaking countries (44.6%), were 1.4 times more likely to say Dora should be found guilty of assault than participants born in Australia (31.7%, OR = 50, $p < 0.05$), or in another English-speaking country (30.9%, OR = 0.48, $p < 0.05$).

- *Place of usual residence:* participants living in inner regional areas were less likely than those living in urban centres to say Dora should be found guilty of assault (24.2% vs 34.4%, OR = 0.54, $p < 0.01$).
- *Victim-blaming attitudes:* as victim-blaming attitudes increased, the likelihood of participants believing that Dora should be found guilty of assault decreased (OR = 0.72, $p < 0.05$).
- *Attitudes towards gendered impacts of DFV*: participants who disagreed that women and girls are more likely to be scared of their abusers than men and boys were more likely to believe that Dora should be found guilty of assault (42.0%), compared to participants who agreed with this statement (30.8%, OR = 0.54, $p < 0.01$) or neither agreed or disagreed (31.1%; OR = 0.55, $p < 0.05$).

Figure 5.4: Predicted probability that participant believed Dora should be found guilty of assault, by scenario characteristics (%) (weighted)



Note: Other controls included in the model are language spoken most of the time at home, country of birth, place of usual residence, Indigenous status, gender, age, highest level of education completed, level of socio-economic advantage, victimisation history (secondary, IPV and FV), and attitudes towards DFV. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 43) and who did not provide valid data for the variables included in the model (see Table F4).

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Consistent with the analysis of the quantitative survey data, many focus group participants felt the severity of the disciplinary act was relevant to whether Dora should be convicted of assault. These participants questioned the force and location of the slap and whether it had left a bruise/mark. For example, four focus group participants commented:

> *I think this one much more hinges on what exactly is a slap on the thigh. Some people's slap is someone else's quite violent assault is someone*

else's just mucking around type of thing. So, I think that actually is going to be very hard to take to court, because define 'slap' (Female, 45-54 yrs, non-Indigenous, focus group participant).

It depends on the severity of the hit to Vicky. If there was a bruise definitely that's an assault and an intent to harm (Female, 25-34 yrs, Trans/Non-binary, focus group participant)

I feel like the only thing that's relevant is the actual slap. So, both the harm incurred and the intention to incur harm. So, I mean, if Vicky's got thick pyjama bottoms on and the mother just sort of tap, you know, tap the thigh to sort of say, not OK. It's unlikely that the intention was to cause harm and it's unlikely that harm was caused. But if she's, you know, a big mother and a little child and she's got bare skin and the mothers really laid into her with this huge cracking slap that's left red marks on it. I mean, that to me is the only information that I would want and whether it actually caused harm (Female, 45-54 yrs, non-Indigenous, focus group participant).

Yes, I think it's all about the extent of the harm done. There could be psychological harm from being assaulted and there could be minor or major harm from being slapped? Was she slapped with a hand? Was she slapped with a wooden spoon? Whatever (Female, 65 yrs plus, non-Indigenous, focus group participant).

Perhaps unsurprisingly, for the majority of focus group participants, their perception of Dora's culpability intensified, if Dora used an implement, such as a wooden spoon or ruler, in physically disciplining Vicky. As demonstrated in the below quotes, most focus group participants felt this increased the severity of the abuse and, for some, it implied a degree of intent and planning.

It certainly shows that she was planning intent, whereas a slap could be a response to being sworn at and going and collecting a wooden spoon and walloping with a wooden spoon is completely different matter (Female, 65+ yrs, non-Indigenous, focus group participant).

Oh, yes, using an implement is unacceptable. That adds to the total of the wrongness (Male, 65 yrs plus, non-Indigenous, focus group participant).

There's more severity to that. And I think that that would definitely be a factor whilst not necessarily making it worthy of an assault charge, but at least investigation and support for the family and looking into (Female, 45-54 yrs, non-Indigenous, focus group participant).

If there was a bruise or particularly if an implement was used, that would definitely sway me to thinking that it wasn't more unacceptable, which would be swaying me towards, yeah, assault (Female, 45-54 yrs old, non-Indigenous, focus group participant).

Survey participants who were told that Dora had used a wooden spoon expressed similar views condemning the use of an implement:

An adult (even, especially, a parent) should not harm a child under any circumstances - especially with an instrument/weapon, such as a wooden spoon (Male, 45-54 years old, non-Indigenous, survey participant).

The use of an item to punish escalates the issue to assault. Other forms of punishment eg taking the phone would have been sufficient. Physical punishment isn't needed (Female, 25-34 years old, non-Indigenous, survey participant).

Interestingly, in their response to the question about why they thought Dora should or should not be charged with assault, a number of survey participants reflected on their own experiences of being disciplined by their parents with a wooden spoon and even using a similar implement on their own children. This was consistent for male and female participants. As demonstrated in the below quotes, these participants observed that they had not been 'harmed' by the use of these disciplinary methods on themselves, and saw them as a positive way to correct behaviour. All of the below participants believed that Dora should be found not guilty.

A parent should be able to discipline a minor --- A wooden spoon was a parent's way of saying -- behave!! In my day!!! (Female, 65+ yrs, non-Indigenous, survey participant).

I was hit with a wooden spoon on the bottom as a child and I still do not consider it to be assault or a crime to smack a child or hit with a wooden spoon. (Female, 45-54 yrs, non-Indigenous, survey participant).

This is discipline. I was disciplined this way and do not consider myself assaulted, I have respect for others too due to this (Female, 45-54 yrs, non-Indigenous, survey participant).

Because in my day if I challenged my parents and swore at them I got the wooden spoon or strap. No matter what circumstances (Male, 65+ yrs, non-Indigenous, survey participant).

Vicky needs to learn to listen to her parents. Whilst I don't condone the parents using violence, I was disciplined this way as a child and turned out fine. I don't believe the use of the wooden spoon should result in an assault charge, as it's quite minor (Male, 18-25 yrs, non-Indigenous, survey participant).

Although the analysis of the quantitative survey data found that Vicky's disability status was not associated with participants beliefs regarding Dora's culpability, several focus group participants said that it did impact their views. These participants acknowledged the challenges of parenting a child with ADHD, and the additional complexities this may present:

A little bit? It's like it's an extra complexity that makes, you know, it is a very difficult condition to manage. I have a child with ADHD and other things. It's especially, you know, if you don't have the support, it's quite challenging. And, you know, when you're not at your best, not that, like I

said, I [n]ever condone violence, but you can understand how a parent who doesn't have the support to deal with it may not parent in the most healthy way (Female, 35-44 yrs, non-Indigenous, focus group participant)

I think her diagnosis does come into consideration here, I think, because with ADHD, it is difficult to follow instructions, especially when it's something she really doesn't want to do. So, parents would need to incorporate different strategies (Female, 35-44 yrs, non-Indigenous, focus group participant).

It is difficult. I mean I don't have kids with ADHD, but I know they're a challenge (Female, 65 yrs plus, non-Indigenous, focus group participant).

Taking the phone would have been reasonable enough punishment, I would think. Yeah, but having said that, ADHD, I've got an ADHD grandson, and they're not easy (Female, 65 yrs plus, non-Indigenous, focus group participant).

As captured here, for a number of participants, their recognition of the complexities of parenting a child with ADHD also often led to an expressed understanding that parenting approaches may differ in such circumstances. Two other participants commented:

ADHD is difficult to parent ... There's not much support for ADHD. Her response could of [sic] been a different approach but, with ADHD, it's a different mindset (Female, 35-44 yrs, non-Indigenous, bisexual, focus group participant).

The diagnosis really plays a role, especially for the appropriate outcome. (Female, 25-34 yrs, non-Indigenous, focus group participant).

Mirroring the findings from the broader discussion throughout the focus groups on this scenario, a number of participants identified the need for the mother to be supported, as opposed to the need for a criminal legal system intervention. Two participants explained:

as someone with ADHD, who was probably undiagnosed as a kid and probably a bit of a nightmare. And I would hope that, within the system, there is built in, through social workers or something, where the family could be visited and offered that support, if it's just a mum at her wit's' end and a kid who is really struggling with ADHD, some community, a government form of just support or intervention that's not necessarily punishing, but offering support and help to a kid who's clearly struggling and a mum, the parents who are struggling, I would absolutely hope that that was the go-to before a criminal conviction or case (Female, 45-54 yrs, non-Indigenous, focus group participant).

Not that I condone it, but things are complex and, especially when you've got kids with complex needs, we don't know what other factors are compounding things ... I think the court directing them to do a parenting

course for ADHD or to engage with services to support them because potentially, if those things were in place, that wouldn't have happened. You know, and it would all depend on the parents' insight and the parents' willingness to engage, you know, what other factors were contributing? I just think that would more likely produce long-term change, rather than just a severe punishment. If anything, that would probably cause more stress (Female, 35-44 yrs, non-Indigenous, focus group participant).

5.5.4 Factors affecting culpability

Several survey and focus group participants remarked that, if it was a first-time offence, and there was no history of abuse within the family broadly and specifically between the mother and child, then a warning would be sufficient. Two focus group participants explained their reasoning, as follows:

So definitely this is an assault, but I don't think it should be too charged unless this is like the one of many, many incidents of a similar sort of thing. If this is the first time, I don't think it should result in a charge or sentence, but perhaps something like family intervention or education about other methods of parenting strategies (Female, 35-44 yrs, non-Indigenous, focus group participant).

I don't think she should have been found guilty. I think she should have been given a warning about what assault is and how it's illegal for her to put her hands on her children (Female, 65 yrs plus, non-Indigenous, focus group participant).

First of all, if I was considering the factors, I'd want to know if there'd been any other notifications, if this was a first offence, or if this was something that was ongoing in the family, that would definitely play into it for me (Female, 45-54 yrs, non-Indigenous, focus group participant).

I think history would be important, if there is a history in the family of any violence or reported incidents or police being called (Female, 45-54 yrs, non-Indigenous, focus group participant).

Echoing these views, several focus group participants recommended that Dora be given a warning. Another participant commented:

I don't think she should be charged with assault, although perhaps she should get a warning. And perhaps even behaviour management classes for the child or for the family, maybe something like that would be very helpful (Female, 65 yrs plus, non-Indigenous, focus group participant).

For another focus group participant, while the frequency of the discipline was relevant, she was of the view that attending a parenting course would be a better outcome than criminal legal system intervention:

I guess the only other thing is whether this is something that's happening all the time as well ... whether is this something that's an ongoing situation where child safety is already involved and things like that would also

probably impact what I would think were appropriate outcomes ... I think, if it was something that was a sustained pattern of behaviour then, yes, but I would still lean towards things like having to attend parenting courses would probably be a more practical outcome for everyone involved (Female, 45-54 yrs, non-Indigenous, focus group participant).

Building on this participant's remark, in considering the scenario, numerous participants identified that they did not agree with Vicky's treatment of Dora, but stopped short of supporting a punitive response. A number of participants suggested that an educational and/or social services-based intervention would be more useful in this scenario, than a criminal law-based intervention. For example, one participant explained:

I would also want to know what supports do the family have and what stressors does the family have? Because I think all of these things come into play. And like I said, not that I ever condone violence, especially against children, but I would want to know, yeah, is there a lot more going on in the family that they don't feel supported? They don't have the skills or the, you know, to feel, you know, to be able to provide consequences for the child without violence and things like that ... if Dora was more supported or the family was more supported, perhaps they would be able to use alternative means of discipline that aren't, you know, breaking the law (Female, 35-44 yrs, non-Indigenous, focus group participant).

Mirroring this view, several focus group participants remarked:

I don't think it should really lead to a sentence or even a charge, but more education at the stage (Female, 35-44 yrs, non-Indigenous, focus group participant).

I don't think it's an assault. I think it is a punishment. I just think her mum needs a bit of help coping with ways of punishing or showing Vicky it's not the right thing. There are better ways to do that ... I just would like to see her get some help because she's probably a very burnt-out mum, coming from a mum's point of view, but it's still no reason for hitting your kids and something should be done to make her look at other ways of punishment, but certainly not charged as guilty (Female, 65 yrs plus, non-Indigenous, focus group participant).

There'd be other things that would factor into my decision making. What supports are in place for the family? Has Mum done a parenting program? Are they linked in with support services? (Female, 45-54 yrs, non-Indigenous, focus group participant).

I also don't believe it's something that should be going through the court. If there is an ongoing concern, as someone said there, then, you know, a positive parenting sort of program, if there was something that was recommended, if there was a school intervention or something, then use ... I guess, a positive outcome, where there's going to be something learnt from

it. Rather than a pure punitive response (Male, 55-64 yrs, non-Indigenous, focus group participant).

Survey participants also shared this view. For example, three survey respondents commented:

> *I don't know the current laws around hitting your children in this way to discipline. I think if there is any charge against the parents it should be very minor as there is likely no significant harm against their child just by a slap with a wooden spoon. Just educating the parents of more effective ways to discipline (without any physical hitting) would be a good outcome (Male, 45-54 yrs, non-Indigenous, survey participant).*

> *Vicki is unable to defend herself against an adult and there are other parenting choices that are more effective. Additionally, she was hit hard enough to bruise, so even if physical punishment is considered ok by some parents, this was excessive. Sentencing however should focus on parenting education and ensure the parents have sufficient evidence about ADHD and transitions etc. It might also include recommendations for access to allied health professionals (eg OT, Speech Path, Psych) to support Vicki and her family (Female, 35-44 yrs, non-Indigenous, survey participant).*

> *Parents should be warned and educated about alternate methods of discipline. Assault charge is a bit much for the situation. But this is a slippery slope (Gender not provided, 35-44 yrs, non-Indigenous).*

Numerous responses demonstrated a level of empathy towards Dora in the scenario. Two other participants commented:

> *I don't know if this is one of those things where, if she is charged, I think she should be found not guilty because there were other things in play and it's a complex issue ... there would be no winners and I just think maybe compassion is needed (Non-binary, 45-54 yrs, focus group participant)*

> *A better outcome will be to have a conversation and clarify what is expected from both parts, establish boundaries and provide all the support for both of them to develop a relationship that is healthy and respectful, but not, I don't think any conviction or the criminal response (Female, 35-44 yrs, non-Indigenous, focus group participant).*

Beyond this, there were a number of focus group and survey participants, who felt that Dora's conduct did constitute assault, but that the system response should be educative, rather than punitive. Several focus group and survey participants commented:

> *I think in this circumstance, the slap was, ultimately, it was assault. But I think Dora being charged with assault wouldn't be fitting. I think there's other things in place such as one I'm aware of is the Triple P program so that's about helping families to work through different scenarios ... would probably be better off with a warning and then put forward to programs*

like the Triple P program (Female, 25-34 yrs, Aboriginal, focus group participant).

I would agree that it was assault as well ... the consequences of that assault might need to be considered in the realms of parenting and there was a medical condition for the child as well and potentially referring them to programs or a social worker might be a better outcome or consequence of that assault (Female, 45-54 yrs, non-Indigenous, focus group participant).

The parents need to understand that violence is not going to help. Parenting classes would also be if benefit (Female, 45-54 years old, non-Indigenous, survey participant).

Vicki is unable to defend herself against an adult and there are other parenting choices that are more effective. Additionally, she was hit hard enough to bruise, so even if physical punishment is considered ok by some parents, this was excessive. Sentencing however should focus on parenting education and ensure the parents have sufficient evidence about ADHD and transitions etc. It might also include recommendations for access to allied health professionals (eg OT, Speech Path, Psych) to support Vicky and her family (Female, 35-44 yrs, non-Indigenous, survey participant).

Extending this further, a smaller number of focus group participants discussed the potentially harmful nature of interactions with the criminal law, in explaining their views on why the response to this scenario should be outside the realms of the criminal justice system. For example, one focus group participant commented:

I don't think taking that through the court system is helping the mother or the child. I think that would be way more stressful to put the child through that than you would get a positive outlook. There's a negative outcome for both of them and ...I don't know what you'd achieve with that ... I think if you do go the assault route on these type of issues, you create far more bigger issues in the long run for the child and the parent than you've solved ... far more damaging to drag a child to court and make them feel guilty for their mother or father being in court (Female, 45-54 yrs, non-Indigenous, focus group participant).

In a similar vein, other participants also commented on the shortcomings of a criminal legal system intervention, in such a case:

I'm also not sure that having someone end up with a criminal conviction for poor parenting is a fantastic outcome for anyone. Vicky included. Whether there are actually alternatives around things like orders to attend parenting courses or things like that as opposed to just managing it in the criminal system (Female, 45-54 yrs, non-Indigenous, focus group participant).

There needs to be some way of children reporting to someone that they've been struck by a parent. But it doesn't necessarily have to be through the

criminal justice system, does it? I mean, Dora is obviously facing a lot of challenges with Vicky, who refuses to comply with the structure of the household and not watch videos on her phone and stuff at night. And, you know, Dora seems to be at a wits' end, if she's slapping Vicky. So, what recourse does Vicky have to get some kind of some kind of focus on the fact that she's been hit by a parent? (Female, 65 yrs plus, non-Indigenous, focus group participant).

Focus group and survey participants who believed that Dora should be charged with assault, were of the view that physical abuse towards a child can never be justified. They therefore did not appear to see the need for a defence of domestic discipline. This is demonstrated in the quotes below:

Dora's response to slap Vicky could be considered inappropriate and counterproductive and instead it would be more beneficial to use non-physical form of discipline, such as maybe removing the privilege and taking the phone away without slap ... And I do feel like that's guilty (Male, 25-34 yrs, non-Indigenous, focus group participant).

This is so hard because, unfortunately, we live in a world where people, parents, and again, this is my perspective, think that they can correct children with physical punishment. I don't have children, but I'm totally against it, because I don't think this is the way to deal with them (Female, 35-44 yrs, non-Indigenous, focus group participant).

This is domestic violence against a child and would be considered assault (Trans/Non-binary, 25-34 yrs, non-Indigenous, survey participant).

Physical assault of any kind especially on a child is wrong in any situation, they would be declared guilty (Female, 18-24 years, non-Indigenous, survey participant).

In explaining this viewpoint, survey and focus group participants referred to the impacts of physical assault on children and young people, not only in terms of immediate harms (e.g., injuries) but also for their understanding of the role of violence within relationships. As observed by the survey participant quoted below, violent or aggressive disciplinary actions may teach young people that these behaviours are appropriate for resolving conflicts within families. In turn this could lead to normalisation of IPV and FV within future relationships:

This is child abuse. It is never OK for any reasons to hit a child. As an adult role modelling is very important, this child will grow up thinking it is OK to assault someone when they argue (Female, 18-24 yrs, non-Indigenous, survey participant).

Building on this viewpoint, there were several participants who emphasised the need for a cultural shift, to ensure that parenting practices keep pace with community attitudes towards violence against children. For example, two participants explained:

> *Parents have to move from that old-school thinking and young people are very aware that it's not OK to be harmed in those ways by parents, by relatives, by anyone (Female, 65 yrs plus, non-Indigenous, focus group participant).*
>
> *I think, as Australia goes through that cultural change around, it's actually any form of violence [that] is actually not OK … At the end of the day, this is a slap on the thigh, where we may see that as a very low-level type of behaviour, because of our culture and our upbringing and those types of things. However, as we move into the 21st century, violence towards children is becoming less and less acceptable. So, it's hard to answer the question. Should the mum be charged? I don't think so. Should we stop smacking children? Yes. Is there a space in-between, where we can mitigate that while we get to that space? (Female, 35-44 yrs, non-Indigenous, focus group participant).*
>
> *I think that my perception is the status quo is that there is a push to slide back towards more punitive measures. And I think that we really need to take children's bodily autonomy and agency more seriously, especially if we think about future expectations (Female, 25-34 yrs, non-Indigenous, focus group participant).*

For this final participant quoted here, the pace of cultural change in this space has created complexity, in terms of the disjunct between community attitudes, current parenting practices and legal standards. She explained further:

> *no one wants to smack children, but we know that we come from a culture where we have engaged in that type of thing, that has been seen as being socially acceptable. So, I don't feel that the mum should be charged as a criminal, but I also feel that smacking children is not OK (Female, 35-44 yrs, non-Indigenous, focus group participant).*

This viewpoint, combined with the aforementioned attitudes on the importance of social supports and parenting programs, highlights the community support for non-punitive response in this scenario and the recognised need to provide a response, which may prevent future harm and support non-violent parenting practices. Although this was prevalent across the discussions, this perspective was particularly prominent in the context of parenting a child with ADHD and reinforces that the community would support approaches that help, rather than punish, parents and children who are struggling.

5.5 Scenario 5: A teacher lays hands on a student, who is not following directions in class

Scenario 5 was very similar to Scenario 4, the main difference being the setting of the altercation and the relationship between Vicky and the defendant. In Scenario 5, Vicky is a student attending class and similarly using her phone without permission. Davina, her teacher, asked her to put the phone away multiple times and Vicky ignored this, leading to an altercation between the two of them.

Again, the scenario was varied on two factors:

- *Impact of Vicky's behaviour on the class:* Vicky's use of her phone during class was described as either distracting her classmates or not distracting her classmates.
- *Nature of violence used by Davina:* Davina was described as either gripping Vicky's hand tightly to remove the phone or grabbing Vicky by the back of the shirt.

The scenario described above was only used in the survey. However, during focus group discussions, one of the ways in which Scenario 4 was manipulated was to change the relationship between Dora and Vicky from parent-child, to teacher-student. However, for focus group discussions Dora was still described as slapping Vicky on the thigh to punish her, whereas in the survey Davina was described as either grabbing Vicky by the back of the shirt or her hand to control her.

5.5.1 Community member views on whether Davina should be found guilty of an offence

Overall, 30.5 per cent of participants believed Davina should be found guilty of assaulting Vicky, while 69 per cent said she should be found not guilty and less than one per cent said they did not know what a suitable outcome would be.

In explaining why they believed that a conviction would be appropriate, both focus group and survey participants reflected that teachers have a professional role and have alternatives available to them in managing a student's defiant behaviour, including sending them to the school principal's office or calling their parents. As several participants commented:

> *You've got other teachers in a school that you can remove yourself from that frustration and situation and talk to the parents or whatever. You are not the child's parent and I don't think, as a teacher, there's any circumstance where hitting children is OK, (Female, 45-54 yrs, non-Indigenous, focus group participant).*
>
> *They shouldn't be punishing kids. So, my opinion would be a bit different, because teachers have been taught and should have been taught to contain themselves, maybe send it to the office, but I don't think corporal punishment in the school has any role (Female, 65 yrs plus, non-Indigenous, focus group participant).*
>
> *if there was bruising or anything from the teacher that would definitely in my books be an assault conviction ... it's not alright for a teacher to put hands on a child (Male, 35-44 yrs, non-Indigenous, focus group participant).*
>
> *If it was the teacher, there wouldn't be any doubt in my mind that there should be an assault charge. She's a professional. She's working to standards. She has a duty of care. It's just unacceptable behaviour. You can't strike a student under any circumstances. Her training should have*

provided her with other tools and other strategies. So yeah, that's not acceptable (Female, 45-54 yrs, non-Indigenous, focus group participant)

The teacher had no need to touch the student. The student should have been asked to leave the classroom if they weren't going to follow class rules (Female, 65+ years, non-Indigenous, survey participant).

She could have sent her to the office or out of the classroom. It's no different to a stranger doing it (Female, 35-44 yrs, Aboriginal, survey participant).

5.5.2 Factors influencing perceptions of Davina's accountability

Analysis of the quantitative survey data found that, after controlling for a range of other factors, the views of participants regarding Davina's culpability did not vary by the impact of Vicky's behaviour on her classmates (24.5% vs 31.9%, OR = 1.5, p =0.066) or the nature of the violence used by her teacher (25.1% vs 31.2%, OR = 1.4, p =0.123; see Figure 5.5).

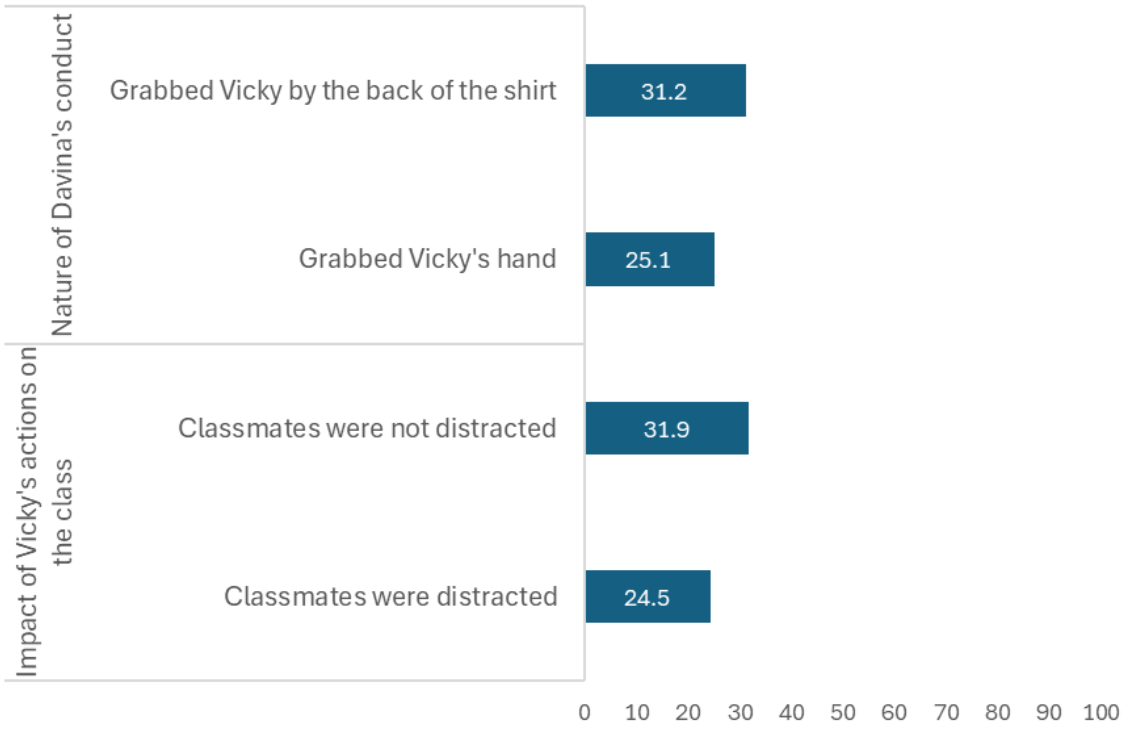
However, as demonstrated in Table F5 (Appendix F), a small number of other factors were associated with participants' beliefs about Davina's culpability:

- *Highest level of education completed:* compared to participants who had completed Year 12, participants who were university-educated were more likely to believe Davina should be found guilty of assault (20.0% vs 34.9%, OR = 2.3, p < 0.05).

- *SEIFA*: compared to participants living in Quartile 3 communities, those living in the most advantaged communities in Queensland (Quartile 5) were more likely to believe that Davina should be convicted of assault (32.9% vs 18.3%, OR = 0.43, p < 0.05).

Victimisation experiences were also associated with participants' beliefs about Davina's culpability, although these relationships were not always in the expected direction. Participants who had been subjected to IPV were more likely than participants who had not been subjected to these behaviours to say that Davina should be found guilty of assault (35.3% vs 25.3%, OR = 1.7, p < 0.05). However, participants who had experienced secondary victimisation (i.e., a family member or friend had been a victim of a violent crime) were *less* likely to say that Davina should be charged with assault (21.5% vs 31.1%, OR = 0.59, p < 0.05).

Figure 5.5: Predicted probability that participant believed Davina should be found guilty of assault, by scenario characteristics (%) (weighted)



Note: Other controls included in the model are language spoken most of the time at home, country of birth, place of usual residence, Indigenous status, gender, age, highest level of education completed, level of socio-economic advantage, victimisation history (secondary, IPV and FV). Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 4) and who did not provide valid data for the variables included in the model (see Table F5).

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Although the majority of survey participants believed that Davina should not be found guilty of assault, focus group participants had a different view. Throughout the focus groups, when the relationship between Vicky, the child victim, and the adult using violence was switched from a parent-child relationship to a teacher-child relationship, participants strongly condemned the actions of the teacher. Two focus group participants responded:

> *Not only did I have a gut reaction, thinking about my own son being disciplined in that way by a teacher, but just thinking about, I think that definitely a criminal intervention, of some sort ... I would be really frightened to allow that teacher to continue in that environment. If they're willing to do that, what else are they willing to do? What have they done? And it's just not acceptable (Female, 25-34 yrs, non-Indigenous, focus group participant).*

100%. They shouldn't be teaching (Female, 25-34 yrs, non-Indigenous, focus group participant).

The differences in the view of focus group participants is likely due to the different scenario they were provided compared to survey participants; while survey participants were told that the teacher had grabbed Vicky's hand or the back of her shirt for the purpose of controlling her, focus group participants were told that she had slapped Vicky on the thigh for the purpose of punishing her. What this suggests is that the level of force used by teachers, and their purpose for using physical force, influenced community members' perceptions of Davina's culpability. In cases where a teacher uses minor physical force for the purpose of controlling a situation, community members were much more lenient, compared to situations where they strike a student for the purpose of punishing them.

This interpretation of the data is supported by the views of focus group participants who found the idea of a teacher physically disciplining a child other than their own as deeply troubling, making explicit reference to 'hitting' as unacceptable to their minds:

The child isn't her child … I don't think she should hit any child and she's a professional, so she should have better approach to a child's tantrum (Female, 25-34 yrs, Aboriginal, focus group participant)

The teacher will be guilty then, because you don't have rights to lay your hands on someone's child … If you're the teacher, you have no right to inflict any pain on the students (Male, 18-24 yrs, Aboriginal, focus group participant).

I might be able to hit my child, but no one else can, just for a misdemeanour like that. But maybe, yeah, yeah, that gets a bit tricky. But I'd want something done for sure, as a mum. No one has any right to hit my child when there are many other ways of doing and yeah (Female, 65 yrs old, non-Indigenous, focus group participant).

Interestingly, across the focus groups, a number of older participants recounted instances, where they had physical discipline used on them or others during their own school experience. However, there was a clear view among those participants and others that this was an outdated approach and that the use of physical discipline, which again was described as striking a child, in schools was no longer in line with community expectations. One participant commented:

Yes, it's assault. I know this scenario very well. I know it in real life. So, certainly, the teacher has an absolute responsibility not to slap a child, even touch a child unintentionally and that teacher has to face the consequences of behaving badly and, even if she was sworn at, there's no provocation if you're a teacher. That's day-to-day business and it needs to be managed well (Female, 65 yrs plus, non-Indigenous, focus group participant).

We note that there were some focus group participants, who denounced the use of physical discipline towards a child in any context. This viewpoint is well captured in the following three participant quotes:

> *For me it [changing the relationship from child-parent to teacher-child] doesn't change anything. If an adult causes harm, intends to cause harm or creates fear of harm in a child, it is the same, whether it is a parent or a teacher or a stranger (Female, 45-54 yrs, non-Indigenous, focus group participant).*
>
> *Why is it OK to hit children within a family? And why is it not - absolutely socially unacceptable to hit children if they're in a school setting? And it's a different type of adult. It's still an adult perpetrating the same behaviour. So it is, it's absolutely not OK I think on both levels, but it's not until you look at it through a different lens that, if it's a different adult perpetrating that against a child, totally unacceptable, then it is still within the family. Even though it's a slap on the thigh, it's still totally unacceptable as a form of behaviour and punishment ... I think that maybe we will need that cultural shift to go, OK, well if you are going to slap children in the home in a domestic setting, it's just as bad as doing that for any other adult outside of that setting (Female, 35-44 yrs, non-Indigenous, focus group participant).*
>
> *For me, it's the same. It's assault for the mother, assault for the teacher. (female, 35-44 yrs, non-Indigenous, focus group participant).*

These participants were of the firm view that, regardless of the context within which discipline of this nature occurs, and whether it is used by a parent or teacher, that there should be no defence of domestic discipline available.

6. Attitudes towards the use of defences in cases of homicide

In this section, we analyse Queensland community members' attitudes towards the use of defences in cases of homicide - specifically, the complete defence of self-defence, the partial defence of killing for preservation, and the partial defence of provocation. Attitudes towards the use of these defences were examined in the survey and focus groups across three scenarios:

- Scenario 6: A primary victim of DFV kills the perpetrator (self-defence and killing for preservation),
- Scenario 7: Victim of sexual assault who kills the perpetrator (self-defence and provocation), and
- Scenario 8: An intimate partner kills their spouse, who they believe is having an affair (provocation).

6.1 Scenario 6: A primary victim of DFV kills their abusive partner

This scenario was specifically testing community attitudes towards the use of self-defence, as a full defence to the charge of murder, and killing for preservation, a partial defence leading to a manslaughter conviction. The scenario was used in the survey, and some of the focus groups.

The scenario involved a female victim-survivor of DFV (Diana), killing the primary perpetrator (Vernon), after being subjected to abuse for a number of years. Diana's use of lethal violence followed an argument between the two, where Vernon slapped Diana and called her worthless.

The scenario was manipulated on four key variables:

- *the nature of the abuse within the intimate partner relationship:* Participants were told that Diana was either subjected to physical violence or non-physical forms of abuse;
- *the outcomes of any police engagement with the couple:* Diana's friends and family members sometimes called the police to report the abuse, but Diana was described as either choosing not to make a statement or making a statement and the report not being actioned by the police;
- *the nature of the threat to kill:* In one of the manipulated variables, participants were told that, during the incident that immediately preceded the lethal violence, Vernon told Diana that 'no one would miss her if she was gone'; and
- *the timing of the defendant's use of lethal violence*: participants were told that, after the argument between Diana and Vernon, Diana either immediately grabbed a knife from the kitchen island and stabbed Vernon to death or she waited until later in the evening when he was asleep in bed before killing him.

6.1.1 Community member views on whether Diana should be found guilty of an offence

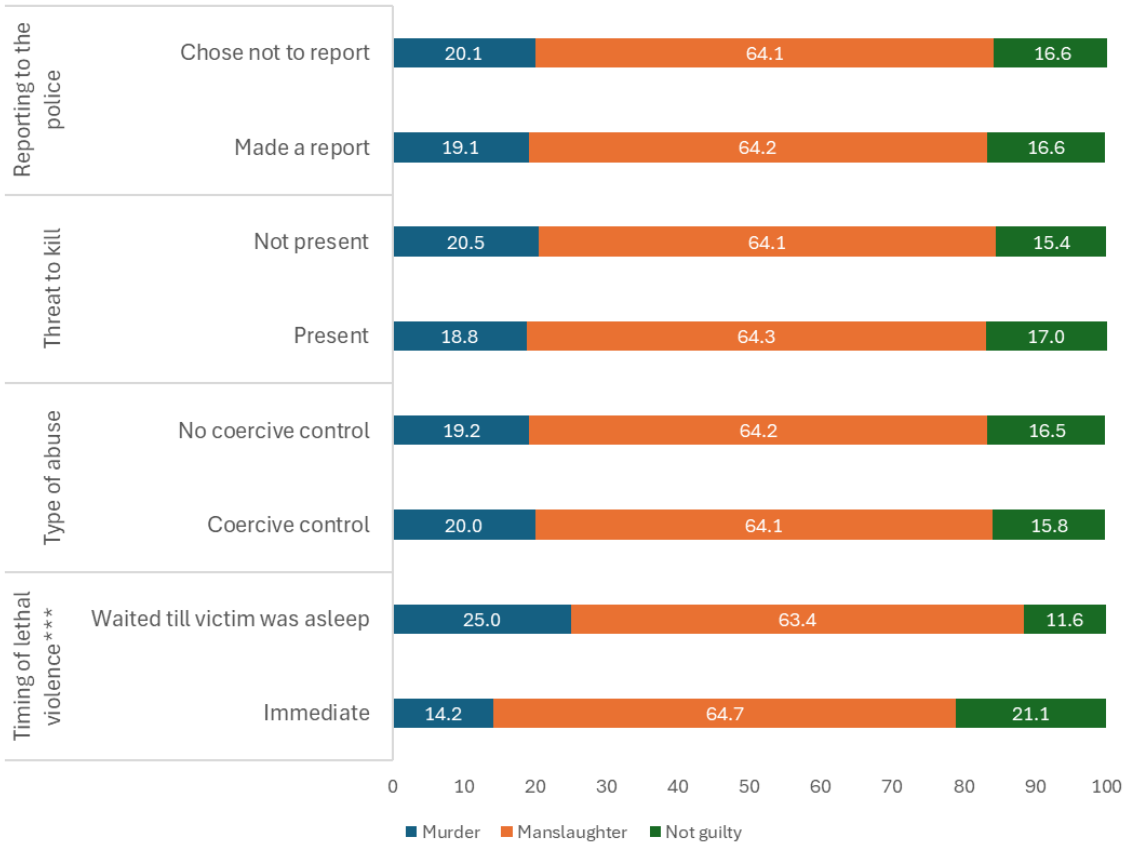
Overall, 19.2 per cent of survey participants believed that, if Diana's case went to court, the outcome should be a finding of guilty of murder. By contrast, 64.0 per cent said Diana should be found guilty of manslaughter, 15.6 per cent said she should be found not guilty, and 1.3 per cent said that they did not know what an appropriate outcome would be.

6.1.2 Factors influencing perceptions of Diana's level of accountability

As demonstrated in Figure 6.1, there were several factors that influenced participants' views regarding Diana's accountability. Importantly, the imminence of lethal violence was associated with participants' perspectives on the appropriate outcome. Participants who were told Diana killed Vernon immediately after their argument were more likely to downgrade the conviction to manslaughter or consider her not guilty, compared to participants who were told that Diana waited for Vernon to fall asleep (OR = 2.2, $p < 0.001$). Further, 25 per cent of participants, who were told Diana had killed Vernon while he was asleep said she should be found guilty of murder, but this reduced to 14.2 per cent among those, who received the scenario where Diana killed Donald immediately following their argument.

The nature of the abuse Diana was subjected to (OR = 0.94, p =0.593) and whether Diana had made a statement to the police previously (OR = 1.1, p =0.521) or Vernon had threatened to kill Diana in the lead-up to her use of lethal violence (OR = 1.1, p =0.266) were not related to conviction outcome. What this tells us is that imminence was independently associated with conviction outcome, regardless of these other factors.

Figure 6.1: Predicted probability of Diana being found guilty of murder, manslaughter or not guilty of any offence, by characteristic of the scenario (%) (weighted)



Note: Other controls included in the model are language spoken most of the time at home, country of birth, place of usual residence, Aboriginal and Torres Strait Islander status, gender, age, highest level of education completed, level of socio-economic advantage, victimisation history and attitudes towards DFV. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 32) and who did not provide valid data for the variables included in the model (see Appendix F, Table F6).

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

The views of participants about the appropriate outcome for this case varied on the basis of a range of socio-demographic variables, as follows:

- *Gender:* compared to men, women were less likely to believe Diana should be found guilty of murder (OR = 1.5, $p < 0.01$);
- *Age:* compared to those aged 18-24, participants who were older (55 years and over) were less likely to say Diana should be found guilty of murder;
- *Highest level of education completed:* Participants who had not completed Year 12 level education were less likely to say that Diana should be found guilty of murder, compared to participants who had completed Year 12 (14.2% vs 22.1%; OR = 0.56, $p < 0.001$) or university (14.2% vs 21.8%, OR = 0.57, $p < 0.01$);

- *IPV victimisation history:* Participants who were victim-survivors of IPV were less likely to believe Diana should be found guilty of murder, compared to participants who had not been subjected to these behaviours (15.8% vs 21.0%, OR = 1.5, $p < 0.01$);

DFV attitudes were also associated with perceptions of Diana's culpability. As victim-blaming attitudes increased, the likelihood that the participant believed Diana should be found guilty of manslaughter or not guilty decreased (OR =0.59, $p < 0.001$). However, there was no relationship between minimising attitudes or understanding of the impacts of non-physical forms of DFV and the gendered impacts of DFV and perceptions of Diana's culpability (see Appendix F, Table F6).

Again, the analysis of the focus group and qualitative survey data provides some useful information to contextualise the above findings. In particular, many participants who were told that Diana waited until Vernon was asleep before killing him said that the gap between the preceding argument and her killing him meant that it appeared to be premeditated (i.e., she developed a plan for killing Vernon). On this basis, they believed she had a higher level of culpability compared to if she had responded immediately following the argument. Several survey participants also referred to Vernon being asleep as meaning that he was vulnerable, and so could not protect himself. This appeared to undermine the extent to which Diana's conduct could be viewed as defensive, as at time of the lethal violence, Vernon did not pose a threat to Diana. This is highlighted in the below quotes from survey participants:

> *Her clear intention was to kill Vernon and she waited until he was vulnerable and unable to retaliate to do it. I would hope the abuse she endured would be a mitigating factor in sentencing though (Female, 45-54 yrs, non-Indigenous, survey participant)*
>
> *Diana chose to attack a sleeping person rather than leave; she was not defending herself in the moment (Trans/Non-binary, 35-44 yrs, Indigenous status not provided, survey participant).*
>
> *There are mitigating circumstances so not murder. However she waited until he was asleep then killed him so not self defence (Male, 55-64 yrs, non-Indigenous, survey participant).*
>
> *I think that the abuse leading up to the incident should be considered as a reason for a lesser sentence, however, Diana decided to kill him while he was asleep and not in some sort of "self-defence", therefore it was a premeditated murder (Female, 35-44 yrs, non-Indigenous, survey participant).*

However, as demonstrated in the above quotes, the history of abuse was considered as mitigating her responsibility, which often led participants to downgrade her charge to manslaughter.

Another factor that influenced participants' perceptions of Diana's culpability was whether they believed she had other options, besides killing Vernon. Many participants said that Diana could have left the relationship instead of remaining with Vernon, or

could have reported her experiences to the police or other services. These views were particularly common when participants were told that Diana had waited until Vernon was asleep before killing him. In this scenario, survey participants often suggested that instead of killing him, she could have used the time he was asleep to escape the house and seek help from the police or DFV services.

These views were still present even when participants were told Diana had reported the abuse to the police and nothing had happened.

> *Even though she has been a victim of abuse in a relationship she still committed a crime that wasn't immediate self defence. She could have opted to leave when he went to bed instead of killing him (Female, 25-34 yrs, non-Indigenous, survey participant).*
>
> *Although Diana has been abused for some years by the grub surely she had other options, 1- could she have left. 2 - could she have made her case to the Police, 3- could she have spoken to friends or the many organizations available today. All she did was ruin her own life and lower herself to the grubs level (Male, 65+ yrs, non-Indigenous, survey participant).*
>
> *As much as it was a defence tactic and she felt like she had to in order to protect herself, she still killed someone. I think with the amount of the threats towards her, it lowers the seriousness of the attack a little bit, as it was somewhat in defence. But the biggest problem is that he was asleep when she did it, he had no way to protect himself either. I think no one deserves to die., if the police had done their job correctly, he would've been in jail for his abuse towards her (Female, 18-24 yrs, non-Indigenous, survey participant).*
>
> *it's not an unprovoked attack. But it doesn't change the fact that she could have left the relationship and she still took a life (Male, 35-44 yrs, non-Indigenous, survey participant).*

However, perceptions about Diana being culpable of murder, because she could have 'just left', and she killed Vernon while he was asleep and so was perceived as not posing any immediate threat to her, were challenged by participants who were victim-survivors of IPV. These participants highlighted that Diana may not have felt that she could leave safely and that she used lethal violence as a last resort to protect herself. These participants drew on their own experiences of abuse to inform their responses, sometimes drawing direct comparisons between themselves and the scenario. This is reflected in the following quotes:

> *She felt trapped and knew the abuse would not stop even after she left. He would go after her and the result would end up with her being seriously injured or killed (Female, 45-54 years old, non-Indigenous, survey participant).*
>
> *It would never stop, so she has stopped it by standing up for herself, but she has still killed someone. I wish there were a charge in-between*

manslaughter and self defence (Female, 35-44 years old, non-Indigenous, survey participant).

Her actions were that of self-preservation after extended abuse, she may feel that this is the only way she can end the abuse (which there is evidence of given that police have been involved historically and not enough has been done to protect her/end the abuse) (Female, Aboriginal, 25-34 years old, survey participant).

The constant trauma, violence and fear changes one's normal thought process causing them to be in a constant state of fear. The brain never stops replaying everything over and over plus constantly thinking about one's own actions so not to trigger the violent partner, so in affect [sic], one is also dealing with PTSD on a daily basis and therefore has developed a mental health condition and is operating on survival mode every second of the day and night in constant wait for the next violation. Constant thoughts of how can I get out of this situation? Suicide? I can't run. I'll be caught and dragged back. What about the kids. I don't know what to do. My friends and family don't understand what's going on or how bad it actually is. You're in fight or flight mode constantly. Then, ok, my only option is to kill them to make it all stop (Female, 55-64 years old, Aboriginal, survey participant).

The fact that he was asleep is a sign of her extreme fear for her life. And the way, like that is how I imagine it. That was the only way to do it, to escape the situation for her, especially also with like the family and friends in the past calling the police, her not making a statement, another sign of fear and being in that entrapment (Female, 25-34 yrs, non-Indigenous, focus group participant).

Interestingly, some focus group participants who disclosed lived experience of DFV, while acknowledging the challenges Diana would have faced leaving the abusive relationship, still believed that she had other options available to her than the use of lethal violence. Reflecting on their own experiences of leaving an abuser, these participants reflected that there were more supports available now than previously and that Diana could have received help if she wanted it. However, this view was only held by a minority and was often strongly contested by other victim-survivors present in the focus groups who reflected that they had had very negative experiences engaging with the family law and criminal justice systems which they did not believe prioritised the safety of victim-survivors. Victim-survivors spoke about 'system failures' which had likely led to Diana feeling like she had no other option but to kill Vernon. This is demonstrated in the below quotes from focus group and survey participants with lived experience of IPV:

I don't think they [the law] take it seriously enough. A lot of people say, everyone's saying that this is such a serious matter. We should all be taking it seriously. And it just feels like the least people that are taking it seriously unfortunately are some lawyers in the courts in general, the police, and that's been my experience. I have a DVO. I actually feel protected. However, when that's up next year, I am absolutely terrified because I do not believe

> *that the police are going to protect me. I don't believe…I don't believe that the courts are going to protect me and I am absolutely terrified when that DVO is up because it has worked in my case. I think that there is a systemic failure, absolutely. I… the police blame it on the courts and courts sort of blame it on the police (Non-binary, 45-54 yrs, non-Indigenous, focus group participant).*
>
> *Recognising the difficulty in accessing support and the monitoring, there were times family attempted to intervene. It's still by definition manslaughter and it is a government, community and family issue to come together and provide safe solutions for women needing to escape abuse rather than feeling they have no other option than to take such drastic action (Male, 35-44 yrs, Aboriginal, survey participant).*
>
> *Unfortunately the lack of urgency to protect victims of DV in the justice system has led to Diana protecting herself, however she did still kill someone so it would have to be taken into consideration as self defence (Female, 25-34 yrs, non-Indigenous, survey participant).*
>
> *Because there are so many times when the SYSTEM fails and witnesses choose to fence sit, she doesn't deserve to undergo such abuse and he won't ever stop abusing (Female, 55-64 yrs, non-Indigenous, survey participant).*

Consistent with the findings from the analysis of the quantitative survey data, survey participants did not place much importance on whether or not Vernon threatened to kill Diana, when determining her level of culpability. Even when participants were not told that Vernon had threatened to kill Diana, several mentioned that Diana was likely still afraid for her life, because of the previous abuse she had been subjected to. As such, an immediate verbal threat was not deemed relevant. However, for other participants, who were told that Vernon had threatened to kill Diana, there were mixed views about the interpretation of the threat and whether it could reasonably be viewed as legitimate.

Similarly, the nature of the abuse that Diana was subjected to was also not viewed as important by most focus group participants, who noted that both physical and non-physical forms of abuse can have significant and detrimental effects on victim-survivors. As one focus group participant argued:

> *I think the psychological abuse or coercive control, whatever you want to frame it, is as harmful as physical abuse. I'm not here saying one is worse than other or sexual violence as well, but they have all really harmful impacts on victims. So, for me, no, it shouldn't be accounted (Female, 35-44 yrs, non-Indigenous, focus group participant).*

Another focus group participant who was herself a victim-survivor of IPV similarly reflected:

> *I know myself, like basically every single other woman that I've met along the way in refuges and all sorts of things who've gone to DV, even the women have gone to the most horrendous extreme forms of violence, A lot*

of them, and including me, it's not uncommon to hear that people would say it's the emotional and psychological abuse that is the most harmful and scarring and difficult to overcome. Everyone's journey is unique and different there is a lot of people out there who think that this is the more harder part (Female, 35-44 yrs, non-indigenous, focus group participant).

Finally, several focus group participants and survey participants noted that their determination about what an appropriate outcome would be was informed by their understanding of the Queensland criminal justice system and what they thought would be a *likely* outcome if the matter went to court, rather than what they thought *should* happen. As demonstrated through the quotes below, several participants believed that the court system *would* hold Diana responsible for killing Vernon and imprison her, even though they did not think that was an appropriate outcome in this case. These comments highlight this perspective:

The ongoing psychological abuse and now physical abuse pushed Diana to her limits and she lost control of her emotions. This should be taken into consideration in the court of law. On personal judgement I would however say that Diana should walk free as her partner was a cruel monster (Female, 45-54 years old, non-Indigenous, survey participant).

I don't think it's an appropriate outcome. I don't think she should be charged at all. But I believe she would be charged the way our system works (Female, 55-64 years old, non-Indigenous, survey participant).

I would prefer she would be found non guilty, due to defending herself, however this is not how our judicial system works. Also, taking someone's life should still be deemed punishable, however a reduced sentence due to circumstances (Female, 25-34 years old, non-Indigenous, survey participant).

OK, I've got lots to say. The system really is difficult because as someone that survived and my situation was messy, I can honestly say that the court system, black and whiteness of it all, I would say that it's probably manslaughter, but with extreme circumstances (Female, 35-44 yrs, non-indigenous, focus group participant).

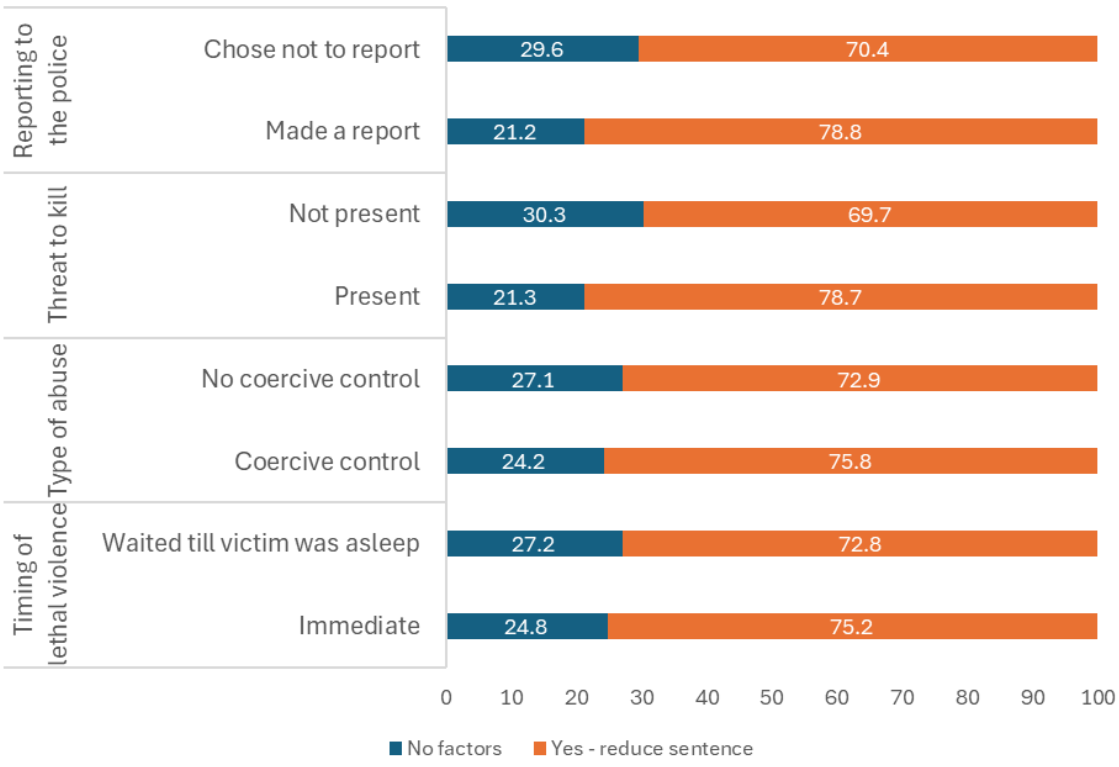
6.1.3 Factors affecting Diana's sentence for murder

Survey participants who said that Diana should be found guilty of murder were then asked whether there were any factors that should increase her sentence (i.e., aggravating factors) or reduce her sentence (i.e., mitigating factors). Participants who said she should be found guilty of manslaughter were not asked about mitigating or aggravating factors that should affect her sentence.

Of participants who said Diana should be found guilty of murder, 72.3 per cent said there were factors that they believed should be taken into account and reduce her sentence. In comparison, only 2.8 per cent said that there were factors that should increase her sentence. As shown in Figure 6.2, a larger proportion of participants who were told that Vernon had threatened to kill Diana said that Diana's sentence should be reduced (78.7% vs 69.7%, $F(1) = 4.974$, $p = 0.065$), as did participants who were told that

Diana had made a report to the police (78.8% vs 70.4%, $F(1) = 4.316$, $p = 0.083$), but these differences were not statistically significant. There was similarly no difference in the views of participants, depending on the timing of Diana's use of lethal violence ($F(1) = 0.314$, $p = 0.638$) or the nature of the abuse she was subjected to ($F(1) = 0.529$, $p = 0.546$).

Figure 6.2: Participants' views about whether there are any factors that should reduce or increase Diana's sentence for murder (%) (weighted)



Note: Sample limited to participants who had said Diana should be found guilty of murder. Participants who said there were aggravating factors present were excluded from the analysis due to small cell sizes.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

The most common mitigating factor that was identified by survey and focus group participants was again the abuse Vernon perpetrated against Diana. As such, although participants believed that Diana should be found guilty of murder, they still believed that her experiences of abuse should be taken into consideration when sentencing. Some participants went on to explain their thinking, by suggesting that the abuse would have affected Diana's mental state, reducing her culpability. This is reflected in the following quotes:

> *Being abused for so long probably altered her mental state (Female, 18-24 years, non-Indigenous, survey participant).*

Existing emotional distress causing mental health issues may come into play to possibly reduce the sentence. I believe the jury would be compassionate to the previous abuse factors (Female, 35-44 years old, non-Indigenous, survey participant).

Ongoing abuse should be a mitigating factor as it likely impacted her mental capacity (Male, 25-34 years old, non-Indigenous, survey participant).

It could be reduced if it was found she was not of sound mind after taking the abuse (Female, 25-34 years old, non-Indigenous, survey participant).

The ongoing abuse is likely to have implications in her mental state and moral boundaries (Male, 55-64 years, non-Indigenous, survey participant).

Others highlighted that Diana likely felt trapped within the relationship and that she would not reach out to the authorities, either because she had either not disclosed the abuse during previous incidents, when the police attended, or had lost faith in the police, because she had reported and nothing had happened. This is illustrated by the following quotes:

The lack of intervention by police, the lack of support and available options to leave may have left the victim of abuse feeling with no other option to stop the suffering. Had the system of supports been in place (well communicated, well-funded, and not simply reactive and complacent) then the murder would have easily been avoided (Male, 35-44 years, non-Indigenous, survey participant).

In many US States there's a Battered Wife's clause which gives weight to the amount of abuse and provocation that preceded the killing. It would seem the police have let her down in the past which led her to feel unprotected, alone and that she had no choice but to take things into her own hands (Female, 65+ years, non-Indigenous, survey participant).

For the small number of survey participants who believed there were factors in the case which aggravated Diana's sentence, the primary factors identified were Vernon's defencelessness (if he was asleep when she killed him) and/or the level of pre-planning.

6.2 Scenario 7: Victim of sexual assault who kills the perpetrator

The second homicide scenario presented in the survey described a scenario involving Daisy (the defendant) and Vaughan (the victim). Daisy went to Vaughan's place, after seeing each other on a night out. While there, Vaughan made a pass at Daisy, which led to an emotional response and her subsequently killing Vaughan. The scenario was manipulated on the following four factors:

- *Daisy's gender*: Daisy was described as either a cisgender female, or a trans female. In the scenario where Daisy was transgender, Vaughan was aware of her gender identity.
- *Vaughan's conduct*: Vaughan was described as either pinning Daisy to the counter and attempting to take her pants off, or as grabbing her on the bottom.
- *Daisy's emotional state:* In response to Vaughan's actions (pinning her to the counter or grabbing her on the bottom), Daisy was described as either being frightened or angry.
- *Lethal violence method:* Daisy was described as either grabbing a knife from the knife block on the counter and stabbing Vaughan or bashing him over the head with a wine bottle.

Depending on the scenario that survey participants received, this scenario tested attitudes regarding the use of self-defence, as a full defence to a charge of murder, or the partial defence of provocation. This scenario was not used in any of the focus groups.

6.2.1 Community member views on whether Daisy should be found guilty of an offence

Overall, 19.3 per cent of participants believed that, if Daisy's case went to court, the outcome should be a finding of guilty of murder. Meanwhile, 57.9 per cent said Daisy should be found guilty of manslaughter, 21.2 per cent said she should be found not guilty, and 1.6 per cent said they were not sure.

6.2.2 Factors influencing perceptions of Daisy's level of accountability

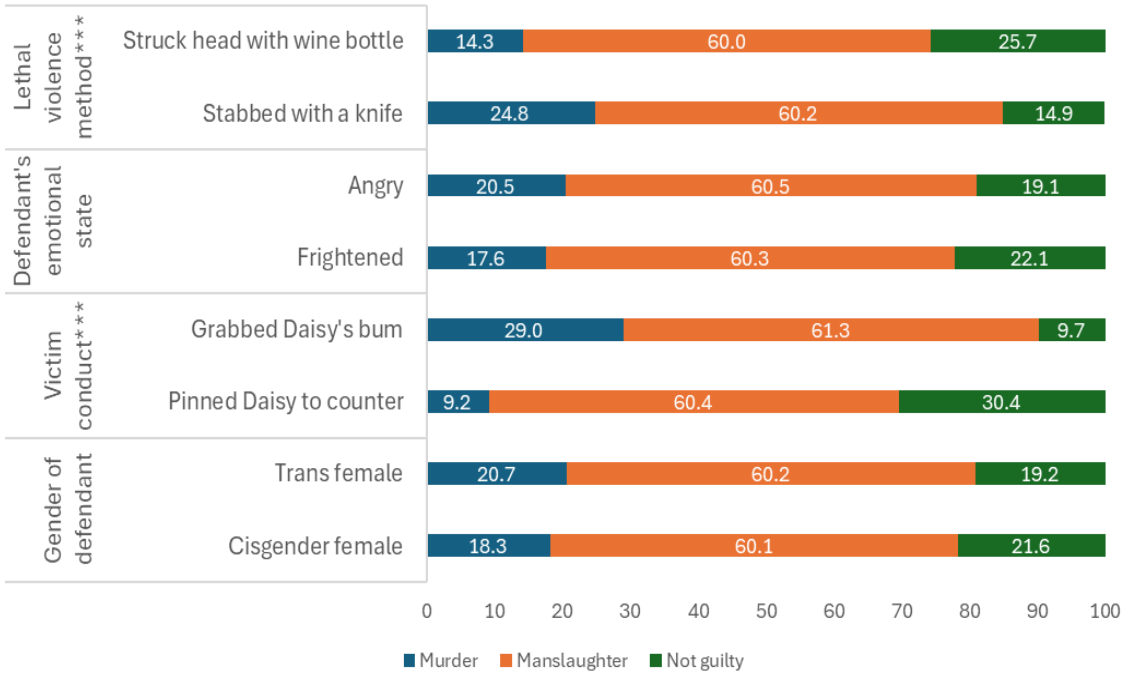
As set out in Figure 6.3, participants who were told that Vaughan grabbed Daisy on the bottom were less likely to say that Daisy should be found guilty of murder, compared to participants who were told he had pinned her to the counter and started to take off her underwear (OR=0.23, $p < 0.001$). Further, participants who were told that Daisy had struck Vaughan over the head with a wine bottle, rather than stabbing him to death with a knife, were more likely to say Daisy should be found guilty of a lesser charge (i.e., manslaughter or not guilty; OR=2.1, $p < 0.001$). However, Daisy's gender (OR = 1.2, p =0.102) and her emotional state at time of the lethal violence were not related to participant's views about Daisy's accountability (OR = 0.81, p =0.077).

Participant views of Daisy's level of culpability were not influenced by their sociodemographic characteristics, including gender, age, Aboriginal and Torres Strait Islander status and education level (see Appendix F, Table F7).

However, participants' beliefs were influenced by their victimisation history, although not always in the expected direction. Although participants who had been subjected to DFV were more likely to say Daisy should be found guilty of the lesser charge of (manslaughter) or not guilty (OR = 1.3, p <0.05), this relationship was reversed for participants who had been subjected to IPV. Participants who had been subjected to IPV were less likely to say that Daisy should be found guilty of manslaughter or not guilty, compared to participants who had not been subjected to IPV (OR = 0.74, $p <$ 0.05).

Victim-blaming attitudes were also associated with participant views about Daisy's culpability. As victim-blaming attitudes increased, so too did the likelihood that participants believed that Daisy should be found guilty of murder (OR = 0.68, $p < 0.01$). However, minimising attitudes (OR = 0.76, p =0.074), understanding of the impacts of non-physical forms of DFV and the gendered impacts of DFV were not associated with participant beliefs.

Figure 6.3: Predicted probability of Daisy being found guilty or murder, manslaughter or not guilty of any offence, by characteristic of the scenario (%) (weighted)



Note: Other controls included in the model are language spoken most of the time at home, country of birth, place of usual residence, Indigenous status, gender, age, highest level of education completed, level of socio-economic advantage, victim-blaming attitudes, minimising attitudes. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 39) and who did not provide valid data for the variables included in the model (see Appendix F, Table F7).

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

The findings from the analysis of the quantitative survey data are supported by the qualitative survey data. When asked why they believed a conviction of manslaughter or a finding of not guilty would be appropriate in this case, participants often referred to Vaughan's behaviours as leading to Daisy using violence to defend herself and stop him from continuing his assault on her. These comments illustrate these perspectives:

> *Daisy did not go with Vaughan with the intention of killing him. Vaughan's death was due to a combination of circumstances where he invoked fear in Daisy, did not respect her wishes and physically trapped her. Daisy grabbed whatever was in reach to use to protect herself (Female, 55-64 yrs, non-Indigenous, survey participant).*

> *it was in self-defence, to avoid being sexually assaulted, so I believe she had the right to physically retaliate, although perhaps kicking or kneeing him in the groin would have been a better option than using a knife (Male, 18-24 yrs, non-Indigenous, survey participant).*
>
> *Because Daisy was being physically assaulted/attacked at the time and presumably didn't intend to kill him; rather, she was just trying to escape and avoid getting assaulted herself. So, her attack was provoked by a desperate attempt to protect herself from immediate danger (Female, 35-44 yrs. non-Indigenous, survey participant).*

However, consistent with the quantitative findings, survey participants were more likely to say that Daisy was defending herself, when Vaughan was described as pinning her against the counter, rather than just pinching her bottom. In the latter scenario, while acknowledging Daisy's right to stop Vaughan from harassing her and escalating his unwanted advances, several participants also suggested that Daisy may have overreacted and been excessive in her use of force:

> *It's difficult without further context, as we don't yet know the level of participation from both parties. I also initially felt that Daisy greatly overreacted from the short story. A pinch on the bum or kiss, in my view, is not a death penalty (Male, 55-64 yrs, non-Indigenous, survey participant).*
>
> *Because Daisy is defending herself from sexual harassment, but she has overdone the level of her defence (Male, 25-34 yrs, non-Indigenous, survey participant).*
>
> *There is insufficient information to determine exactly how much danger Daisy was actually in, so there is the possibility she over-reacted & as such, left Vaughan to die (Female, 55-64 yrs, non-Indigenous, survey participant).*

In this context, it is worth noting that some jurisdictions have a partial defence of excessive self-defence, ie another partial defence to murder resulting in a manslaughter conviction, where the defendant's response is not a reasonable response to the level of threat (see eg *Crimes Act 1900* (NSW), s. 421; *Criminal Law Consolidation Act 1935* (SA), s. 15)).

As noted in the above quotes, participants wanted to know more information about the scenario, regarding the perceived threat posed to Daisy, including her emotional state, to determine whether she was acting in self-defence.

The perceived spontaneity of Daisy's actions also appeared to contribute to participants' views that she was acting in self-defence and/or under provocation and should therefore be found not guilty or guilty of manslaughter, respectively. Although Daisy's lack of intent was noted by many participants, regardless of the lethal violence method, it was more commonly referred to by those who had been told she hit Vaughan over the head with a wine bottle. This perhaps explains the previous finding from the analysis of the quantitative data; the lethal violence method appears to be a proxy for intentionality, with the scenario involving the wine bottle being perceived as more spontaneous than the one where Daisy kills Vaughan with a knife.

Another important factor raised by participants that increased Daisy's culpability was that she did not assist Vaughan, after hitting or stabbing him, leading to his death.

Although several participants recognised that she would have been afraid of Vaughan, the fact that she did not render assistance was seen as increasing Daisy's level of responsibility:

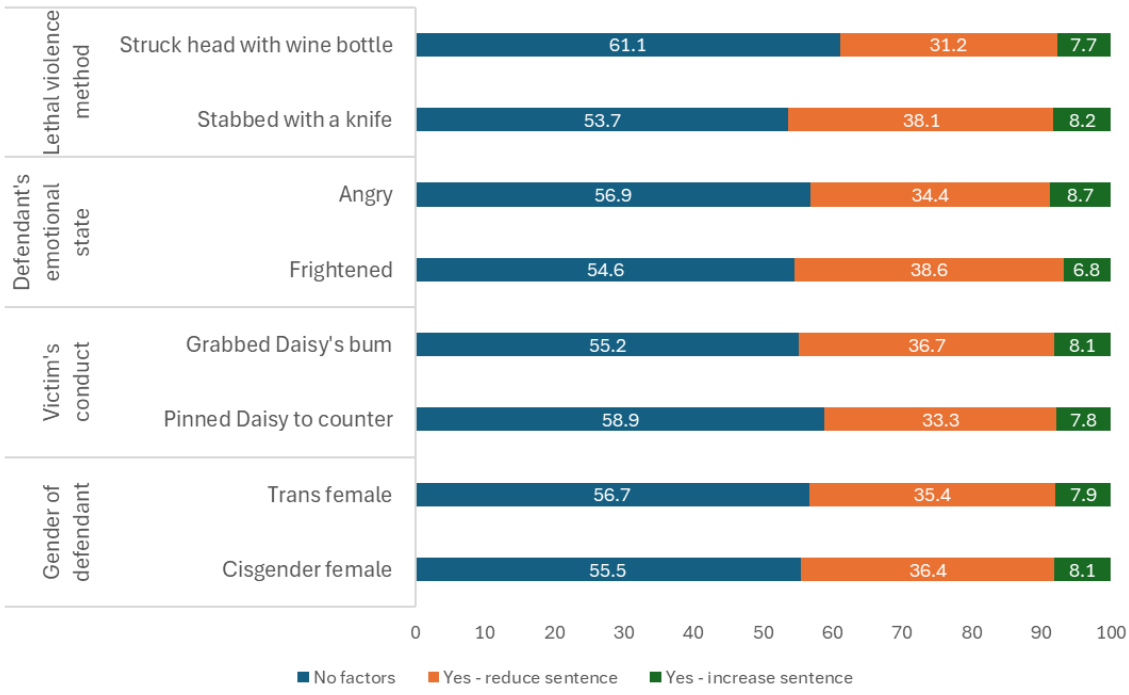
> *This is tricky, Daisy acted in self- defence, I see that, but Vaughan was left to die… it would've been good for Daisy to call 000, get help ASAP for Vaughan (Female, 25-34 yrs, non-Indigenous, survey participant).*
>
> *I think if daisy had called authorities for help after then I would have selected not guilty. However because she left and did not call for help she left him to die. However again she also was defending herself so I don't consider it murder (Male, 25-34 yrs, non-Indigenous, survey participant).*
>
> *Hard question. Daisy killed Vaughn but it was also self defence. Her intention was to get away as she was being assaulted. However she could have rung an ambulance after she left assuming she was aware that he was bleeding and unconscious which may have saved his life (Female, 55-64 yrs, survey participant).*

6.2.2 Factors affecting Daisy's sentence for murder

Of participants who said that Daisy should be found guilty of murder, 35.8 per cent said there were factors that they believed should be taken into account to reduce her sentence. In comparison, only 8.0 per cent said that there were factors that should increase her sentence.

As shown in Figure 6.4, the characteristics of the scenario did not influence participants' views regarding the presence of factors that should increase or reduce her sentence. This was consistent across all four factors: Daisy's gender (cis or transgender, $F(2) = 0.022$, $p = 0.978$), her emotional state at time of the incident (angry or frightened, $F(2) = 0.349$, $p = 0.704$), Vaughan's conduct ($F(2) = 0.165$, $p = 0.846$) and the lethal violence method (wine bottle or knife, $F(2) = 0.848$, $p = 0.428$).

Figure 6.4: Participants' views about whether there are any factors that should reduce or increase Daisy's sentence for murder (%) (weighted)



Note: Sample limited to participants who had said Daisy should be found guilty of murder.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Analysis of the qualitative survey data identified several factors that participants said should be taken into consideration when Daisy is sentenced. These primarily focused on the context within which the incident took place, specifically whether Daisy was able to escape, whether she sought help for Vaughan, after she left his apartment, whether they were intoxicated, and her level of fear. As demonstrated in the below quotes, participants believed that Daisy's victimisation history should also be considered, as it may have contributed to the threat that she perceived Vaughan posed to her safety:

> *If she has previously been in abusive relationships and had ptsd and possibly thought her life may have been under threat (Female, 45-54 yrs, non-Indigenous, survey participant).*
>
> *She might of [sic] thought he was going to rape her...so that needs to be investigated first to determine if her assumption was right (Female, 45-54 yrs, non-Indigenous, survey participant).*

Although Daisy's gender identity was not associated with variations in participants' beliefs about her culpability generally (i.e., whether she should be found guilty of murder or manslaughter or not guilty), a small number of participants suggested that her trans identity may be relevant for sentencing. In particular, it was suggested that, if Vaughan's behaviours were motivated by transphobia, or if Daisy had experienced

victimisation previously, because of her gender identity, her sentence might be reduced:

> *Daisy's past experiences may make her more hypervigilant and distraught (Female, 55-64 yrs, non-Indigenous, survey participant).*
>
> *There may be a case for discrimination based of transphobia, if the deceased had shown any prior instances (Female, 35-44 yrs, non-Indigenous, survey participant)*
>
> *Trans people are at a higher risk. The harassment may have been premeditated given she was trans and she was provoked (Female, 25-34 yrs, non-Indigenous, survey participant).*

6.3 Scenario 8: An intimate partner kills their spouse, who they believe is having an affair

The third homicide scenario described a scenario involving Vera (the victim) and Dylan (the defendant). Dylan and Vera had been in a relationship for many years and had children together. They hadn't been getting along lately, culminating in an argument between the two, where Dylan accused Vera of having an affair. Vera then responded in a way that could be argued by Dylan as constituting provoking conduct. Dylan killed Vera, by choking her.

The scenario was manipulated, based on Vera's response to being accused of having an affair. Vera was described as either admitting to an affair and then saying that her new partner was better at sex than Dylan; denying having the affair but spitting at Dylan; or denying that she was having an affair, but then saying she wanted a separation, and she would be taking their children and staying with her parents.

This scenario described a scenario, where the partial defence of provocation may be raised by the defence in defence to a charge of murder.

6.3.1 Community member views on whether Dylan should be found guilty of an offence

Overall, 83.6 per cent of survey participants believed that, if Dylan's case went to court, the outcome should be a finding of guilty of murder. In contrast, only 15.1 per cent said Dylan should be found guilty of manslaughter, and less than one per cent said he should be found not guilty or that they did not know what the legal outcome should be.

Similarly, throughout the focus groups, when presented with this scenario, a significant number of participants believed the defendant should be convicted of murder. Importantly, in the scenario presented to focus group participants, Vera was described as telling Dylan that she was having an affair and that her new partner was better in bed. Among those participants, who believed that Dylan should be convicted of murder, there were several that expressly noted that the partial defence of provocation should not be available to reduce murder to manslaughter, in cases where an individual has killed in response to words alone, including an allegation of sexual infidelity. For example, one focus group participant remarked:

> *I think the idea that you can get a partial defence for murder for essentially being told you're a dud shag is deeply offensive to the person who's been murdered. So in those sort of defences or the gay panic defence type*

> *provocation stuff, I find that abhorrent to be honest … the idea that someone can just use words in a one -off situation, like 'I shagged the best mate and he was better in bed than you', I just think that's revolting (Female, 45-54 yrs, non-Indigenous, focus group participant).*

In agreement, other focus group participants likewise commented:

> *I don't agree that that [defence] should come into it at all. That definitely shouldn't come into any consideration about his behaviour … it was just words that she used. He should have been able to control himself … So his lashing out physically and strangling her and whatever else he did, was just absolutely unnecessary and shouldn't have anything to do with anything that she said (Female, 45-54 yrs, non-Indigenous, focus group participant).*

> *I don't think that what was said is enough provocation to mean that she should be choked to death and I mean nothing should warrant that kind of behaviour. (female, 35-44 yrs, non-Indigenous, focus group participant).*

> *It's basically saying you can't self -regulate your emotions, because of what someone said, so it's now it's OK to assault somebody that badly that you killed them because of what they've said. I mean, if that was your daughter or somebody like that, that's just awful. That defence is insane, really (Female, 45-54 yrs, non-Indigenous, focus group participant).*

6.3.2 Factors influencing perceptions of Dylan's level of accountability

Analysis of the quantitative survey data found that Vera's response to the accusation that she was having an affair influenced participants' view of Dylan's culpability. Controlling for a range of other factors, participants who were told that Vera admitted to the affair and said her new partner was better in bed were less likely to believe Dylan should be found guilty of murder, compared to participants who were told that Vera denied the affair and said she was leaving him (82.6% vs 88.6%, OR = 0.60. $p < 0.01$; see Figure 6.5). However, there was no difference in participants' views on Dylan's culpability, depending on whether they were told Vera had admitted to the affair and spat at him, compared to the other provoking conduct.

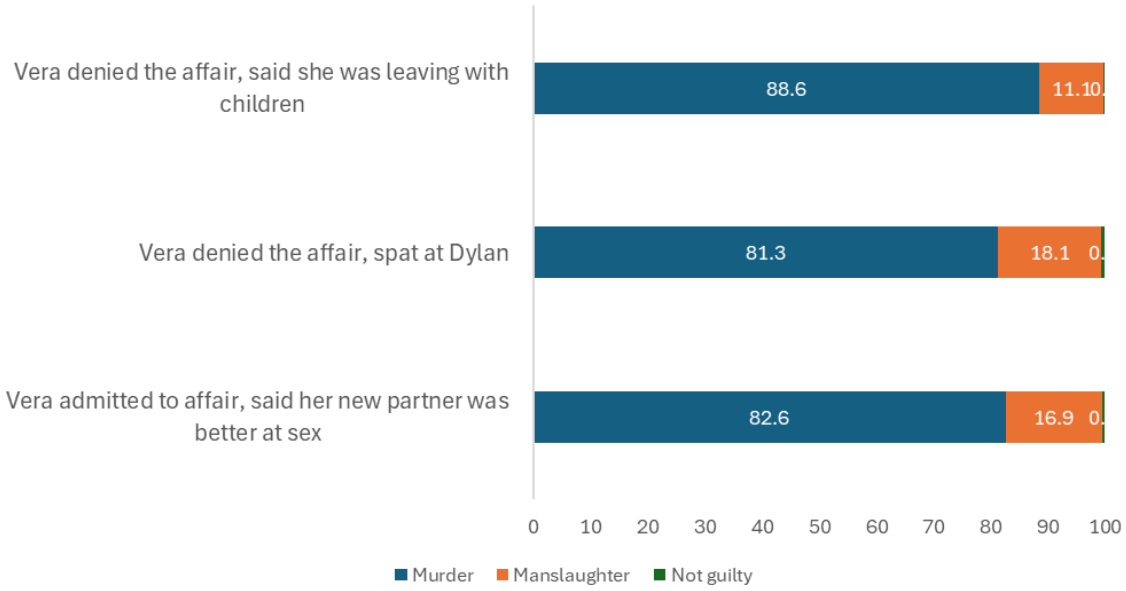
As shown in Table F8 (Appendix F), there were also a small number of other factors that influenced participants' views about Dylan's level of culpability. First, there was an inverse relationship between participant age and predicted probability of Dylan being guilty of murder: as age increased, belief in Dylan's culpability decreased. For example, controlling for a range of other factors, participants aged 18-24 were 1.2 times more likely to say that Dylan should be found guilty compared to participants who were 55 years and older, and 1.1 times more likely than those aged 35-54 to say Dylan should be found guilty.

Further, compared to non-Indigenous participants, Aboriginal and Torres Strait Islander Indigenous participants were 1.2 times more likely to believe that Dylan should be found guilty of murder (84.0% vs 97.9%, OR = 0.11, $p < 0.05$).

Attitudes towards DFV were also associated with perceptions of Dylan's culpability. As minimising attitudes towards DFV increased, the likelihood that participants believed that Dylan should be found guilty of murder decreased (OR = 2.2, $p < 0.001$). However,

victim-blaming attitudes, and understanding of the impacts of non-physical forms of abuse and gendered impacts of DFV were not associated with perceptions of Dylan's culpability, nor were victimisation experiences.

Figure 6.5: Predicted probability of Dylan being found guilty or murder, manslaughter or not guilty of any offence, by characteristic of the scenario (%) (weighted)***



Note: Other controls included in the model are language spoken most of the time at home, country of birth, place of usual residence, Indigenous status, gender, age, highest level of education completed, level of socio-economic advantage, DFV attitudes and victimisation history. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 22) and who did not provide valid data for the variables included in the model (see Appendix F, Table F8).

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

The analysis of the qualitative survey and focus group data provides valuable context for understanding the findings from the quantitative data analysis, while also extending upon these findings. Across the qualitative survey and focus group data, several factors were raised by participants as increasing Dylan's culpability. First, the method of choking/strangulation was viewed as particularly serious and demonstrative of Dylan's intent to kill Vera. This viewpoint was expressed by both male and female focus group and survey participants.

> *You have to hold on to hold the neck until they'd stop breathing type of thing. So that, to me, shows, yeah, intent. So, for me, that would be instant murder (Male, 35-44 yrs, non-Indigenous, focus group participant).*

> *When you choke someone, you obviously want to stop them breathing. So that intent was there (Female, 65 yrs plus, non-Indigenous, focus group participant).*

I think that he should be charged with murder, because the strangulation ... I think that there was intent behind that, because she said something that aggravated him, but he actually accused her of having an affair first. (Female, 25-34 yrs, non-Indigenous, focus group participant).

I think that if he's choked someone to death, regardless of who it is, regardless of what's said, then that is an intent to kill someone and that it shouldn't be downgraded to manslaughter ... I would hate for that to be a manslaughter charge, in place of someone deliberately and intentionally holding someone's throat until they stop breathing ... It should not be manslaughter, it should be done for murder, because that's what it is. You can't accidentally strangle someone (Female, 35-44 yrs, non-Indigenous, focus group participant).

think that he should be charged with murder because the strangulation, like that's already a jail term, like you go straight away anyway. And so choking someone is, it's a, like it's a lengthy process. Like it's, you know, it's not, it's not just like a, you shoot someone and they're dead. Like it's actually, you've got to be choking her. And so I think that there was intent behind that because she said something that aggravated him, but he actually accused her of having an affair first. And I think that that, like, he did start that fight, and yes, she said something nasty, but that doesn't really warrant being choked to death. I think that that's atrocious. And I think that he should be charged with the full sentence, like, whatever the maximum is. I think that if he had a good lawyer, that they would probably get him on manslaughter.

She would have been unconscious well before death. It also takes a few minutes to strangle someone to death. No matter how much rage someone has, surely they would stop noticing a limp unconscious body, before death unless death was the intention ... (Female, 25-34 yrs, non-Indigenous, survey participant).

While antagonised, the act of strangling takes time and intent (Male, 35-44 yrs, non-Indigenous, survey participant).

However, a small number of survey and focus group participants believed that Dylan's conduct, while unacceptable, did not indicate intent. Instead, they described Dylan as 'snapping' or losing control, after being provoked by Vera. These participants, who typically said that Dylan should be found guilty of manslaughter, pointed towards the lack of premeditation, as evidence that he had not intended to kill Vera. This view was voiced by both male and female participants:

Because he did not plan to murder her it was because of what she did and tension being high for both of them that he lost his control (Male, 55-64 yrs, non-Indigenous, survey participant)

Dylan should be charged with manslaughter as he seemed to not have any intent to murder Vera however the situation escalated to violence particularly after Vera spat on Dylan. Dylan then lost control and as a result took her life. Neither party is innocent however Dylan still has a responsibility to not let his emotions lead to him committing an act of murder and thus should still be charged with manslaughter due to the

mitigating circumstances in the lead up (Female, 18-24 yrs, non-Indigenous, survey participant).

Participants also referred to the nature of the provoking conduct, in explaining their view that Dylan should be found guilty of manslaughter. Several participants described Vera's conduct as being likely to lead to an extreme emotional reaction. As one survey participant noted:

> *Since they had been in a harmonious relationship for 10 years with two children with no documented ongoing abuse from either party, I would imagine the husband could see his whole family being taken from him by another man when she admitted to the affair, and when the wife antagonised him with such a sensitive attack on the male ego he snapped and strangled her because he had blind rage I would think not intending on killing her. I imagine he would be very remorseful having taken the life of the mother of his children (Female, 45-54 yrs, non-Indigenous, survey participant).*

However, a much larger proportion of survey and focus group participants believed the alleged provocative conduct on the part of the victim (the words spoken to the defendant) should not constitute behaviour sufficient to raise a partial defence of provocation. This shared viewpoint aligns with academic and policy debates surrounding the partial defence of provocation in Australia and comparable international jurisdictions where the successful use of the defence in cases where the provocative conduct was words alone has been heavily criticised (see, among others, Fitz-Gibbon, 2014; Tyson, 2012). This shared community view among Queensland community members is further captured in the following participant comments:

> *Whether that's true or not, like whether she actually did have a partner, maybe she was just trying to rile him up. We don't know. But it doesn't warrant being choked to death, I don't think (Female, 25-34 yrs, non-Indigenous, focus group participant).*

> *Nothing that she says warrants him. Even if he started choking her … he continued to choke her and would have taken some time. So what maybe started in a fit of rage, ended with him making the decision that he was going to continue until she died. So, yeah, it should be murder. And nothing that anyone says is, again, any reason for anyone to put their hands on you. That's ridiculous (Non-binary, 45-54 yrs, non-Indigenous, focus group participant).*

> *It's very clear cut. Someone is dead because of someone's behaviour. I don't think there's any factors, unless she had a knife and there was some sort of fight and it was clearly self-defence, but there's nothing like that whatsoever. Regardless of the words people say, this is murder, at the end of the day (Female, 35-44 yrs, non-Indigenous, focus group participant).*

> *I really think that, regardless of what she said or how she may have said it … at the end of the day, there's just nothing, there's no excuse for what he did … He snapped, but he could have stopped and he chose not to. And I think that's really all you need to know (Trans/non-binary, 45-54 yrs, non-Indigenous, focus group participant).*

> *Murder as the intent was death. It is easier to argue murder in choking cases, as the outcome of choking someone is generally to intentionally kill them. Leaving someone is not sufficient provocation to reduce the charge to manslaughter (Female, 35-44 yrs, non-Indigenous, survey participant).*
>
> *Because you don't strangle people who don't want to be in a relationship with you. She could have handled the communication better, but she didn't deserve to be strangled (Male, 35-44 yrs, non-Indigenous, survey participant).*

Similarly, the majority of survey participants who were told that Vera had spat at Dylan, noted that although this behaviour was indeed provoking and potentially a form of assault, it was not sufficient to downgrade the offence to manslaughter. This said, some participants suggested that if Vera had been abusive to Dylan previously, their view may have changed:

> *Vera didn't do anything wrong, she just wanted to separate from her partner Dylan. He obviously got angry that she was leaving and accused her of cheating on him with no proof. She hasn't done anything abusive or wrong, but he got jealous and decided to kill her anyway (Female, 18-24 yrs, non-Indigenous, survey participant).*
>
> *Murder vs assault..? Little bit too far? (Male, 45-54 yrs, non-Indigenous, survey participant).*

This view was particularly notable among Aboriginal and Torres Strait Islander survey participants who in their comments were very condemnatory of Dylan's actions, and dismissive of the impact of being spat on or any other provoking behaviour towards Dylan. Aboriginal and/or Torres Strait Islander participants surveyed ascribed Dylan's motivation to a loss of control over Vera and that he was choosing to be violent:

> *He chose not to be in control of his anger (Female, 35-44 yrs, Aboriginal, survey participant)*
>
> *He killed another person because of jealousy and deserves to be found guilty of murder (Male, 65+ yrs, Aboriginal, survey participant)*
>
> *Dylan was not under any kind of threat a little bit of a verbal argument and being spat on is nothing so what he did was murder (Male, 35-44 yrs, Aboriginal, survey participant)*
>
> *He failed to control his own emotions and deliberately took someone else's life because he couldn't get his own way (Female, 45-54 yrs, Aboriginal, survey participant).*

However, while it was a minority view, a smaller number of focus group and survey participants believed that Vera's actions in the lead-up to her death partially excused Dylan's use of lethal violence, justifying a conviction for manslaughter, rather than murder. For example, three participants remarked:

> *While Dylan's actions were horrific and resulted in Vera's death, the circumstances leading up to the incident suggest a heightened emotional*

state and a sense of betrayal (Female, 25-34 yrs, non-Indigenous, focus group participant)

Guilty of manslaughter. Dylan's action wasn't intentional because he was carried away with the words he heard from Vera and was driven away with anger that led to Vera's death (Female, 25-34 yrs, non-Indigenous, focus group participant)

She egged him on, she should have just walked when she found someone new and not tormented him with it (Female, 45-54 yrs, non-Indigenous, survey participant).

For these participants, Dylan's culpability was lowered due to the victim's remarks immediately prior to her death, and a belief on their part that the criminal law should recognise a lower culpability in such scenarios.

Finally, several survey participants referenced the presence of children in the relationship in their explanation for why they believed Dylan should be found guilty of murder. While not explicitly stating that it impacted their views on Dylan's culpability per se, responses where the children were mentioned were particularly vitriolic and damning of Dylan's behaviours. This is demonstrated in the below quotes from two survey participants.

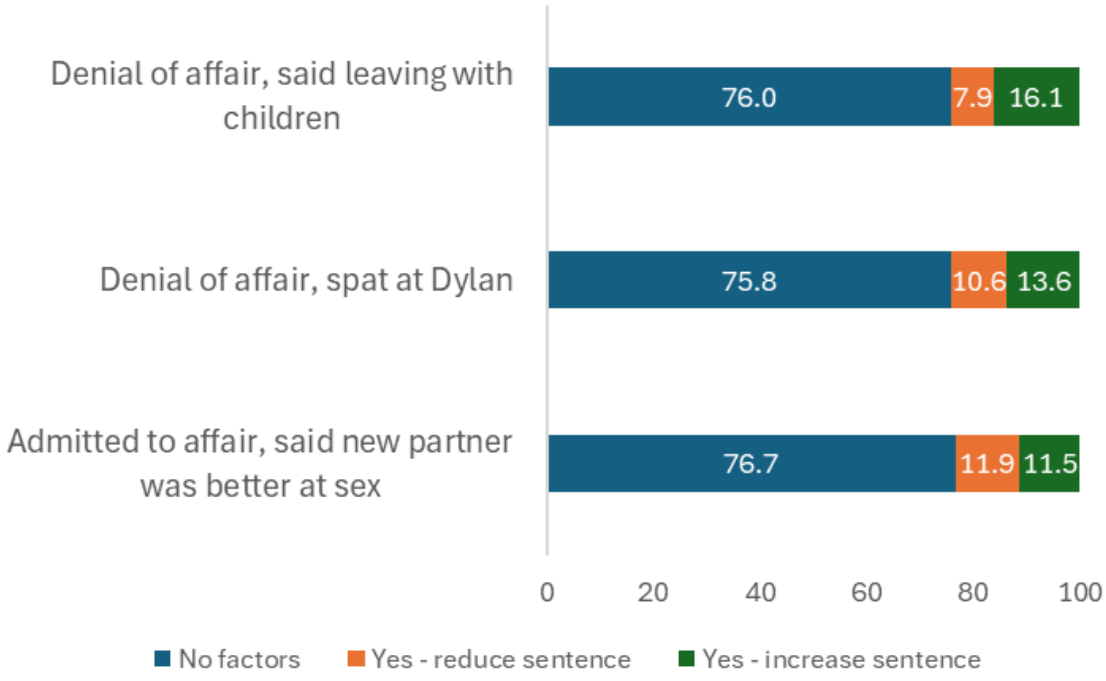
He killed the mother of his children. He should have done better at controlling his emotions. May he rot in prison (Male, 35-44 yrs, non-Indigenous, survey participant).

He killed his mother of his kids & long term partner because he was losing control by her leaving & taking the children (Female, 45-54 yrs old, non-Indigenous, survey participant).

6.3.2 Factors affecting Dylan's sentence for murder

Analysis of the quantitative survey data found that only 10.0 per cent of participants who said Dylan should be found guilty of murder also believed there were factors that should be taken into account to reduce his sentence. In comparison, 13.7 per cent said that there were factors that should increase his sentence. The nature of Vera's response to Dylan's accusation that she was having an affair did not influence participant views about whether his sentence should be changed, because of the presence of aggravating or mitigating factors. This said, a larger proportion of participants who were told Vera threatened to leave with the children said that they believed Dylan's sentence should be reduced (16.1%), compared to participants who were told that Vera spat at him (13.6%) or said their new partner was better in bed (11.5%) (see Figure 6.6). In combination, these findings would suggest that participants viewed the threat to leave with the children as being more egregious than the physical act of spitting or taunting the victim about his sexual ability.

Figure 6.6: Participants' views about whether there were any factors that should reduce or increase Dylan's sentence for murder (%) (weighted)



Note: Sample limited to participants who had said Dylan should be found guilty of murder.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

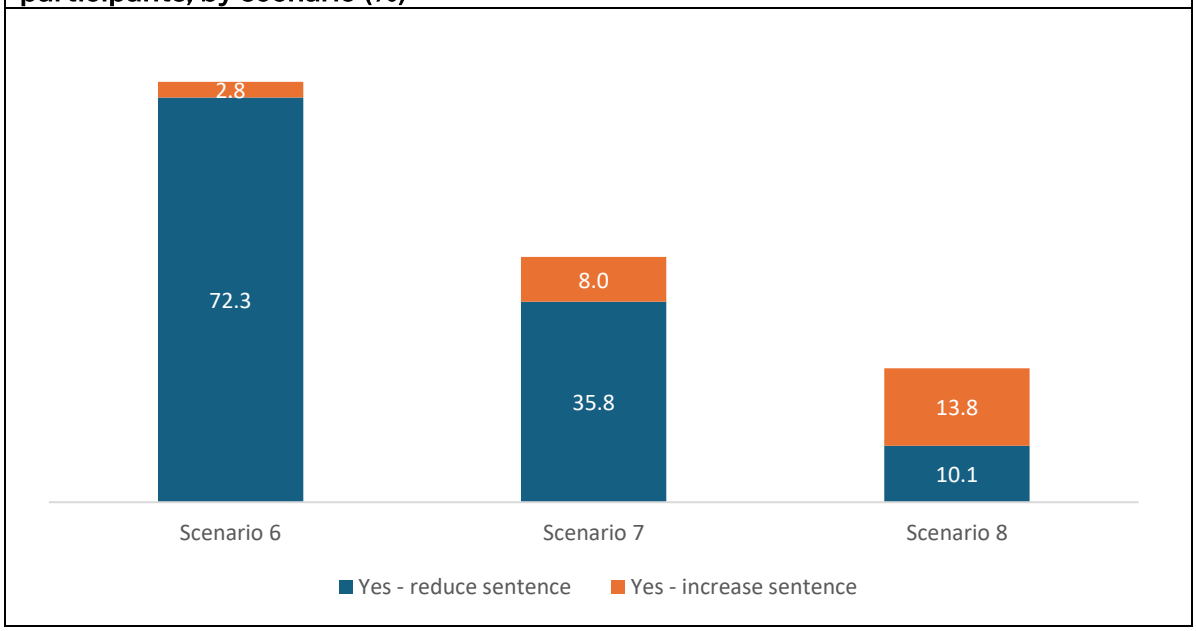
7. Attitudes towards mandatory life sentences for murder

Queensland community attitudes towards the mandatory life sentence for murder were gleaned through the analysis of the survey data, as well as the discussions across the focus groups. Overall, there was consistent evidence from both the survey and focus groups that community members were not supportive of mandatory life sentencing for the offence of murder.

7.1 Survey responses

In the first instance, analysis of the survey data demonstrated that across the three murder scenarios (see Appendix B, Scenarios 6, 7 and 8), there was a high level of support for discretionary sentencing. More specifically, a significant proportion of survey participants who said that the defendant should be found guilty of murder also said that there were factors that they believed should influence the sentence they received. This was particularly demonstrated in Scenarios 6 and 7, where there was strong support for the sentence to be reduced (72.3% and 35.8% respectively; see Figure 7.1). However, even in Scenario 8 which involved a defendant who attracted high levels of condemnation among survey and focus group participants, 10.1 per cent of survey participants still believed that consideration should be given to factors that would reduce the defendant's sentence.

Figure 7.1: Support for discretionary sentencing for murder among survey participants, by scenario (%)



Note: Scenario 6 = A primary victim of DFV kills the perpetrator, Scenario 7 = Victim of attempted sexual assault who kills the perpetrator, Scenario 8 = An intimate partner kills their spouse who they believe is having an affair

Source: Community attitudes to defences project, 2024 [Computer file]

To further explore survey participants' views on the merits of mandatory sentences in cases where someone is convicted of murder, we provided participants with two

scenarios, in which the defendant was described as being charged with and convicted of murder. Each survey participant was randomly assigned two of the four murder scenarios described in Table 7.1. The survey asked participants to say whether they believed that the defendants in both scenarios should be given the same sentence.

Table 7.1: Murder scenarios presented to survey participants

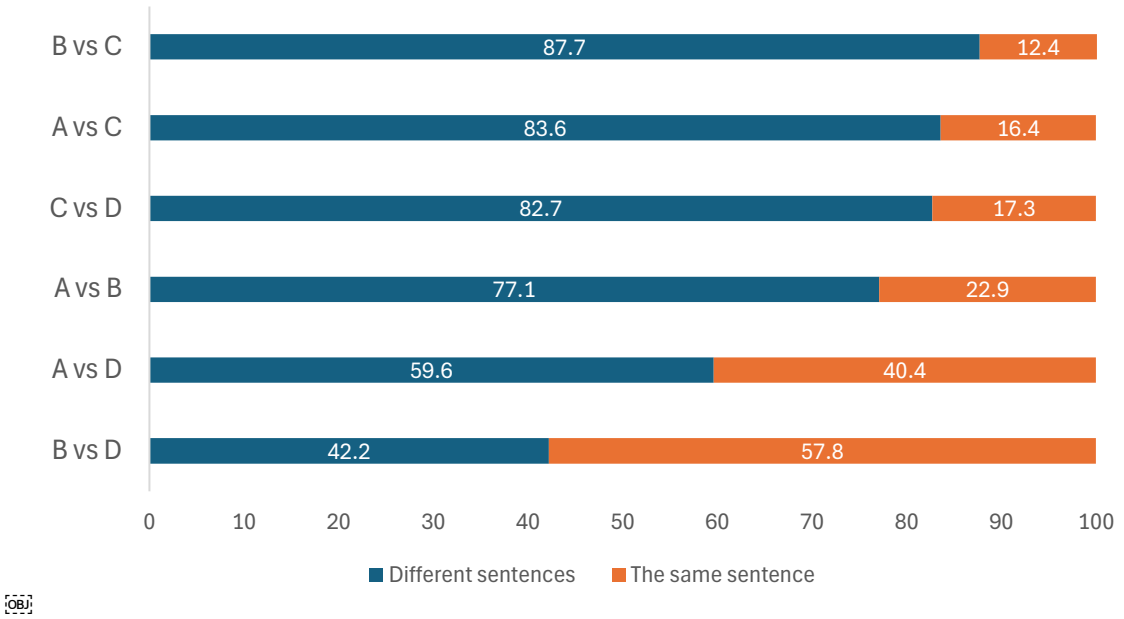
	Type	Description
A	Defendant did not kill the victim but was party to the offence that led to the victim being killed (party to offence)	For this scenario, please only think about David's behaviour, not Alex. David went along with his friend Alex to break into a house. Alex took a baseball bat. They were disturbed by the homeowner, Vince. Alex panicked and hit Vince over the head with the bat. Vince died of his injuries.
B	Defendant kills the victim so they cannot give evidence against them in court (kills for benefit)	Doris wanted to keep a witness, Vicky, quiet in an upcoming trial. Doris knew where Vicky worked and followed her to her house. Doris waited nearby for Vicky to exit the house the next day. When she did, Doris shot Vicky at close range, killing her.
C	Defendant kills the victim out of 'mercy' (mercy killing)	Daphne and Vernon were married. Vernon was terminally ill and in great pain. He had begged Daphne for months to put him out of his misery. Eventually Daphne agreed and suffocated Vernon in his sleep.
D	Defendant kills the victim due to reckless indifference to human life (reckless indifference)	Dennis was addicted to drugs. He had been stealing petty cash from his employer and covered his trail by making false entries in their handwritten ledger. One day when he was leaving work, he saw police arrive and speak with the owner. Concerned that he would be caught, he returned to the premises that night and lit a fire intending to destroy evidence. He saw cars parked outside the building. There were some lights on inside and he knew some staff worked late, but he was in a hurry and didn't check whether anyone was inside. The building burnt to the ground. Victoria, who had been inside the building, was killed in the fire.

Overall, 72.5 per cent of survey participants disagreed that the two defendants in the scenarios they were provided with should be given the same prison term for the two types of murder. Meanwhile, 27.0 per cent of survey respondents said they should receive the same term of imprisonment, and less than one percent said they did not know.

As demonstrated in Figure 7.2, the views of participants were influenced by the nature of the scenarios that they received. Overall, participants who received scenarios B and C (kills for benefit vs mercy killing) were the least likely to believe that the defendants should receive the same sentence, followed by A and C (party to offence vs mercy killing), and C and D (mercy killing vs reckless indifference). Participants who received

scenarios B and D (kills for benefit vs reckless indifference) were the only ones who were more likely than not to say that they thought the defendants should receive the same penalty (57.8% vs 42.4%). These findings remained consistent, even after we controlled for the sociodemographic characteristics of participants, and their victimisation experiences (see Appendix F, Table F10).

Figure 7.2: Participants' views on equivalence of sentence for two defendants convicted of murder, by scenario (%) (weighted)



Note: A = Party to offence, B = Kills for benefit, C = Mercy killing, D = Reckless indifference. Percentage totals may not equal 100 due to rounding. Participants who said they did not know were excluded from the sample.

Source: Community attitudes to defences project, 2024 [Computer file]

There were a small number of other demographic factors that appeared to influence whether participants believed that defendants convicted of murder should all receive the same sentence of imprisonment. First, participants born in Australia were 1.5 times more likely to believe that defendants convicted of murder should receive the same sentence, compared to participants born in a non-English speaking country (29.3% vs 26.6%, OR = 1.9, $p < 0.05$). However, potentially counterintuitively, participants who said they spoke a language other than English most of the time at home were 1.4 times more likely than participants who spoke English at home to say all defendants convicted of murder should receive the same period of imprisonment (37.6% vs 26.3%, OR = 1.9, $p < 0.05$).

The highest level of education completed was also associated with views about defendants convicted of murder receiving the same sentence. However, this relationship was not linear or easily understandable. Participants who had completed vocational education (ie. TAFE) were more likely to believe that defendants convicted of murder should all receive the same sentence compared to those who had completed Year 12 (30.5% vs 20.8%, OR = 1.8, $p < 0.01$). However, this relationship reversed, when

we compared participants who had completed Year 12 and those who had not (20.8% vs 32.4%; OR = 2.0, $p < 0.01$).

7.2 Focus group discussions

In the focus groups, participants were not provided with different murder scenarios and asked their views on whether the individuals convicted should receive the same sentence of imprisonment. Rather, we invited focus group participants to discuss whether they believed all cases of murder should attract the same mandatory period of imprisonment and why.

A number of focus group participants were unaware that Queensland law prescribes a mandatory life sentence for murder. This aligns with the research of the Queensland Sentencing Advisory Council (Jeffs et al., 2023), discussed in Chapter 1, indicating a lack of understanding of key aspects of the criminal justice system. Throughout the focus groups, as this information was provided to participants, there were a number of individuals who were thinking through their response, having not been aware of the mandatory term of imprisonment previously. This thought process is evident in the comments made by this participant:

> *In theory, I like the idea that it takes out some of the bias or, you know, subjective rulings, but on the same token I'm like, 'oh it maybe doesn't allow for such an intense case-by-case look'. I get murder as murder. But it's, yeah, I didn't realise we had that. It's interesting, and I can see the pros and cons of both sides, but I would have thought that you'd want a little bit more flexibility to be able to look at the nature of the murder and the context (Female, 45-54 yrs, non-Indigenous, focus group participant).*

In several of the focus groups, there was an interesting back and forth conversation between several of the participants, as they discussed their view on mandatory sentencing. In this context, in several focus groups, participants would identify an 'outlier' case and test their own and others' views on whether a life sentence would be just in that instance. This is illustrated in the following two remarks:

> *Wouldn't it be terrible to have some person who was acting in self-defence be put away for the 20 to 25 to 30 years because of that? So, I don't know, at the end of the day, just to answer the question, I think that we still need to have a mandatory period. Life is not black and white, but if we don't have a set of minimum standards then we won't have a society that adheres to law. I don't know (Female, 35-44 yrs, non-Indigenous, focus group participant).*

> *For real victims of domestic violence who do act in self-defence, I think that there should be no mandatory period of imprisonment (Non-binary, 45-54 yrs, focus group participant).*

Speaking to the 'outlier' cases, where a mandatory life sentence was viewed as manifestly unjust, another focus group participant described the importance of taking into account situations where the defendant has experienced systemic failures,

specifically in relation to killing in the context of an abusive domestic relationship. As she explained:

> *One factor might be, was the person systemically let down? Time and time again, when they've tried to seek help through the legal system, through the police system, through the social support system, were they let down and down? And they only have themselves there. Would that be a factor also to take into consideration that there are immense systematic failures around accessing services, accessing adequate safety? (Female, 35-44 yrs, non-Indigenous, focus group participant).*

Several focus group participants said they were supportive of mandatory sentencing for murder. When explaining their reasoning, some participants argued that mandatory sentencing plays an important role in deterring members of the community from committing lethal violence. For example, one focus group participant remarked:

> *If you take away a mandatory period of time that people know about, I think that that is going to be difficult to uphold the law, that if people know that [it's] a life imprisonment, because you've taken a life, I think people are going to be controlled more (Female, 35-44 yrs, non-Indigenous, focus group participant).*

Further, other participants suggested that mandatory sentencing was an appropriate punishment for defendants guilty of murdering someone, considering the long-lasting impacts of the crime on society and family members. This view point is captured in the following comments:

> *[if] you intentionally take someone's life, you should lose your length of life that you've taken away from somebody ... you intentionally go out to kill someone, you should lose your life, like you'd taken someone's life. So, you should go to jail for your life, no matter ... I think your life has to finish as it is in society, because you've taken someone else's life. That would be a really good deterrent, I think ... So, yeah, a life for a life (Female, 65 yrs plus, non-Indigenous, focus group participant).*
>
> *You've taken someone's life at the end of the day and I think there's also the need to have something that starts to well acts as a deterrent to people to you know not go and murder people at the end of the day (Female, 45-54 yrs, non-Indigenous, focus group participant).*
>
> *The human life is a human life to me ... So, yeah, definitely agree with that (Male, 35-44 yrs, non-Indigenous, focus group participant).*
>
> *A life sentence for a life (Female, 55-64 yrs, non-Indigenous, focus group participant).*
>
> *If there is a mandatory period, it sets a scene and it sets a foundation around what is socially acceptable and murder is not something that is socially acceptable under any real circumstances that I can think of (female, 35-44 yrs, non-Indigenous, focus group participant).*

> *I think that Queensland's mandatory life sentencing is also good to track future perpetration of any bad things that a person does after they get out of jail. And I'm very supportive of that (female, 45-54 years, non-Indigenous, focus group participant).*

These comments explicitly and implicitly aligned with most of the purposes of sentencing set out in section 9 of the *Penalties and Sentences Act 1992* (Qld), i.e., just punishment, deterrence, denunciation, community protection).

There were a smaller number of focus group participants who recognised the negative impacts among family members of homicide victims, but did not support the imposition of a mandatory life sentence on this basis. One focus group participant explained:

> *I also have enormous sympathy for victims of crime and understand the human desire to have revenge, but maybe that's something that can be re-taught as well. In fact, that revenge doesn't work. You know, it's that old saying of seeking revenge is like having a hot coal in your hand and threatening to throw it to someone. The person that gets harm seeking revenge is often the person that doesn't get satisfaction from the revenge (Female, 65 yrs plus, non-Indigenous, focus group participant).*

Another reason put forward by focus group participants to explain their support for mandatory sentencing for murder was their lack of confidence in members of the judiciary to impose sentences reflective of the severity of the crime and in line with community attitudes towards the offence of murder. Participants often questioned whether judges would 'get it right', if they had discretion in sentencing for murder. This sentiment is captured in the following quotes:

> *Perhaps before discretion is introduced, perhaps more education to those who are making those judgments can be made, like maybe that's a mandatory thing that those people can do first, so that those nuances are considered appropriately and then the sentence reflects those things. (Female, 35-44 yrs, non-Indigenous, focus group participant).*

> *Judiciary cannot be relied upon (Female, 35-44 yrs, non-Indigenous, focus group participant).*

This concern was considered more relevant for cases involving DFV, with several focus group participants citing specific cases of murder that were tried in other jurisdictions where someone had killed their partner and had their sentences (but not their charges) reduced because of the perceived provoking conduct of the victim, or because they had been able to convince the court that they were acting in self-defence. Focus group participants also spoke about hypothetical matters, where a DFV perpetrator kills their partner, but is then able to argue self-defence or minimise their culpability in other ways, resulting in a reduced sentence. Importantly, this concern was raised by several focus group participants who had lived experience of IPV, or who were secondary victims of homicide (i.e., a friend or family member had been murdered) who used their own experiences of systems abuse to highlight the ability of abusers to manipulate systems to their advantage. This is highlighted in the below extract, where a focus

group participant is reflecting on her experiences observing the trial of the man who was convicted of killing her family member:

> *But the defence lawyers were really good that they kind of made me question for a second and I'm so ashamed to say oh was my [family member] really that abusive? So, yeah, they like the narratives are really able to be distorted and that's a concern when it comes to provocation as well (Female, 25-34 yrs, non-Indigenous, focus group participant).*

However, most focus group participants did not support mandatory sentencing for murder. They discussed the varied circumstances, in which murder can be committed and the need to reflect such variation in sentencing. Several focus group participants commented:

> *I feel all murders are not the same. You know, there are different ways murders can happen. You know there are some gruesome murders ... I feel there should be different ... you can't just say the murder is a murder (male, 25-34 yrs, Aboriginal, focus group participant).*

> *I think it needs to be adjusted to suit the circumstances that the crime was committed under (Female, 65+, non-Indigenous, focus group participant).*

> *I think applying it to all murder charges, this probably doesn't give enough scope for that just discretion, because I think things are complex and they're not always straightforward cases (Female, 35-44 yrs, non-Indigenous, focus group participant).*

> *Mandatory imprisonment for murder should be flexible, taking into account circumstances like severity of the crime and mitigating factors. A one-size-fits-all approach is inappropriate for sentencing. Each case should be considered individually, to ensure justice is served (Female, 25-34 yrs, non-Indigenous, focus group participant).*

Building on this point, there were several focus group participants who supported a discretionary approach to sentencing for murder, noting that a judicial officer would have scope to move both above and below the currently prescribed minimum term:

> *I'm not a fan of mandatory sentencing for anything. Because there are always reasons behind things that happen (Female, 65 yrs plus, non-Indigenous, focus group participant)*

> *They probably need to give consideration to the circumstances surrounding that, I think, again, with some sort of flexibility in the sentencing because of the circumstances (Female, 45-54 yrs, non-Indigenous, focus group participant).*

> *I think it's, again, very dependent on the circumstances ... I do think there are circumstances where a mandatory period wouldn't be fitting for the perpetrator, and that could be for a number of reasons. Yeah, I think that should be up to judge (Female, 25-34 yrs, non-Indigenous, focus group participant).*

> *I think the only problem with mandatory is any extenuating circumstances can't then be taken to consideration and that's why the courts often steer away from it. Yeah, it makes it very restrictive ... I think that's the problem with mandatory, although it sounds great in theory. You have to think on the broader spectrum of that every crime is so unique and there's so many different variables to it (Female, 45-54 yrs, non-Indigenous, focus group participant).*

Another participant expressed support for discretion in sentencing for murder, but only if the judiciary were appropriately educated and impartial in such cases. She explained:

> *If they're educated and impartial and all those sorts of things, they might be better able to apply some sort of sliding scale to sentencing people, who might be convicted of murder because of some random and not likely to occur again factor. Or are they, you know, sort [of] the Hannibal Lecter type people who really probably need to be locked up forever? And perhaps that should be the decision of a judge (Female, 65+, non-Indigenous, focus group participant).*

Interestingly, a number of participants who did not support the mandatory life sentence provided a response which demonstrated that they had thought through and questioned the purpose of sentencing and what is achieved during a term of imprisonment. For example, one focus group participant commented:

> *I'm totally against mandatory sentences of 20 years. We need to look to other countries that are being successful in finding alternatives to incarceration. We know our jails are failing. We know our incarceration rates are increasing. We know people commit crimes and then commit crime again. And they get caught in what seems to be an industrial process of being incarcerated. And we know that, in jails, there isn't a process of rehabilitation. There is not even basic process of re-education ... I think the whole matter of how much time one gets to serve needs to be based on different factors, rather than can the community tolerate a low sentence for someone who's committed a violent crime? Does it serve any purpose for that person to be incarcerated multiple times and it's another life lost (female, 65 yrs plus, non-Indigenous, focus group participant).*

Among those participants who supported a move away from the mandatory life sentence in favour of discretion in sentencing, there was still often an acknowledgment of the need for *some* convicted murderers to be sentenced to life in prison. For example, two participants commented:

> *If you've got a psychopath who murders because they like it, I think it's fine to lock them up ... they can't be rehabilitated. So, you have to protect society from them. That's what I think. It's a bit harsh, but my experiences have proven that I have reason to believe that there are lots of people who are just not safe to be let loose. And they shouldn't be let loose (female, 65 yrs plus, non-Indigenous, focus group participant).*

I think, when it comes to murder, if you've taken someone's life ... I think you've intentionally killed more than one person. You know, you shouldn't be seeing the light of day again, quite frankly ... you know, cold-blooded, clear-cut, someone has murdered someone else, 20 years of someone's life isn't that significant compared to the heartache and ending someone's, you know, 99 years of life. I think that that really needs to be reviewed by the Commission ... do we need to set a benchmark and increase that benchmark from 20 years to looking at higher? (female, 35-44 yrs, non-Indigenous, focus group participant).

Interestingly, several of the participants who explicitly said that they supported mandatory sentencing, demonstrated through their discussion of the homicide scenario presented to their group, and their other comments, that they actually did support discretionary sentencing. This is demonstrated in the below interaction between a focus group participant who said she was supportive of mandatory sentencing and the Facilitator:

Participant: I think the only problem with mandatory [sentencing] is any extenuating circumstances can't then be taken to consideration and that's why the courts often steer away from it. Yeah, it makes it very restrictive.

Facilitator: Would you like to see more flexibility?

Participant: I'm not saying that. I'm just saying it takes away from that ability. There's so many variables to any crime. And it takes away from taking into consideration any of those variables whatsoever. So, say the lady who committed the domestic violence, so throw a spanner in the works, say the lady who stabbed the guy in his sleep, say she's done for murder. So, would everybody in this group then be happy that she does 20 years? Do you know what I'm saying? That means no extenuating circumstances can be taken into consideration once that decision is made (Female, 45-54 yrs, non-Indigenous, focus group participant).

8. Discussion

In this section, we provide a discussion of each of the key findings from our analysis of the survey and focus group data. Where relevant, this has been contextualised with reference to wider policy, academic debates and relevant case law.

The key findings from this community attitudes research project are:

- *Key finding 1:* Most community members don't blame victims for their abuse or have attitudes which minimise DFV.
- *Key finding 2:* Individual attitudes and knowledge about DFV influenced whether people thought DFV defendants should have a defence.
- *Key finding 3:* The community does not support provocation as a defence to assault if there is a risk of significant injury.
- *Key finding 4:* Aboriginal and Torres Strait Islander participants had different views about defendant culpability than non-Indigenous participants in a small number of scenarios.
- *Key finding 5:* Community attitudes align with traditional rules of self-defence, and participants were able to weigh relevant factors to assess culpability.
- *Key finding 6:* The community support alternatives to criminal prosecution where parents use minimal force to discipline children.
- *Key finding 7:* The community supports teachers' ability to use force for the purpose of management or control but not for discipline or correction.
- *Key finding 8:* The community does not support provocation defences where the defendant's conduct is motivated by anger, jealousy, or a desire for control, particularly in cases involving DFV.
- *Key finding 9:* The community expects individualised criminal justice responses to the use of lethal violence.
- *Key finding 10:* There was strong community support for partial and complete defences and consideration of abuse for victim-survivors of DFV who kill an abusive partner.
- *Key finding 11:* There was some support for a partial defence of excessive self-defence.
- *Key finding 12:* The community does not support the mandatory penalty of life imprisonment for murder. The community expects sentencing to reflect the culpability of murder defendants.

Key finding 1: Most community members don't blame victims for their abuse or have attitudes which minimise DFV.

Consistent with previous research conducted in Australia, there were very low levels of victim-blaming and minimising attitudes towards DFV among survey participants (see, for example, Coumarelos et al., 2023; Strange et al., 2023). Against most attitudinal

items, less than five per cent of participants endorsed attitudes that were supportive of, or minimised DFV.

The notable exception to this general trend was understanding of the gendered impacts of DFV, and of non-physical forms of DFV. Approximately a third of participants agreed or strongly agreed that physical forms of abuse are more likely to cause fear compared to non-physical forms of abuse. This is contrary to a large body of evidence which has demonstrated the significant impacts of non-physical DFV on victim-survivors, including fear for their own or others safety (see, among others, Dichter et al., 2018; Stark, 2013). For example, victim-survivors of property damage (e.g., punching walls) have said that although the violence was not targeted directly at their bodies, they believed the perpetrator's behaviours demonstrated that they were capable of physical violence which made them afraid for their safety (on property damage in the context of IPV, see Weisberg, 2016; Zufferey et al., 2016). Further, victim-survivors of coercive control often refer to feeling intimidated by their partner because of the perceived threat of harm for non-compliance with the rules of the relationship. These harms could be physical, or non-physical (e.g., threat of removing the children from their care, spreading lies about them to their family members and friends, sharing intimate images etc) (see further Stark, 2007).

Meanwhile, approximately 18 per cent of survey participants disagreed or strongly disagreed that women are more likely to be afraid that their male partners will cause them serious harm. Interpreting this finding is difficult in the absence of additional information about the reasoning behind these responses. However, it does potentially demonstrate that some community members may minimise or underestimate the gendered impacts of DFV. Research consistently demonstrates that DFV is a gendered phenomenon, with women being more severely impacted by these behaviours than men. In 2022-2023, one woman was murdered by a male intimate partner every 11 days, while one man was killed by a female intimate partner every 91 days (Miles & Bricknell, 2024). Further, women are more likely to be hospitalised for injuries related to DFV than men (AIHW, 2019a). Looking more broadly at non-physical impacts, DFV is a leading cause of housing insecurity among women, (AIHW, 2019b; Mission Australia, 2019), long-term unemployment and welfare dependence (Summers, 2022).

These findings demonstrate the continued need for community-wide awareness raising and education campaigns to further expand understandings of DFV, particularly of the severe impacts of coercive control, and non-physical forms of intimate partner violence. For the benefit of jury decided matters, there is also a need to expand the provision of expert testimonies in courts to support jury members to better understand the contexts within which women may murder their abusive partners.

Key finding 2: Individual attitudes and knowledge about DFV influenced whether people thought DFV defendants should have a defence.

There was some variation across the community, regarding attitudes towards DFV. For example, relative to men, women had lower victim-blaming and minimising attitudes, while participants born in countries where English is not the main language had higher victim-blaming and minimising attitudes. Both of these findings are, again, consistent with previous Australian research. For example, in their recent analyses of Australian

NCAS data, Coumarelos et al. (2024) found that Australian residents born in countries where English is not the main language were less able to identify non-physically abusive behaviours as 'always' DFV, compared to physically abusive behaviours. In explaining these findings, the authors pointed to international variation regarding awareness of DFV, as well as in systemic and criminal justice responses to these behaviours, which may contribute to different understandings of DFV at the individual and community-level (Coumarelos et al, 2024).

The need for awareness-raising and education campaigns on gender-based violence for recently-arrived migrants that can be accessed prior to and after arriving in Australia has been raised by various advocacy organisations and academics elsewhere (see for example Coumarelos et al., 2024; Lyneham & Bricknell, 2018; Maher & Segrave, 2018). This need was also raised by one of our focus group participants, who reflected on her own experiences of having to be educated about Australian law and parenting practices after arriving in Australia with her family:

> *Like, they need parents to be more aware of the rules and why the rules are there. It is assault. Everything I hear now, everything that I go through, learning about violence…and abuse. Now it is quite serious for the child and if they are going to school and saying 'oh my mum slapped me, oh that happened to me', would be quite big. But I think the child and the mother and the parents, they need more clear path for the children to know the rules and how we follow. We need warnings (Female, 35-44 yrs, non-Indigenous, focus group participant).*

Importantly, a range of other factors did not appear to influence attitudes towards DFV, including place of usual residence. This is again relatively consistent with other attitudinal research, which has demonstrated that regionality is not associated with variation in attitudes towards DFV or victimisation experiences, when controlling for other factors (Boxall & Morgan, 2021; Boxall et al., 2020). However, it is important that we again acknowledge that, although the survey sample was large and weighted to reflect the Queensland population (see Appendix A), because the survey was primarily administered online and was limited to research panel members, it is likely that it was not accessible to all members of remote and very remote communities. As such, there is a need for the QLRC to undertake additional consultation with these communities to inform their review.

Importantly, the attitudes of community members towards DFV, particularly victim-blaming and minimising attitudes, influenced their views on the culpability of defendants in scenarios involving conduct that could be considered a form of DFV (e.g., Scenario 2 and 4), or where the defendant killed their intimate partner (i.e., Scenario 6 and 8). This finding remained consistent even after controlling for a range of other factors, including the socio-demographic characteristics of participants and the characteristics of the scenario (e.g., the level of force used by the defendant). More specifically:

- Scenario 2 (A man harms his female partner after a dispute) - as victim-blaming and minimising attitudes increased, participants were less likely to believe that David should be convicted of assault.

- Scenario 4 (a parent lays their hands on their child who is not obeying the rules of the house) - as victim blaming attitudes increased, participants were less likely to believe that Dora should be found guilty of assault.
- Scenario 6 (A primary victim of DFV killed the perpetrator) - as victim-blaming attitudes increased, participants were more likely to believe that Diana should be found guilty of murder.
- Scenario 8 (An intimate partner kills their spouse who they think is having an affair) - as victim-blaming attitudes increased, participants were more likely to believe that Dylan should not be found guilty of murder.

Building on the previous finding that the Queensland has low levels of understanding the impacts of non-physical DFV and the gendered impacts of DFV, this highlights the importance of providing expert witness testimony and evidence in court when matters involve DFV histories. This testimony could be essential for supporting juridical officers and juries to understand the impacts of DFV on victim-survivors, as well as the cognitive and emotional states of victim-survivors. We discuss this further in Key Finding 10.

Key finding 3: The community does not support provocation as a defence to assault if there is a risk of significant injury.

To test community attitudes towards the defence of provocation as a complete defence to charges of assault, we provided community members with three scenarios in which this defence could be raised. The attitudes of community members towards the availability of this defence varied across the three scenarios, but overall indicated a lack of support amongst community members for the use of provocation as a defence when the defendant's conduct risks or causes significant injury.

Scenario 1 (Donald, a fight between acquaintances) sought to test community attitudes to both self-defence and provocation as a partial defence. Overall, most survey participants (65.6%) favoured a conviction for assault in this case. However, the level of force used by Donald as well as the injuries caused to Vaughan significantly influenced participants' views of Donald's culpability. The vast majority of survey participants (81.5%) who were told that Donald had stomped on Vaughan's face and chest said Donald should be convicted of assault, which reduced to just 50.5 per cent of participants who were told that he had punched him in the face.

These results were supported by focus group participants who were also told that Donald had stomped on Vaughan's chest. Donald's behaviours attracted high levels of condemnation during focus group discussions, with several participants explaining that by stomping on his chest and face, he could have killed Vaughan or seriously injured him. Further, regardless of the level of force used by Donald, when Vaughan was described as having a broken jaw and needing to stay in hospital, participants were also more likely to say he should be found guilty of assault, compared to if he simply had a bruise on his face (72.6% vs 61.1%).

In Scenario 2, almost all participants (97%) said that David should be found guilty of assault, after he threw a glass at his partner's face. These high levels of condemnation remained the same, regardless of whether the assault followed an argument between

the pair, involving Valerie slapping his hand away, or after David observed Valerie kissing another man (97.1% vs 96.7%). As noted above, we did not advise survey participants that provocation provides a lawful excuse for assault in Queensland. However, in explaining their reasons for finding David guilty of assault, survey participants frequently referred to Valerie's conduct as not 'deserving' David's response. Further, several survey participants said that by throwing a glass at Valerie, he could have seriously hurt her or even killed her.

Finally, Scenario 3 described an altercation between Derek, who punched a football fan (Vince), who was heckling him. Participant responses to this scenario also showed that community members had little enthusiasm for the provocation defence in these circumstances, with almost 85 per cent of participants saying that Derek should be found guilty of assault. However, in this scenario, the nature of the provoking conduct did change people's views; if Vince chanted 'loser' in Derek's ear and then made a derogatory comment about his partner, participants were less likely to say Derek should be found guilty of assault (73.6%), compared to participants who were told that Vince had simply called Derek a loser (96.5%).

In explaining why they believed Derek was less culpable in the former scenario, participants referred to Vince's 'obnoxious' behaviour and that he had potentially engaged in criminal behaviour as well, by verbally abusing Derek and his partner. However, still the vast majority of survey and focus group participants argued that Derek had other options to de-escalate the situation, prior to resorting to violence, such as calling security or moving seats (in this context, see also *Criminal Code 1899* (Qld), s. 270). Several responses suggested that violence of this nature should be unacceptable in our society.

Generally speaking, community attitudes towards Scenario 1 were potentially more 'lenient' (i.e., a larger proportion of survey participants believed that the defendant should be found not guilty) than for Scenario 2 and 3. To explain this finding, we can draw on the qualitative views of community members. In reflecting on the culpability of the defendants in the three cases, they spoke about threat perception (see Key Finding 5), and how 'words alone' should not be sufficient for reducing a defendant's culpability. In Scenario 1, many participants spoke about Donald potentially feeling physically threatened by Vaughan, which was reinforced by the physical altercation between the two. However, in Scenarios 2 and 3, the provoking conduct was primarily verbal. This would suggest that the public is more likely to support provocation as a complete defence to assault, where the provoking conduct involves something more than 'mere words'.

This idea that community members are not supportive of the use of provocation in situations where the conduct involved 'mere words' is supported by our analysis of responses to Scenario 8, which involved Dylan who killed his partner Vera after an argument triggered by his belief she was having an affair. In this scenario, again, survey participants were highly condemnatory of the defendant's conduct, with 83.6 per cent saying that he should be found guilty of murder. Although the nature of the provoking conduct did influence participants' views (see Key Finding 8 for a discussion of this), the overall high level of condemnation of his behaviours suggests again, a lack of

community support for the use of provocation as a defence in situations involving words alone. This was succinctly expressed by one focus group participant in the following way:

> *I think the idea that you can get a partial defence for murder for essentially being told you're a dud shag is deeply offensive to the person who's been murdered…the idea that someone can just use words in a one -off situation, like 'I shagged the best mate and he was better in bed than you', I just think that's revolting (Female, 45-54 yrs, non-Indigenous, focus group participant).*

This suggests that the current framing of s 304 of the Code appears to be in line with community standards, as it provides that the partial defence of provocation is generally not available where the alleged provocation is based on ending or changing the nature of the relationship, and/or 'words alone'. However, our findings also suggest a disconnect with the current application and interpretation of s 304 of the Code. In *Peniamina v The Queen* [2020] HCA 47, the High Court set aside a murder conviction, after a Queensland judge excluded the defence in similar circumstances. The High Court found by majority that, finding provocation should have been left to the jury, in relation to a man who killed his wife, who he believed was having an affair. However, the Court framed the claimed provocation narrative in narrow terms, to avoid the exclusion under section 304(3) of the Code. At his retrial, the man was found guilty of manslaughter on the basis of provocation (to which he had earlier offered to plead guilty; *R v Peniamina (No 2)* [2021] QSC 282).

Key finding 4: Aboriginal and Torres Strait Islander participants had different views about defendant culpability than non-Indigenous participants in a small number of scenarios.

Scenario 3 (Derek was heckled by Vince at a football match), revealed a notable difference in views as to Derek's culpability for non-Indigenous and Aboriginal and Torres Strait Islander participants. Aboriginal and Torres Strait Islander participants were less likely than non-Indigenous participants to say Derek should be found guilty of assault, with many non-Indigenous participants indicating Derek could have 'removed himself' from the situation or called for security rather than resorting to violence (63.8% vs 85%).

Interpreting this finding is complex. There was no discernible difference in the responses given by Aboriginal and/or Torres Strait Islander and non-Indigenous survey participants, when asked why Derek should be acquitted. Many suggested that Vince's provoking conduct warranted a physical response, citing a sense that 'he had it coming.' Instead, it appeared that Aboriginal and/or Torres Strait Islander participants, to a greater extent than non-Indigenous participants, viewed Vince's 'deliberate' provoking behaviour as a decisive factor in understanding Derek's reaction and use of violence.

It could be assumed that Aboriginal and Torres Strait Islander participants' social and cultural contexts influenced their perceptions of Derek's responsibility. In particular,

these perceptions may have been shaped by their individual and collective experiences of public harassment — particularly in the form of racism — which could have triggered a stronger empathetic response to Derek's reaction. In other words, Aboriginal and/or Torres Strait Islanders' heightened vulnerability to mistreatment may have influenced their views of situations involving harassment and violence.

First Nations people in Australia continue to experience ongoing and longstanding forms of [c]overt racism and discrimination - from the interpersonal to systemic levels -- and this is central to the colonial legacy (Leroy-Dyer & Menzel, 2023). At the same time, there is an overwhelming tolerance for racism in Australia, which is further reinforced by minimising attitudes, misconceptions, stereotypes, and deficit thinking concerning Aboriginal and Torres Strait Islander peoples. The prevalence of racism and discrimination experienced by Aboriginal and Torres Strait Islander people is widely documented. A national study by Cunningham and Paradies (2013) found that roughly one in four First Nations adults have reported experiencing racial discrimination, particularly in public (41%), legal (40%) and workplace (30%) settings. Building on the national context, Markwick et al. (2019) found that Aboriginal and/or Torres Strait Islander adults living in Victoria were four times more likely to experience racism than their non-Indigenous counterparts, and seven times more likely when compared to non-Indigenous adults of Anglo-Celtic origin. In a North Queensland case study, Page and Petray (2016) observed that the Aboriginal and Torres Strait Islander mediators, advocates and activists as agents living in Wambuluna (Townsville) experienced considerable structural constraints when advancing First Nations community interests. The study emphasised the prevalence of covert and implicit racism, as well as highlighting the broader non-Indigenous community's engagement in 'active apathy' (Page & Petray, 2016).

This heightened vulnerability to mistreatment may influence the way Aboriginal and/or Torres Strait Islander Indigenous participants in this study interpreted situations involving provocation and violence. It could be hypothesised that heckling/harassment as a form of provocation in a public place holds greater significance in Aboriginal and Torres Strait Islander participants' attitudes compared to non-Indigenous people. This is consistent with Key Findings 9 and 10, whereby victim-survivors of IPV were more lenient towards Diana, who killed her abuser, compared to participants who were not victim-survivors. Given the prevalence of such experiences, it could be that Indigenous participants, similar to victim-survivors in Diana's case, were drawing on their own lived experiences of harassment to inform their understanding of Derek's actions. In this sense, their responses may be shaped by a history of personal or collective encounters with systemic inequality, which mean they might identify more strongly with Derek's reaction to prolonged provocation.

Unfortunately, testing this hypothesis is not possible with the current data as we did not ask participants to report on their experiences of harassment; rather, they were asked to disclose experiences of violent crime (see Appendix B). This limitation highlights the need for further research on the intersection of personal experience and perceptions of violence. Nonetheless, this finding can be examined and contextualised to an extent, through the broader literature.

It is also essential to situate these findings within the broader context of First Peoples' experiences of secondary victimisation, particularly when reporting harassment to the

police or other authorities. Many studies have highlighted the significant mistrust many Aboriginal and Torres Strait Islander communities have towards the police and law enforcement officials due to past and ongoing injustices (Blagg et al., 2005; Morgan & Dodd, 2024; Warde, 2023). This sense of distrust can make reporting incidents of harassment seem both unsafe and not plausible. As such, while many non-Indigenous participants suggested that Derek had other options for dealing with the harassment — such as reporting it to security — Indigenous participants may not have considered these alternatives as viable or 'safe'. Their historical and cultural experiences with authorities likely shaped their perceptions of these options, leading them to view Derek's response to the harassment as more understandable and less culpable than non-Indigenous participants.

This highlights the need for more research, to explore the intersection of personal experience, cultural context and perceptions of violence. Future studies could examine how experiences of harassment and the mistrust of authority influence decision-making and moral judgement in situations involving provocation and violence, particularly within Aboriginal and Torres Strait Islander communities. Understanding these dynamics is crucial for developing more effective and culturally sensitive interventions in both legal and social contexts. In recognition of the limitations of the current study methods for engaging with a range of Aboriginal and Torres Strait Islander communities, including those living in remote and very remote areas, there is a need for these future studies to utilise methodologies that are more likely to support the inclusion of First Nations peoples. This involves undertaking in-person, on-country consultations and yarning circles, co-facilitated by Aboriginal and/or Torres Strait Islander researchers and respected community members.

Key finding 5: Community attitudes align with traditional rules of self-defence, and participants were able to weigh relevant factors to assess culpability.

In several of the scenarios provided to community members, the defendant could have raised self-defence if charged with an offence. Our analysis of focus group participants' discussions regarding these scenarios, and the analysis of the qualitative survey data, highlighted that community attitudes align closely with the traditional application of self–defence.

For example, in Scenario 1 (two known acquaintances get into a fight at a park) which sought to test community attitudes to both the defence of self-defence and provocation, participants who said they thought Donald should be acquitted of assault if charged, referred to self-defence when explaining their decision. Meanwhile, participants who said he should be found guilty of assault, referred to Donald's perceived ability to escape as part of their decision making, as well as the proportionality of the response. This last point appeared to be very important for participants; participants who were told that Donald had stomped on Vince's chest were more likely to say he should be found guilty of assault, controlling for a range of other factors. This was also picked up on in the focus group discussions, with participants describing the act of stomping as out of proportion to the threat posed by Vaughan, and as a clear indication of the use of severe violence and subsequently of high culpability on the part of the defendant.

Further, although Scenario 3 (a football fan assaults another fan who is heckling them) aimed to assess community attitudes towards the use of a defence of provocation, in explaining why they believed Derek should be acquitted (14.7%), participants suggested that he was acting in self-defence against what could have been a perceived threat from the victim. In explaining why they believed Derek should be convicted of assault (84.6%), survey and focus group participants explained that there were other options available to Derek besides the use of violence (e.g., moving away, calling security), and that Vince did not pose an imminent threat to Derek.

In Scenario 7 (victim of sexual assault who kills the perpetrator), 21 per cent of survey participants said that Daisy should not be found guilty of any offence (i.e., murder or manslaughter). Inferentially, this suggests that they thought she was likely acting in self-defence. When asked to explain why they believed Daisy should be acquitted, several participants described Daisy as acting in self-defence against an imminent attack from the victim. When participants who believed she should be found guilty of murder or manslaughter were asked to explain their reasoning, the option for escape was raised by many participants, as was the proportionality of her response (although there were many participants who suggested that she may not have intended to kill the victim, hence downgrading the offence to manslaughter).

These results highlight that traditional considerations for self-defence are well accepted and understood by members of the Queensland community. Participants seemed to consistently grasp the relevant factors for the defence of self-defence of necessity to use defensive force, and reasonableness, incorporating considerations of options for retreat and proportionality. With regards to provoked self-defence, participants were able to factor this issue into their assessment of reasonableness (which is how self-defence operates in other Australian jurisdictions other than Queensland).

Further, the finding that one in five survey participants believed that Daisy should be acquitted of killing the victim who was attempting to sexually assault her, suggests that there may be a need to amend the law of self-defence, to allow scope for the use of force, in response to an actual or apprehended sexual assault, rather than self-defence being limited to apprehension of death or grievous bodily harm, subject to existing considerations of necessity and reasonableness. This is supported by a broader literature which has highlighted the importance of self-defence laws to be drafted in such a way as to recognise and be sensitive to the different contexts, within which violence against women and men may occur (see, for example, McPherson, 2022).

Key finding 6: The community support alternatives to criminal prosecution where parents use minimal force to discipline children.

In scenario 4, we described a situation where the defence of domestic discipline may be available to the defendant, in this case the victim's mother. Only 33 per cent of survey participants believed that Dora should be found guilty of assaulting her daughter, Vicky. Focus group participants similarly did not believe that Dora should be found guilty of assault, even though they did not support the use of violence against children generally. Focus group and survey participants raised questions about what the purpose of convicting Dora would be and whom it would benefit. Instead, many

participants wanted to see a response that would support, rather than punish Dora, who was characterised as a 'struggling mum'. Participants spoke about the need for social supports for parents like Dora, including parenting education so she could learn alternative methods for de-escalating conflict and disciplining Vicky without resorting to physical violence.

In the scenario presented to Focus Group participants, the victim was described as having ADHD. Most participants who commented on the presence of a disability specifically, viewed this as further demonstration of the need for support for the family, with many participants drawing on their own lived experience with ADHD or of parenting a child with ADHD. In particular, it was noted by these participants that parenting neuro-divergent children could be 'challenging', particularly as mainstream or traditional parenting strategies may not be appropriate and could actually increase conflict and stress within the family. As such, it was suggested that Dora would benefit from further education to support her ability to parent effectively, without resorting to corporal punishment.

However, community members' views about Dora's culpability were also influenced by the nature of her conduct – as the perceived (or potential) harms associated with her conduct increased, so too did her culpability. For example, survey participants who were told Dora had bruised Vicky, used an implement or slapped Vicky on the face, viewed her behaviour as more egregious and were more likely to say she should be convicted of assault. Focus group participants similarly viewed these behaviours as more egregious, explaining that they were more likely to cause harm (actual or anticipated) to Vicky, as well as indicating an intent to harm. Relatedly, survey and focus group participants said that if the incident was part of a broader pattern of abuse, then Dora's culpability increased and she should be convicted for assault.

That focus group and survey participants were making determinations about Dora's culpability based on factors such as intent, nature of the conduct and harm involved, as well as broader patterns of physical violence, is reflected in a broader body of research which has attempted to identify criteria for differentiating between physical forms of corporal punishment, and violence against children (i.e., child abuse). According to Clement and Chamberland (2014), violence against children requires three key components; a relationship characterised by an imbalance in power (e.g., the child-parent relationship), the perpetrator's conduct (physical sexual, or non-physical abuse), and consequences for the child (realised or potential). On this basis, many child protection researchers and advocates have argued that *all* forms of corporal punishment, regardless of intention and whether they result in actual harm, should constitute violence against children (Clement & Chamberland, 2014; Greef, 2023).

However, this does not appear to be consistent with the views of community members. For community members, understanding the consequences of the conduct for the young person was crucial for determining culpability, and interrelatedly, whether the conduct constituted assault. The consideration of whether the incident was part of a broader pattern of abuse again speaks to the importance community members placed on the harm to the victim. Several studies have demonstrated that where acts of

corporal punishment are repeated and ongoing they can be extremely harmful (Fong et al., 2019).

This said, even isolated acts of corporal punishment, which do not cause physical injuries, can have negative impacts on children and young people. These impacts were identified by a small number of focus group participants, who noted the emotional harms associated with even minor acts of violence, as well as the longer-term impacts of contributing to inter-generational transmission of violence (i.e., children and young people who are subjected to corporal punishment may normalise these behaviours and even expect them in future relationships). Among some survey and focus group participants who believed Dora should be convicted of assault, there was a recognition of the need for cultural change in Queensland and Australia more generally, to challenge attitudes that normalise the use of violence against children. This would likely involve the need for community-based education about the harms associated with the use of force against children and young people by family members.

This highlights that community members believed that responses to defendants accused of assault should be sensitive to the characteristics of individual cases. This point is elaborated on in Key Findings 9 and 12.

Key finding 7: The community supports teachers' ability to use force for the purpose of management or control but not for discipline or correction.

There was very little difference in the views of survey participants, regarding the appropriateness of the defence of domestic discipline, based on whether the defendant was described as Vicky's mother or teacher; 33.2 per cent of participants said that Dora (the mother) should be found guilty of assault, compared to 30.5 per cent who said that Davina (the teacher) should be found guilty. However, by contrast, focus groups participants strongly condemned the use of domestic discipline as a defence by teachers. In explaining their views, participants reflected that teachers are in a professional role and there were alternatives to using force against Vicky, such as sending her to the principal's office or calling her parents.

These seemingly contradictory findings are likely due to the different ways in which the scenario involving Davina and Vicky was presented in the survey and the focus groups. In the survey, Davina was described as either grabbing Vicky by the hand or by the back of the shirt for the purpose of *controlling her* (see Appendix B). However, in the focus groups, participants were asked to consider Davina's culpability if she had perpetrated the same behaviours as Dora (Vicky's mother) -slapping her on the thigh for the purpose of *punishing* her.

What this suggests is that there was some support within the community for teachers to use domestic discipline as a defence, in cases where they were using very low-levels of force for the purpose of controlling students. However, the community did not support the use of this defence in cases where the behaviour involves 'laying hands' on the student for purpose of punishing them. Across the focus groups there was clear condemnation of the use of physical discipline in a school setting, regardless of the scenario circumstances. Participants emphasised that Davina was a professional and should have the skills and options available to her, to respond to a child without the use

of corporal punishment. Focus group participants were unanimous in their view that a teacher should be convicted of assault and that such an individual should not be permitted to continue teaching.

Key finding 8: The community does not support provocation defences where the defendant's conduct is motivated by anger, jealousy, or a desire for control, particularly in cases involving DFV.

There was strong evidence from the survey and focus group data analysis that Queensland community members consider the defendant's motivation for using violence highly relevant in cases where provocation could be raised as a partial defence to murder or a complete defence to assault. This was particularly notable in responses to homicide and assault scenarios where the defendant and the victim were in an intimate partner relationship with one another. For example, in Scenario 2, survey participants who were told that Valerie was observed kissing another man, and where the scenario then referred to David's violent behaviour as being motivated by jealousy and a desire to control Valerie. While some community members acknowledged that this may have been upsetting for David, and some even sympathised with him, numerous survey participants said that Valerie did not deserve David's response, as she had the 'right' to have an affair and that David did not 'own' her. In a similar vein, survey participants who were told the assault followed an argument where Valerie slapped his hand away, were similarly condemning of David's conduct, saying that he was motivated by anger at being challenged or rebuffed by Valerie, and that his inability to control his emotions should not downgrade his culpability for the assault.

Further, in Scenario 8, survey participants explained their view that Dylan should be found guilty for murder by again, referring to his motivations which were described as jealousy, revenge and a desire to control Vera. Although participants often expressed disapproval of Vera's conduct, in situations where she was described as taunting Dylan about his sexual prowess or as spitting at him, they said that his behaviours were an overreaction and an extreme expression of control. Dylan's desire to control Vera was further demonstrated to some survey and focus group participants in the method he used to kill Vera – strangulation. Survey and focus group participants commented that killing someone by strangulation takes more time and energy than other methods, which they interpreted to mean that Dylan was not acting with a loss of control but that he had time to stop before he killed Vera, but instead chose to continue.

Several survey participants and focus group participants expressed concern that by providing Dylan with the opportunity to raise a partial defence of provocation in this case, the courts were effectively accepting that he was not responsible for controlling his emotions, an acceptance that they believed de-values Vera's life. As one focus group participant remarked:

> *He failed to control his own emotions and deliberately took someone else's life because he couldn't get his own way (Female, 45-54 yrs, Aboriginal, survey participant).*

Concerns that the defence of provocation serves in practice to ameliorate the defendant of their responsibility to control their emotions was also raised by focus group and survey participants in responses to Scenarios 1 and 3.

The responses received to these scenarios imply a lack of Queensland community support for the provocation defence to apply to reduce the culpability of a defendant who has used violence in the context of a history of DFV perpetration. Research exploring the motives of people who use DFV have consistently identified key differences between abusive behaviours that occur within familial and intimate partner relationships, compared to violence that occurs in other contexts. For example, a large body of research now recognises that a core motivation underpinning DFV is a need for control over the victim, as well as a sense of 'ownership', entitlement and grievance (see for example, Boxall, et al., 2022; Monckton-Smith, 2020; Stark, 2007). Relatedly, the successful use of the defence to reduce what would otherwise be murder to manslaughter where (predominately male) defendants have killed in response to relationship separation or allegations of infidelity has been the most heavily criticised context in which the defence is raised (see, among others, Fitz-Gibbon, 2014; Horder & Fitz-Gibbon, 2015; Howe, 2018; Plater et al., 2017). In the most controversial cases, men who have killed a female intimate partner in response to a relationship separation or an alleged confession of infidelity have been able to avoid a conviction for murder, by arguing that it was the non-violent conduct of the victim that provoked them to kill (see, among others, *R v Butay* [2001] VSC 417; *R v Ramage* [2004] VSC 508). In these cases, it has been well documented in social science and legal research that ultimately it was the actions of the deceased female victim that ended up on trial, rather than the male accused (for further discussion, see Coss, 2006; Fitz-Gibbon, 2014; Morgan, 1997).

The findings from this study lend support to further restriction of the partial defence of provocation in Queensland to ensure it cannot apply in this controversial context. Looking to comparative jurisdictions there are numerous examples of how this could be done, either via complete abolition of the partial defence to murder (as in Victoria and Tasmania), via reform of the partial defence to restrict its application to provocative conduct amounting to an indictable offence (as in New South Wales partial defence of extreme provocation, see further Fitz-Gibbon, 2017) or through reform to explicitly restrict the use of the partial defence in specific circumstances (as in the partial defence of loss of control in England and Wales, see further Fitz-Gibbon, 2013).

While the DFV and violence literatures more generally identify that many people who use violence have low impulse control and emotional regulation issues (Bilton et al., 2016; Garofalo & Velotti, 2017; Gildner et al., 2021; Leppink et al., 2014), the underlying causes of the emotional dysregulation differ for DFV offenders. In particular, DFV perpetrators' emotional distress may manifest in, or lead to abusive behaviours that can be attributed to factors such as a loss of control over their partner, and the imagined failings of their partners to adhere to perceived acceptable behaviours, including adherence to traditional gender norms (Boxall, 2023; McCarthy et al., 2018; Nabors & Jasinski, 2009; Santana et al., 2006).

It is important, however, to acknowledge that the findings, while overall demonstrating very low levels of support for the successful use of a defence of provocation in cases of

DFV, still provided some evidence of the ways in which community members were influenced by gendered norms, and narratives of ideal victimhood when considering the culpability of defendants in these scenarios. This was particularly evident in Scenario 8. Although condemnation of Dylan's actions was high among community members surveyed and throughout the focus groups, we still found that when Vera was described as admitting to an affair and insulting Dylan's sexual prowess, community members believed that Dylan's culpability was reduced. This points towards the persistence in Queensland of narratives of ideal victimhood, which describe some victims of crime as more worthy of protection through the criminal justice system. Ideal victimhood is highly gendered, with research showing that women are more likely to be blamed for their experiences of violence, if they are seen to be challenging or not conforming with societal gender norms (see, among others, Howe, 1999; Morgan, 1997; Tyson, 2012).

Key finding 9: The community expects individualised criminal justice responses to the use of lethal violence.

The analysis of the survey and focus group data demonstrated that participants took a range of different factors into account, when determining the defendant's culpability for killing someone. In particular, the characteristics of the offence clearly impacted participants' views about the defendant's culpability. This was reflected in the analysis of the quantitative survey data, as well as the qualitative responses from the survey participants and focus group participants. Based on our analysis of the quantitative survey data, the factors that explained variability in the beliefs of participants regarding culpability for killing someone included:

- the timing of the lethal violence (Scenario 6);
- the method of lethal violence (Scenario 7); and
- the victim's conduct preceding the lethal violence (Scenarios 7 and 8).

The qualitative survey and focus group data also revealed a range of other factors that participants believed should impact on the outcomes for both conviction and, where applicable, sentencing of defendants. These included the impact of any prior histories of abuse on the defendant's mental health and wellbeing (discussed in more depth in Key Finding 10), and the defendant's prior history of offending and age.

These findings demonstrate that the community expects that that the administration of the criminal law be flexible enough to ensure individualised responses to the use of lethal violence (see also Key Findings 11 and 12). There was support throughout the survey and focus groups for the law of homicide to include a range of options in determining the categorical outcome (ie, murder and manslaughter) and the sentence (ie, life imprisonment and some lesser penalty) to ensure it can best reflect the circumstances of any individual case.

This was particularly notable in Scenario 6, which described a situation where the defendant (Diana) had been subjected to abuse by the victim (Vernon) during the years leading up to her use of lethal violence against him. In this scenario, only 19 per cent of survey participants said that Diana should be found guilty of murder, with the majority

saying she should be found guilty of manslaughter. There was a similar reticence among focus group participants to convict Diana of murder, with a strong preference for a manslaughter conviction or a not guilty verdict (see Key Finding 11 for a discussion of this view).

When asked to explain why they believed that Diana should be found guilty of manslaughter rather than murder, participants in various ways expressed that murder did not 'feel right' as they did not believe that the behaviour warranted this charge. This was despite focus group and survey participants expressing discomfort with Diana's conduct (waiting until Vernon was asleep before killing him), with several suggesting that she could have had other options available to her. Further, focus group and survey participants acknowledged that Diana had intended to kill Vernon, which they understood was a crucial element of satisfying the requirements for a murder conviction.

Regardless, focus group and survey participants expressed a belief that it would not be fair to label Diana a murderer, in the same way that other people convicted of killing someone else would also be convicted of a similar offence. In the focus group discussions, some participants made direct comparisons between Diana's case with other murders that they had read about in the media, or other hypothetical scenarios, as evidence that Diana's conduct should not be labelled in the same way. The discomfort of community members labelling Diana's conduct as murder is reflected in the below comment from one focus group participant:

> *It's so complicated. I guess on the facts it would fall under manslaughter because she was genuinely afraid for her life but it's so complicated. On the basis of this I don't necessarily blame her or want her to do any jail time. But of course, there potentially were options, potentially to leave and seek help, although I know it's not that simple. At the most, based on this, I would lean towards manslaughter (Female, 45-54 yrs, non-Indigenous, focus group participant).*

As well as significant variability in the views of community members about what conviction would be appropriate across the three scenarios, we also found that even among participants who believed that a murder conviction was appropriate, that a significant proportion believed that the defendant's sentence should be reduced, or even increased. This again highlights that, in the words of one focus group participant, 'not all murders are the same' with defendants having differing levels of culpability which the community believes should be reflected in the sentence that they receive. We pick up on this point again in Key Finding 12.

Key finding 10: There was strong community support for partial and complete defences and consideration of abuse for victim-survivors of DFV who kill an abusive partner.

There was strong community support for the existence of partial and complete defences for victim-survivors of DFV who kill an abusive partner. This was demonstrated in a number of ways. First, as noted previously, nearly two-thirds of

survey respondents (64%) considered manslaughter the appropriate outcome for the defendant in Scenario 6 (Diana) who killed her abusive partner. A much smaller proportion (19%) felt such action should result in a murder conviction, while 16 per cent considered that Diana should be acquitted, inferentially on the basis that she was acting in self-defence. In comparison, in Scenario 8 which also involved an IPH, over 80 per cent of survey participants believed that the defendant should be found guilty of murder. The differences in the attitudes of community members towards these two scenarios is explainable by the absence of a history of abuse within Scenario 8, and the perceived motivations of the defendants; in Scenario 8 Dylan was described by survey participants as being motivated by a desire to control Vera, while in Scenario 6 Diana was described as being afraid for her life.

From the current analysis, there were no factors that appeared to differentiate between participants who believed that Diana should be found guilty of manslaughter compared to a finding of not guilty. Certainly, survey participants gave similar reasons for why they believed either option (as compared to a finding of guilty of murder) was appropriate. However, several factors emerged as influencing participants decision-making regarding whether Diana should be convicted of murder, manslaughter or be found not guilty:

- Imminence - participants who were told that Diana had waited until Vernon was asleep were more likely to believe she should be found guilty of murder rather than manslaughter or not guilty.
- The availability of other options besides lethal violence – the qualitative survey data and focus group discussions identified that Diana's choice to use lethal violence was not an option of last resort because she had other options available to her, including calling the police or leaving the relationship.

It could be argued that the community's emphasis on the role of imminence and a small number of participant's perceptions of the availability of other options to Diana, is demonstrative of a lack of understanding of the cumulative and longer-term impacts of DFV on victim-survivors, including of social entrapment within relationships. This hypothesis is supported by the finding that victim-survivors of IPV who participated in the survey and the focus groups, were less likely to consider these factors as relevant in their determination of Diana's culpability. After controlling for a range of other factors, including the characteristics of the scenario, victim-survivors of IPV who participated in the survey were less likely to say that Diana should be found guilty of murder (15.8%), compared to participants who had not been subjected to IPV (21.0%) and were more likely to say she should be found not guilty of any offence (19.7% vs 14.7%).

When discussing Scenario 6, survey and focus group participants who were victims-survivors of IPV were able to articulate and describe the barriers that Diana would have experienced to leaving her abuser and why she may have felt that she had to kill him to escape. These participants used their own experiences to highlight the impact of abuse on the entrapment of victims-survivors in relationships, including closing off avenues for effective help-seeking. For these participants, the fact that Diana killed Vernon

while he was asleep was also not of concern, instead several focus group participants said this in and of itself demonstrated the level of fear that she had for her safety.

The views of victim-survivors of DFV who participated in the current research are echoed in the broader literature discussing the limitations of traditional male-oriented self-defence law (see, for example, Guz & McMahon, 2011; McPherson, 2022). For example, feminist legal scholars have argued that the requirement in traditional self-defence legislation that there be a close temporal link between actual or threatened harm (e.g., Vernon's threat) and the defendant's lethal violence overlooks the pervasive impacts of IPV on the perceived and actual ability of victim-survivors to escape abusive relationships safely. Instead of a requirement of imminence, these scholars instead suggest that the legal test should be necessity – did the defendant believe that killing their abuser was necessary to save their own or someone else's life (Guz & McMahon, 2011).

Building on this, Julia Tolmie and others have argued that adopting a social entrapment model for understanding DFV and its impacts could be helpful when communicating to juries and juridical officers the impacts of abuse on victims-survivors, including their perceived ability to leave the relationship and their threat perception (see for example, Douglas et al., 2021; Tolmie et al., 2018, 2024). A social entrapment framework also extends our understanding of victim-survivors' experiences, from not only understanding how the behaviours of the abuser impact on the individual, but also to better understanding the full range of impacts of broader system responses that can also trap women in abusive relationships – for example, the social welfare system, migration system and child protection system (Tolmie, Smith & Wilson, 2024). While numerous survey and focus group participants reflected that Diana had 'other options', such as seek help and safety from DFV services and/or the police, victim-survivors that participated in the focus groups noted that services may not have been available or may not provide an appropriate response. This discussion further demonstrates how the abuse, in interaction with broader system failures, can contribute to victim-survivors resorting to lethal violence against their abusers – an impact that was often poorly understand by general community members.

The results highlight that the community recognises varying degrees of culpability when it comes to the killing of an abusive partner. It suggests that such action generally is not seen as warranting a conviction for murder and should more often result in a conviction for manslaughter or an acquittal. It suggests that the existence of a partial defence in circumstances of DFV, as exists under s 304B of the Code, is compatible with contemporary community standards in Queensland. The results also reinforce the need for the complete defence of self-defence to be available, as this recognises that an acquittal may be the most appropriate outcome in some circumstances involving lethal violence.

However, the findings also underscore the need for effective and DFV-informed jury directions and expert evidence, in cases of homicide involving allegations and histories of DFV. Throughout the focus groups, participants expressed a range of different levels of understanding of DFV, which was often influenced by their own lived experiences and professional capacities. These understandings appeared highly influential upon the views they held about the culpability of a defendant charged with homicide or assault, where the scenario involved DFV. In particular, there is a need for juries to be

provided with evidence of the social entrapment that the defendant may have experienced, to explain their use of lethal violence. Douglas, Tarrant and Tolmie (2021) helpfully provide advice about what this evidence could look like, noting that it would need to demonstrate the following:

> *First, what the coercive and controlling tactics of the predominant aggressor were and how they developed over time to close down the victim's space. Second, what the responses of those who would be expected to be in a position to help were or would realistically be; and third, whether any intersecting structural inequities in the IPV victim's life circumstances affect the answers to these first two dimensions. The third dimension, in other words, refers to whether factors such as cultural norms around gender, experiences of precarity or disability or institutionalised racism supported or undermined the perpetrator's capacity to use coercive and controlling tactics and affected the actual or potential safety responses of those who might be in a position to help her" (Douglas et al., 2021, p. 328)*

In Victoria, as part of the substantive 2005 homicide law reform package which saw the abolition of the partial defence of provocation and the introduction of an alternative offence of defensive homicide (Fitz-Gibbon & Freiberg, 2015), social context evidence reforms were introduced. These social context reforms aimed to support greater understanding of the contexts within which a person may use lethal violence in response to DFV (on this, see further, Douglas, 2015; Toole, 2013). These reforms were praised at the time and subsequent to their introduction, with Toole, for example, commenting that the reform:

> *directly and intentionally confronts the problem women have faced in having their belief in lethal conduct considered genuine and reasonable as it provides women with the opportunity to explain the fear, desperation and lack of options that can lead them to resort to lethal violence. (2013, p. 480)*

In light of the findings from this study, consideration should be given to the merits of introducing similar reforms in Queensland, to improve the application of the criminal law in DFV homicide cases.

Key finding 11: There was some support for a partial defence of excessive self-defence.

In Scenario 7, survey participants were provided with information about Daisy, who killed Vaughan after he attempted to sexually assault her. Although not explicitly described to participants, in this scenario, we were testing their attitudes towards self-defence, which could be raised in this case. Although only 21 per cent of survey participants said that Daisy should be found not guilty of any offence, many survey and focus group participants felt that Daisy was likely acting in self-defence which they believed should be reflected in her conviction (manslaughter rather than murder) and/or in the length of the sentence imposed (if convicted of murder). This was despite participants' condemnation of Daisy's actions, particularly leaving Vaughan to die of his injuries rather than calling the police or an ambulance, and the stated belief that her response to his actions (where he was described as touching her bottom rather than attempting to take her pants off) was excessive.

However, while acknowledging that Daisy was culpable and should be held responsible for her actions, participants expressed discomfort with convicting Daisy of murder and/or sentencing her to a long term of imprisonment. Instead, they wanted another option, which would hold her responsible and act as a deterrent to the general community, while recognising that she was acting in self-defence. Importantly, similar views were raised in relation to Scenario 6 (a primary victim of DFV killing her abuser).

The responses to Scenario 7 raise the issue of whether there is a need for a partial defence of excessive self-defence in Queensland, noting that this partial defence exists in some other Australian states and comparable international jurisdictions. Specifically, this partial defence is available in jurisdictions both with and without provocation as another partial defence to murder (see NSW and South Australia, respectively). It is worth noting that South Australia is currently in the process of reviewing its excessive self-defence laws (Government of South Australia, 2024), while the Tasmania Law Reform Institute (2015) recommended that a partial defence of excessive self-defence not be introduced, despite Tasmania having abolished the partial defence of provocation.

Further consultation is required on the appropriateness and implications of introducing a partial defence of excessive self-defence in Queensland. Consideration should be given to the range of circumstances within which this partial defence could be raised, to ensure that attempts to respond to community views on this point do not undermine attempts to fulfill community expectations of the criminal law's response to other forms of lethal violence, for example, where men kill their female intimate partners in the context of relationship separation or infidelity.

Key finding 12: The community does not support the mandatory penalty of life imprisonment for murder. The community expects sentencing to reflect the culpability of murder defendants.

Building on Key Findings 9 and 10, there was clear evidence that the community does not support the mandatory life sentence for murder. Instead, the community expects sentencing to reflect the culpability of defendants.

The quantitative analysis of participants' responses to the scenarios involving homicide revealed that, even when participants believed that the defendant should be found guilty of murder, a large proportion said there were factors that should reduce their sentence. In Scenario 6, of participants who said that Diana should be found guilty of murder (19%), 72 per cent said there were factors that should reduce her sentence. These findings were consistent regardless of the characteristics of the scenario (e.g., the nature of the abuse she was subjected to).

In Scenario 7, of participants who said Daisy should be found guilty of murder, almost 36 per cent said there were factors that should reduce her sentence. It is noteworthy that the variables manipulated in this scenario (e.g., bottle vs knife, angry vs frightened) again did not present as strongly mitigating factors. Scenario 8 was the only homicide scenario, where most respondents (84%) supported a murder conviction.

However, even in this case, 10 per cent of those favouring such an outcome considered that there were factors that should reduce the defendant's sentence.

Further, when asked to consider the equivalence of two different murder scenarios, the majority of survey participants believed that they should attract different penalties. In particular, 83 - 88 per cent considered that a different sentence should apply to someone convicted of a so-called 'mercy killing' of a terminally ill and much-loved spouse, with their consent, compared to each of the other scenarios presented (i.e., party to offence, kills for benefit and reckless indifference).

However, during focus group discussions there was significant division among participants about their support for mandatory sentencing for murder. When asked the general question 'Do you support mandatory sentencing', many participants initially said that they did on the basis that killing someone was a very serious offence and should attract a significant penalty. Some participants espoused the view of a 'life for a life' in cases of murder.

Notably, for many of these participants, their support for mandatory sentencing was linked to their concern about the ability of judicial officers to apply discretion appropriately in cases of homicide. These concerns were mainly raised in relation to cases involving DFV, where participants questioned the courts' ability to understand the dynamics and impacts of DFV and how perpetrators of abuse may weaponise the criminal justice system to reduce their sentences for murdering their partners. The inclusion of a mandatory sentence for murder in the legislation was viewed as a protection against these potential miscarriages of justice. Conversely, however, because of their lack of faith in judicial officers to 'get it right', some focus group participants were not supportive of mandatory sentences, because they could imagine someone killing their partner in what was actually self-defence being charged with and convicted of murder and then being sentenced to life imprisonment.

However, most focus group participants questioned the merit of this standard when applied in practice. There was a general view that not all murders are the same, with focus group participants making comparisons between cases that they believed should obviously attract a serious penalty (e.g., serial killers) compared to other cases which should not (e.g., Scenario 6). The need for sentencing to reflect the individual culpability of defendants was even raised by community members who were initially supportive of mandatory sentencing.

These findings support Warner et al.'s observation that views on mandatory sentences tend to be 'divided, malleable and inconsistent' and 'depend on the methodology adopted' (Warner et al., 2018: 291). Certainly, Canadian research found that most people supported a mandatory life sentence for murder when they were asked a general question. However, this support decreased significantly, when provided with specific scenarios, including mercy killing (see Roberts, 2003; Ipsos, 1999). Similarly, research in the United Kingdom (Mitchell & Roberts, 2012), which involved presenting community members with nine different murder scenarios, found that the preferred minimum period to be served on a life sentence ranged from up to nine years (for a mercy killing) to natural life (for a murder committed in the course of a robbery). It may be inferred

that, when people are thinking 'a life for a life', they are not envisaging a 'mercy killing' situation.

In their research with members of the Queensland community, Jeffs et al. (2023) concluded that the public may not understand the precise meaning of sentencing terms, such as 'life sentence'. Accordingly, they suggested that:

> *An opportunity exists for enhancing confidence in the criminal justice system and the courts by improving the community's understanding of sentencing terms and outcomes. This suggests a need for targeted education and awareness strategies that are tailored to address the gaps in information available to the general community. The development of products that translate complex legal sentencing terms into plain English could have a positive impact on community understanding* (Jeffs et al., 2023: 2).

Our findings reinforce this. Even though many focus group participants indicated their support for mandatory sentences, they nevertheless made subsequent statements implying they supported discretionary sentencing for murder. This suggests they may not have understood the full implications of a mandatory period of imprisonment. Our findings also highlight that members of the public can hold seemingly contradictory views. As Fitzgerald et al. (2020: 171) noted, in the context of public opinion research on parole:

> *the public's support, or lack of support, for aspects of the criminal justice system is complex, since members of the public can have multi-dimensional views on punishment, often holding multiple and ostensibly competing goals. For instance, individuals can desire both 'tougher sentencing' – driven by goals of incapacitation, deterrence and retribution – at the same time as alternatives to harsh sentences and support for community-based responses, driven by a rehabilitative ideal*.

There may be a need for more comprehensive public education about the criminal justice system, including criminal responsibility and the application of mandatory and discretionary approaches to sentencing in serious offences, including for murder and manslaughter.

References

Australian Institute for Aboriginal and Torres Strait Islander Studies (2020). *AIATSIS code of ethics for Aboriginal and Torres Strait Islander research*.

Australian Institute of Health and Welfare. (2019a). Family, domestic and sexual violence in Australia: Continuing the national story 2019. AIHW. https://www.aihw.gov.au/reports/domestic-violence/family-domestic-sexual-

violence-australia-2019/contents/data-sources-for-monitoring-family-domestic-and-sexual-violence/aihw-national-hospital-morbidity-database-nhmd-2016-17

Australian Institute of Health and Welfare. (2019b). Specialist Homelessness Services annual report: 2018-2019. AIHW. https://www.aihw.gov.au/reports/homelessness-services/shs-annual-report-18-19/contents/summary

Bliton, C. F., Wolford-Clevenger, C., Zapor, H., Elmquist, J., Brem, M. J., Shorey, R. C., & Stuart, G. L. (2016). Emotion Dysregulation, Gender, and Intimate Partner Violence Perpetration: An Exploratory Study in College Students. *Journal of Family Violence*, *31*(3), 371–377. https://doi.org/10.1007/s10896-015-9772-0

Boxall, H. (2023). *Reimagining Desistance from Male-Perpetrated Intimate Partner Violence: The Role and Experiences of Female Victim-Survivors*. Springer Nature.

Boxall, H., Doherty, L., Lawler, S., Franks, C., & Bricknell, S. (n.d.). *The "Pathways to intimate partner homicide" project: Key stages and events in male-perpetrated intimate partner homicide in Australia* (Research Report No. 4; ANROWS). Australian Institute of Criminology.

Colvin, E. (2009). Abusive relationships and violent responses: The reorientation of self-defense in Australia. Texas Tech Law Review, 42, 339-358.

Coss, G. (2006). The defence of provocation: An acrimonious divorce from reality. *Current Issues in Criminal Justice*, 18, 51-78.

Coumarelos, C., Rasmussen, V., & Weeks, N. (2024). *Attitudes matter: The 2021 National Community Attitudes towards Violence against Women Survey (NCAS), Findings for people born in countries where the main language is not English* . ANROWS.

Coumarelos, C., Roberts, N., Weeks, N., Bernstein, S., & Honey, N. (2023). *Attitudes matter: The 2021 National Community Attitudes towards Violence against Women Survey (NCAS), Findings for Australian states and territories* (Research report, 05/2023). ANROWS.

Crofts, T., & Tyson, D. (2012). Homicide law reform in Australia: Improving access to defences for women who kill their abusers. *Monash University Law Review*, *39*, 864.

de Pasquale, S. & Howe, A. (2022). Reformist tinkering, the Queensland law of murder and other disasters. *Griffith Journal of Law and Human Dignity*, 10, 18-47.

Dichter, M. E., Thomas, K. A., Crits-Christoph, P., Ogden, S. N., & Rhodes, K. V. (2018). Coercive control in intimate partner violence: Relationship with women's experience of violence, use of violence, and danger. *Psychology of violence*, *8*(5), 596.

Douglas, H. (2015). Social framework evidence: Its interpretation and application in Victoria and beyond. *H Douglas,'Social Framework Evidence: Its Interpretation and Application in Victoria and Beyond'in Kate Fitz-Gibbon and Arie Freiberg (ed), Homicide Law Reform in Victoria: Retrospect and Prospects (Federation Press, Sydney 2015)*, 94-109.

Douglas, H., Tarrant, S., & Tolmie, J. (2021). Social entrapment evidence: Understanding its role in self-defence cases involving intimate partner violence. *University of New South Wales Law Journal, The*, *44*(1), 326-356.

Finkel, N., Meister, K., & Lightfoot, D. (1991). The self-defense defense and community sentiment. *Law and Human Behavior*, 15, 585-602.

Fitzgerald, R., Freiberg, A., & Bartels, L. (2020). Redemption or forfeiture? Understanding diversity in Australians' attitudes to parole. *Criminology and Criminal Justice*, 20, 169-186.

Fitz-Gibbon, K. (2013), 'Replacing Provocation in England and Wales: Examining the Partial Defence of Loss of Control', Journal of Law and Society, 40(2): 280-305.

Fitz-Gibbon, K. (2014) Homicide law reform, gender and the provocation defence: A comparative perspective. Palgrave Macmillan.

Fitz-Gibbon, K. (2017) 'Homicide law reform in New South Wales (Australia): Examining the merits of a partial defence of 'extreme' provocation' Melbourne University Law Review, 40(3), 769-815.

Fitz-Gibbon, K. & Freiberg, A. (2015) *Homicide law reform in Victoria: retrospect and prospects.* The Federation Press.

Funk, T. (2021). Cracking self-defense's intractable 'difficult cases'. *Nebraska Law Review*, 100, 1-78.

Garofalo, C., & Velotti, P. (2017). Negative emotionality and aggression in violent offenders: The moderating role of emotion dysregulation. *Journal of Criminal Justice*, *51*, 9–16. https://doi.org/10.1016/j.jcrimjus.2017.05.015

Gildner, D. J., Kirwan, M., Pickett, S. M., & Parkhill, M. R. (2021). Impulse Control Difficulties and Hostility Toward Women as Predictors of Relationship Violence Perpetration in an Undergraduate Male Sample. *Journal of Interpersonal Violence*, *36*(9–10), NP4653-4678. https://doi.org/10.1177/0886260518792972

Government of South Australia (2024, September 9). Consultation begins on excessive self-defence reforms. *Media release*.

Green, D. (2006). Public opinion versus public judgement about crime: Correcting the comedy of errors. *British Journal of Criminology*, 46, 131-154.

Havighurst, S., Mathews, B., Doyle, F. et al. (2023). Corporal punishment of children in Australia: The evidence-based case for legislative reform. *Australian and New Zealand Journal of Public Health*, 47, 1-10. https://doi.org/10.1016/j.anzjph.2023.100044.

Horder, J. (1992). *Provocation and Responsibility*. Oxford: Clarendon Press.

Horder, J. & Fitz-Gibbon, K. (2015). When sexual infidelity triggers murder: Examining the impact of homicide law reform on judicial attitudes in sentencing. *Cambridge Law Journal*, 74, 307-328.

Howe, A. (1999). Reforming provocation (more or less). Australian Feminist Law Journal, 12(1), 127-135.

Ipsos (1999). *Three quarters (73%) of Canadians believe Robert Latimer ended his daughter's life out of compassion*. https://www.ipsos.com/en-ca/three-quarters-73-canadians- believe-robert-latimer-ended-his-daughters-life-out-compassion

Jeffs, S., Allen, S., Klambauer, E., & Hidderley, L. (2023). *Understanding of sentencing: Community knowledge of sentencing terms and outcomes*. Queensland Sentencing Advisory Council.

Leppink, E., Odlaug, B. L., Lust, K., Christenson, G., Derbyshire, K., & Grant, J. E. (2014). Losing control: Assaultive behavior as a predictor of impulse control disorders in young adults. *Comprehensive Psychiatry*, *55*(8), 1831–1836. https://doi.org/10.1016/j.comppsych.2014.07.012

Lyneham, S. & Bricknell, S. 2018. *When saying no is not an option: Forced marriage in Australia and New Zealand*. Australian Institute of Criminology. https://doi.org/10.52922/rr201723

McInnes-Smith, S. (2022). The inconsistency of the 'lawful correction' of children defence with *Queensland's new Human Rights Act 2019* (Qld). *University of Queensland Law Journal*, 41, 321-362.

Maher, J., & Segrave, M. (2018). Family violence risk, migration status and 'vulnerability': hearing the voices of immigrant women. *Journal of Gender-Based Violence*, 2, 503-518. https://doi.org/10.1332/239868018X15375304047178

McCarthy, K. J., Mehta, R., & Haberland, N. A. (2018). Gender, power, and violence: A systematic review of measures and their association with male perpetration of IPV. *PLoS One*, *13*(11), e0207091. https://doi.org/10.1371/journal.pone.0207091

McPherson, R. (2022). Women and self-defence: An empirical and doctrinal analysis. *International Journal of Law in Context*, *18*(4), 461–475. https://doi.org/10.1017/S1744552322000131

Miles H & Bricknell S 2024. *Homicide in Australia 2022–23*. Statistical Report no. 46. Canberra: Australian Institute of Criminology. https://doi.org/10.52922/sr77420

Miles, S. R., Sharp, C., Tharp, A. T., Stanford, M. S., Stanley, M., Thompson, K. E., & Kent, T. A. (2017). Emotion dysregulation as an underlying mechanism of impulsive aggression: Reviewing empirical data to inform treatments for veterans who perpetrate violence. *Aggression and Violent Behavior*, *34*, 147–153. https://doi.org/10.1016/j.avb.2017.01.017

Mission Australia. (2019). *Out of the shadows: Domestic and family violence a leading cause of homelessness in Australia*. Mission Australia. file:///C:/Users/ioubo/Downloads/Out%20of%20the%20Shadows.pdf

Mitchell, B., & Roberts, J. (2012). *Exploring the mandatory life sentence for murder*. Hart Publishing.

Monckton Smith, J. (2020). Intimate partner femicide: Using Foucauldian analysis to track an eight stage progression to homicide. *Violence against Women*, *26*(11), 1267–1285. https://doi.org/10.1177/1077801219863876

Morgan, J. (1997). Provocation Law and Facts: Dead Women Tell No Tale, Tales Are Told about Them. *Melbourne University Law Review.*, *21*, 237.

Morgan, A., Boxall, H., & Payne, J. (2022). Reporting to police by intimate partner violence victim-survivors during the COVID-19 pandemic. *Journal of Criminology*, 55, 285-305.

Nabors, E. L., & Jasinski, J. L. (2009). Intimate partner violence perpetration among college students: The role of gender role and gendered violence attitudes. *Feminist Criminology*, *4*(1), 57–82. https://doi.org/10.1177/1557085108325235

Nash, C., & Dioso-Villa, R. (2024). Australia's divergent legal responses to women who kill their abusive partners. *Violence Against Women*, 30, 2275-2301.

Plater, D., Line, L. & Fitz-Gibbon, K. (2017) *The provoking operation of provocation: Stage 1.* South Australian Law Reform Institute. DOI: 10.13140/RG.2.2.32251.72482.

Queensland Department of Education and Training (2016). *Standard of practice*. https://alt-qed.qed.qld.gov.au/working-with-us/induction/department/induction-programs-and-resources/code-of-conduct

Queensland Government Statistician's Office (2023). *Queensland Social Survey 2023: Domestic and family violence survey report*. Queensland Treasury.

QLRC (2023a). *Review of particular criminal defences: Domestic discipline information sheet*.

QLRC (2023b). *Review of particular criminal defences: Killing for preservation in an abusive domestic relationship information sheet*.

QLRC (2023c). *Review of particular criminal defences: Killing on provocation information sheet*.

QLRC (2023d). *Review of particular criminal defences: Our terms of reference.*

QLRC (2023e). *Review of particular criminal defences: Penalty for murder information sheet.*

QLRC (2023f). *Review of particular criminal defences: Provocation to assault information sheet.*

QLRC (2023g). *Review of particular criminal defences: Self-defence information sheet*.

Queensland Sentencing Advisory Council (2017). *Sentencing spotlight: Murder*.

Queensland Sentencing Advisory Council (2021). *Minimum non-parole period schemes for serious violent offences in Australia and select international jurisdictions: Background paper*.

Queensland Sentencing Advisory Councll (2023). *Purposes, principles and factors of sentencing*. https://www.sentencingcouncil.qld.gov.au/about-sentencing/purposes-principles-and-factors-of-sentencing

Roberts, J. (2003). Public opinion and mandatory sentencing: A review of international findings. *Criminal Justice and Behavior*, 30, 483-508.

Roberts, J., Crutcher, N., & Verbrugge, P. (2007). Public attitudes to sentencing in Canada: Exploring recent findings. *Canadian Journal of Criminology and Criminal Justice*, 49, 75-107.

Roberts, J., Bild, J., Pina-Sánchez, J., & Hough, M. (2022). *Public knowledge of sentencing practice and trends*. Sentencing Academy.

Robinson, P., & Darley, J. (1995). *Justice, liability, and blame: Community views and the criminal law*. Westview Press.

Santana, M. C., Raj, A., Decker, M. R., La Marche, A., & Silverman, J. G. (2006). Masculine gender roles associated with increased sexual risk and intimate partner violence perpetration among young adult men. *Journal of Urban Health*, *83*(4), 575–585. https://doi.org/10.1007/s11524-006-9061-6

Schloenhardt, A., & Cottrell, T. (2013). Lawful correction of children under s 280 of Queensland's Criminal Code: Retain, reform, or rubbish? *Queensland Lawyer*, 33: 75-90.

Sheehy, E. A. (2013). *Defending battered women on trial: Lessons from the transcripts*. UBC Press.

Sheehy, E., Stubbs, J., & Tolmie, J. (2014). Securing fair outcomes for battered women charged with homicide: Analysing defence lawyering in'R v Falls'. *Melbourne University Law Review*, *38*(2), 666-708.

Stark, E. (2007). *Coercive control: How men entrap women in personal life*. Oxford University Press.

Stark, E. (2013). Coercive control. *Violence against women: Current theory and practice in domestic abuse, sexual violence and exploitation*, 17-33.

Stobbs, N., Mackenzi.e., G., & Gelb, K. (2015). Sentencing and public confidence in Australia: The dynamics and foci of small group deliberations. *Australian and New Zealand Journal of Criminology*, 48, 219-237.

Strange, C., Bartels, L., Boxall, H., Fitz-Gibbon, K., & Biddle, N. (2023). *Public attitudes towards coercive control: Evidence from a nationally representative population survey*. ANU.

Summers, A. (2022). The Choice: Violence or Poverty. University of Technology Sydney. https://doi.org/10.26195/3s1r-4977

Tasmania Law Reform Institute (2015). *Review of the law relating to self-defence*.

Tolmie., J., Smith, R., & Wilson, D. (2024). Understanding Intimate Partner Violence: Why Coercive Control Requires a Social and Systemic Entrapment Framework. *Violence Against Women*, 30(, 54-74. https://doi.org/10.1177/10778012231205585

Toole, K. (2013). Defensive homicide on trial in Victoria. *Monash University Law Review*, *39*(2), 473-505.

Victorian Sentencing Advisory Council (2018). *Public opinion about sentencing: A Research overview*.

Warner, K., Davis, J., Walter, M., Bradfield, R., & Vermey, R. (2011). *Public judgement on sentencing: Final results from the Tasmanian Jury Sentencing Study*. Australian Institute of Criminology.

Warner, K., Spiranovic, C., Freiberg, A., & Davis, J. (2018). Mandatory sentencing? Use [with] discretion. *Alternative Law Journal*, 43, 289-294.

Weisberg, D. K. (2016). Property Damage in the Domestic Violence Context. *Domestic Violence Report*, *22*, 17.

Zufferey, C., Chung, D., Franzway, S., Wendt, S., & Moulding, N. (2016). Intimate partner violence and housing: Eroding women's citizenship. *Affilia*, *31*(4), 463-478.

Cases

Johnson v R (1976) 136 CLR 619.

Peniamina v The Queen [2020] HCA 47.

R v Butay [2001] VSC 417.

R v Chhay (1994) 72 A Crim R 1.

R v Dayney [2023] QCA 62.

R v DCE [2024] QCA 165.

R v Peniamina (No 2) [2021] QSC 282.

R v Ramage [2004] VSC 508.

Legislation

Corrective Services Act 2006 (Qld).

Crimes Act 1900 (NSW).

Criminal Code 1899 (Qld).

Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 (Qld).

Criminal Law Consolidation Act 1935 (SA).

Domestic and Family Violence Protection Act 2012 (Qld).

Penalties and Sentences Act 1992 (Qld).

Appendix A: Survey methodology, safety protocols, and sampling and weighting strategies

Prepared in collaboration with Li Yan Wong and Shane Compton, Social Research Centre

This appendix describes the survey methodology, sampling strategy, and safety protocols and limitations of a survey of 2,500 people residing in Queensland aged 18 years and over.

Survey method

The survey (see Appendix B) was developed by the research team and administered by the Social Research Centre (SRC) during the period 5-19 August 2024. The survey was sent to members of two online research panels; the SRC's probability-based panel Life in Australia, and a non-probability panel managed by i-Link Research Services. The survey was sent to members of these online panels aged 18 years and over who were residing in Queensland, in accordance with the sampling method described below. Panel members were invited to participate in the research and were provided with a small incentive (e.g., a $10 gift card).

The contact methodology adopted for online Life in Australia™ members was an initial survey invitation via email and SMS (where available), followed by multiple email reminders and a reminder SMS. Up to 5 reminders in different modes (including email, SMS, and telephone) were administered within the fieldwork period. Telephone non-response of online panel members who had not yet competed the survey commenced in the second week of fieldwork and consisted of reminder calls encouraging completion of the online survey. Offline members with a valid mobile telephone number were also sent a short SMS invitation that contained a link to the survey as well as the reminder SMS halfway through fieldwork.

The survey took Life in Australia panel members an average of 24.0 minutes to complete, and i-Link panel members 19.3 minutes to complete. Although no formal pilot testing was undertaken for the survey, a 'soft launch' was undertaken to confirm the integrity of the questionnaire. This involved initiating a small number of offline records on the first planned day of fieldwork, after which top-line data was reviewed. No design issues were identified after the soft launch, meaning the survey was not altered prior to fieldwork commencing.

About Life in Australia

In 2016, the SRC established Australia's first national probability-based online panel: Life in Australia™ (Kaczmirek et al., 2019). The panel is the most methodologically rigorous online panel in Australia and is one of only a small number worldwide.Others include the Pew Research Center American Trends Panel, NORC AmeriSpeak and GESIS Panel. Members of the panel are recruited via random digit dialling (RDD) or address-based sampling (A-BS) and agreed to provide their contact details to take part in surveys on a regular basis. What separates Life in Australia™ from other online panels is the use of sampling frames for which units have known probability of selection and the fact that people cannot enrol unless invited to participate.

Safety protocols

The safety of community members participating in the survey was of paramount concern. Given the sensitive nature of the information being provided (i.e., scenarios involving one person injuring or killing another), as well as asked of participants (e.g., experiences of being subjected to abusive behaviours by an intimate partner and/or family member) a range of safety measures were employed:

- Potential respondents were approached by a social research company with an established online panel rather than by the research team because it would be less likely to raise the suspicion of an abusive partner.
- Participants were advised on the landing page of the survey about the content of the survey, including that they would be asked about their experiences of violent crime, and to consider scenarios involving one person injuring or killing another person.
- Participants were advised on the information page that, if they felt that answering questions about their experiences of violent crime or considering the scenarios would cause them distress or make them unsafe, they should not complete the survey.
- Every question had a "would prefer not to say" option for participants who did not wish to disclose information about their experiences of violent crime.
- The survey was kept as short as possible, even with the inclusion of additional items, and piloted to ensure that women could complete all the questions within an acceptable time range.
- Respondents were provided with information about support services on every page and at the end of the survey, including services that could be contacted online or over the phone.

Completion rate

The completion rate represents completed interviews as a proportion of all research panel members who were invited to participate in this survey. At the end of the fieldwork period (and once low-quality responses had been removed), 1186 participants were drawn from the Life in Australia panel, and 1,299 from the i-Link research panel. The overall completion rate for the survey was 69.8% for the Life in Australia panel, and 13.2% for the i-Link panel.

The difference in the completion rates between the two panels is likely attributable to the proactive strategies used by the SRC to encourage completion of surveys, which may not be used by other companies managing online research panels. As noted above, the SRC follows-up with research panel members at numerous points throughout the fieldwork period using email, SMS and phone calls to encourage completion. Other procedures to maximise response for the survey included:

- Leaving messages on answering machines and voicemails.
- Operation of an 1800 number throughout the survey period, to help establish survey bona fides, address sample members' queries, and encourage response
- Provision of the Social Research Centre / Life in Australia™ website upon request
- Focus on interviewer training and respondent liaison techniques during interviewer briefing and throughout fieldwork.

These strategies may not have been used by i-Link, resulting in lower completion rates.

Table A1: Completion rate, by panel			
	Life in Australia™ panel	i-Link panel	Total
No. of panel members invited to complete survey	1,698	9,870	11,568
No. of interviews achieved	1,186	1,299	2,485
No. Partial Interviews achieved[a]	127	287	414
Completion rate (%)	69.8	13.2	21.5

a: Data from partial interviews were not included in the final dataset
Source: SRC, 2024

Data quality checks

The SRC conducted a series of quality assurance checks of the completed surveys prior to providing the data file to the research team. This included checks for:

- Logic checks,
- Proportion of 'don't know' and 'refused' responses,
- Speeding (i.e., completion of the survey within a very short period of time),
- Straight-lining, and
- Verbatim responses to open-ended questions.

Data quality indicators other than verbatim responses are used to identify potentially problematic cases. Generally, verbatim responses are decisive, with those indicating thoughtful engagement with the survey being kept and others being removed (e.g. nonsense responses like 'asdfgh,' non sequiturs, swearing).

Data quality is tracked for panel members over time and those with repeated issues are retired from the Life in Australia™.

After these checks, 12 cases were removed due to poor data quality and were not counted toward the completion rate.

Sampling and weighting

Proportional quota sampling was used. This is the non-probability version of stratified random sampling. In short, this involves setting quotas based on known population characteristics – in this case, age, usual place of residence – and then inviting participants who fall within these categories. Prospective participants were invited to participate until these quotas were reached, within an agreed margin of error. The aim was to ensure the final sample was representative of the spread of the Queensland population (18+).

A stratified random sample was drawn from Life in Australia™ panellists residing in Queensland, on strata defined by age (18–34, 35–44, 45–54, 55–64, 65+), gender, education (less than a bachelor's degree, bachelor's degree or above) and speaking a language other than English at home. To come as close as possible to population norms on the stratification variables, target numbers of completed surveys by stratum are set based on population proportions. Because there may not be sufficient numbers of Life in Australia™ panellists within some strata given expected completion rates, the SRC used non-linear optimisation to determine the number of cases selected that will minimise the sum of squared error between population proportions and the expected

proportion of completed interviews, while satisfying constraints including that selections within a stratum may not exceed the available sample and that completed surveys equal the target number of completed surveys.

The final sample profile along with comparison to ABS benchmarks is shown below in Table A2. Overall, there was a high level of concordance between the unweighted survey sample and the broader Queensland population on some demographics. First, the ages of respondents were closely aligned with those of the estimated resident population (Table A2). All age groups were within 3-4 percentage points of the estimated resident population. Similarly, the proportion of survey participants who spoke a language other than English at home was comparable to the broader Queensland population (11.8% vs 14.1%).

However, there were also some differences between the survey sample and the Queensland population:

- Participants who were living in areas outside of capital cities were also under-represented within the sample (44.9% vs 51.1%) while those residing in Brisbane were over-represented (55.1% vs 48.9%). Again, this was expected due to people living in regional and remote areas being less likely to have internet access and encounter barriers to using technology.
- Male participants were under-represented in the sample (43.5% vs 49.0%), while females were over-represented (56.0% vs 51.0%).
- Participants with a bachelor degree or higher were over-represented within the survey sample (43.7% vs 25.7%).

These differences were expected, considering the research which has demonstrated that women and those who have higher levels of education are more likely to participate in research generally. Further, people living in regional and remote areas may have been less likely to participate due to internet access issues.

Table A2: Sample demographic characteristics (completed interviews) (%) (unweighted)

	Life in Australia™ panel	i-Link panel	Total	Benchmark
Sex				
Male	39.8	46.8	43.5	49.0
Female	59.4	52.9	56.0	51.0
Age				
18-24 years	4.3	10.8	7.7	11.5
25-34 years	13.2	17.9	15.7	18.1
35-44 years	20.8	21.6	21.2	17.4
45-54 years	19.7	19.4	19.6	16.3
55-64 years	18.6	16.3	17.4	14.9
65-74 years	15.0	9.2	12.0	12.1
75+ years	8.2	4.8	6.4	9.7
Completed tertiary level education				
Bachelor degree or above	41.5	45.5	43.7	25.7

Below bachelor degree	57.8	54.0	56.3	74.3
Place of usual residence				
Brisbane	52.7	57.2	55.1	48.9
Rest of QLD	47.1	42.8	44.9	51.1
Speaks a language other than English at home				
Yes	12.0	11.6	11.8	14.1
No	88.0	88.2	88.2	85.9

Note: Benchmarks based on Australian Bureau of Statistics (September 2021 Estimates Resident Population)
Source: SRC, 2024

As is common practice with samples using proportional quota sampling, data were subsequently weighted to reflect the spread of the population. The usual approach to weighting random (probability) samples is a two-step process that aims to reduce biases caused by non-coverage and non-response and to align weighted sample estimates with external data about the target population (Kalton and Flores-Cervantes, 2003). First, base weights are calculated to account for each respondent's initial chance of selection and for the survey's response rate. Next, the base weights are adjusted to align respondents with the population on key socio-demographic characteristics.

The convenience (non-probability) sample used a non-random mechanism to recruit participants to the survey, which means that the design-based approach just described does not apply. To weight the i-Link sample, the SRC utilised "quasi-randomisation" which requires a reference sample chosen at random from the target population. The reference sample is used to estimate pseudo-selection probabilities for the convenience sample, to adjust for selection bias. For this survey, the reference sample were the probability cases from Life in Australia.

The combined sample then had base weights for the two groups – a probability-based one for Life in Australia™ cases and an estimated one for convenience cases. To derive the adjusted weights, consideration then had to be given to the characteristics on which to align the base weights with the population. The choice of characteristics was guided by three factors:

- Which characteristics are most different between the probability and convenience samples?
- Which characteristics are most associated with the survey's key questionnaire items?
- Which characteristics are most different between the combined sample and the population?

With these factors in mind, the set of characteristics used to adjust the weights are those shown in Table A3. This table also includes the population counts and percentages, obtained from Census 2021 TableBuilder (Australian Bureau of Statistics, 2021) and from the National Health Survey 2022 (Australian Bureau of Statistics, 2023). All population counts refer to the population of Queensland residents aged 18 or more years old.

The effective sample size for the study after weighting (i.e. the weighted sample size) was 2,483 respondents. This is likely a function of the program used for the weighting procedure.

The priority of the iterative weighting procedure is to maximise concordance between the survey sample and benchmarks (i.e. weighting variables) based on the proportion of respondents with each characteristic. This, coupled with the use of population estimates as the basis of these weights, which are rounded, can often introduce a small amount of variation in terms of the final sample size. In this case, this variation is less than one per cent (0.1%), well below the acceptable limit. This weighted sample size is used below and throughout the main report.

Table A3: Characteristics used for adjusting base weights, with population distribution and data sources. All filtered to Queensland residents aged 18+		
Age group by highest education qualification[a]		
18-24	486,406	11.5
25-34 x Bachelor or above	273,635	6.5
25-34 x Below Bachelor	492,306	11.6
35-44 x Bachelor or above	275,449	6.5
35-44 x Below Bachelor	462,856	10.9
45-54 x Bachelor or above	203,781	4.8
45-54 x Below Bachelor	488,959	11.5
55-64 x Bachelor or above	137,951	3.3
55-64 x Below Bachelor	495,279	11.7
65-74 x Bachelor or above	93,060	2.2
65-74 x Below Bachelor	421,214	9.9
75+ x Bachelor or above	48,379	1.1
75+ x Below Bachelor	364,043	8.6
Gender identity[a]		
Man or male	2,078,207	49.0
Woman or female	2,165,111	51.0
Language other than English spoken at home[a]		
Yes	597,187	14.1
No	3,646,131	85.9
Place of usual residence[a]		
Capital City	2,073,673	48.9
Rest of State	2,169,645	51.1
Number of adults living in the household[b]		
One	626,832	14.8
Two	2,474,825	58.3
Three or more	1,141,661	26.9

a: Census 2021 (ABS 2021)
b: National Health Survey 2022 (ABS 2023)
Source: SRC, 2024

Although not included in the weighting strategy, we also checked to see whether there was concordance between the survey sample and the rest of the Queensland population regarding Indigenous status. Overall, 3.8 per cent of Queensland residents identified as Aboriginal and/or Torres Strait Islander during the most recent census. However, only 2.0 per cent of the survey sample identified as Aboriginal and Torres Strait Islander after weighting (1.7%, n = 41 unweighted).

The small number of Aboriginal and/or Torres Strait Islander peoples who participated in the survey was not un-expected. Aboriginal and/or Torres Strait Islander peoples

participate in surveys at lower rates than do non-Indigenous Australians due to a variety of factors, including the fact that general community surveys like Life in Australia™ do not use Indigenous methodologies, differential coverage error (e.g. Indigenous Australians are over-represented in remote and very remote areas of Australia and are more likely to be out of range of mobile coverage and people in remote Indigenous communities may, for example, have communal use of mobile phones), and likely higher rates of non-response (noting again the non-use of Indigenous methodologies given the general population nature of the panel).

In the case of Life in Australia™, Aboriginal and Torres Strait Islander peoples are under-represented on the panel nationally, at 1.5% of active panellists (vs 2.6% of population) and similarly in Queensland, at 2.6% of panellists vs 3.8% of population. Among active Queensland panellists, Aboriginal and Torres Strait Islander members also respond at lower rates (average response propensity of 55.9% vs. 67.8% for non-Indigenous panellists).

However, even had the survey matched the proportion of Aboriginal and/or Torres Strait Islander peoples in the Queensland population, it would problematic to assume that the sample was representative of the full range of Indigenous Queenslanders given the general population focus of Life in Australia™, its non-use of Indigenous methodology, non-coverage of Indigenous languages, and the abovementioned under-coverage of remote Queenslanders. This again reiterates the need for additional consultation with Aboriginal and/or Torres Strait Islander peoples as part of the review.

Appendix B: Scenarios

Scenario 1: Two known acquaintances get into a fight at a park

Donald and Vaughan knew each other through mutual friends and disliked each other. One day, when they were at the park together with a group of friends, <Var A> Vaughan punched Donald in the face and continued to move towards him. <Var B>. Donald punched Vaughan <Var C>. Vaughan <Var D>.

Table B1: Scenario 1 variations

Variable	*Variations*
Var A: Provocation	Donald shoved Vaughan.
	out of nowhere,
Var B: Option to retreat	At that point, Donald could have run away but he didn't.
	Donald had no way of getting away.
Var C: Use of force	Donald punched Vaughan and after he fell to the ground, stomped on his chest and face.
	Donald punched Vaughan.
Var D: Outcome	had a broken jaw and concussion and had to stay in hospital for a number of days after the assault.
	had some bruising to his face as a result of the assault.

Example scenario 1

Donald and Vaughan knew each other through mutual friends and disliked each other. One day, when they were at the park together with a group of friends, Donald shoved Vaughan. Vaughan punched Donald in the face and continued to move towards him. At that point, Donald could have run away but he didn't. Donald punched Vaughan and after he fell to the ground, stomped on his chest and face. Vaughan had a broken jaw and concussion and had to stay in hospital for a number of days after the assault.

Scenario 2: A man harms his female partner

<Var A>. This made him very angry. Derek picked up a glass from the table he was sitting at and threw it at Valerie. The glass hit Valerie on the head, leaving a small bruise.

Table B2: Scenario 2 variations

Variable	*Variations*
Var A: Victim's and defendant's conduct	When he was out for dinner one night, Derek saw his girlfriend Valerie kissing her male co-worker.
	Derek and his girlfriend, Valerie, were having a disagreement while having dinner at a restaurant. Derek reached across the table to put his hand on hers, telling her to calm down. She slapped his hand away, knocking his plate off the table.

Example scenario 2

When he was out for dinner one night, Derek saw his girlfriend Valerie kissing her male co-worker. This made him very angry. Derek picked up a glass from the table he was sitting at and threw it at Valerie. The glass hit Valerie on the head, leaving a small bruise.

Scenario 3: A football fan assaults a fan who is heckling him

Derek and his partner Felicity were at a football match wearing the jerseys of the home team. From the time they sat down, another spectator – Vince – who was sitting behind them and supported the opposing side, was making loud and obnoxious comments about the home team, including that they were crap and a bunch of inbred cheats. <Var C>. Enraged, Derek turned around, <Var D>. As a result, Vince had a broken cheekbone and eye socket, requiring surgery.

Table B3: Scenario 3 variations	
Variable	*Variations*
Var C: Victim's conduct (provocation)	Vince turned his attention to Derek and started calling him a loser for supporting a loser team. Vince leaned forward and chanted 'loser, loser, loser' right into Derek's ear. Then Vince made a very nasty comment about Felicity's appearance.
	Vince turned his attention to Derek and started calling him a loser for supporting the home team.
Var D: Offender's conduct	hit Vince in the face once.
	hit Vince in the face multiple times.

Example scenario 3

Derek and his partner Felicity were at a football match wearing the jerseys of the home team. From the time they sat down, another spectator – Vince – who was sitting behind them and supported the opposing side, was making loud and obnoxious comments about the home team, including that they were crap and a bunch of inbred cheats. Towards the end of the match, Vince turned his attention to Derek and started calling him a loser for supporting the home team. Vince leaned forward and chanted 'loser, loser, loser' right into Derek's ear. Then Vince made a very nasty comment about Felicity's appearance. Enraged, Derek turned around and hit Vince in the face once. As a result, Vince had a broken cheekbone and eye socket, requiring surgery.

Scenario 4: A parent lays hands on their child who is not obeying the rules of the house

Vicky is 11 years old and lives with her Mum and Dad. A year ago, Vicky was <Var A>. One of the rules in Vicky's family is that kids cannot have their mobile phones in their bedroom after 8 p.m. One evening, Vicky was in her room watching a video on her phone – she has been doing this a lot lately, despite her parents repeated requests not to. At 8 p.m. Vicky's parents told her to hand over the phone. Vicky refused and swore at them. <Var B>.

Table B4: Scenario 4 variations	
Variable	*Variations*
Var A: Diagnosed disability	diagnosed with Attention-Deficit/Hyperactivity Disorder (ADHD).
	assessed for Attention-Deficit/Hyperactivity Disorder (ADHD) but she did not meet the criteria.
Var B: Purpose	To punish Vicky, one of her parents took the phone and slapped Vicky on the thigh.

and particular conduct	To punish Vicky, one of her parents took the phone and slapped Vicky on the thigh causing a bruise.
	To punish Vicky, one of her parents took the phone and hit Vicky on the thigh with a wooden spoon.
	To punish Vicky, one of her parents took the phone and slapped Vicky on the face.
	To control the situation, one of her parents grabbed Vicky's hand tightly and removed the phone.

Example scenario 4

Vicky is 11 years old and lives with her Mum and Dad. A year ago, Vicky was diagnosed with ADHD. One of the rules in Vicky's family is that kids cannot have their mobile phones in their bedroom after 8 p.m. One evening, Vicky was in her room watching a video on her phone – she has been doing this a lot lately, despite her parents repeated requests not to. At 8 p.m. Vicky's parents told her to hand over the phone. Vicky refused and swore at them. Dora, Vicky's mum, slapped Vicky once on the thigh.

Scenario 5: A teacher lays hands on a student who is disobeying the rules of the classroom

Vicky is 11 years old and in year 5 at school. Vicky's school has a rule that students must not use their mobile phones during class. During class one day, Vicky was holding her phone and watching a video <Var A>. Vicky ignored the teacher's repeated requests to put the phone away and swore at the teacher. To control the situation, the teacher grabbed <Var B> and put the phone out of reach.

Table B5: Scenario 5 variations

Variable	*Variations*
Var A: Impact on class	which was distracting the whole class.
	in the corner of the room while all the other students were doing another activity.
Var B: Particular conduct	Vicky's hand tightly to remove the phone
	Vicky by the back of the shirt

Example scenario 5

Vicky is 11 years old and in year 5 at school. Vicky's school has a rule that students must not use their mobile phones during class. During class one day, Vicky was holding her phone and watching a video, distracting her classmates. Vicky ignored the teacher's repeated requests to put the phone away and swore at the teacher. To control the situation, the teacher grabbed Vicky by the back of the shirt and put the phone out of reach.

Scenario 6: A primary victim of IPV kills the perpetrator

<Var A>. <Var B>. One afternoon, they were in the kitchen together and started to argue. Vernon slapped Diana on the face and told her that she was useless. <Var C>. In fear of her life, <Var D>.

Table B6: Scenario 6 variations	
Variable	*Variations*
Var A: Type of abuse	Vernon had abused his partner Diana for a number of years. This included Vernon calling Diana names and telling her she is worthless, as well as punching, slapping, kicking and shoving her, resulting in bruising, black eyes and hospitalisation for broken bones.
	Vernon has subjected his partner Diana to emotional abuse and controlling behaviours for a number of years. This included insisting on her performing sex acts that she found demeaning, limiting her contact with friends and family, monitoring her location over the phone and via cameras installed in living areas of the family home, controlling her ability to work and access to money. The abuse made Diana feel trapped and like she could not leave the relationship.
Var B: Ideal victimhood	A couple of times, Vernon's abuse led Diana's family or friends to call the police. However, Diana always chose not to make a statement to the police.
	A couple of times, Vernon's abuse led Diana's family or friends to call the police. Although Diana made a couple of statements to the police, no charges were ever laid against Vernon.
Var C: Escalation	Then Vernon said no one would miss Diana if he killed her.
Var D: Imminence	Diana decided she couldn't take anymore abuse, so she waited until Vernon was asleep, took a knife from the kitchen and killed him.
	Diana took a knife from the kitchen block on the table and killed him.

Example scenario 6

Vernon had abused his partner Diana for a number of years. This included Vernon calling Diana names and telling her she is worthless, as well as punching, slapping, kicking and shoving her, resulting in bruising, black eyes and hospitalisation for broken bones. A couple of times, Vernon's abuse led Diana's family or friends to call the police. However, Diana always refused to make a statement to the police. One afternoon, they were in the kitchen together and started to argue. Vernon slapped Diana on the face and told her that she was useless. Then Vernon said no one would miss Diana if he killed her. In fear of her life, Diana decided she couldn't take anymore abuse, so she waited until Vernon was asleep, took a knife from the kitchen and killed him.

Scenario 7: A victim of attempted sexual assault kills the perpetrator

Vaughan and Daisy <Var A> had previously met through mutual friends. They bumped into each other at a bar and Daisy went back to Vaughan's house. When inside Vaughan grabbed Daisy and kissed her. Daisy pushed him off and walked into the kitchen. <Var B> <Var C>, <Var D>, and ran out of the apartment. No-one was there to assist Vaughan, who died.

Table B7: Scenario 7 variations	
Variable	*Variations*
Var A: Offender gender identity	, a trans-gender woman,
Var B: Victim's conduct	Vaughan followed and pinned Daisy to the counter and started removing her pants.

	Vaughan followed, grabbed Daisy on the bum and kissed her again.
Var C: Nature of offender's response	Daisy became frightened.
	Daisy got angry.
Var D: Offender's conduct	Daisy grabbed a knife that was within her reach and stabbed Vaughan
	Daisy picked up a wine bottle and smashed it over Vaughan's head. Vaughan was knocked unconscious, bleeding from a deep cut on his head

Example scenario 7

Vaughan and Daisy, a transgender woman, had previously met through mutual friends. They bumped into each other at a bar and Daisy went back to Vaughan's house. When inside, Vaughan grabbed Daisy and kissed her. Daisy pushed him off and walked into the kitchen. Vaughan followed and pinned Daisy to the counter and started removing her pants. Daisy became frightened and grabbed a knife that was within her reach. She stabbed Vaughan and ran out of the apartment. No one was there to assist Vaughan, who died.

Scenario 8: An intimate partner kills their spouse who they believe is having an affair

Vera and Dylan have been in a relationship for 10 years and have two children together. They have been arguing a lot over the past few months, and Vera has told Dylan that she has been thinking about a relationship separation. One night Dylan came home and accused Vera of having an affair. <Var A>. Dylan became angry and choked her to death.

Table B8: Scenario 8 variations

Variable	*Variations*
Var A: Provocation	Vera admitted that she had and said that her new partner was much better than Dylan in bed.
	Vera swore at him and spat in his face, but denied having an affair.
	Vera denied that she had been having an affair but told him that she would be leaving their shared home on the weekend and taking their children with them.

Example scenario 8

Vera and Dylan have been in a relationship for 10 years and have two children together. They've been arguing a lot over the past few months, and Vera had told Dylan that she has been thinking about a relationship separation. One night Dylan came home and accused Vera of having an affair. Vera admitted that she had and said that her new partner was much better than Dylan in bed. Dylan became angry and choked her to death.

Appendix C: Survey tool

SECTION 1: EXPERIENCES OF CRIME AND CONTACT WITH THE CRIMINAL LEGAL SYSTEM

Thank you for choosing to take part in the survey. We really appreciate it.

First, we would like to know a little bit about you and your experiences of crime during your lifetime. Please remember, your responses are completely anonymous.

No	Question text	Response categories	Skips
1.	Which age group would you fall into?	(1) 17 years or younger (2) 18-24 (3) 25-34 (4) 35-44 (5) 45-54 (6) 55-64 (7) 65+	If 17 years or younger, SKIP to End Page.
2.	What is your current residential postcode? *If you do not know your postcode, type 9999*	N	If not a QLD postcode, SKIP to End Page.
3.	Have you ever been required to appear in court in any of the following capacities? *Please select all that apply*	(1) Defendant (or accused) (2) Witness (3) Victim (or complainant) (4) Juror (5) I would rather not say (6) No	
4.	Have you ever been a victim of a violent crime? *This includes offences like assault, being threatened with a weapon or with physical harm etc.*	(1) Yes (2) No (3) I would rather not say	
5.	Has a family member or close friend ever been a victim of a violent crime? *This includes offences like assault, being threatened with a weapon or with physical harm etc.*	(1) Yes (2) No (3) I would rather not say	

No	Question text	Response categories	Skips
6.	Have you ever experienced violence or abuse by someone you have been in an intimate relationship with? This could be your current or a previous relationship. *This could include physical violence (e.g., pushing, punching, kicking), sexual violence (e.g., taking intimate pictures of you without your consent, forcing you to have sex), emotional abuse (e.g., calling you names), threats, financial abuse (e.g., not giving you access to shared money), stalking, monitoring what you're doing (e.g., through your online communications and social media) and controlling behaviours (e.g., telling you what to wear, restricting your relationships with family and friends).*	(1) Yes (2) No (3) I would rather not say (4) Not applicable - I have never been in a relationship	
7.	Have you ever experienced violence or abuse by a family member? This could be your parent, a sibling, a cousin, a carer, grandparent etc. *This could include physical violence (e.g., pushing, punching, kicking), sexual violence (e.g., taking intimate pictures of you without your consent, forcing you to have sex), emotional abuse (e.g., calling you names), threats, financial abuse (e.g., not giving you access to shared money), stalking, monitoring what you're doing (e.g., through your online communications and social media) and controlling behaviours (e.g., telling you what to wear, restricting your relationships with family and friends).*	(1) Yes (2) No (3) I would rather not say	

SECTION 2: KNOWLEDGE AND AWARENESS OF INTIMATE PARTNER VIOLENCE AND ITS IMPACT

Now we are going to ask about your attitudes to violence or abuse within family and intimate partner relationships. Please indicate the extent to which you agree or disagree with the following statements.

No	Question text	Response categories	Skips
8.	It's a woman's duty to stay in an abusive relationship to keep the family together	(1) Strongly agree (2) Somewhat agree (3) Somewhat disagree (4) Strongly disagree (5) Undecided	
9.	Women who stay in abusive relationships deserve less help from counselling and support services than women who leave		
10.	Abuse against family members and intimate partners can be excused if the person using abuse was themselves abused as a child.		

No	Question text	Response categories	Skips
11.	Abuse against family members and intimate partners can be excused if it results from people getting so angry that they temporarily lose control		
12.	Abuse against family members and intimate partners can be excused if, afterwards, the person using abuse genuinely regrets what they have done.		
13.	Abuse against family members and intimate partners can be excused if the person using abuse is heavily affected by alcohol or other drugs		
14.	A lot of abuse against family members and intimate partners is really just a normal reaction to day-to-day stress and frustration		
15.	Women in abusive relationships who do not leave are choosing to stay – they could leave if they wanted to.		
16.	A woman who refuses to cooperate with the police about the abuse she is being subjected to is less deserving of protection from the law.		
17.	If a woman does not report abuse to the police, then the abuse is probably not that severe.		
18.	Physical forms of abuse against intimate partners and family members (e.g., slapping and hitting someone) are more likely to make someone afraid of the person using abuse than non-physical forms (e.g., emotional abuse and controlling behaviours).		
19.	Although both men and women can be impacted negatively by abuse in families and relationships, women are more likely to be scared their partner will cause them serious harm.		

SECTION 3: HOMICIDE SCENARIOS

In this section, we are going to present you with a series of short hypothetical scenarios, each involving one person killing another person. After each scenario, you will be asked some questions about what you think an appropriate response would be, if the matter went to court. There are no right or wrong answers, so please answer as honestly as possible.

In each of these scenarios, we use a name starting with D (for *defendant*) to describe the person who has (allegedly) used violence and a name starting with V for the (alleged) victim.

No	Question text	Response categories	Skips
	Scenario 6		
20.	If this case went to court, based on the information you have been given, what do you think the outcome should be?	(1) <Offender> is found guilty of murder (the most serious killing offence) (2) <Offender> is found guilty of manslaughter (a less serious killing offence) (3) <Offender> is found not guilty	
21.	Why do you think that this would be an appropriate outcome?	Text	
22.	Do you think that there are any factors in this case that should reduce or increase <offender's> sentence?	(1) Yes – reduce (2) Yes – increase (3) No (4) Not sure	Skip if q20 = 2 or 3
23.	What factors do you think should reduce or increase the sentence?	Text	Skip if q22 = 3 or 4
	Scenario 7		
24.	If this case went to court, based on the information you have been given, what do you think the outcome should be?	(1) <Offender> is found guilty of murder (the most serious killing offence) (2) <Offender> is found guilty of manslaughter (A less serious killing offence) (3) <Offender> is found not guilty	
25.	Why do you think that this would be an appropriate outcome?	Text	
26.	Do you think that there are any factors in this case that should reduce or increase <offender's> sentence?	(1) Yes – reduce (2) Yes – increase (3) No (4) Not sure	Skip if q25 = 2 or 3
27.	What factors do you think should reduce or increase the sentence?	Text	Skip if q27 = 3 or 4
	Scenario 8		

No	Question text	Response categories	Skips
28.	If this case went to court, based on the information you have been given, what do you think the outcome should be?	(1) <Offender> is found guilty of murder (the most serious killing offence) (2) <Offender> is found guilty of manslaughter (A less serious killing offence) (3) <Offender> is found not guilty	
29.	Why do you think that this would be an appropriate outcome?	Text	
30.	Do you think that there are any factors in this case that should reduce or increase <offender's> sentence?	(1) Yes – reduce (2) Yes – increase (3) No (4) Not sure	Skip if q30 = 2 or 3
31.	What factors do you think should reduce or increase the sentence?	Text	Skip if q32 = 3 or 4
32.	Please read the following two scenarios. XXXX and XXXX have both been convicted of murder. Do you believe that XXXX and XXXX should be sentenced to the same minimum period of imprisonment? Scenario 4A-D	(1) Yes (2) No (3) I don't know	

SECTION 4: ASSAULT SCENARIOS

Thank you for answering all of our questions so far – it is greatly appreciated.

We are now going to present you with three short hypothetical scenarios involving one person assaulting another person. Again, after each scenario, you will be asked some questions about what you think should happen, if the matter went to court.

No.	Question text	Response categories	Skips
	Scenario 1		
33.	If this case went to court, based on the information you have been given, what do you think the outcome should be?	(1) <Offender> is found guilty of assault (2) <Offender> is found not guilty	
34.	Why do you think that this would be an appropriate outcome?	Free text	
	Scenario 2 or 3		

No.	Question text	Response categories	Skips
35.	If this case went to court, based on the information you have been given, what do you think the outcome should be?	(1) <Offender> is found guilty of assault (2) <Offender> is found not guilty	
36.	Why do you think that this would be an appropriate outcome?	Free text	
	Scenario 4 or 5		
37.	If this case went to court, based on the information you have been given, what do you think the outcome should be?	(1) <Offender> is found guilty of assault (2) <Offender> is found not guilty	
38.	Why do you think that this would be an appropriate outcome?	Free text	

SECTION 5: SOCIODEMOGRAPHICS

Finally, we would like you to answer a few more simple questions about you.

No	Question text	Response categories	Skips
39.	What is your gender? *Gender refers to current gender, which may be different to sex recorded at birth and may be different to what is indicated on legal documents.*	(1) Male/Man (2) Female/Woman (3) Non-binary (4) I use another term (please specify) (5) Prefer not to say	
40.	What was your sex recorded at birth?	(1) Male (2) Female (3) Another term (please specify)	
41.	Do you have a health condition that has lasted, or is likely to last 6 months or longer? *This does not include pregnancy*	(1) Yes (2) No (3) I'm not sure	
42.	Because of this condition, are you restricted in your everyday activities or do you need help or supervision with everyday activities?	(1) Yes (2) No	Skip if q63 = 2 or 3

No	Question text	Response categories	Skips
43.	Are you Aboriginal and/or Torres Strait Islander?	(1) Yes – Aboriginal (2) Yes – Torres Strait Islander (3) Yes – Aboriginal and Torres Strait Islander (4) No (5) I don't know (6) I would prefer not to say	
44.	In which country were you born?	(1) Australia (2) England (3) New Zealand (4) India (5) Philippines (6) Vietnam (7) Italy (8) South Africa (9) Malaysia (10) Scotland (11) Other (please specify)	
45.	In which country was your mother born?	(1) Australia (2) England (3) New Zealand (4) India (5) Philippines (6) Vietnam (7) Italy (8) South Africa (9) Malaysia (10) Scotland (11) Other (please specify)	
46.	In which country was your father born?	(1) Australia (2) England (3) New Zealand (4) India (5) Philippines (6) Vietnam (7) Italy (8) South Africa (9) Malaysia (10) Scotland (11) Other (please specify)	

No	Question text	Response categories	Skips
47.	What is the highest level of education that you have completed?	(1) Year 9 or below (2) Year 10 or equivalent (3) Year 11 or equivalent (4) Year 12 or equivalent (5) Vocational qualification (e.g., TAFE) (6) Undergraduate degree (7) Postgraduate degree (8) Prefer not to say	
48.	Are you currently studying or have you ever studied law at a University level?	(1) Yes (2) No (3) Would prefer not to say	

END PAGE 1

Thank you for your time – we appreciate your input into this survey. If you are interested in reading the findings from this study, you can access them at this <LINK>. Reports and anything else we produce using these survey data should be available towards the end of the year.

If you feel distressed or upset about anything, or need some advice, please contact one of the below listed services.

Emergency services (available 24/7)

Police/ambulance/fire: 000
Lifeline Australia anytime: 13 11 14, or visit the website: https://www.lifeline.org.au.

Other services (available 24/7)

Relationships Australia: 1300 364 277 https://www. relationships.org.au/
National Sexual Assault and Domestic Family Violence Counselling Service (1800RESPECT): 1800 737 732 https://www.1800respect.org.au/
Family Relationship Advice Line: 1800 050 321
SANE Australia: 1800 187 263 https://www.sane.org/
Full Stop Australia: 1800 385 578 https://fullstop.org.au/
MensLine Australia: 1300 78 99 78 https://www.mensline.org.au
13YARN Australia: 13 92 76 https://www.13yarn.org.au/contact-us-13yarn

Online services

Several safety apps are available for download from 1800RESPECT: https://www.1800respect.org.au/ help-and-support/safety-apps-for-mobile-phones/

The Daisy app provides information about local services and includes safety features that protect your privacy. ***The Sunny app*** is for women with a disability who have experienced violence and abuse.

Appendix D: Focus group schedule

Thank you everyone for taking the time to join this focus group today.

<Researchers introduce themselves to the group>

<Researcher to begin with an Acknowledgement of Country>

Today, we're going to be asking you to consider a few hypothetical scenarios involving one person killing or hurting another person. This is so we can understand community attitudes towards the use of defences, when a person has been charged with murder or assault. This information will inform a review the Queensland Law Reform Commission is doing on this issue.

Throughout the focus group we will guide the discussion and make sure everyone has a chance to speak. If you would like to speak, please raise your hand and we will ensure we get round to everyone. If you feel more comfortable contributing via the chat function please do so – this will also be recorded and used in our study.

CHAT MESSAGE:
Hi everyone! This is where you can post your comments.

Before we begin, we need to remind you of a few things:

- This focus group will take about 90 minutes. If there is an earlier time that you need to leave by please let me know in a direct message and I'll ensure you have a chance to participate before leaving.
- Your participation today is completely voluntary.
- You do not have to answer any question that you do not want to or participate in the discussion, if you don't want to.
- If at any point you no longer want to participate, you can either send a direct message to me or <other researcher>, or simply log off. You do not need to provide an explanation about why you need to log off. If you leave early today, we will follow up with you via email, to check you're OK and whether you would like your contributions included in the study.
- After today, you can choose to withdraw from the study before 15 September 2024. After that point, all the analysis will be done and it's not possible to remove your individual contributions.
- Your participation in today's focus group is confidential and your contributions will be anonymised in the project outputs. We will remove any identifiable details from the transcripts of the audio recording. To protect everyone's privacy, please do not share any information that we discuss today with anyone outside of the group.
- The information you give us today will be kept private and we will not use your name or any other information which could be used to identify you. However, I need to remind you that, if you tell me something that makes me think that you or someone else is likely to be seriously harmed, I may have to tell the police. So, try not to tell us anything like that. Also, please don't describe in detail any crime that you or someone else has been involved in, that hasn't already been dealt with by the police – for example robbery, drug dealing).

- Does anyone have any questions about the study or what we are going to talk about today? [If yes, answer as best as possible].

- If no one has any more questions, is everyone happy to consent to participate in the study? If you are, can you please put a thumbs up or write 'I consent' in the chat window.

SCREENSHOT CONSENT.

IF SOMEONE DOES NOT RESPOND OR DOES NOT PROVIDE CONSENT – MOVE THEM INTO A SEPARATE BREAKOUT ROOM AJND PROVIDE THE FOLLOWING CHAT MESSAGE:

Thank you for your time today. We understand you are not willing to participate in the focus group at this time. If you are feeling distressed or upset about anything, then please reach out to one of the services below.
13YARN Australia: 13 92 76 https://www.13yarn.org.au/contact-us-13yarn
Lifeline Australia anytime: 13 11 14, or visit the website: https://www.lifeline.org.au.
Relationships Australia: 1300 364 277 https://www. relationships.org.au/
National Sexual Assault and Domestic Family Violence Counselling Service (1800RESPECT): 1800 737 732 https://www.1800respect.org.au/
Family Relationship Advice Line: 1800 050 321
SANE Australia: 1800 187 263 https://www.sane.org/
Full Stop Australia: 1800 385 578 https://fullstop.org.au/
MensLine Australia: 1300 78 99 78 https://www.mensline.org.au

- Do you agree not to talk about what was discussed during the focus group with anyone else outside of the group? Please indicate you consent to by selecting the thumbs up tag in zoom, or by writing 'I consent' in the comments box

SCREENSHOT CONSENT. IF SOMEONE DOES NOT RESPOND OR DOES NOT PROVIDE CONSENT – MOVE THEM INTO A SEPARATE BREAKOUT ROOM AND IF POSSIBLE, CONDUCT AN INTERVIEW WITH THEM. IF NOT POSSIBLE TO CONDUCT AN INTERVIEW, THEN OFFER TO RESCHEDULE FOR ANOTHER TIME TO INTERVIEW THEM SEPARATELY. IF THEY DO NOT WANT TO BE INTERVIEWED AT A LATER STAGE, THEN SAY THE FOLLOWING.

Thank you for your time today. We understand you are not willing to participate in the focus group at this time. If you are feeling distressed or upset about anything, then please reach out to one of the services linked in the chat window.

CHAT MESSAGE:

Lifeline Australia anytime: 13 11 14, or visit the website: https://www.lifeline.org.au.
Relationships Australia: 1300 364 277 https://www. relationships.org.au/
National Sexual Assault and Domestic Family Violence Counselling Service (1800RESPECT): 1800 737 732 https://www.1800respect.org.au/
Family Relationship Advice Line: 1800 050 321
SANE Australia: 1800 187 263 https://www.sane.org/
Full Stop Australia: 1800 385 578 https://fullstop.org.au/
MensLine Australia: 1300 78 99 78 https://www.mensline.org.au
13YARN Australia: 13 92 76 https://www.13yarn.org.au/contact-us-13yarn

With everyone's consent, we will be audio recording the discussion. Does anyone have any questions about us recording this discussion? Please indicate you consent to the recording either by selecting the thumbs up tag in zoom, or by writing 'I consent' in the comments box.

SCREENSHOT CONSENT.

<If everyone consents, the researcher will turn on recording >.

Talking about violence can be upsetting or distressing. If at any point you need a break, please feel free to turn of your screen and come back when you feel ready. We have also provided a list of services that you can contact in the chat window.

CHAT MESSAGE:
Lifeline Australia anytime: 13 11 14, or visit the website: https://www.lifeline.org.au.
Relationships Australia: 1300 364 277 https://www. relationships.org.au/
National Sexual Assault and Domestic Family Violence Counselling Service (1800RESPECT): 1800 737 732 https://www.1800respect.org.au/
Family Relationship Advice Line: 1800 050 321
SANE Australia: 1800 187 263 https://www.sane.org/
Full Stop Australia: 1800 385 578 https://fullstop.org.au/
MensLine Australia: 1300 78 99 78 https://www.mensline.org.au
13YARN Australia: 13 92 76 https://www.13yarn.org.au/contact-us-13yarn

TAKE ATTENDANCE

Now that the admin stuff is done, we will get started.

We're going to share three scenarios with the group. You'll have a chance to read the scenario and we will ask everyone to consider an appropriate outcome for the person who has used violence. We are really interested to understand your views on responsibility for violence and issues that relate to sentencing for different scenarios of violence.

<Note for the researcher, in every focus group, only consider 3 scenarios – 2 assault and 1 homicide. 1 OR 2, 3 AND 4 OR 5. For the focus group with Indigenous peoples, only consider scenario 6>

The first scenario involves an assault. On the screen we have provided the scenario details, please take a moment to read through the scenario and we will also read it aloud:

Scenario 1

<This scenario text will be shared on the screen via PowerPoint>
Donald and Vaughan knew each other through mutual friends and disliked each other. One day, when they were at the park together with a group of friends, Donald shoved Vaughan. Vaughan punched Donald in the face and continued to move towards him. At that point, Donald could have run away, but he didn't. Donald punched Vaughan and, after he fell to the ground, stomped on his chest and face. Vaughan had a broken jaw and concussion and had to stay in hospital for a number of days.

Keeping this scenario in mind – we'd like to open up discussion with the following questions:

<These questions will be shared on the screen via a PowerPoint slide>

- If Donald was charged with assault and his case went to court, what do you think would be an appropriate outcome? Guilty of assault/Not guilty [Slide will have information on what these categories mean].
- Why do you think this would be an appropriate outcome?
- Are there any factors that you think should either increase or decrease Donald's sentence?

- Potential prompts for the researcher to use to facilitate discussion:

- If Donald did not start things by shoving Vaughan first, would that change Donald's responsibility?

- What about if Vaughan hadn't punched Donald, but only insulted him, by saying he was a loser, would that change his responsibility?

- What if Donald was an Indigenous man and Vaughan had said something derogatory about his heritage? Would that change Donald's responsibility?

- If Donald had not been able to run away when Vaughan was coming towards him, would that change his responsibility?

- If Donald stopped at punching Vaughan, and did not stomp on his chest and face, do you think that would change his responsibility?

- If Vaughan suffered a lesser injury, such as bruising to his face, does this change Donald's responsibility?

- If Donald could demonstrate that he was afraid for his life, would that change his responsibility?

<This scenario text will be shared on the screen via PowerPoint>
Derek and his partner Felicity were at a football match wearing the jerseys of the home team. From the time they sat down, another spectator – Vince – who was sitting behind them and supported the opposing side, was making loud and obnoxious comments about the home team, including that they were crap and a bunch of inbred cheats. Towards the end of the match, Vince turned his attention to Derek and started calling him a loser for supporting the home team. Vince leaned forward and chanted 'loser, loser, loser' right into Derek's ear. Then Vince made a very nasty comment about Felicity's appearance. Enraged, Derek turned around and hit Vince in the face once. As a result, Vince had a broken cheekbone and eye socket, requiring surgery.

Keeping this scenario in mind – we'd like to open up discussion with the following questions:

<These questions will be shared on the screen via a PowerPoint slide>

- If Derek was charged with assault and his case went to court, what do you think would be an appropriate outcome? Guilty of assault/Not guilty [Slide will have information on what these categories mean].

- Why do you think this would be an appropriate outcome?

- Are there any factors that you think should either increase or decrease Donald's sentence?

- Potential prompts for the researcher to use to facilitate discussion:

- If Vince did not start things by taunting Derek first, would that change Derek's responsibility?

- What about if Vince hadn't insulted Felicity, would that change Derek's responsibility?

- If Derek hadn't stopped at punching Vince once but kept on going, do you think that would change his responsibility?

- If Vince had suffered a lesser injury, such as bruising to his face, does this change Derek's responsibility?

- If Derek had used a weapon, would that change his responsibility?

Thank you very much for your thoughts, we are now going to move onto the next scenario.

Scenario 3

<This scenario text will be shared on the screen via PowerPoint>

Vicky is 11 years old and lives with her Mum and Dad. A year ago, Vicky was diagnosed with ADHD. One of the rules in Vicky's family is that kids cannot have their mobile phones in their bedroom after 8 p.m. One evening, Vicky was in her room watching a video on their phone – she has been doing this a lot lately, despite her parents repeated requests not to. At 8 p.m. Vicky's parents told her to hand over the phone. Vicky refused and swore at them. To punish Vicky, her Mum (Dora) took the phone and slapped Vicky on the thigh.

Keeping this scenario in mind – let's discuss the following questions:

<These questions will be shared on the screen via a PowerPoint slide>

- If Dora was charged with assaulting Vicky and her case went to trial, what do you think would be an appropriate outcome? Guilty of assault or Not guilty of assault [Slide will have information on what these categories mean]

- Why do you think this would be an appropriate outcome?

- Are there any factors that you think should either increase or decrease Dora's sentence?

- Potential prompts for the researcher to use to facilitate discussion:

- If Vicky didn't have ADHD, would that change Dora's responsibility?

- If Dora had used an implement, like a wooden spoon, would that change Dora's responsibility?

- If Dora slapped Vicky to the face rather than the thigh, would that change her responsibility?

- How about If Dora had left a bruise on Vicky? Would that change her responsibility?

- What if Dora was not Vicky's parent, but her teacher who was trying to take Vicky's phone from her during class? Would Dora be responsible?

Thank you very much for your thoughts, we are now going to move onto the next scenario.

The second scenario involves the use of fatal violence between intimate partners. Please switch off your screen, mute the discussion or exit the focus group at any time, if you feel distressed or upset by reading the scenario or participating in the discussion. We will notify all participants via the chat function when the discussion of this case has ended so you can rejoin, if you would like to.

On the screen we have provided the scenario details, please take a moment to read through the scenario and we will also read it aloud.

CHAT MESSAGE:
Lifeline Australia anytime: 13 11 14, or visit the website: https://www.lifeline.org.au.
Relationships Australia: 1300 364 277 https://www. relationships.org.au/
National Sexual Assault and Domestic Family Violence Counselling Service (1800RESPECT): 1800 737 732 https://www.1800respect.org.au/
Family Relationship Advice Line: 1800 050 321
SANE Australia: 1800 187 263 https://www.sane.org/
Full Stop Australia: 1800 385 578 https://fullstop.org.au/
MensLine Australia: 1300 78 99 78 https://www.mensline.org.au
13YARN Australia: 13 92 76 https://www.13yarn.org.au/contact-us-13yarn

Scenario 4

TW: This scenario involves the use of fatal violence between intimate partners. Please switch off your screen, mute the discussion or exit the focus group at any time, if you feel distressed or upset by reading the scenario or participating in the discussion. We will notify all participants via the chat function when the discussion of this case has ended so you can rejoin, if you would like to.

<This scenario text will be shared on the screen via PowerPoint>

Vernon had abused his partner Diana for a number of years. This included Vernon calling Diana names and telling her she was worthless, as well as punching, slapping, kicking and shoving her, resulting in bruising, black eyes and hospitalisation for broken bones. A couple of times, Vernon's abuse led Diana's family or friends to call the police. However, Diana always refused to make a statement to the police. One afternoon, they were in the kitchen together and started to argue. Vernon slapped Diana on the face and told her that she was useless. Then Vernon said no one would miss Diana if he killed her. In fear of her life, Diana decided she couldn't take anymore abuse, so she waited until Vernon was asleep, took a knife from the kitchen and killed him.

Keeping this scenario in mind – let's discuss the following questions:

<These questions will be shared on the screen via a PowerPoint slide>

- If Diana was charged with murder and her case went to court, what do you think would be an appropriate outcome? Guilty of the most serious offence of killing (Murder), Guilty of a less serious offence of killing (Manslaughter) or a Not guilty verdict [Slide will have information on what these categories mean]

- Why do you think this would be an appropriate outcome?

- Are there any factors that you think should either increase or decrease Diana's sentence?

- If Diana was found guilty of an offence of murder, are there any factors that you think should either increase or decrease Diana's sentence?

- Potential prompts for the researcher to use to facilitate discussion:

- If Diana hadn't been subjected to physical forms of abuse, do you think that would change her responsibility?

- If instead of being subjected to physical abuse, Diana had been subjected to emotional abuse and controlling behaviours for a number of years, do you think that would change her responsibility?

- If Vernon had not threatened to kill Diana, so the fight had ended after he slapped her, would that change her responsibility?

- What about if Vernon had threatened to hurt someone else, but not Diana. Say, for example, their child. Would that change her responsibility?

- If Diana had made a complaint about Vernon's abuse to police in the weeks leading up to this incident, would that change her responsibility for killing Vernon?

- If Diana and Vernon had children who witnessed Vernon's abuse, would that change Diana's responsibility?

- If Diana felt she could not leave the relationship and was trapped, would that change her responsibility?

CHAT MESSAGE:
Lifeline Australia anytime: 13 11 14, or visit the website: https://www.lifeline.org.au.
Relationships Australia: 1300 364 277 https://www. relationships.org.au/
National Sexual Assault and Domestic Family Violence Counselling Service (1800RESPECT): 1800 737 732 https://www.1800respect.org.au/
Family Relationship Advice Line: 1800 050 321
SANE Australia: 1800 187 263 https://www.sane.org/
Full Stop Australia: 1800 385 578 https://fullstop.org.au/
MensLine Australia: 1300 78 99 78 https://www.mensline.org.au
13YARN Australia: 13 92 76 https://www.13yarn.org.au/contact-us-13yarn

Scenario 5

TW: This scenario involves the use of fatal violence between intimate partners. Please switch off your screen, mute the discussion or exit the focus group at any time, if you feel distressed or upset by reading the scenario or participating in the discussion. We will notify all participants via the chat function when the discussion of this case has ended so you can rejoin, if you would like to.

<This scenario text will be shared on the screen via PowerPoint>

Vera and Dylan have been in a relationship for 10 years and have two children together. They've been arguing a lot over the past few months, and Vera had told Dylan that she has been thinking about a relationship separation. One night Dylan came home and accused Vera of having an affair. Vera admitted that she had and said that her new partner was much better than Dylan in bed. Dylan became angry and choked her to death.

Keeping this scenario in mind – let's discuss the following questions:

<These questions will be shared on the screen via a PowerPoint slide>

- If Dylan was charged with murder and his case went to court, what do you think would be an appropriate outcome? Guilty of the most serious offence of killing (Murder), Guilty of a less serious offence of killing (Manslaughter) or a Not guilty verdict [Slide will have information on what these categories mean]

- Why do you think this would be an appropriate outcome?

- Are there any factors that you think should either increase or decrease Dylan's sentence?

- If Dylan was found guilty of an offence of murder, are there any factors that you think should either increase or decrease Diana's sentence?

- Potential prompts for the researcher to use to facilitate discussion:

- If Vera had not insulted Dylan, do you think that would change his responsibility?

- If Vera has not been having an affair, do you think that would change Dylan's responsibility?

- If Dylan had not killed Vera straight away but had waited a couple of days, would that change his responsibility?

Thank you very much for your thoughts on this scenario, we are now going to move onto some general questions about court outcomes and sentencing.

<These questions will appear on a new slide>

General questions

1. Should victim-survivors of domestic and family violence, including intimate partner violence, who kill their abusers be entitled to a complete/partial defence for their actions? <a plain language explanation of each of these will be included on the slide>

- What factors do you think should be considered for these defences? (*Researcher prompts to facilitate discussion*: severity and longevity of the abuse, impact of the abuse, type of abuse).

2. Should a person who kills another be entitled to a partial defence where they have been provoked? <a plain language explanation of provocation and partial defence will be included on the slide>

3. Should a person who assaults another be entitled to a complete defence where they have been provoked? <a plain language explanation of provocation and complete defence will be included on the slide>

- Researcher prompts to facilitate discussion:
- Would your response/s change if the person who assaulted/killed the other was in an intimate relationship with the person who provoked them?

- What forms of provocation do you believe should justify reducing someone's responsibility for homicide or removing it for assault?

- Are there any forms of provocation that you think should not be allowed to be considered by the court?

4. Do you believe that all cases of murder should attract the same mandatory period of imprisonment? Why/why not?

These are all our questions for today's focus group. Thank you very much for your participation.

If you would like to have access to any reports we prepare as part of this study, you can either take down the link we have just put in the chat screen or, if you would prefer, you can send us a private message with your email and/or postal address.

CHAT MESSAGE:

A reminder that if you have experienced any distress or upset as a result of this discussion you can access any of the support services shown on the screen *[slide to present support service information]* and on the list provided by email.

CHAT MESSAGE:

Lifeline Australia anytime: 13 11 14, or visit the website: https://www.lifeline.org.au.
Relationships Australia: 1300 364 277 https://www. relationships.org.au/
National Sexual Assault and Domestic Family Violence Counselling Service (1800RESPECT): 1800 737 732 https://www.1800respect.org.au/
Family Relationship Advice Line: 1800 050 321
SANE Australia: 1800 187 263 https://www.sane.org/
Full Stop Australia: 1800 385 578 https://fullstop.org.au/
MensLine Australia: 1300 78 99 78 https://www.mensline.org.au
13YARN Australia: 13 92 76 https://www.13yarn.org.au/contact-us-13yarn

Thank you again for your time and sharing your views. We will send you your gift voucher shortly via email.

[Researcher to end the video conference]

Appendix E: Community attitudes towards domestic and family violence, additional tables

Table E1: Attitudinal item key	
No.	Attitudinal item
1	It's a woman's duty to stay in an abusive relationship to keep the family together
2	Women who stay in abusive relationships deserve less help from counselling and support services than women who leave
3	Abuse against family members and intimate partners can be excused if the person using abuse was themselves abused as a child.
4	Abuse against family members and intimate partners can be excused if it results from people getting so angry that they temporarily lose control
5	Abuse against family members and intimate partners can be excused if, afterwards, the person using abuse genuinely regrets what they have done.
6	Abuse against family members and intimate partners can be excused if the person using abuse is heavily affected by alcohol or other drugs
7	A lot of abuse against family members and intimate partners is really just a normal reaction to day-to-day stress and frustration
8	Women in abusive relationships who do not leave are choosing to stay – they could leave if they wanted to.
9	A woman who refuses to cooperate with the police about the abuse she is being subjected to is less deserving of protection from the law.
10	If a woman does not report abuse to the police, then the abuse is probably not that severe.
11	Physical forms of abuse against intimate partners and family members are more likely to make someone afraid of the person using abuse than non-physical forms.
12	Although both men and women can be impacted negatively by abuse in families and relationships, women are more likely to be scared their partner will cause them serious harm

Table E2: Attitudes towards DFV, by gender (%) (weighted)						
	Male		Female		Trans and non-binary	
	Agree	Disagree	Agree	Disagree	Agree	Disagree
1	<1.0	96.5	<1.0	96.8	0.0	94.8
2	3.8	89.8	1.9	93.7	0.0	97.2
3	1.7	94.0	1.2	95.9	0.0	95.8
4	2.5	91.7	1.8	94.9	<1.0	88.2
5	5.1	85.0	2.2	91.1	0.0	88.2
6	2.6	94.6	2.2	95.9	1.1	95.8
7	4.5	85.2	2.3	92.4	6.0	82.4
8	1.8	56.5	8.3	76.7	2.1	90.2
9	7.9	78.3	4.1	85.4	0.0	88.4
10	2.4	89.6	1.5	95.6	0.0	96.9
11	38.2	40.4	33.1	48.1	28.4	27.5
12	66.1	19.5	69.9	17.3	69.7	8.3

Note: Denominators include participants who say they neither agree or disagree. Excludes participants who did not provide their gender identity.

Source: Community attitudes to defences project, 2024 [Computer file]

Table E3: Attitudes towards DFV, by place of usual residence (%) (weighted)						
	Urban centre		Regional		Remote	
	Agree	Disagree	Agree	Disagree	Agree	Disagree
1	0.8	96.3	0.7	96.8	0.3	98.8
2	2.8	90.9	2.8	93.2	2.8	94.7
3	1.3	94.7	1.7	94.8	0.6	98.5
4	2.4	92.2	1.8	94.5	0.2	98.0
5	4.1	87.4	2.7	88.7	1.5	91.4
6	2.6	95.0	1.9	95.7	1.8	95.4
7	3.5	88.5	3.4	89.2	3.5	88.8

Table E3: Attitudes towards DFV, by place of usual residence (%) (weighted)						
	Urban centre		Regional		Remote	
	Agree	Disagree	Agree	Disagree	Agree	Disagree
8	13.5	67.2	10.6	67.7	13.5	63.4
9	6.6	81.1	4.2	82.6	5.8	87.4
10	2.4	92.5	1.1	92.8	1.2	94.9
11	34.0	45.1	38.1	40.7	36.7	51.0
12	66.6	19.4	70.5	16.0	71.0	18.1

Note: Denominators include participants who say they neither agree or disagree. Sample excludes participants whose place of usual residence could not be calculated based on their postcode.

Source: Community attitudes to defences project, 2024 [Computer file]

Table E4: Attitudes towards DFV, by country of birth (%) (weighted)						
	Australia		Other country where English is not the main language		Other country where English is the main language	
	Agree	Disagree	Agree	Disagree	Agree	Disagree
1	0.7	96.8	1.8	93.2	0.1	98.7
2	2.2	92.8	4.7	87.0	3.8	91.7
3	1.2	95.9	4.1	90.8	0.4	94.5
4	1.7	94.0	4.4	88.0	2.4	94.2
5	2.7	90.0	8.2	74.6	3.9	90.3
6	2.3	95.5	3.9	92.0	1.4	96.5
7	3.2	89.2	5.7	83.8	3.0	90.7
8	10.3	70.5	26.7	46.6	12.8	68.2
9	5.4	83.7	8.3	73.8	6.3	80.9
10	1.8	93.4	3.6	88.9	1.2	92.9
11	34.0	44.9	44.1	37.3	35.8	45.7
12	69.2	17.0	63.4	22.4	66.9	20.3

Note: Denominators include participants who say they neither agree or disagree. Sample excludes participants who did not provide their country of birth.

Source: Community attitudes to defences project, 2024 [Computer file

Table E5: Attitudes towards DFV, by Indigenous status (%) (weighted)				
	Aboriginal and/or Torres Strait Islander		Non-Indigenous	
	Agree	Disagree	Agree	Disagree
1	2.7	95.2	0.7	96.7
2	9.7	87.8	2.7	92.0
3	0.9	93.6	1.4	95.1
4	0.9	96.6	2.1	93.3
5	1.4	92.6	3.6	88.1
6	0.9	96.6	2.4	95.3
7	2.1	94.3	3.5	88.8
8	16.4	62.4	12.7	67.4
9	9.0	87.6	5.8	82.1
10	1.4	95.2	2.0	92.8
11	41.5	49.3	35.4	44.1
12	65.7	18.0	68.4	18,2

Note: Denominators include participants who say they neither agree or disagree. Sample excludes participants who did not provide their Indigenous status.

Source: Community attitudes to defences project, 2024 [Computer file]

Table E6: Attitudes towards DFV, by family violence victimisation history (%) (weighted)				
	FV victimisation		No FV victimisation	
	Agree	Disagree	Agree	Disagree
1	0.1	96.4	0.6	96.9
2	3.1	91.4	2.7	92.3
3	1.8	92.6	1.3	96.0
4	2.6	92.4	1.9	93.7
5	5.6	83.9	2.5	90.4
6	2.6	94.5	2.3	95.6

Table E6: Attitudes towards DFV, by family violence victimisation history (%) (weighted)				
	FV victimisation		No FV victimisation	
	Agree	Disagree	Agree	Disagree
7	4.7	86.6	2.6	90.2
8	13.0	70.5	12.7	66.1
9	4.6	84.0	6.4	81.3
10	2.1	92.5	1.7	93.1
11	36.4	44.1	35.2	44.3
12	69.3	16.5	68.1	18.8

Note: Denominators include participants who say they neither agree or disagree. Sample excludes participants who did not provide information about their history of FV victimisation.

Source: Community attitudes to defences project, 2024 [Computer file]

Table E7: Attitudes towards DFV, by IPV victimisation history (%) (weighted)				
	IPV victimisation		No IPV victimisation	
	Agree	Disagree	Agree	Disagree
1	0.9	95.6	0.6	97.3
2	2.6	91.6	2.9	92.0
3	2.0	93.8	1.1	95.6
4	2.5	93.2	1.7	93.6
5	3.9	87.9	3.0	88.9
6	2.1	95.4	2.3	95.5
7	3.5	88.4	3.3	89.5
8	9.8	75.6	14.0	63.4
9	3.8	84.2	6.8	81.0
10	1.6	93.0	1.9	92.8
11	33.0	49.4	36.6	42.6
12	69.3	18.6	67.7	18.4

Note: Denominators include participants who say they neither agree or disagree. Sample excludes participants who did not provide information about their history of IPV victimisation.

Source: Community attitudes to defences project, 2024 [Computer file]

Appendix F: Multivariate models

Table F1: Logistic model predicting Donald's level of culpability – Scenario 1 (weighted)		
	OR	*p* (95% CI)
Characteristics of the scenario		
Donald's role in initiating the fight (vs Donald initiated the fight)		
Vaughan initiated the fight	6.05	0.000 (4.683-7.811)***
Option to retreat (vs Donald could not escape)		
Donald could escape but chose not to	1.55	0.000 (1.211-1.977)***
Level of force used by Donald (vs punch)		
Stomping on Vaughan's chest and face	5.91	0.000 (4.558-7.653)***
Level of injury experienced by Vaughan (vs bruising only)		
Broken jaw and concussion	2.02	0.000 (1.580-2.585)***
Sociodemographic characteristics		
Gender (vs male)		
Female	1.46	0.002 (1.143-1.861)**
Trans or non-binary	3.13	0.105 (0.788-12.431)
Age (vs 18-24 years)		
25-34 years	1.37	0.234 (0.816-2.293)
35-44 years	1.26	0.357 (0.769-2.072)
45-54 years	1.1	0.696 (0.675-1.800)
55-64 years	1.24	0.386 (0.761-2.025)

Table F1: Logistic model predicting Donald's level of culpability – Scenario 1 (weighted)		
	OR	*p* (95% CI)
65+ years	1.41	0.179 (0.853-2.343)
Country of birth (vs Australia)		
Non-English speaking country	1.11	0.673 (0.675-1.836)
English speaking country	1.15	0.414 (0.820-1.620)
Place of usual residence (vs Urban centre)		
Inner regional	1.14	0.525 (0.764-1.695)
Outer regional	0.93	0.711 (0.638-1.358)
Remote	0.97	0.935 (0.472-1.996)
Very remote	0.98	0.971 (0.419-2.312)
Aboriginal and/or Torres Strait Islander (vs non-Indigenous)	0.55	0.301 (0.181-1.697)
Language spoken most of the time at home (vs English)	0.73	0.189 (0.451-1.17)
Highest level of education completed (vs Year 12)		
Less than year 12	0.87	0.587 (0.514-1.457)
TAFE	0.90	0.573 (0.613-1.311)
University	1.05	0.791 (0.721-1.537)
SEIFA (Quintile 3)		
Quintile 1 (most disadvantaged)	1.22	0.363 (0.797-1.859)
Quintile 2	1.40	0.117 (0.919-2.14)
Quintile 4	1.10	0.6 (0.77-1.573)

Table F1: Logistic model predicting Donald's level of culpability – Scenario 1 (weighted)		
	OR	*p* (95% CI)
Quintile 5 (least disadvantaged)	1.04	0.86 (0.694-1.549)
Victimisation history		
Secondary victimisation (vs no history)	0.95	0.705 (0.713-1.256)
Victim of a violent crime (vs no history)	1.00	0.983 (0.708-1.401)
cons	0.2	0 (0.091-0.441)

Note: n = 2,226, *p* =0.000, *F(*28) = 12.31. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 38), and participants who did not provide information for the variables included in the model.

OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Table F2: Logistic model predicting David's level of culpability – Scenario 2 (weighted)		
	OR	*p* (95% CI)
Characteristics of the scenario		
Argument (vs found out Valerie was having an affair)	1.12	0.742 (0.573-2.186)
Sociodemographic characteristics		
Gender (vs male)[a]		
Female	1.12	0.780 (0.504-2.494)
Age (vs 18-24 years)		
25-34 years	0.67	0.626 (0.132-3.392)
35-44 years	1.04	0.955 (0.23-4.75)
45-54 years	2.17	0.350 (0.427-11.031)
55-64 years	1.51	0.591 (0.335-6.834)
65+ years	1.09	0.917 (0.205-5.839)
Country of birth (vs Australia)		
Non-English speaking country	0.37	0.149 (0.098-1.423)
English speaking country	0.84	0.752 (0.277-2.527)

Aboriginal and/or Torres Strait Islander (vs non-Indigenous)	1.74	0.520 (0.323-9.345)
Language spoken most of the time at home (vs English)	1.84	0.392 (0.456-7.398)
Highest level of education completed (vs Year 12)		
Less than year 12	1.11	0.879 (0.292-4.209)
TAFE	1.78	0.339 (0.547-5.76)
University	2.09	0.213 (0.655-6.656)
SEIFA (Quintile 3)		
Quintile 1 (most disadvantaged)	1.18	0.799 (0.325-4.312)
Quintile 2	18.78	0.000 (4.163-84.756)***
Quintile 4	1.29	0.641 (0.441-3.778)
Quintile 5 (least disadvantaged)	1.00	0.994 (0.268-3.688)
Victimisation history		
Secondary victimisation (vs no history)	1.00	0.998 (0.337-2.961)
Intimate partner victimisation (vs no history)	1.11	0.881 (0.275-4.505)
Family violence victimisation (vs no history)	1.20	0.712 (0.448-3.239)
Attitudes towards DFV		
Victim-blaming	0.54	0.028 (0.315-0.935)*
Minimisation	0.27	0.000 (0.142-0.521)***
Physical violence more harmful (vs strongly agree or agree)		
Neither agree and disagree	0.85	0.746 (0.325-2.236)
Strongly disagree or agree	0.69	0.510 (0.231-2.073)
Women more likely to be afraid (vs strongly agree or agree)		
Neither agree and disagree	0.91	0.858 (0.33-2.517)
Strongly disagree or agree	0.31	0.045 (0.099-0.975)*
_cons	111.7	0.001 (7.668-1626.995)

Note: n = 1,030, p =0.000, $F(27) = 4.58$. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 16), and participants who did not provide information for the variables included in the model. Model does not include place of usual residence as a covariate due to the small number of people from remote areas.

OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

a: Trans and non-binary participants were removed from the sample due to small sample sizes.

Source: Community attitudes to defences project, 2024 [Computer file]

Table F3: Logistic model predicting Derek's level of culpability – Scenario 3 (weighted)		
	OR	p (95% CI)
Scenario characteristics		
Victim's conduct (vs Vince chanting loser in Derek's ear and insulting Felicity)		
Vince called Derek a loser	10.98	0.000 (5.929-20.317)***
Sociodemographic characteristics		
Gender[a]		
Female	1.55	0.041 (1.019-2.354)*
Age (vs 18-24 years)		
25-34 years	1.06	0.911 (0.390-2.873)
35-44 years	1.02	0.967 (0.389-2.682)
45-54 years	1.52	0.412 (0.559-4.136)
55-64 years	0.87	0.782 (0.327-2.319)
65+ years	0.52	0.174 (0.206-1.332)
Country of birth (vs Australia)		
Non-English speaking country	1.31	0.505 (0.596-2.857)
English speaking country	0.99	0.963 (0.531-1.828)
Place of usual residence (vs Urban centre)		
Inner regional	1.43	0.327 (0.701-2.9)
Outer regional	0.92	0.797 (0.475-1.771)
Remote	2.10	0.240 (0.61-7.204)
Very remote	4.27	0.086 (0.814-22.352)

Table F3: Logistic model predicting Derek's level of culpability – Scenario 3 (weighted)		
	OR	p (95% CI)
Aboriginal and/or Torres Strait Islander (vs non-Indigenous)	0.23	0.004 (0.084-0.615)**
Language spoken most of the time at home (vs English)	0.48	0.051 (0.234-1.004)
Highest level of education completed (vs Year 12)		
Less than year 12	1.06	0.895 (0.448-2.505)
TAFE	0.98	0.944 (0.499-1.909)
University	1.55	0.223 (0.767-3.114)
SEIFA (vs Quintile 3)		
Quintile 1 (most disadvantaged)	0.99	0.984 (0.474-2.077)
Quintile 2	0.87	0.693 (0.43-1.752)
Quintile 4	1.17	0.639 (0.603-2.281)
Quintile 5 (least disadvantaged)	1.09	0.811 (0.533-2.235)
Victimisation history		
Secondary victimisation (vs no history)	1.31	0.296 (0.791-2.155)
Victim of a violent crime (vs no history)	0.95	0.859 (0.522-1.72)
_cons	4.34	0.041 (1.064-17.724)

Note: n = 1,129, p =0.000, $F(24)$ = 3.69. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 9).

OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

a: Trans and non-binary participants were excluded from the sample due to small cell sizes.

Source: Community attitudes to defences project, 2024 [Computer file]

Table F4: Logistic model predicting Dora's level of culpability – Scenario 4 (weighted)		
	OR	p (95% CI)
Characteristics of the scenario		

Table F4: Logistic model predicting Dora's level of culpability – Scenario 4 (weighted)		
	OR	p (95% CI)
Vicky's disability status (vs diagnosed with ADHD)		
Assessed but not diagnosed with ADHD	0.79	0.128 (0.592-1.068)
Nature of violence and injury (vs slapped thigh, no bruise)		
Slapped thigh, left a bruise	3.40	0.000 (2.192-5.276)***
Hit thigh with wooden spoon, no bruise	2.25	0.001 (1.423-3.550)***
Slapped ace, no bruise	5.70	0.000 (3.593-9.038)***
Grabbed hand tightly	0.26	0.000 (0.138-0.489)***
Sociodemographic characteristics		
Gender (vs male)		
Female	1.27	0.135 (0.928-1.745)
Trans or non-binary	1.33	0.608 (0.443-4.024)
Age (vs 18-24 years)		
25-34 years	1.45	0.245 (0.775-2.721)
35-44 years	0.91	0.776 (0.489-1.707)
45-54 years	0.72	0.327 (0.380-1.381)
55-64 years	0.53	0.061 (0.278-1.030)
65+ years	0.78	0.454 (0.405-1.499)
Country of birth (vs Australia)		
Non-English speaking country	2.02	0.021 (1.111-3.662)*

Table F4: Logistic model predicting Dora's level of culpability – Scenario 4 (weighted)		
	OR	p (95% CI)
English speaking country	0.96	0.854 (0.619-1.489)
Place of usual residence (vs Urban centre)		
Inner regional	0.54	0.008 (0.344-0.855)**
Outer regional	0.97	0.913 (0.603-1.571)
Remote	1.03	0.945 (0.501-2.097)
Very remote	0.93	0.877 (0.361-2.390)
Aboriginal and/or Torres Strait Islander (vs non-Indigenous)	1.85	0.281 (0.604-5.652)
Language spoken most of the time at home (vs English)	0.82	0.483 (0.477-1.419)
Highest level of education completed (vs Year 12)		
Less than year 12	1.32	0.393 (0.700-2.474)
TAFE	1.49	0.106 (0.919-2.424)
University	1.50	0.095 (0.932-2.402)
SEIFA (vs Quintile 3)		
Quintile 1 (most disadvantaged)	1.00	0.984 (0.608-1.628)
Quintile 2	1.17	0.518 (0.724-1.894)
Quintile 4	0.91	0.685 (0.585-1.422)
Quintile 5 (least disadvantaged)	0.72	0.211 (0.431-1.204)
Victimisation history		
Secondary victimisation (vs no history)	1.05	0.767 (0.754-1.467)
Intimate partner victimisation (vs no history)	1.21	0.315 (0.835-1.749)

Table F4: Logistic model predicting Dora's level of culpability – Scenario 4 (weighted)		
	OR	p (95% CI)
Family violence victimisation (vs no history)	0.98	0.924 (0.676-1.427)
Attitudes towards DFV		
Victim-blaming	0.73	0.043 (0.531-0.991)*
Minimisation	1.18	0.498 (0.727-1.928)
Physical violence more harmful (vs strongly agree or agree)		
Neither agree and disagree	1.00	0.998 (0.666-1.503)
Strongly disagree or agree	1.09	0.635 (0.765-1.549)
Women more likely to be afraid (vs strongly disagree or disagree)		
Neither agree and disagree	0.55	0.029 (0.322-0.941)*
Strongly agree or agree	0.54	0.003 (0.361-0.809)**
cons	0.18	0.005 (0.057-0.603)

Note: n = 1,482, p =0.000, $F(36)$ = 5.08. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 43).

OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Table F5: Logistic model predicting Davina's level of culpability – Scenario 5 (weighted)		
	OR	*p (95% CI)*
Characteristics of the scenario		
Impact of Vicky's actions on classmates (vs distracting her classmates)		
Not distracting her classmates	1.51	0.064 (0.976-2.329)
Davina's conduct (vs grabbed Vicky's hand)		

Table F5: Logistic model predicting Davina's level of culpability – Scenario 5 (weighted)		
	OR	*p (95% CI)*
Grabbed Vicky's shirt	1.41	0.118 (0.916-2.163)
Sociodemographic characteristics of participants		
Gender (vs male)[a]		
Female	1.11	0.631 (0.720-1.720)
Age (vs 18-24 years)	0.93	0.886 (0.362-2.408)
25-34 years	0.64	0.333 (0.259-1.581)
35-44 years	0.36	0.035 (0.140-0.929)*
45-54 years	0.52	0.161 (0.212-1.296)
55-64 years	0.49	0.141 (0.189-1.269)
65+ years		
Country of birth (vs Australia)	1.11	0.824 (0.456-2.681)
Non-English speaking country	1.12	0.815 (0.425-2.967)
English speaking country		
Place of usual residence (vs Urban centre)	0.45	0.023 (0.226-0.897)*
Inner regional	0.58	0.122 (0.296-1.155)
Outer regional	0.94	0.916 (0.277-3.171)
Remote	1.01	0.988 (0.345-2.950)
Very remote		
Indigenous status (vs non-Indigenous)	0.59	0.553 (0.107-3.317)
Language spoken most of the time at home (vs English)	0.76	0.515 (0.337-1.725)
Highest level of education completed (vs Year 12)		

Table F5: Logistic model predicting Davina's level of culpability – Scenario 5 (weighted)		
	OR	*p (95% CI)*
Less than year 12	1.05	0.929 (0.358-2.987)
TAFE	1.56	0.243 (0.738-3.309)
University	2.30	0.032 (1.076-4.913)*
SEIFA (vs Quintile 3)		
Quintile 1 (most disadvantaged)	0.67	0.261 (0.333-1.349)
Quintile 2	1.12	0.729 (0.587-2.142)
Quintile 4	0.75	0.360 (0.400-1.395)
Quintile 5 (least disadvantaged)	0.45	0.023 (0.222-0.895)*
Victimisation history		
Secondary victimisation (vs no history)	0.58	0.031 (0.353-0.95)*
Intimate partner victimisation (vs no history)	1.69	0.035 (1.037-2.747)*
Family violence victimisation (vs no history)	1.44	0.165 (0.860-2.420)
cons	0.46	0.415 (0.07-3.004)

Note: n = 631, *p* =0.0475, *F*(26) = 1.52. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 4), and participants who did not provide information for the variables included in the model.

OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Table F6: Ordered logistic model predicting Diana's level of culpability – Scenario 6 (weighted)		
	OR	*p* (95% CI)
Characteristics of the scenario		
Timing of the lethal violence (vs immediate)		
Waited until Vernon was asleep	2.14	0.000 (1.726-2.641)***

Table F6: Ordered logistic model predicting Diana's level of culpability – Scenario 6 (weighted)		
	OR	*p* (95% CI)
Nature of abuse perpetrated against Diana (vs no coercive control)		
Coercive controlling behaviours	0.96	0.680 (0.776-1.18)
Escalation of abuse (vs no threat to kill)		
Vernon threatened to kill Diana	1.12	0.285 (0.908-1.388)
Reporting to the police (Diana chose not to report)		
Diana reported abuse to the police	1.05	0.618 (0.855-1.302)
Sociodemographic characteristics		
Gender (vs male)		
Female	1.48	0.001 (1.179-1.849)**
Trans or non-binary	1.01	0.994 (0.245-4.124)
Age (vs 18-24 years)		
25-34 years	0.66	0.083 (0.411-1.056)
35-44 years	1.09	0.732 (0.679-1.734)
45-54 years	1.53	0.077 (0.955-2.456)
55-64 years	2.04	0.003 (1.271-3.291)**
65+ years	2.54	0.000 (1.585-4.075)***
Country of birth (vs Australia)		
Non-English speaking country	0.82	0.406 (0.515-1.308)
English speaking country	0.98	0.874 (0.735-1.3)

Table F6: Ordered logistic model predicting Diana's level of culpability – Scenario 6 (weighted)		
	OR	*p* (95% CI)
Place of usual residence (vs Urban centre)		
Inner regional	0.76	0.106 (0.548-1.059)
Outer regional	0.99	0.951 (0.696-1.405)
Remote	0.73	0.290 (0.409-1.306)
Very remote	0.85	0.626 (0.45-1.617)
Aboriginal and/or Torres Strait Islander (vs non-Indigenous)	2.10	0.084 (0.904-4.873)
Language spoken most of the time at home (vs English)	1.26	0.351 (0.775-2.048)
Highest level of education completed (vs Year 12)		
Less than year 12	0.56	0.006 (0.369 - 0.846)**
TAFE	0.72	0.060 (0.513 - 1.013)
University	0.57	0.002 (0.401 - 0.812)**
SEIFA (vs Quintile 3)		
Quintile 1 (most disadvantaged)	0.96	0.830 (0.68-1.363)
Quintile 2	0.88	0.487 (0.626-1.251)
Quintile 4	0.89	0.496 (0.65-1.232)
Quintile 5 (least disadvantaged)	0.97	0.867 (0.679-1.387)
Victimisation history		
Secondary victimisation (vs no history)	0.96	0.743 (0.747-1.231)
Intimate partner victimisation (vs no history)	1.46	0.006 (1.114-1.922)**

Table F6: Ordered logistic model predicting Diana's level of culpability – Scenario 6 (weighted)		
	OR	*p* (95% CI)
Family violence victimisation (vs no history)	1.02	0.901 (0.784-1.318)
Attitudes towards DFV		
Victim-blaming	0.59	0.000 (0.458-0.76)***
Minimisation	1.10	0.617 (0.762-1.582)
Physical violence more harmful (vs strongly agree or agree)		
Neither agree and disagree	0.99	0.955 (0.728-1.350)
Strongly disagree or agree	1.10	0.452 (0.856-1.418)
Women more likely to be afraid (vs strongly agree or agree)		
Neither agree and disagree	0.90	0.522 (0.645-1.250)
Strongly disagree or agree	0.77	0.075 (0.582-1.026)
/cut1	-0.85	
/cut2	2.55	

Note: n = 2.135, *p* =0.000, *F*(35) = 5.68. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 32), and participants who did not provide information for the variables included in the model.

OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Table F7: Ordered logistic model predicting Daisy's level of culpability – Scenario 7 (weighted)		
	OR	*p* (95% CI)
Characteristics of the scenario		
Daisy's gender (vs trans)		

Table F7: Ordered logistic model predicting Daisy's level of culpability – Scenario 7 (weighted)		
	OR	*p* (95% CI)
Cisgender female	1.19	0.102 (0.966-1.457)
Vaughan's conduct (vs pinned Daisy to the counter)		
Grabbed Daisy on the bum	0.23	0.000 (0.182-0.290)***
Daisy's emotional state (vs frightened)		
Angry	0.81	0.077 (0.642-1.023)
Nature of lethal violence (vs stabbed with knife)		
Hit overhead with wine bottle	2.14	0.000 (1.719-2.659)***
Sociodemographic characteristics		
Gender (vs male)		
Female	1.13	0.261 (0.912-1.402)
Trans or non-binary	1.57	0.217 (0.766-3.218)
Age (vs 18-24 years)		
25-34 years	0.84	0.484 (0.514-1.371)
35-44 years	0.74	0.200 (0.467-1.173)
45-54 years	0.65	0.069 (0.408-1.033)
55-64 years	0.71	0.145 (0.446-1.126)
65+ years	0.71	0.155 (0.443-1.138)
Country of birth (vs Australia)	1.02	0.798 (0.887-1.169)
Non-English speaking country	1.44	0.065 (0.978-2.125)

Table F7: Ordered logistic model predicting Daisy's level of culpability – Scenario 7 (weighted)		
	OR	*p* (95% CI)
English speaking country	0.98	0.864 (0.738-1.290)
Place of usual residence (vs Urban centre)		
Inner regional	0.76	0.080 (0.56-1.033)
Outer regional	0.76	0.083 (0.555-1.037)
Remote	0.97	0.922 (0.551-1.716)
Very remote	0.55	0.133 (0.256-1.198)
Aboriginal and/or Torres Strait Islander (vs non-Indigenous)	0.89	0.866 (0.239-3.342)
Language spoken most of the time at home (vs English)	1.08	0.676 (0.756-1.541)
Highest level of education completed (vs Year 12)		
Less than year 12	1.07	0.745 (0.714-1.601)
TAFE	0.89	0.501 (0.626-1.258)
University	0.91	0.622 (0.639-1.308)
SEIFA (Quintile 3)		
Quintile 1 (most disadvantaged)	0.82	0.263 (0.587-1.157)
Quintile 2	1.01	0.931 (0.725-1.42)
Quintile 4	0.73	0.053 (0.534-1.004)
Quintile 5 (least disadvantaged)	0.96	0.824 (0.674-1.37)
Victimisation history		
Secondary victimisation (vs no history)	1.26	0.047 (1.003-1.59)

Table F7: Ordered logistic model predicting Daisy's level of culpability – Scenario 7 (weighted)		
	OR	*p* (95% CI)
Intimate partner victimisation (vs no history)	0.74	0.012 (0.579-0.935)*
Family violence victimisation (vs no history)	1.32	0.03 (1.027-1.694)
Attitudes towards DFV		
Victim-blaming	0.68	0.001 (0.534-0.856)**
Minimisation	0.68	0.085 (0.44-1.054)
Physical violence more harmful (vs strongly agree or agree)		
Neither agree and disagree	0.99	0.955 (0.728-1.350)
Strongly disagree or agree	1.10	0.452 (0.856-1.418)
Women more likely to be afraid (vs strongly agree or agree)		
Neither agree and disagree	0.90	0.522 (0.645-1.250)
Strongly disagree or agree	0.77	0.075 (0.582-1.026)
/cut1	-3.53	
/cut2	-0.21	

Note: n = 2,131, *p* =0.000, *F*(33) = 9.17. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 32) and who did not provide valid data for the variables included in the model. OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Table F9: Ordered logistic model predicting Dylan's level of culpability – Scenario 9 (weighted)		
	OR	*p* (95% CI)
Characteristics of the scenario		
Victim's conduct (vs admitting to affair)		

Table F9: Ordered logistic model predicting Dylan's level of culpability – Scenario 9 (weighted)		
	OR	*p* (95% CI)
Denial of affair and spitting	1.10	0.581 (0.790-1.523)
Denial affair, leaving with children	0.60	0.006 (0.415-0.859)**
Sociodemographic characteristics of participant		
Gender (vs male)[a]		
Female	0.82	0.194 (0.609-1.106)
Age (vs 18-24 years)		
25-34 years	1.14	0.789 (0.435-2.988)
35-44 years	2.59	0.032 (1.084-6.196)*
45-54 years	2.62	0.030 (1.099-6.241)*
55-64 years	3.75	0.003 (1.575-8.923)**
65+ years	4.63	0.001 (1.933-11.079)**
Country of birth (vs Australia)		
Non-English speaking country	1.28	0.385 (0.733-2.234)
English speaking country	0.85	0.413 (0.568-1.262)
Place of usual residence (vs Urban centre)		
Inner regional	0.96	0.854 (0.632-1.462)
Outer regional	1.25	0.372 (0.768-2.024)
Remote	0.72	0.496 (0.279-1.856)
Very remote	0.62	0.307 (0.244-1.558)

Table F9: Ordered logistic model predicting Dylan's level of culpability – Scenario 9 (weighted)		
	OR	*p* (95% CI)
Aboriginal and Torres Strait Islander (vs non-Indigenous)	0.11	0.011 (0.019-0.595)*
Language spoken most of the time at home (vs English)	0.99	0.986 (0.55-1.8)
Highest level of education completed (vs Year 12)		
Less than year 12	0.78	0.421 (0.432-1.42)
TAFE	0.9	0.640 (0.567-1.418)
University	0.82	0.410 (0.506-1.32)
SEIFA (Quintile 3)		
Quintile 1 (most disadvantaged)	0.76	0.261 (0.478-1.222)
Quintile 2	1.00	0.984 (0.625-1.584)
Quintile 4	1.04	0.840 (0.691-1.576)
Quintile 5 (least disadvantaged)	1.16	0.522 (0.738-1.819)
Victimisation history		
Secondary victimisation (vs no history)	1.07	0.669 (0.782-1.467)
Intimate partner victimisation (vs no history)	0.93	0.673 (0.654-1.316)
Family violence victimisation (vs no history)	1.09	0.620 (0.767-1.559)
Attitudes towards DFV		
Victim-blaming	0.86	0.300 (0.642-1.146)
Minimisation	2.22	0.000 (1.502-3.289)***
Physical violence more harmful (vs strongly agree or agree)		

Table F9: Ordered logistic model predicting Dylan's level of culpability – Scenario 9 (weighted)		
	OR	*p* (95% CI)
Neither agree and disagree	1.11	0.590 (0.752-1.651)
Strongly disagree or agree	1.08	0.659 (0.763-1.534)
Women more likely to be afraid (vs strongly agree or agree)		
Neither agree and disagree	0.77	0.255 (0.488-1.21)
Strongly disagree or agree	1.10	0.636 (0.743-1.625)
/cut1	3.02	(1.789-4.26)
/cut2	6.83	(5.456-8.197)

Note: n = 2,112, *p* =0.000, *F*(32) = 2.58. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 22) and who did not provide valid data for the variables included in the model.

OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

a: a: Trans and non-binary participants were excluded from the sample due to small cell sizes.

Source: Community attitudes to defences project, 2024 [Computer file]

Table F10: Logistic model predicting whether defendants charged with murder should receive the same sentence (weighted)		
	OR	*p* (95% CI)
Scenario type (vs B and D)		
A and B	1.39	0.132 (0.906-2.131)
A and C	0.73	0.171 (0.46-1.148)
A and D	3.35	0.000 (2.236-5.022)***
B and C	0.68	0.121 (0.411-1.109)
B and D	6.74	0.000 (4.47-10.166)***
Sociodemographic characteristics of participant		
Gender (vs male)[a]		
Female	0.87	0.304 (0.677-1.129)

Trans or non-binary	0.67	0.643 (0.127-3.578)
Age (vs 18-24 years)		
25-34 years	0.89	0.684 (0.51-1.556)
35-44 years	0.62	0.088 (0.36-1.073)
45-54 years	0.93	0.799 (0.541-1.604)
55-64 years	0.67	0.156 (0.389-1.164)
65+ years	0.89	0.674 (0.518-1.53)
Country of birth (vs Australia)		
Non-English speaking country	1.88	0.026 (1.079-3.259)*
English speaking country	1.60	0.145 (0.851-3.007)
Place of usual residence (vs Urban centre)		
Inner regional	0.77	0.220 (0.509-1.168)
Outer regional	0.91	0.602 (0.623-1.315)
Remote	0.74	0.394 (0.366-1.486)
Very remote	1.45	0.321 (0.695-3.027)
Aboriginal and/or Torres Strait Islander (vs non-Indigenous)	0.55	0.274 (0.189-1.603)
Language spoken most of the time at home (vs English)	1.89	0.021 (1.1-3.246)*
Highest level of education completed (vs Year 12)		
Less than Year 12	2.03	0.005 (1.234-3.357)**
TAFE	1.83	0.003 (1.233-2.728)**
University	1.31	0.202 (0.864-1.997)
SEIFA (vs Quintile 3)		
Quintile 1 (most disadvantaged)	1.05	0.809 (0.695-1.595)
Quintile 2	1.24	0.305 (0.822-1.869)
Quintile 4	1.34	0.125 (0.921-1.96)
Quintile 5 (least disadvantaged)	1.29	0.238 (0.845-1.971)
Victimisation history		
Secondary victimisation (vs no history)	1.16	0.271 (0.888-1.527)

Intimate partner victimisation (vs no history)	0.77	0.089 (0.578-1.04)
Family violence victimisation (vs no history)	1.20	0.22 (0.894-1.622)
_cons	0.09	0 (0.035-0.218)

Note: n = 2,155, *p* =0.000, *F*(30) = 7.13. Sample excludes participants who said they did not know what an appropriate outcome would be in this case (n = 14).

OR=odds ratio; 95% CIs=95% confidence interval.

***p<0.001 **p<0.01 *p<0.05

Source: Community attitudes to defences project, 2024 [Computer file]

Appendix G: Relevant sections of *Criminal Code 1899* (Qld)

s 7 – Principal offenders

(1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say —

(a) every person who actually does the act or makes the omission which constitutes the offence;

(b) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;

(c) every person who aids another person in committing the offence;...

s 8 – Offences committed in prosecution of common purpose

When 2 or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

s 245 – Assault

(1) A person who strikes, touches, or moves, or otherwise applies force of any kind to, the person of another, either directly or indirectly, without the other person's consent, or with the other person's consent if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without the other person's consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect the person's purpose, is said to assault that other person, and the act is called an "assault".

s 248 – Assaults unlawful

(1) An assault is unlawful and constitutes an offence unless it is authorised or justified or excused by law.

(2) The application of force by one person to the person of another may be unlawful, although it is done with the consent of that other person.

s 268 – Provocation

(1) The term "provocation" , used with reference to an offence of which an assault is an element, means and includes, except as hereinafter stated, any wrongful act or insult of such a nature as to be likely, when done to an ordinary person, or in the presence of an ordinary person to another person who is under the person's immediate care, or to whom the person stands in a conjugal, parental, filial, or fraternal, relation, or in the relation of master or servant, to deprive the person of the power of self-control, and to induce the person to assault the person by whom the act or insult is done or offered.

(2) When such an act or insult is done or offered by one person to another, or in the presence of another to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give to the latter provocation for an assault.

(3) A lawful act is not provocation to any person for an assault.

s 269 – Defence of provocation

(1) A person is not criminally responsible for an assault committed upon a person who gives the person provocation for the assault, if the person is in fact deprived by the provocation of the

power of self-control, and acts upon it on the sudden and before there is time for the person's passion to cool, and if the force used is not disproportionate to the provocation and is not intended, and is not such as is likely, to cause death or grievous bodily harm.

(2) Whether any particular act or insult is such as to be likely to deprive an ordinary person of the power of self-control and to induce the ordinary person to assault the person by whom the act or insult is done or offered, and whether, in any particular case, the person provoked was actually deprived by the provocation of the power of self-control, and whether any force used is or is not disproportionate to the provocation, are questions of fact.

s 271 – Self-defence against unprovoked assault

(1) When a person is unlawfully assaulted, and has not provoked the assault, it is lawful for the person to use such force to the assailant as is reasonably necessary to make effectual defence against the assault, if the force used is not intended, and is not such as is likely, to cause death or grievous bodily harm.

(2) If the nature of the assault is such as to cause reasonable apprehension of death or grievous bodily harm, and the person using force by way of defence believes, on reasonable grounds, that the person can not otherwise preserve the person defended from death or grievous bodily harm, it is lawful for the person to use any such force to the assailant as is necessary for defence, even though such force may cause death or grievous bodily harm.

s 272 – Self-defence against provoked assault

(1) When a person has unlawfully assaulted another or has provoked an assault from another, and that other assaults the person with such violence as to cause reasonable apprehension of death or grievous bodily harm, and to induce the person to believe, on reasonable grounds, that it is necessary for the person's preservation from death or grievous bodily harm to use force in self-defence, the person is not criminally responsible for using any such force as is reasonably necessary for such preservation, although such force may cause death or grievous bodily harm.

(2) This protection does not extend to a case in which the person using force which causes death or grievous bodily harm first began the assault with intent to kill or to do grievous bodily harm to some person; nor to a case in which the person using force which causes death or grievous bodily harm endeavoured to kill or to do grievous bodily harm to some person before the necessity of so preserving himself or herself arose; nor, in either case, unless, before such necessity arose, the person using such force declined further conflict, and quitted it or retreated from it as far as was practicable.

s 280 – Domestic discipline

It is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, discipline, management or control, towards a child or pupil, under the person's care such force as is reasonable under the circumstances.

s 302 – Murder

(1) Except as hereinafter set forth, a person who unlawfully kills another under any of the following circumstances, that is to say —

(a) if the offender intends to cause the death of the person killed or that of some other person or if the offender intends to do to the person killed or to some other person some grievous bodily harm;

(aa) if death is caused by an act done, or omission made, with reckless indifference to human life;

(b) if death is caused by means of an act done in the prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life;

(c) if the offender intends to do grievous bodily harm to some person for the purpose of facilitating the commission of a crime which is such that the offender may be arrested without warrant, or for the purpose of facilitating the flight of an offender who has committed or attempted to commit any such crime;

(d) if death is caused by administering any stupefying or overpowering thing for either of the purposes mentioned in paragraph (c) ;

(e) if death is caused by wilfully stopping the breath of any person for either of such purposes

is guilty of "murder".

304 – Killing on provocation

(1) When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, does the act which causes death in the heat of passion caused by sudden provocation, and before there is time for the person's passion to cool, the person is guilty of manslaughter only.

(2) Subsection (1) does not apply if the sudden provocation is based on words alone, other than in circumstances of an exceptional character.

(3) Also, subsection (1) does not apply, other than in circumstances of an exceptional character, if —

(a) a domestic relationship exists between 2 persons; and

(b) one person unlawfully kills the other person (the "deceased"); and

(c) the sudden provocation is based on anything done by the deceased or anything the person believes the deceased has done —

(i) to end the relationship; or

(ii) to change the nature of the relationship; or

(iii) to indicate in any way that the relationship may, should or will end, or that there may, should or will be a change to the nature of the relationship.

(4) Further, subsection (1) does not apply, other than in circumstances of an exceptional character, if the sudden provocation is based on an unwanted sexual advance to the person.

(5) For subsection (3)(a), despite the *Domestic and Family Violence Protection Act 2012*, section 18(6), a domestic relationship includes a relationship in which 2 persons date or dated each other on a number of occasions.

(6) Subsection (3)(c)(i) applies even if the relationship has ended before the sudden provocation and killing happens.

(7) For proof of circumstances of an exceptional character mentioned in subsection (2) or (3) regard may be had to any history of violence that is relevant in all the circumstances.

(8) For proof of circumstances of an exceptional character mentioned in subsection (4), regard may be had to any history of violence, or of sexual conduct, between the person and the person who is unlawfully killed that is relevant in all the circumstances.

(9) On a charge of murder, it is for the defence to prove that the person charged is, under this section, liable to be convicted of manslaughter only.

(10) When 2 or more persons unlawfully kill another, the fact that 1 of the persons is, under this section, guilty of manslaughter only does not affect the question whether the unlawful killing amounted to murder in the case of the other person or persons.

(11) In this section —

"unwanted sexual advance" , to a person, means a sexual advance that —

(a) is unwanted by the person; and

(b) if the sexual advance involves touching the person — involves only minor touching.

Example —

patting, pinching, grabbing or brushing against the person, even if the touching is an offence against section 352 (1) (a) or another provision of this Code or another Act.

s 304B – Killing for preservation in an abusive domestic relationship

(1) A person who unlawfully kills another (the **"deceased"**) under circumstances that, but for the provisions of this section, would constitute murder, is guilty of manslaughter only, if —

(a) the deceased has committed acts of serious domestic violence against the person in the course of an abusive domestic relationship ; and

(b) the person believes that it is necessary for the person's preservation from death or grievous bodily harm to do the act or make the omission that causes the death; and

(c) the person has reasonable grounds for the belief having regard to the abusive domestic relationship and all the circumstances of the case.

(2) An **"abusive domestic relationship"** is a domestic relationship existing between 2 persons in which there is a history of acts of serious domestic violence committed by either person against the other.

(3) A history of acts of serious domestic violence may include acts that appear minor or trivial when considered in isolation.

(4) Subsection (1) may apply even if the act or omission causing the death (the **"response"**) was done or made in response to a particular act of domestic violence committed by the deceased that would not, if the history of acts of serious domestic violence were disregarded, warrant the response.

(5) Subsection (1) (a) may apply even if the person has sometimes committed acts of domestic violence in the relationship.

(6) For subsection (1) (c), without limiting the circumstances to which regard may be had for the purposes of the subsection, those circumstances include acts of the deceased that were not acts of domestic violence.

(7) In this section — **"domestic violence"** see the Domestic and *Family Violence Protection Act 2012*, s. 8.

s 305 – Punishment of murder

(1) Any person who commits the crime of murder is liable to imprisonment for life, which can not be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under *part 10* of the Penalties and Sentences Act 1992 .

(2) If the person is being sentenced —

(a) on more than 1 conviction of murder; or

(b) on 1 conviction of murder and another offence of murder is taken into account; or

(c) on a conviction of murder and the person has on a previous occasion been sentenced for another offence of murder;

the court sentencing the person must make an order that the person must not be released from imprisonment until the person has served a minimum of 30 or more specified years of

imprisonment, unless released sooner under exceptional circumstances parole under the Corrective Services Act 2006 .

(3) *Subsection (2)(c)* applies whether the crime for which the person is being sentenced was committed before or after the conviction for the other offence of murder mentioned in the paragraph.

(4) If —

(a) the person killed was a police officer at the time the act or omission that caused the person's death was done or made; and

(b) the person being sentenced did the act or made the omission that caused the police officer's death —

(i) when —

(A) the police officer was performing the officer's duty; and

(B) the person knew or ought reasonably to have known that he or she was a police officer; or

(ii) because the police officer was a police officer; or

(iii) because of, or in retaliation for, the actions of the police officer or another police officer in the performance of the officer's duty;

the court sentencing the person must make an order that the person must not be released from imprisonment until the person has served a minimum of 25 or more specified years of imprisonment, unless released sooner under exceptional circumstances parole under the Corrective Services Act 2006.

(5) The Penalties and Sentences Act 1992 , *section 161Q* also states a circumstance of aggravation for the crime of murder.

Review of particular criminal defences
Queensland Law Reform Commission
www.qlrc.qld.gov.au