



GOLD COAST CENTRE
against sexual violence inc.

Criminal Law (Domestic Violence) Amendment Bill 2015

**Submission to Communities, Disability
Services and Domestic Violence and
Family Violence Prevention Committee**

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Introduction

Gold Coast Centre Against Sexual Violence Inc. (GCCASV) welcomes the opportunity to provide a submission to the Communities, Disability Services and Domestic Violence and Family Violence Prevention Committee (the Parliamentary Committee) in response to the draft ***Criminal Law (Domestic Violence) Amendment Bill 2015***.

This is a brief submission written under a significant time constraint with a very short window to offer formal feedback to the Parliamentary Committee.

Our expertise is offered through the unique lens of intimate partner sexual violence which is both domestic violence AND sexual violence.

Gold Coast Centre Against Sexual Violence Inc.

GCCASV (formerly Gold Coast Sexual Assault Support Service) was founded in 1990 to deliver specialist sexual violence intervention and prevention programs to the Gold Coast community.

GCCASV is a community based, community controlled charitable organisation funded by Department of Communities, Disability and Child Safety. Run by women for women, the agency services the geographic area from Coolangatta to Upper Coomera. The organisation provides a safe, supportive, woman-centred environment in which sexual assault survivors can become aware of their own strengths and gain confidence and control of their lives.

Mission Statement

The Gold Coast Centre Against Sexual Violence Inc. will provide all women and young women in the Gold Coast Community access to a comprehensive array of services and programs designed to prevent victimisation, offer crisis intervention, provide ongoing counselling and support services that will assist women to recover from the impact of violence.

Services provided

- To survivors of immediate and/or past sexual violence
- Crisis support
- Ongoing professional counselling
- Support through the criminal justice system
- Support through related legal and medical processes
- Therapeutic and educational groups

To Friends and Family

- Information and support for partners, friends and relatives of women who have experienced sexual violence

To General Community

- Resource information developed and disseminated
- Information on legal and medical issues in relation to sexual violence
- Public education campaigns
- Anti-violence presentations to students and the community
- Training to other professionals

Intimate Partner Sexual Violence

Sexual violence is perhaps the most committed, least reported and least punished of all crimes. More than a quarter of a million Australian women (272,300, or 24%) reported having been sexually assaulted by a previous partner since the age of 15ⁱ.

Domestic violence services estimate that between 90-100% of women who have experienced physical, emotional, financial, and social abuse are also experiencing intimate partner sexual abuseⁱⁱ.

There are significant barriers for victim/survivors in disclosing and reporting experiences of sexual violence and rates of disclosure are even lower for intimate partner sexual violence.

Men who use physical as well as sexual violence against their partners are more likely to murder them than men who use physical violence aloneⁱⁱⁱ. According to Australian researcher Rochelle Braaf^{iv}, a number of risk factors have been identified as significantly associated with perpetrator lethality in relationships characterised by violence, including *sexual abuse* as a risk factor. However, Braaf points out that, "More than others, it is this risk factor that tends to be unreported by women, denied or minimised by abusive men, and avoided by workers and the criminal justice system.

In David Adam's 2007 study^v, 75 percent of women whose partners attempted to kill them, were also raped. Campbell *et al* (2003)^{vi} found that the factor labeled 'Woman forced to have sex when not wanted' was the fifth most predictive item in their risk assessment table, ahead of escalating physical violence and partner's drug abuse. A physically-abused woman also experiencing forced sex was more than seven times more likely than other abused women to be killed. And, sexual abuse in fact may pose a *greater* risk factor for homicide than other factors.

Summary of recommendations

- 1. That research be conducted comparing sentences for breaches of Domestic Violence Orders before and after this legislative change.**
- 2. That there is a commitment from the Queensland Government to amend the *Evidence Act 1977* to ensure the all victims of sex crimes are considered special witnesses.**
- 3. That there be a presumption that all victims of sex crimes will be treated as special witnesses unless they choose otherwise.**
- 4. That the Queensland Government ensures that CCTV and the necessary technology is available in court houses throughout Queensland.**

ⁱ Australian Bureau of Statistics. (2006), *Personal Safety Survey, Australia 2005*, ABS

ⁱⁱ Heenan, M. (2004), *Just 'Keeping the Peace': a Reluctance to Respond to Male Partner Sexual Violence*, ACSSA Issues Paper, No 1, Australian Institute of Family Studies, Melbourne.

ⁱⁱⁱ Campbell, J.C. and Alford, P. (1989) "The dark consequences of marital rape." *American Journal of Nursing* 89, 946-949.

^{iv} Braaf, R. (2011) Preventing domestic violence death – is sexual assault a risk factor? in *Australian Domestic and Family Violence Clearinghouse Research and Practice Brief 1, October 2011*.

^v Adams, D. (2007). *Why do they kill? Men who murder their intimate partners*. Nashville, TN: Vanderbilt University Press.

^{vi} Campbell, J., Webster, D., Koziol-McLain, J., Block, C, Campbell, D., Curry, M., et al. (2003, November). "Assessing risk factors for intimate partner homicide". *NIJ Journal*, 250, 14-19.

Commentary on draft *Criminal Law (Domestic Violence) Amendment Bill 2015.*

Part 3 Amendment of *Domestic and Family Violence Protection Act 2012* Section 177

This amendment seeks to increase accountability of perpetrators of domestic and family violence through increasing maximum penalties for breaches.

Increasing maximum penalties in and of itself does not hold perpetrators accountable. The maximum penalty for rape in life in Queensland and almost no one receives that sentence.

This amendment is part of a broader context that must also be addressed. At the outset, police must be more willing to take action on breaches. Then magistrates and judges must be more willing to take into consideration and apply the full range of sentencing options in order to send a clear message to perpetrators.

Recommendation

1. That research be conducted comparing sentences for breaches of Domestic Violence Orders before and after this legislative change.

Amendment of *Evidence Act 1977* Section 21A(1)

This amendment seeks to increase protection for victims of domestic and family violence through alternative evidence procedures.

There is currently a mandatory provision for an affected child witness to be supported and to give evidence via audio visual links and/or the use of screens in Queensland.

GCCASV supports the expansion of the definition of “special witness” to automatically include victims of domestic violence.

However, we wish to draw attention to the fact that most victim/survivors of sexual offences are also fearful of entering the courtroom and seeing the offender. There is currently no automatic right for adult complainants who must make an application to the court demonstrating their disadvantage under Section 21A(1) of the Evidence Act 1977. This is not always granted. This issue was taken up as a recommendation by the Legal Affairs and Community Safety Committee last year under the previous government.

Furthermore, if victims are to have adequate protection as “special witnesses”, there is a resource implication. Closed circuit TV and appropriate technology will need to be available in courthouses throughout Queensland to ensure the rights of domestic and family violence victims are met through this legislative change.

Recommendations

2. That there is a commitment from the Queensland Government to amend the *Evidence Act 1977* to ensure the all victims of sex crimes are considered special witnesses.

3. That there be a presumption that all victims of sex crimes will be treated as special witnesses unless they choose otherwise.

4. That the Queensland Government ensures that CCTV and the necessary technology is available in court houses throughout Queensland.