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ARTICLES

The High Court on crime in 2025: Analysis and jurisprudence – *Stephen Odgers*

This article discusses all of the High Court decisions in 2025 that relate to criminal matters. It examines the principles that derive from these cases and identifies jurisprudential themes from the decisions.

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A New Breed of Guard-Dog: Serious Domestic Abuse Prevention Orders and the Expansion of Preventative Supervision in New South Wales – *Lucinda Lester*

In 2024 the New South Wales (NSW) State Government introduced reforms to the Crimes (Domestic and Personal Violence) Act 2007 (NSW) enabling prosecuting authorities to bring applications for "serious domestic abuse prevention orders" in the Local and Supreme Courts. These orders bear some similarity to extended supervision orders and apprehended domestic violence orders and are a new and arguably escalated method of enabling preventative supervision and control of individuals. The expansion of preventive orders in a domestic violence context appears to have resulted in the increased incarceration of charged offenders and has disproportionately affected the over-representation of Aboriginal and Torres Strait Islander people in the justice system. The new reforms highlight the tension between the NSW State Government's desire to "close the gap" and reduce that over-representation whilst also maximising the preventive detention of would-be domestic violence offenders.

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Intoxication, Memory and the Jury in Sexual Assault Trials: Sobering Reflections on the New South Wales Experience – *Stephanie Lind*

This article examines how juror misconceptions about the effects of alcohol intoxication on the memory of victims undermine the fairness of sexual assault trials in New South Wales. Drawing on empirical research, case law, and trial practice, it argues that jurors frequently equate intoxication with memory inaccuracy, despite evidence that alcohol reduces completeness but does not necessarily impair accuracy, particularly at lower levels. Without expert evidence or judicial guidance, jurors tend to rely on vague self-assessments, imprecise third-party accounts, "common sense", leading to speculative and inconsistent credibility assessments of intoxicated victims. The article explores the evidentiary and procedural means by which juror misconceptions may be addressed under existing law, focusing on the use of expert evidence and judicial directions. It concludes that a combined approach – incorporating expert evidence, targeted jury instructions, and contextualised presentation of intoxication evidence – is necessary to dispel enduring myths, and enhance the reliability of verdicts in sexual assault prosecutions involving intoxicated victims.

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2024 Sentencing Review – *Paul McGorrery and Lorana Bartels*

There were numerous developments relating to federal sentencing in 2024 that warrant review. This includes two significant High Court judgments, one on the role of minimum sentences and another on federal parole. The Commonwealth Attorney-General's Department

published a statutory review of minimum sentences for federal child sex offences. The Federal Court’s criminal jurisdiction expanded and new federal sentencing data was made available in Victoria and Queensland. Underneath all of these developments sit the core federal sentencing provisions in the Crimes Act 1914 (Cth) , which were first introduced in the early 1990s, and have been roundly criticised in the decades since, for being unnecessarily complex and unwieldy. In this year’s Sentencing Review , we also contend that it would be both wise and timely for the Federal Government to revisit the Australian Law Reform Commission’s 2006 Same Crime, Same Time recommendations and, in particular, introduce dedicated, stand-alone, coherent federal sentencing legislation.