

Annex C - Results of the sentencing exercise for a combined kidnap and false imprisonment guideline

Kidnap cases	A,B,C							
Scenario A	Culpability	Harm	SP	After aggravating/mitigating factors	GP	Final sentence	Key observations by participants	Actual sentence in case
Participant 1	A, planned, group, violence, substantial period, context of other criminal activity	1, forcibly restrained, serious injury	13yrs	13.5yrs	n/a	13.5yrs		11 yrs
Participant 4	A, all cat A factors except vulnerable victim	1, forcibly restrained, sig injury	12yrs	15yrs	n/a	15yrs	Perhaps adding multiplicity of factors at stage 1 may move the SP up in the range? Many cat A factors present. An overlap between detention over substantial period of time/step 1 and agg factor detention in isolated location?	
Participant 7	A All factors except group&	1 All factors except distress	16yrs	16yrs	n/a	16yrs		

	vulnerable victim							
Scenario B								
Participant 1	A, planned, weapon	1, serious distress	10yrs	11yrs	33%	7 yrs 4mths	Cat A should be 'serious/sustained violence' or most cases will fall into cat A. 'Limited in scope and duration' should be 'or' not 'and'. Add public servants to agg factors	2yrs 8mths
Participant 2	A Weapon, planning	1 Serious distress	11yrs	12yrs	33%	8yrs		
Participant 8	A Weapon, planning	1, significant psychological harm	8yrs	11yrs		7yrs 4 mths		
Scenario C								
Participant 2	A Violence pushed this into A	2 No evidence of serious distress, not forcibly restrained	7yrs	7yrs	10%	6yrs 4mths	Criteria in cat 1 too broad- cat 2 not helpful- cases seemed to fall into cat 1 automatically. Problem with violence. Did not feel like a cat 1 case. Is forcible restraint harm or	2yrs 8 mths

							culp? What does forcible restraint mean? Culp factors need to be reworked re violence. Distress also not helpful. Better physical/psych harm. Or just distress in cat 2.	
Participant 4	A/B violence	2, considerable distress	6yrs	7yrs		7yrs	Not getting different degrees of violence used- some degree of violence inherent in FI/kidnap-what could fall into cat C?	
Participant 6	A significant violence, possibly length of detention	1 serious distress (possibly) forcibly restrained	10yrs	10yrs	10%	9yrs	Resulting cat A1 not appropriate- offence opportunistic, unplanned, not convinced the sentence indicated by A1 is right	
Participant 7	A violence	2 As not a cat 1 case	7yrs	8yrs 6 mths	nil	8 yrs 6 mths	Further define 'substantial period of time'. Threat of torture expanded to inc threats to	

							kill (where not separately charge). Forcible restraint- element of it implicit in these cases? Further define isolated location? Implicit in these cases?	
False Imprisonment cases	D,E,F							
Scenario D								
Participant 1	A, particularly vulnerable, prolonged period of detention	2, evidence of some distress	7yrs	7yrs 6mths	n/a	n/a	Requires 'some violence' in cat B? Otherwise most cases will fall into cat A	6yrs (extended sentence 11 yrs- 6yrs custody, licence ext 5yrs)
Participant 4	A, violence, vul victim, detention over substantial period, planned, motivated by gain	1, serious injury, forcibly restrained	10yrs	14yrs	n/a	n/a	All kidnap will involve some violence, many degrees of violence, but all of which will go into cat A. Drug user vulnerable?	
Participant 7	A violence	1 Torture, serious injury,	11yrs	12yrs 5mths	n/a	n/a	Not much head room in range for more serious offending e.g	

		forcible restraint					professional highly organised offence. Comparison with GBH with intent A2 SP 7Yrs	
Scenario E								
Participant 2	A, Particularly vulnerable, prolonged detention	2, as some distress	7yrs	7yrs	10%	6yrs 4 mths	Little scope to place cases in any other cat than cat A culp. Distress? Most cases will involve distress.	2yrs 8mths
Participant 6	A, violence, vulnerable victim, possibly financial gain, possibly sustained period of time	1, possibly serious distress degrading treatment	11yrs	11yrs	10%	9yrs 10 mths	'Substantial period of time' may need refining	
Participant 8	A Particularly vulnerable, violence, prolonged period	2, as not cat 1 harm	7 yrs	7yrs	10%	6yrs		
Scenario F								
Participant 6	B use of violence but counterbalanced by limited duration	2, some injury	5yrs	5yrs		5 yrs		1yr

Participant 8	A violence	2	3yrs	4yrs		4yrs		
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