



13 December 2018

Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
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cc

Dean Corless, Director, Victim Assist Qld

[REDACTED]  
Lucy Gazenbeek, Executive Assistant / Office Manager, Office of the Hon Yvette D'Ath MP, Attorney-  
General and Minister for Justice

Dear Sir/Madam

***Human Rights Bill 2018 – Victims of Crime***

This is a late submission regarding this Bill to make representations regarding rights for Victims of Crime. We commend the Queensland Government for its commitment to maintaining the basic human rights of all Queenslanders but feel an urgent need to draw your attention to a significant gap in relation to victims of crime.

**Parties to this submission**

This submission is from the three Queensland not-for-profit organizations that provide in-court and ancillary support to victims of crime. Our work provides us with a unique perspective to understand the significant challenges that victims of crime continue to experience in the criminal justice system.

Protect All Children Today Inc. (PACT) provides court support and advocates for vulnerable children, young people and their families. PACT's Child Witness Support Program provides support for children and young people who are required to give evidence in criminal court matters, either as victims of, or witnesses to, a crime.

Qld Homicide Victims' Support Group Inc (QHSVG) provides a range of support services, including court support, to victims of homicide.

Court Network's Victim Support Unit provides court support and related services to adult victims of violent crime who are engaged with the criminal justice system.

## **Victims Rights are Consistently Overlooked**

We are all too familiar with the anguish that victims of crime, including close family and friends, experience as they engage with the criminal justice system. A victim's journey through the criminal justice system is often complex. It requires contact with a wide range of parties including police, prosecutors, court officials and others. Cases can take a very extended period of time, sometimes years, to progress through the system. In that process, victims are unrepresented. Prosecutors argue a case on behalf of the state. The defendant's lawyer represents their client's interests for a fair trial. There is no secure, established process to protect the rights of the victim and ensure they are well prepared to participate in the trial. All too often, they fall between the gaps.

In their submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, Knowmore (legal service) argues that 'a Human Rights Bill which enshrines the rights of defendants in criminal trials, but does not do the same for victims, may adversely impact upon the potential implementation of the structural reforms needed to inform improved access for victims.' We strongly support this position.

Recommendation 132 of the *'Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland'* Report states 'In responding to recommendations related to enhancing integration, responsible agencies in Government should make provision for the inclusion of coordinating appropriate justice support for victims of domestic and family violence exposed to criminal proceedings'. This clearly evidences a significant gap in current practice. This gap is further evidenced in Recommendation 12 of the *2016-17 Annual Report of the Domestic and Family Violence Death Review and Advisory Board* states 'That a program for specialised and consistent court support for victims of domestic and family violence in criminal proceedings be developed and funded by the Queensland Government'.

Recommendations 4 and 5 of the QSAC Report 'Queensland Sentencing for Criminal Offences Arising from the Death of a Child (Oct 2018) both refer to the need for the Queensland Charter of Victims' Rights to be embedded in the processes of the Office of Director of Public Prosecutions. Again, this demonstrates significant gaps in current practice. We are aware that similar gaps apply to a broad range of victims of crime – all ages and crimes.

It is apparent that there is a continuing pattern of inadequately protecting and supporting victims in criminal proceedings. At present, there are no substantive actions to support the implementation of any of the above recommendations within the Bill of Human Rights. If the Bill does not entrench victims' rights in the same way that it addresses defendants' rights, victims will be further marginalized in the criminal justice system. This will not only seriously disadvantage the victims but, ultimately, will undermine the cause of justice because victims will not be able to participate effectively as witnesses and victims due to inadequate support and protection.

## **Proposal**

We propose that victims of crime should have equal protection through the Human Rights Bill. Victim Assist Queensland has a Charter of Rights (the Charter) which provides a sound basis for the provisions that should be considered in the Human Rights Bill. However, there is currently no effective pathway to address or resolve any breaches of the provisions of the Charter, nor to monitor any patterns of

complaints and concerns. We recommend that the victims' rights are supported by a commissioner or equivalent officer who is responsible for advocating for the rights of victims; monitoring patterns of complaints and issues; and investigating complaints.

In summary, we urge the Government to include specific provisions for victims and to ensure that those provisions are supported by a Commissioner or other enforceable oversight mechanism.

Yours sincerely



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