

## INQUIRY INTO SUPPORT PROVIDED TO VICTIMS OF CRIME

**Submission No:** 26  
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### **Submission to the Inquiry into Support Provided to Victims of Crime**

Dear Committee Secretary,

I am pleased to have the opportunity to make a submission to the Inquiry into Support Provided to Victims of Crime. In particular, I would like to address how state-wide support services could be more trauma-informed, victim-centric and timely for victim-survivors.

I am a Bachelor of Laws (Honours) student at QUT who has recently completed a major research project critically analysing the need for a victims' advocacy service to be introduced in Queensland, particularly for victim-survivors of sexual violence.

The Queensland criminal justice system is unequipped to support victim-survivors through the criminal trial process of the offender. Victim-survivors may feel retraumatised or intimidated by court processes or fail to report out of fear of negative treatment by the justice system. Trauma acts as a barrier to justice for many victim-survivors.

In response, the Queensland Government should implement a professional victims' advocacy service to provide trauma-informed, victim-centric and culturally safe support for victim-

survivors. Victim advocates are uniquely placed to provide targeted and specialised support for victim-survivors navigating the justice system. Advocates can also act as a liaison with other support services to streamline the response. The service should be modelled on the United Kingdom's Independent Sexual Violence Adviser Service and take into account the recommendations of the Victorian Law Reform Commission. The service should be co-designed with Aboriginal and Torres Strait Islander people and victim-survivors of sexual violence. Support should be accessible regardless of whether a victim-survivor wishes to make a complaint to police.

I have enclosed a copy of my recent research report below.

Please do not hesitate to contact me if you wish to discuss my submission further.

Yours faithfully,

Paige Mackie

# IMPLEMENTING A TRAUMA-INFORMED PROFESSIONAL ADVOCACY SERVICE FOR VICTIM-SURVIVORS OF SEXUAL VIOLENCE IN QUEENSLAND

## I OVERVIEW

### A Introduction

The Australian Bureau of Statistics has found that 2.2 million women (23%) have experienced sexual violence since the age of 15.<sup>1</sup> However, only 13% of incidents of sexual violence are reported by women and girls.<sup>2</sup> Only 20% of those cases result in charges.<sup>3</sup> Many victim-survivors of sexual violence feel retraumatised by the court processes so may be more inclined to not make a complaint or withdraw their complaint.<sup>4</sup> The adversarial nature of prosecutions of sexual assault means that when victim-survivors are called as a witness, they are cross-examined and often humiliated about their experiences.<sup>5</sup> Other victim-survivors may feel intimidated by court processes or disempowered.<sup>6</sup> One reason victim-survivors fail to report sexual violence is that they anticipate negative treatment by the justice system.<sup>7</sup>

Trauma acts as a barrier to justice for many victim-survivors of sexual violence because a person's trauma may shape the way they interact with the justice system.<sup>8</sup> This report seeks to investigate the experiences of victim-survivors in the justice system through a trauma-

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<sup>1</sup> 'Sexual Violence - Victimization | Australian Bureau of Statistics' <<https://www.abs.gov.au/articles/sexual-violence-victimisation>>.

<sup>2</sup> Australian Institute of Criminology, 'Guilty Outcomes in Reported Sexual Assault and Related Offence Incidents', *Australian Institute of Criminology* (18 December 2007) <<https://www.aic.gov.au/publications/cfi/cfi162>>.

<sup>3</sup> Ibid.

<sup>4</sup> Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022) ('*Hear Her Voice*').

<sup>5</sup> Ibid 53–54.

<sup>6</sup> Women's Safety and Justice Taskforce (n 4) citing Submission No 6127326 to Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022) and Knowmore Submission to Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022).

<sup>7</sup> Karen Rich, 'Trauma-Informed Police Responses to Rape Victims' (2019) 28(4) *Journal of Aggression, Maltreatment & Trauma* 463, 463 citing Jessica Shaw et al, 'Beyond Surveys and Scales: How Rape Myths Manifest in Sexual Assault Police Records' (2017) 7 *Psychology of Violence* 602 ('Beyond Surveys and Scales') and Debra Patterson, Megan Greeson and Rebecca Campbell, 'Understanding Rape Survivors' Decisions Not to Seek Help from Formal Social Systems' (2009) 34(2) *Health & Social Work* 127.

<sup>8</sup> Judicial Commission of New South Wales, 'Trauma-Informed Courts', *Equality before the Law Bench Book* (2022) <[benchbookhttps://www.judcom.nsw.gov.au/publications/benchbks/equality/section12.html](https://www.judcom.nsw.gov.au/publications/benchbks/equality/section12.html)> ('*Equality before the Law Bench Book*').

informed lens to establish how the justice system can provide more meaningful support and advocacy for victim-survivors of sexual violence. The Queensland Government should establish a victims' advocacy service to prevent the retraumatisation of victim-survivors of sexual violence throughout the criminal trial process of the offender.

### **B *Hear Her Voice* report**

The Women's Safety and Justice Taskforce ('the Taskforce') was established by the Queensland Government in March 2021 to provide an independent report on the experiences of women and girls in the criminal justice system.<sup>9</sup> In July 2022, the Taskforce released its second report into the experiences of women and girls as victim-survivors and as accused persons and offenders of sexual violence. The report published 188 recommendations. One area of reform emphasised in the report was the need to establish victim-centric, trauma-informed, and culturally safe support for victim-survivors of sexual violence throughout their journey through the criminal justice system.<sup>10</sup> Recommendations 9 and 11 of the second *Hear Her Voice* report, in particular, focus on implementing this support. This report examines how a victims' advocacy commission could be implemented in Queensland to create a more trauma-informed and victim-centric experience for victim-survivors navigating the criminal justice system in response to Recommendations 9 and 11.

Recommendation 9 proposes that the Queensland Government create a state-wide professional victim-survivor advocacy service for victim-survivors of sexual violence, in consultation with people with lived experience.<sup>11</sup> The role of the professional victims' advocacy service would be to provide individualised support and advice to victim-survivors navigating the criminal justice system.<sup>12</sup>

Recommendation 11 suggests that the Queensland Government establish a victim-centric and trauma-informed response model to sexual violence.<sup>13</sup> This model would involve all necessary services and agencies working together to support victim-survivors through all stages of their journey including providing access to counselling and therapeutic support.<sup>14</sup>

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<sup>9</sup> Women's Safety and Justice Taskforce (n 4).

<sup>10</sup> Ibid 4.

<sup>11</sup> Ibid 11.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid 11–12.

The model would be standardised across Queensland to promote recognition of the service and referrals to it.<sup>15</sup>

The implementation of a professional victims' advocacy service is integral to creating more trauma-informed and victim-centric service responses and court processes. Implementing the service could directly address the need for the justice system to provide victim-centric support and advocacy. Advocates could streamline responses by serving as liaisons to other services and agencies. A professional victims' advocacy service could also empower victim-survivors by informing them of their rights. The service could provide continued support to victim-survivors currently unable to be provided by existing crisis support services. A more victim-centric and trauma-informed process overall could ensure victim-survivors are not retraumatised and have their rights advocated for throughout the criminal justice process.

Although it is important to recognise that men, boys, and non-binary people experience sexual violence, sexual violence is often gendered and overwhelmingly committed by men and boys against women and girls.<sup>16</sup> Similarly, women and girls are also represented in the justice system as accused persons and offenders of sexual violence. The scope of this report is limited to providing analysis and evaluation of the experiences of women and girls navigating the criminal justice system as victim-survivors as this is the purpose of the *Hear Her Voice* report.

### **C Trauma-informed lens**

The report adopts a trauma-informed lens to explore the experiences of victim-survivors in the Queensland criminal justice system. The concept of trauma-informed practice developed in the North American mental health sector as early as the 1980s.<sup>17</sup> Trauma-informed practices recognise the impact of trauma on victim-survivors and implement practices to provide targeted support to victim-survivors to reduce instances of retraumatisation or secondary abuse.<sup>18</sup>

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<sup>15</sup> Ibid 12.

<sup>16</sup> Ibid.

<sup>17</sup> Judicial Commission of New South Wales (n 8).

<sup>18</sup> Nicole C McKenna and Kristy Holtfreter, 'Trauma-Informed Courts: A Review and Integration of Justice Perspectives and Gender Responsiveness' (2021) 30(4) *Journal of Aggression, Maltreatment & Trauma* 450, 451 ('Trauma-Informed Courts') citing Substance Abuse and Mental Health Services Administration, 'SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach' (2014) HHS Publication No. (SMA) 14-4884 27.

Trauma-informed processes reflect six key principles: safety; trustworthiness and transparency; peer support; collaboration and mutuality; empowerment, voice and choice; and cultural, historical and gender issues.<sup>19</sup> Victim-survivors should feel physically, psychologically, and culturally *safe* and interactions with others should uphold this sense of safety.<sup>20</sup> The operations and decisions of a trauma-informed justice system should be *transparent* and would promote the *trust* of victim-survivors in the system.<sup>21</sup> *Peer support* between victim-survivors is important to promote hope and trust in the system and the prospect of achieving justice.<sup>22</sup>

*Collaboration* requires that all people involved in the criminal justice system have a *mutual* obligation to create trauma-informed environments.<sup>23</sup> Trauma-informed practices should recognise the historical lack of *voice* and *choice* available to victim-survivors and should *empower* victim-survivors to dictate their path.<sup>24</sup> Finally, the justice system should provide victim-centric services that respond to the particular *cultural* needs of victim-survivors and acknowledge and address the *historical* trauma and *gender* bias of the system.<sup>25</sup> A criminal justice system that combines these elements could create a trauma-informed environment for victim-survivors.

Sexual violence can cause trauma and victim-survivors are often vulnerable to retraumatisation through their experiences in the criminal justice system.<sup>26</sup> Lawyers and judges in a trauma-informed courtroom will be aware that giving oral evidence, being cross-examined and repeatedly returning to court can be retraumatising to victim-survivors.<sup>27</sup> Trauma-informed and victim-centric court practices may also include judicial officers explaining court processes to victim-survivors or treating victim-survivors as special witnesses.<sup>28</sup> For example, in New South Wales, the *Criminal Procedure Act 1986* (NSW) outlines the trauma-informed approach to victim-survivor witness testimony that must be taken, including specific directions to the jury about how trauma can affect a victim-

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<sup>19</sup> Judicial Commission of New South Wales, 'The Trauma-Informed Courtroom', *Handbook for Judicial Officers — Therapeutic jurisprudence and the trauma-informed court* (1 October 2021) <[https://www.judcom.nsw.gov.au/publications/benchbks/judicial\\_officers/trauma\\_informed\\_courtroom.html](https://www.judcom.nsw.gov.au/publications/benchbks/judicial_officers/trauma_informed_courtroom.html)>.

<sup>20</sup> Substance Abuse and Mental Health Services Administration (n 18) 11.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> Judicial Commission of New South Wales (n 8).

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

survivor’s testimony.<sup>29</sup> This report will evaluate the experiences of victim-survivors navigating the criminal justice system through a trauma-informed and victim-centric lens.

## **D Key Defined Terms**

The *Hear Her Voice* report and this report employs some specific terms that are defined below.

### **I *Victim-survivor***

The term *victim-survivor* refers to people who have experienced sexual violence.<sup>30</sup> This term has been chosen because it balances the need to recognise the harm caused by sexual violence with the resilience of survivors and the efforts they take to protect themselves from violence and retraumatisation through the criminal justice process.<sup>31</sup> The Domestic and Family Violence Common Risk and Safety Framework and the Queensland Law Society also endorse the use of the term *victim-survivor*.<sup>32</sup>

### **II *Victim-centric***

The term *victim-centric* is not defined in the *Hear Her Voice* report. A victim-centric response to sexual violence at its core prioritises the safety and preferences of victim-survivors to ensure they are supported through the justice system.<sup>33</sup> The police and judicial system are guided by what the victim-survivor wants and how best to deliver that outcome.<sup>34</sup>

### **III *Culturally safe***

*Culturally safe* practices and services are not defined in the *Hear Her Voice* report. A culturally safe environment is one where all people are physically, ‘spiritually, socially and

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<sup>29</sup> See e.g., *Criminal Procedure Act 1986* (NSW) ss 293A, 294 and 294AA.

<sup>30</sup> Women’s Safety and Justice Taskforce (n 4) 8.

<sup>31</sup> Ibid; Victorian Government, ‘Preferred Terminology’ (12 April 2022) <<http://www.vic.gov.au/family-violence-lived-experience-strategy/preferred-terminology>>.

<sup>32</sup> State of Queensland Department of Justice and Attorney-General, *Domestic and Family Violence Common Risk and Safety Framework* (15 July 2022) 48; Legal Aid Queensland and Queensland Law Society, *Domestic and Family Violence: Best Practice Framework for Legal and Non-Legal Practitioners* (October 2022) 18, 18.

<sup>33</sup> Universities Australia and Our Watch (eds), *Practice Guidance: A Victim/Survivor-Centered Approach to Responding to Violence* (Our Watch, 2021) 1.

<sup>34</sup> Universities Australia and Our Watch (n 33); ‘Supporting Survivors of Sexual Violence with Victim-Centric Investigations’, *Queensland Police News* (10 October 2022) <<https://mypolice.qld.gov.au/news/2022/10/10/supporting-survivors-of-sexual-violence-with-victim-centric-investigations/>>.



emotionally safe’ and feel free from ‘assault, challenge or denial of their identity, of who they are and what they need’.<sup>35</sup> It is based on mutual respect and dignity for differences in culture.<sup>36</sup> Culturally safe practices are particularly important to promoting self-determination for Aboriginal and Torres Strait Islander people.<sup>37</sup> The Queensland response model to sexual violence must be co-designed with First Nations people in order to be culturally safe.<sup>38</sup> Likewise, the response model should recognise the nuances of sexual violence in culturally and linguistically diverse communities. A culturally safe response model must respect cultural nuances and provide tailored support such as interpreters to be accessible to culturally and linguistically diverse persons.

### **E Outline of argument**

A professional victim-survivor advocacy service should be implemented in Queensland as recommended by the *Hear Her Voice* report. The service should provide victim-centric and culturally safe information, support, and guidance for victim-survivors, empower, and give agency to victim-survivors and facilitate a single point of contact between police, support services and the justice system. The Independent Sexual Violence Adviser (ISVA) model employed in England, Wales and Scotland will be analysed to conclude how a similar service could be implemented in Queensland. The purpose of this comparative analysis is to draw explicit comparisons between the UK and Australian judicial and police responses to sexual violence.<sup>39</sup> A further purpose is to understand the law and its application in different jurisdictions<sup>40</sup> and investigate how each legal system addresses a particular topic,<sup>41</sup> such as victims’ advocacy services. This report’s analysis will consider the possibility of ‘functional

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<sup>35</sup> Robyn Williams, ‘Cultural Safety - What Does It Mean for Our Work Practice?’ (1999) 23(2) *Australian and New Zealand Journal of Public Health* 213, 213–214.

<sup>36</sup> *Ibid.*

<sup>37</sup> ‘Department of Children, Youth Justice and Multicultural Affairs, ‘Creating a Culturally Safe Space’, *Child Safety Practice Manual* <<https://cspm.csyw.qld.gov.au/practice-kits/safe-care-and-connection/working-with-aboriginal-and-torres-strait-islander/responding/creating-a-culturally-safe-space>>; Australian Human Rights Commission, ‘Chapter 4: Cultural Safety and Security: Tools to Address Lateral Violence’, *Social Justice Report 2011* (2011) <<https://humanrights.gov.au/our-work/chapter-4-cultural-safety-and-security-tools-address-lateral-violence-social-justice#Heading48>>.

<sup>38</sup> Amanda Sibosado and Michelle Webb, ‘Consent Education Needs Blak Voices for the Safety and Well-Being of Young First Nations People’, *The Conversation* (22 March 2002) <<http://theconversation.com/consent-education-needs-blak-voices-for-the-safety-and-well-being-of-young-first-nations-people-177823>>.

<sup>39</sup> John C Reitz, ‘How to Do Comparative Law’ (1998) 46(4) *The American Journal of Comparative Law* 617, 618.

<sup>40</sup> *Ibid* 628.

<sup>41</sup> *Ibid* 624.

equivalence<sup>42</sup> and whether and how the UK's model of victims' advocacy should be translated to Queensland's legal system.<sup>43</sup>

## II LITERATURE REVIEW

### A Review of victim-survivor experiences of court processes

The literature overwhelmingly supports law reform of the Queensland justice system's response to sexual violence. Discussions of the experiences of victim-survivors of sexual violence in literature have highlighted the reasons that victim-survivors do not currently feel adequately supported by the justice system. Scholars have observed the idea of the 'ideal victim.' This is a construct that outlines how victim-survivors of sexual assault are expected to behave both in response to their assault and throughout the court process.<sup>44</sup> Victim-survivors are expected to report violence immediately and be appropriately emotionally distressed at all times.<sup>45</sup> However, the experience of victim-survivors often does not line up with this ideal. This construct can mean that complaints are not taken seriously or managed appropriately by police or cause retraumatisation of victim-survivors through inappropriate questioning in investigations or during cross-examination. The 'ideal victim' is an important concept to inform and critique any reform of the response to sexual violence.

Another theme present in the literature is that of the retraumatisation of victim-survivors throughout the criminal justice process. This is often likened to a 'second rape'.<sup>46</sup> This experience encompasses negative interactions with police<sup>47</sup> and giving testimony in court.<sup>48</sup>

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<sup>42</sup> Ibid 625.

<sup>43</sup> Edward J Eberle, 'The Method and Role of Comparative Law' [2008] *SSRN Electronic Journal* 455 <<http://www.ssrn.com/abstract=1265659>>.

<sup>44</sup> Nicole Bluett-Boyd and Bianca Fileborn, *Victim/Survivor-Focused Justice Responses and Reforms to Criminal Court Practice: Implementation, Current Practice and Future Directions* (Research Report No 27, Australian Institute of Family Studies, April 2014) 12.

<sup>45</sup> Bluett-Boyd and Fileborn (n 44); Wendy Larcombe, 'The 'Ideal' Victim v Successful Rape Complainants: Not What You Might Expect' (2002) 10 *Feminist Legal Studies* 131.

<sup>46</sup> Bluett-Boyd and Fileborn (n 44) 12; Michele Burman and S Batchelor, 'Evidencing Sexual Assault: Women in the Witness Box' (2009) 56(4) *Probation Journal*.

<sup>47</sup> Bluett-Boyd and Fileborn (n 38) 12; Rebecca Campbell, 'The Community Response to Rape: Victims' Experiences with the Legal, Medical, and Mental Health Systems' (1998) 26 *American Journal of Community Psychology* 355; Jan Jordan, 'Beyond Belief?: Police, Rape and Women's Credibility' (2004) 4 *Criminal Justice* 25.

<sup>48</sup> Bluett-Boyd and Fileborn (n 44) 12; Amanda Konradi, *Taking the Stand: Rape Survivors and the Prosecution of Rapists* (Praeger, 2007).

The construct of the ideal victim is often used to inform cross-examination of victim-survivors and to discredit victim-survivors for not presenting in the ideal way.<sup>49</sup> There are a number of law reform reports that have emphasised the negative experience of victim-survivors of sexual violence in the criminal justice system, including the *Hear Her Voice* report.<sup>50</sup> Attempts at law reform have been made but cultural assumptions about gender and sexual violence continue to that uphold the idea of the ideal victim and undermine the credibility and experiences of victim-survivors.<sup>51</sup>

## **B Review of law reform literature**

In response to the above, some literature has focussed on the reform of court processes. This may include accommodations for victim-survivors giving oral testimony remotely or preventing inappropriate and retraumatising lines of questioning of victim-survivors such as questions regarding previous sexual history.<sup>52</sup> Others have focused on reform of the victim-survivor's holistic experience in navigating the justice system.

### **I Agency**

A key theme that emerges is the importance of a victim-survivor's agency. Garvin and Beloof advocate for the agency for victim-survivors of sexual violence. The concept of agency is similar to autonomy; however, agency also accounts for power dynamics between parties and recognises the impact of power on the ability to choose.<sup>53</sup> Important elements of agency for victim-survivors in choosing how to respond to sexual violence are self-direction and self-determination.<sup>54</sup> Victim-survivors may experience 'secondary victimisation' in the justice system.<sup>55</sup> Emphasised is the importance of victim-survivors being able to choose whether to

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<sup>49</sup> Larcombe (n 45); Bluett-Boyd and Fileborn (n 44) 12.

<sup>50</sup> See e.g. Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences* (September 2021) <<https://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/>>; Women's Safety and Justice Taskforce (n 4); Victorian Law Reform Commission, *Victims of Crime in the Criminal Trial Process: Report* (No 34, August 2016) <<https://www.lawreform.vic.gov.au/publication/the-role-of-victims-of-crime-in-the-criminal-trial-process/>>; Criminal Justice Sexual Offences Taskforce, *Responding to Sexual Assault: The Way Forward* (Attorney General's Department, 2006) <<https://catalogue.nla.gov.au/Record/3673337>>; Bluett-Boyd and Fileborn (n 44) 12.

<sup>51</sup> Women's Safety and Justice Taskforce (n 4) 7–8.

<sup>52</sup> Bluett-Boyd and Fileborn (n 44) 14.

<sup>53</sup> Margaret Garvin and Douglas E Beloof, 'Crime Victim Agency: Independent Lawyers for Sexual Assault Victims' (2015) 13(1) *Ohio State Journal of Criminal Law* 67, 69–70.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.* 70.

participate in the criminal justice system and the extent to which they participate.<sup>56</sup> The *Hear Her Voice* report recognises that not all victim-survivors will choose to proceed with a complaint. The report argues that reform must respect the agency of victim-survivors and provide them with the same support irrespective of whether their complaint proceeds to trial. A related theme is that of the empowerment of survivors. This is explored by DePrince and Gagnon who emphasise the importance of trauma-informed responses,<sup>57</sup> and collaboration with victim-survivors to provide support and prevent victimisation or retraumatisation.<sup>58</sup>

## **II *Victim-centric***

Trauma-informed responses and victim-centric responses are central to the literature proposing sexual violence law reform. This theme generally explores either service models that acknowledge the individual needs of different sexual violence victim-survivors, or victim-centric court processes. Another theme is the importance of providing nuanced responses to sexual violence for victims. This may include culturally safe reporting and justice processes that are nuanced and tailored to the individual.<sup>59</sup> For example, the response to Latina victim-survivors, as discussed in the article, must be different to the response to Aboriginal and Torres Strait Islander victim-survivors. Sexual Assault Services Victoria also advocates for a victim-centric response where victim-survivors have a response targeted to them and access to information.<sup>60</sup>

## **III *Collaboration***

Collaboration is a similar theme explored. The *Hear Her Voice* report identified that a lack of collaboration between support services acts as a barrier to justice.<sup>61</sup> This is because dissatisfaction with support services and justice processes can cause victim-survivors to disengage from the justice system.<sup>62</sup> D' Amora and Burns-Smith promote collaboration in the

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<sup>56</sup> Ibid 71.

<sup>57</sup> Anne P DePrince and Kerry L Gagnon, 'Understanding the Consequences of Sexual Assault: What Does It Mean for Prevention to Be Trauma Informed?' in *Sexual Assault Risk Reduction and Resistance* (Elsevier, 2018) 15, 17 <<https://linkinghub.elsevier.com/retrieve/pii/B9780128053898000025>>.

<sup>58</sup> Ibid.

<sup>59</sup> Josephine V Serrata et al, 'Well-Being of Latina Survivors of Intimate Partner Violence and Sexual Assault Receiving Trauma-Informed and Culturally-Specific Services' (2020) 35(2) *Journal of Family Violence* 169, 170.

<sup>60</sup> Sexual Assault Services Victoria, Submission No 17 to Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences* (September 2021) <<https://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/>>.

<sup>61</sup> Women's Safety and Justice Taskforce (n 4) 102.

<sup>62</sup> Ibid.

context of advocacy groups working with the justice system.<sup>63</sup> A similar collaboration between police, child protection, support services and advocacy services was proposed by Sexual Assault Services Victoria.<sup>64</sup> A more collaborative response to sexual violence could be more supportive of victim-survivors.

Collaboration can also be seen in the concept of restorative justice. Restorative justice is a process that allows victims of a crime and perpetrators to work together to communicate damage that has been caused and work constructively to reach solutions.<sup>65</sup> While there is no single model of restorative justice, a common practice takes the form of conferences between the person harmed and the person responsible which are usually facilitated by a neutral counsellor, facilitator or community member.<sup>66</sup> It is recognised that not every case will be conducive to restorative justice. For instance, as raised by the Victorian Law Reform Commission (VLRC), there may be safety concerns, the perpetrator may be unwilling to admit responsibility, or the victim-survivor may choose not to participate.<sup>67</sup> However, in the appropriate circumstances, restorative justice can provide therapeutic and restorative outcomes for both victim-survivors and offenders;<sup>68</sup> it can provide victim-survivors with validation and an apology and it provides perpetrators with an opportunity to take responsibility and understand the impacts of their actions which may discourage recidivism.<sup>69</sup> Collaboration in this sense can lead to better outcomes for all involved.

Many scholars acknowledge that the adversarial system is ill-equipped to deal with sexual violence, yet, without wide-sweeping changes to the justice system, this will not change.<sup>70</sup> Scholars such as Naylor emphasise that elements of restorative justice have the potential to be much more beneficial to the well-being of victim-survivors as compared to the adversarial system.<sup>71</sup> This embraces a victim-centric approach. Smith and Skinner also support a victim-

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<sup>63</sup> David A D' Amora and Gail Burns-Smith, 'Partnering in Response to Sexual Violence: How Offender Treatment and Victim Advocacy Can Work Together in Response to Sexual Violence' (1999) 11(4) *Sexual Abuse* 293, 295 ('Partnering in Response to Sexual Violence').

<sup>64</sup> Sexual Assault Services Victoria, Submission No 17 to Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences* (September 2021) <<https://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/>>.

<sup>65</sup> Victorian Law Reform Commission, 'Improving the Response of the Justice System to Sexual Offences' (n 50) 184.

<sup>66</sup> *Ibid* 187.

<sup>67</sup> *Ibid* 184.

<sup>68</sup> Bronwyn Naylor, 'Effective Justice for Victims of Sexual Assault: Taking up the Debate on Alternative Pathways' (2010) 33(3) *University of New South Wales Law Journal* 662, 664.

<sup>69</sup> Victorian Law Reform Commission, 'Improving the Response of the Justice System to Sexual Offences' (n 50) 190–191.

<sup>70</sup> Naylor (n 68) 664.

<sup>71</sup> *Ibid*.

centric approach that removes emphasis on winning and moving towards a more inquisitorial process.<sup>72</sup> Employing more restorative justice techniques could facilitate increased participation of victim-survivors and more collaboration between parties.

### III COMPARATIVE ANALYSIS

#### A The UK's Independent Sexual Violence Adviser (ISVA) Service

A professional advocacy service for victim-survivors of sexual violence has existed in England and Wales since 2005<sup>73</sup> and the same model was recently introduced in Scotland. ISVAs are employed by a range of sexual assault support services and are funded by the National Health Service, Police and Crime Commissioners, local authorities and charitable trusts.<sup>74</sup> There is no agreed definition of an ISVA nor specific job requirements.<sup>75</sup> However, the Home Office has released non-exhaustive guidance for the essential elements and scope of the role of an ISVA.<sup>76</sup> Further, the Department of Health, Home Office and Association of Police Officers' guidelines for Sexual Assault Referral Centres include that all centres should include an ISVA.<sup>77</sup> A National Framework was also recently developed to inform police working with ISVAs and support services.<sup>78</sup>

The UK was selected for comparative analysis with Queensland because the UK ISVA system is well-established. These jurisdictions also provide a fair basis for comparison because the UK common law legal system is similar to Queensland's. Victoria also has a counsellor advocate model; however, counsellor advocates provide more narrow services

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<sup>72</sup> Olivia Smith and Tina Skinner, 'Observing Court Responses to Victims of Rape and Sexual Assault' (2012) 7(4) *Feminist Criminology* 298, 318–320.

<sup>73</sup> Home Office (UK), *The Role of the Independent Sexual Violence Adviser: Essential Elements* (28 September 2017) 4 <<https://www.gov.uk/government/publications/the-role-of-the-independent-sexual-violence-adviser-isva>>.

<sup>74</sup> *Ibid.*

<sup>75</sup> Susan Lea et al, *An Audit of Independent Sexual Violence Advisers (ISVAs) in England and Wales* (King's College London and LimeCulture, February 2015) 5 [2.6].

<sup>76</sup> Home Office (UK) (n 73) 4.

<sup>77</sup> Lea et al (n 75) 6–7 [2.9].

<sup>78</sup> Crown Prosecution Service and National Police Chiefs' Council, *National Framework for Working with Independent Sexual Violence Advisers and Support Services* (18 June 2021) <<https://www.cps.gov.uk/publication/national-framework-working-independent-sexual-violence-advisers-and-support-services>>.

than UK advocates.<sup>79</sup> The VLRC has also recently recommended that a similar victims' advocacy service, modelled from the English model, be introduced in Victoria.<sup>80</sup>

## **B Providing a victim-centric response and better criminal justice outcomes**

A professional victims' advocacy service would directly address the need for a victim-centric support response model called for by the *Hear Her Voice* report and the literature. The UK advocacy model has demonstrated that victim-survivors who engage advocates achieve better criminal justice outcomes. A review of 500 English rape case files has also shown a correlation between advocacy support and criminal justice outcomes.<sup>81</sup> Victim-survivors who sought specialist support from ISVAs were more likely to have the perpetrator charged and also twice as likely to have their complaint result in a conviction.<sup>82</sup> Their complaints were 42 per cent less likely to result in police taking 'no further action' and victim-survivors were 49 per cent less likely to withdraw from the process.<sup>83</sup> Another survey indicated that only 9 per cent of victim-survivors who engaged with advocates withdrew their complaint compared to 20 per cent not seeking support.<sup>84</sup> ISVAs also provide impartial information about court processes which is useful for dispelling myths that victim-survivors may hold about the criminal justice system.<sup>85</sup> For example, it is important to reassure victim-survivors that decisions made in the criminal justice system are based on evidential issues and not on whether the victim-survivor is believable.<sup>86</sup> A study found that victim-survivors considered ISVAs crucial to navigating the criminal justice system.<sup>87</sup>

The literature has demonstrated that victim-survivors must be aware of their rights in the criminal justice process to participate fully. The *Hear Her Voice* report found that a lack of understanding about court processes may act as a barrier to victim-survivors reporting sexual

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<sup>79</sup> Victorian Law Reform Commission, 'Improving the Response of the Justice System to Sexual Offences' (n 50) 259.

<sup>80</sup> *Ibid* 262.

<sup>81</sup> *Ibid* 254 [12.16].

<sup>82</sup> Sarah-Jane Lilley Walker et al, 'Rape, Inequality and the Criminal Justice Response in England: The Importance of Age and Gender' (2021) 21(3) *Criminology & Criminal Justice* 297, 304.

<sup>83</sup> Walker et al (n 82).

<sup>84</sup> Victorian Law Reform Commission (n 55) 254 [12.16] citing Victims' Commissioner for England and Wales, *Victim Advocates: A Rapid Evidence Assessment* (2019) <<https://victimscommissioner.org.uk/document/victim-advocates-a-rapid-evidence-assessment/>>.

<sup>85</sup> Marianne Hester and Sarah-Jane Lilley, 'More than Support to Court: Rape Victims and Specialist Sexual Violence Services' (2018) 24(3) *International Review of Victimology* 313, 319 ('More than Support to Court').

<sup>86</sup> *Ibid*.

<sup>87</sup> *Ibid* 319–320.

violence or encourage victim-survivors to withdraw complaints.<sup>88</sup> Victim-survivors do not currently have a legal or holistic advocate throughout the court process. Implementing a service, similar to the UK model, could provide victim-centric support, reassurance and accurate information for victim-survivors navigating the trial process. An advocate that can explain the Queensland criminal justice process to victim-survivors could reduce the attrition rate of sexual violence in Queensland as a result of a lack of knowledge.

## **C Empowering victim-survivors to achieve better personal outcomes**

### ***I Better personal justice outcomes***

A professional victims' advocacy service would help to empower victim-survivors. The role of an ISVA is to provide impartial information about all of the options open to victim-survivors.<sup>89</sup> The role guidelines suggest that ISVAs should empower victim-survivors to make informed choices but should uphold the agency of victim-survivors and not influence decision-making.<sup>90</sup> In the UK ISVA model, advocates provide information about the rights of the victim-survivor, the reporting process, the criminal justice process, and the support and health services available.<sup>91</sup> While support workers in Queensland can refer victim-survivors to other services, the *Hear Her Voice* report found that some support workers do not have adequate knowledge of the criminal justice process to be able to provide the necessary impartial advice.<sup>92</sup> Teaching victim-survivors about all options open to them is integral to promoting the agency of victim-survivors.

Each victim-survivor has a different perception of justice. Justice, or success, can appear like being empowered to disclose abuse, obtaining a guilty verdict in court, or a perpetrator receiving a long sentence.<sup>93</sup> Alternatively, justice for victim-survivors may incorporate more restorative ideas of justice such as external validation of their experience, hearing a perpetrator admit guilt, or having a perpetrator named in public.<sup>94</sup> A review of the UK ISVA model has considered that the justice that advocates assist victim-survivors to achieve must

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<sup>88</sup> Women's Safety and Justice Taskforce (n 4) 124.

<sup>89</sup> Home Office (UK) (n 73) 5.

<sup>90</sup> *Ibid* 8.

<sup>91</sup> *Ibid*.

<sup>92</sup> Women's Safety and Justice Taskforce (n 4) 122–123.

<sup>93</sup> Hester and Lilley (n 85) 324.

<sup>94</sup> *Ibid* 325.



be considered in broader terms than mere conviction rates.<sup>95</sup> ISVAs provide emotional support that extends beyond the justice provided by the criminal justice system.<sup>96</sup> Any model implemented in Queensland must also not be reliant on victim-survivors accessing the justice system. The model needs to provide support before and after the court or alternative justice process and not pressure victim-survivors to engage with the justice system.<sup>97</sup> Providing information and advocacy regardless of whether a victim-survivor chooses to pursue criminal justice is important to ensure victim-survivors retain choice and control of their story.

## **II Culturally safe advocacy and support**

A concern that has been raised with the UK ISVA model is that it fails to provide support to the most vulnerable victim-survivors.<sup>98</sup> This is because most ISVAs are employed within existing support services and sexual violence centres.<sup>99</sup> The *Hear Her Voice* report has recognised that any victims' advocacy service should prioritise those neglected by current support systems, such as First Nations victim-survivors and victim-survivors located in rural and regional areas.<sup>100</sup> A Queensland model must be accessible to all victim-survivors, especially those who already face barriers to justice, to be effective.

The guidelines for ISVAs do not currently stipulate an express requirement that advocacy be culturally safe. A profile of ISVAs collected found that 90% were of white British background, another 5% were of other white background and the remaining 5% were of Black, Asian, mixed or other ethnic backgrounds.<sup>101</sup> The same study concluded that 96% of ISVA clients were white British, however, ISVAs reported interacting with clients of other ethnic backgrounds.<sup>102</sup> The literature suggests that culturally safe processes are important to provide trauma-informed support to victim-survivors. Any system translated to Queensland from the UK system must be culturally safe for Aboriginal and Torres Strait Islander women.

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<sup>95</sup> Victorian Law Reform Commission (n 55) 254 [12.60] citing Hester and Lilley (n 71) 324–325.

<sup>96</sup> Ibid.

<sup>97</sup> Victorian Law Reform Commission (n 55) 256 [12.17] citing Djirra, Submission No 9 to Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences* (September 2021) <<https://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/>>.

<sup>98</sup> Victorian Law Reform Commission (n 55) 259 [12.88] citing Amanda L Robinson, *Independent Sexual Violence Advisors: A Process Evaluation* (Final Evaluation, Home Office (UK), 24 November 2009) 16 <<http://orca.cf.ac.uk/24241/1/ismvareport.pdf>>.

<sup>99</sup> Ibid.

<sup>100</sup> Women's Safety and Justice Taskforce (n 4) 127–128.

<sup>101</sup> Lea et al (n 75) 11.

<sup>102</sup> Ibid 13–14.

The *Hear Her Voice* report, along with other reports, have suggested the service be co-designed and delivered in consultation with Aboriginal and Torres Strait Islander community organisations.

### **D Collaboration with other support services**

A professional victims' advocacy service could provide continued support throughout the reporting and trial process not available by other crisis services. The role of an ISVA is separate from crisis workers, counsellors, lawyers or support workers but ISVAs enable collaboration between agencies and provide a single point of contact for victim-survivors.<sup>103</sup> The guidelines suggest that the role of an ISVA is to identify the needs of victim-survivors to facilitate collaboration with other support agencies.<sup>104</sup> By ascertaining the specific needs of victim-survivors through risk and needs assessments, ISVAs are able to develop support plans for victim-survivors to provide appropriate ongoing support.<sup>105</sup> It can be exhausting for victim-survivors to engage with multiple different agencies and be bounced around between them. ISVAs can act as a consistent and proactive point of contact between victim-survivors and police, the prosecution and support agencies.<sup>106</sup>

The Victorian Victims of Crime Commissioner has supported the introduction of a victims' advocacy service in Victoria based on the UK model. The Commissioner noted the importance of a single point of contact for victim-survivors from the point of disclosure to the completion of the court process if applicable.<sup>107</sup> Advocates can provide personable, trauma-informed support and develop a relationship of trust with victim-survivors through frequent visits.<sup>108</sup> While there may be some tension between advocates and police in this regard, all services involved in the response to sexual violence should respect the agency of the victim-survivor and police officers should respect the targeted support that advocates provide. The advocacy service could also act as a 'connector' to services and the justice system.<sup>109</sup> This

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<sup>103</sup> Home Office (UK) (n 73) 5.

<sup>104</sup> Ibid 6.

<sup>105</sup> Ibid 6–7.

<sup>106</sup> Victims' Commissioner for England and Wales (n 84) 22.

<sup>107</sup> Victorian Law Reform Commission (n 55) 256 [12.67] citing Victims of Crime Commissioner, Submission No 45 to Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences* (September 2021) <<https://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/>>.

<sup>108</sup> Victims' Commissioner for England and Wales (n 84) 22–23.

<sup>109</sup> Ibid.

connection is particularly valuable when advocates can build the trust of victim-survivors in police and other agencies involved in the victim-survivor's case.<sup>110</sup> The current Queensland response to sexual violence is patchy and uncoordinated.<sup>111</sup> The *Hear Her Voice* report found that the burden was on victim-survivors to understand and engage the support services available at the relevant point in their criminal justice journey.<sup>112</sup> Others may feel burdensome by seeking out support services themselves, rather than being referred.<sup>113</sup> A victims' advocacy service in Queensland could also act as a liaison to facilitate collaboration between victim-survivor advocates, police and other support services. This could incorporate Recommendation 11 of the *Hear Her Voice* report and achieve the collaboration emphasised by the literature.

An integral aspect of the success of the ISVA is the ongoing nature of the role. ISVAs are able to provide both practical and emotional support that existing support services are unable to provide.<sup>114</sup> Advocates can work with victim-survivors and 'hold' them through the court process for up as long as two years while a victim-survivors case progresses through the criminal justice system.<sup>115</sup> ISVAs also provide crucial emotional support to victim-survivors. While ISVAs cannot and should not provide therapy or counselling, ISVAs can offer a trauma-informed ear and refer victim-survivors to appropriate mental health services.<sup>116</sup> Advocates can also provide invaluable practical support that other support services are unable to provide. This may include booking or accompanying victim-survivors to medical appointments or interviews,<sup>117</sup> connecting victim-survivors with intermediaries such as interpreters,<sup>118</sup> or arranging housing or home security checks.<sup>119</sup> Advocates have the flexibility to provide particular emotional and practical support.

The *Hear Her Voice* report found that waiting lists to access sexual violence support services are long.<sup>120</sup> Further, support service workers are time and resource-poor so are often

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<sup>110</sup> Ibid 23.

<sup>111</sup> Women's Safety and Justice Taskforce (n 4) 127.

<sup>112</sup> Ibid 118.

<sup>113</sup> Ibid 122.

<sup>114</sup> Victims' Commissioner for England and Wales (n 84) 22.

<sup>115</sup> Hester and Lilley (n 85) 324.

<sup>116</sup> Home Office (UK) (n 73) 10.

<sup>117</sup> Ibid 11.

<sup>118</sup> Ibid 12.

<sup>119</sup> Vivien Stern, *The Stern Review: An Independent Review into How Rape Complaints Are Handled by Public Authorities in England and Wales* (Home Office (UK), 2010) 744 ('*The Stern Review*').

<sup>120</sup> Women's Safety and Justice Taskforce (n 4) 118 citing Hagar Coen, 'Sexual assault support services struggling to cope with record demand', ABC News (online, 18 May 2022)

prevented from engaging in the long-term therapeutic work required.<sup>121</sup> Support services must prioritise crisis support over supporting clients at court.<sup>122</sup> The uncertainty of court dates and the frequency of adjournments only makes coordinating court support more difficult.<sup>123</sup> An advocacy service would fill an important gap in holistic support in Queensland. Current support services provide support and information on procedural issues but do not provide targeted support for the well-being of victim-survivors.<sup>124</sup> The literature has emphasised the importance of ensuring victim-survivors feel heard and valued throughout the criminal justice process. Advocates will be able to fill the gaps in current support services and provide victim-centric support to victim-survivors.

## **E Criticism of victims' advocacy services**

### ***I Role not fully understood by support services, police, and court***

Concerns have been raised that the roles of advocates may not always be fully understood by wider services and the courts.<sup>125</sup> It is suggested that overlapping roles may be a source of friction between victim-survivor advocates and the agencies they interact with.<sup>126</sup> A lack of clarity between roles or perceived similarity in roles may lead to territorial disputes between advocates and other professionals.<sup>127</sup> A related concern is the independence of victim-survivor advocates. Many studies have noted that advocates must be independent of the

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<<https://www.abc.net.au/news/2022-05-18/sexual-assault-support-services-struggling-withdemand/101050998>>.

<sup>121</sup> Women's Safety and Justice Taskforce (n 4) 118 citing Queensland Sexual Assault Network, Submission No 2 to Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022) and Gold Coast Centre Against Sexual Violence, Submission No 7 to Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022).

<sup>122</sup> Women's Safety and Justice Taskforce (n 4) 118 citing Letter from Mr David Mackie, Director-General, Department of Justice and Attorney-General, 5 May 2022, 5.

<sup>123</sup> *Ibid* 118.

<sup>124</sup> Victorian Law Reform Commission, 'Improving the Response of the Justice System to Sexual Offences' (n 50) 259 [12.69] citing Consultation 58 (Victims of Crime Consultative Committee representatives).

<sup>125</sup> *Ibid* 251 [12.48].

<sup>126</sup> Victims' Commissioner for England and Wales (n 84) 19.

<sup>127</sup> *Ibid* 19; Ravi KS Kohli et al, *Evaluation of Independent Child Trafficking Advocates Trial: Final Report* (Research Report No 86, Home Office (UK), December 2015) 59; Laura Rodwell and Nadine Smith, *Evaluation of the NSW Domestic Violence Intervention Court Model* (Attorney General's Department, 2008)

<<https://www.ojp.gov/ncjrs/virtual-library/abstracts/evaluation-nsw-domestic-violence-intervention-court-model>>; Iolo Madoc-Jones and Karen D Roscoe, 'Independent Domestic Violence Advocates: Perceptions of Service Users' (2011) 8(1) *Diversity in Health and Care* 9.

police and all agencies in the criminal justice system to remain effective.<sup>128</sup> Maintaining impartiality could also allow advocates to be perceived as equals by professionals in the criminal justice system.<sup>129</sup>

The supposed ‘culture clash’ between advocates and other support services has only been recognised in a few studies.<sup>130</sup> This tension arose from advocates reporting that other services they engaged with, such as healthcare professionals, were not trauma-informed.<sup>131</sup> While there is little evidence of this culture clash, a difference in procedure or priorities between advocates and other support services could be detrimental to victim-survivors.<sup>132</sup>

The VLRC recommended that victim-survivor advocates in Australia establish a formal relationship with other services from their inception.<sup>133</sup> The UK model is deficient in this regard.<sup>134</sup> A clearly defined role for victim-survivor advocates would ensure respect for advocates in practice<sup>135</sup> and address the threat of a lack of clarity between the roles of advocates and other support workers. Further, a multi-agency protocol could be introduced to create a consistent response to sexual violence across all agencies,<sup>136</sup> advocates and support groups that is trauma-informed, culturally safe, and victim-centric. Coordinating shared protocols could alleviate any culture clashes that could arise.

## **II Potential bias of advocates**

As with any role interacting with persons suffering trauma, there is a risk that advocates could experience conflicts of interest with victim-survivors. For example, there could be a tension between the responsibility of an advocate to empower a victim-survivor but to also

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<sup>128</sup> Victims’ Commissioner for England and Wales (n 84) 19; Maddy Coy and Liz Kelly, *An Evaluation of Four London Independent Domestic Violence Advocacy Schemes* (Final Report, 2011) 149; Madoc-Jones and Roscoe (n 127).

<sup>129</sup> Victims’ Commissioner for England and Wales (n 84) 19; Christine Vallely et al, *Evaluation of Domestic Violence Pilot Sites at Caerphilly (Gwent) and Croydon, 2004/05* (Final Report, Crown Prosecution Service, June 2005) <<https://www.cps.gov.uk/publication/evaluation-domestic-violence-pilot-sites-caerphilly-gwent-and-croydon-200405>>.

<sup>130</sup> Victims’ Commissioner for England and Wales (n 84) 20.

<sup>131</sup> Ibid 21; Brian K Payne, ‘Victim Advocates’ Perceptions of the Role of Health Care Workers in Sexual Assault Cases’ (2007) 18(1) *Criminal Justice Policy Review* 81; Coy and Kelly (n 128).

<sup>132</sup> Victims’ Commissioner for England and Wales (n 84) 21.

<sup>133</sup> Victorian Law Reform Commission, ‘Improving the Response of the Justice System to Sexual Offences’ (n 50) 259 [12.96].

<sup>134</sup> Ibid 259 [12.94].

<sup>135</sup> Ibid.

<sup>136</sup> Ibid 74.

respect their choices.<sup>137</sup> Submissions to the VLRC also expressed concerns about advocates being dismissive or creating a power imbalance.<sup>138</sup>

A study of emotional responses of rape victim advocates suggested that emotional reactions, such as anger or fear, could act as resources for advocates.<sup>139</sup> In this study, advocates often experienced anger at systemic and institutional circumstances of victim-survivors.<sup>140</sup> The study suggested that emotional responses from victim-survivor advocates were different to the phenomenon of vicarious traumatisation experienced in other therapeutic roles. Vicarious trauma traditionally occurs when a client's trauma is transferred to a therapist and manifests as intrusive imagery.<sup>141</sup> However, modern conceptions recognise that this trauma transfer may occur in a range of professions, including victims' advocacy. Advocates participating in the study described how the feelings they experience can act as a catalyst for the difficulty of their job and encourage them to seek to change the systems.<sup>142</sup> Therefore, an emotional response from a victim-survivor advocate may not be automatically threatening to the agency or well-being of victim-survivors.

Nevertheless, it is important for any victim-survivor advocate to undergo training to handle vicarious trauma. One submission to the VLRC suggested the need for intensive subconscious bias training for advocates.<sup>143</sup> Advocates must remain impartial to fulfil their role of empowering victim-survivors and creating trauma-informed and culturally safe spaces. Any Queensland victim-survivor advocacy service should introduce mandatory and standardised training for all advocates to eliminate, as far as practicable, the bias of advocates. Although it would be difficult for the range of stakeholders involved to agree on standardised training, facilitating the collaboration between the Queensland Government, the police, the courts, and support agencies from the inception of the advocacy service is integral to ensuring cooperation and mutual respect.

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<sup>137</sup> Victims' Commissioner for England and Wales (n 84) 23.

<sup>138</sup> Victorian Law Reform Commission, 'Improving the Response of the Justice System to Sexual Offences' (n 50) 257 [12.76].

<sup>139</sup> Sharon M Wasco and Rebecca Campbell, 'Emotional Reactions of Rape Victim Advocates: A Multiple Case Study of Anger and Fear' (2002) 26(2) *Psychology of Women Quarterly* 120, 120.

<sup>140</sup> *Ibid* 124.

<sup>141</sup> *Ibid* 120 citing Laurie Anne Pearlman and Paula S Mac Ian, 'Vicarious Traumatization: An Empirical Study of the Effects of Trauma Work on Trauma Therapists' (1995) 26(6) *Professional Psychology: Research and Practice* 558.

<sup>142</sup> Wasco and Campbell (n 139) 127.

<sup>143</sup> Victorian Law Reform Commission, 'Improving the Response of the Justice System to Sexual Offences' (n 50) 257 [12.76].

### ***III Potential conflict with the trial process***

There is a potential risk that the support that victim-survivor advocates provide could cross over into witness coaching.<sup>144</sup> This is a valid concern that can adequately be addressed through appropriate guidelines for victim-survivor advocates. The ISVA role guidelines suggest that advocates must not ask a victim-survivor to recount events the victim-survivor has reported to the police so as not to jeopardise the integrity of the investigation process.<sup>145</sup> Further, the ISVA should not be present when victim-survivors make statements to the police.<sup>146</sup> Where ISVAs become aware of the details of the case, they must not support their client in court.<sup>147</sup> According to a UK ISVA in a report by Hester and Lilley, the UK prosecution was not concerned by their work because the role of an ISVA is primarily to work through what victim-survivors were thinking and feeling and their fears or worries about the criminal justice process.<sup>148</sup> In any event, defence counsel would have the opportunity to make an application to stay proceedings where an advocate has engaged in witness coaching of a victim-survivor's testimony.<sup>149</sup> The report suggests, however, that the role of ISVAs is merely to provide emotional support and advice and not to coach victim-survivors about their report or testimony.

Any risk posed to the fairness of the criminal justice process by victim-survivor advocates could be addressed by clearly defining the role of victim-survivor advocates as impartial advisers on the court process. It would be beneficial for a role description or protocol for advocates to follow in relation to advising on court processes to be developed with input and guidance from courts, professional legal associations, and judicial experts. Such a protocol could explicitly state that advocates must not advise victim-survivors on how to respond to questioning during a police interview or while giving oral testimony in court.<sup>150</sup> Further, it should be noted that victim-survivor advocates should not provide legal advice in the place of solicitors or barristers. This limitation could be well advertised to victim-survivors and

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<sup>144</sup> Hester and Lilley (n 85) 323.

<sup>145</sup> Home Office (UK) (n 73) 13.

<sup>146</sup> *Ibid.*

<sup>147</sup> *Ibid* 14.

<sup>148</sup> Hester and Lilley (n 85) 323.

<sup>149</sup> Home Office (UK) (n 73) 11.

<sup>150</sup> *Ibid* 13.

professionals in the criminal justice system to alleviate concerns. Victim-survivor advocates who breach their obligations and coach witnesses should be held accountable.

#### **IV RECOMMENDATIONS AND CONCLUSION**

The attrition rate of sexual violence in Queensland is deplorable. The *Hear Her Voice* report demonstrates that the current response to sexual violence in Queensland is failing to respond to the needs of victim-survivors. To implement a more trauma-informed, victim-centric, and culturally safe response to sexual violence, the Queensland Government should implement a professional victims' advocacy service. The literature surrounding sexual violence law reform revealed common recommendations that suggest more victim-centric responses that are trauma-informed and culturally safe are needed. Victim-survivors should feel safe and empowered regardless of whether they choose to pursue a criminal complaint. Finally, the response to sexual violence in Queensland must include collaboration between the police, the courts and support workers.

The Queensland Government should establish a professional victims' advocacy service to help victim-survivors navigate the criminal justice system. A victims' advocacy service would provide trauma-informed, victim-centric support for victim-survivors. Advocates could provide impartial advice about court processes and achieve better criminal justice outcomes for victim-survivors. Better personal justice outcomes could also be achieved when victim-survivors feel empowered to make informed and independent choices about their case and have positive experiences with advocates and in turn, the criminal justice system. A more coordinated and collaborative response to sexual violence could be fostered by advocates. Victim-survivor advocates could fill the gaps in existing support services and also direct victim-survivors to appropriate help. A professional victims' advocacy service as recommended by Recommendation 9 of the *Hear Her Voice* report, would also contribute to a more streamlined and coordinated trauma-informed sexual violence service model.

The professional victims' advocacy service should be modelled on the existing service in England, Wales, and Scotland. The service should prioritise providing victim-centric and trauma-informed support that respects the agency of victim-survivors. Support should be accessible regardless of whether a victim-survivor wants to report a case to the police and be



available before, during and after any court process. The service should be co-designed with Aboriginal and Torres Strait Islander people and victim-survivors of sexual violence to ensure that it is culturally safe and inclusive. The model should also take into account the recommendations of the VLRC and have appropriate oversight and specialist training to eliminate bias and ensure professional competency.<sup>151</sup> The role of victim-survivor advocates should be well-defined and well-known by support services, police, and the court. A professional victim-survivor advocacy service will not eliminate the poor experiences of victim-survivors in the justice system. The introduction of the service will, however, create a safer and more supportive environment for victim-survivors and reflect the Queensland Government's commitment to trauma-informed responses to violence.

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<sup>151</sup> Victorian Law Reform Commission, 'Improving the Response of the Justice System to Sexual Offences' (n 50) 259 [12.91].

## V BIBLIOGRAPHY

### *A Articles/Books/Reports*

Bluett-Boyd, Nicole and Bianca Fileborn, *Victim/Survivor-Focused Justice Responses and Reforms to Criminal Court Practice: Implementation, Current Practice and Future Directions* (Research Report No 27, Australian Institute of Family Studies, April 2014)

Brian K Payne, 'Victim Advocates' Perceptions of the Role of Health Care Workers in Sexual Assault Cases' (2007) 18(1) *Criminal Justice Policy Review* 81

Burman, Michele and S Batchelor, 'Evidencing Sexual Assault: Women in the Witness Box' (2009) 56(4) *Probation Journal*

Campbell, Rebecca, 'The Community Response to Rape: Victims' Experiences with the Legal, Medical, and Mental Health Systems' (1998) 26 *American Journal of Community Psychology* 355

Coy, Maddy and Liz Kelly, *An Evaluation of Four London Independent Domestic Violence Advocacy Schemes* (Final Report, 2011) 149

Criminal Justice Sexual Offences Taskforce, *Responding to Sexual Assault: The Way Forward* (Attorney General's Department, 2006)  
<<https://catalogue.nla.gov.au/Record/3673337>>

Crown Prosecution Service and National Police Chiefs' Council, *National Framework for Working with Independent Sexual Violence Advisers and Support Services* (18 June 2021)  
<<https://www.cps.gov.uk/publication/national-framework-working-independent-sexual-violence-advisers-and-support-services>>

D' Amora, David A and Gail Burns-Smith, 'Partnering in Response to Sexual Violence: How Offender Treatment and Victim Advocacy Can Work Together in Response to Sexual Violence' (1999) 11(4) *Sexual Abuse* 293

DePrince, Anne P and Kerry L Gagnon, 'Understanding the Consequences of Sexual Assault: What Does It Mean for Prevention to Be Trauma Informed?' in *Sexual Assault Risk Reduction and Resistance* (Elsevier, 2018) 15  
<<https://linkinghub.elsevier.com/retrieve/pii/B9780128053898000025>>

Eberle, Edward J, 'The Method and Role of Comparative Law' [2008] *SSRN Electronic Journal* <<http://www.ssrn.com/abstract=1265659>>

Garvin, Margaret and Douglas E Beloof, 'Crime Victim Agency: Independent Lawyers for Sexual Assault Victims' (2015) 13(1) *Ohio State Journal of Criminal Law* 67

Hester, Marianne and Sarah-Jane Lilley, 'More than Support to Court: Rape Victims and Specialist Sexual Violence Services' (2018) 24(3) *International Review of Victimology* 313

Home Office (UK), The Role of the Independent Sexual Violence Adviser: Essential Elements (28 September 2017) <<https://www.gov.uk/government/publications/the-role-of-the-independent-sexual-violence-adviser-isva>>

Jordan, Jan, 'Beyond Belief?: Police, Rape and Women's Credibility' (2004) 4 Criminal Justice 25

Kohli, Ravi KS et al, Evaluation of Independent Child Trafficking Advocates Trial: Final Report (Research Report No 86, Home Office (UK), December 2015) 59

Konradi., Amanda, Taking the Stand: Rape Survivors and the Prosecution of Rapists (Praeger, 2007)

Larcombe, Wendy, 'The 'Ideal' Victim v Successful Rape Complainants: Not What You Might Expect' (2002) 10 Feminist Legal Studies 131

Lea, Susan et al, An Audit of Independent Sexual Violence Advisors (ISVAs) in England and Wales (King's College London and LimeCulture, February 2015)

Legal Aid Queensland and Queensland Law Society, Domestic and Family Violence: Best Practice Framework for Legal and Non-Legal Practitioners (October 2022) 18

Madoc-Jones, Iolo and Karen D Roscoe, 'Independent Domestic Violence Advocates: Perceptions of Service Users' (2011) 8(1) Diversity in Health and Care 9

McKenna, Nicole C and Kristy Holtfreter, 'Trauma-Informed Courts: A Review and Integration of Justice Perspectives and Gender Responsiveness' (2021) 30(4) Journal of Aggression, Maltreatment & Trauma 450

Naylor, Bronwyn, 'Effective Justice for Victims of Sexual Assault: Taking up the Debate on Alternative Pathways' (2010) 33(3) University of New South Wales Law Journal 662

Patterson, Debra, Megan Greeson and Rebecca Campbell, 'Understanding Rape Survivors' Decisions Not to Seek Help from Formal Social Systems' (2009) 34(2) Health & Social Work 127

Pearlman, Laurie Anne and Paula S Mac Ian, 'Vicarious Traumatization: An Empirical Study of the Effects of Trauma Work on Trauma Therapists' (1995) 26(6) Professional Psychology: Research and Practice 558

Reitz, John C, 'How to Do Comparative Law' (1998) 46(4) The American Journal of Comparative Law 617

Rich, Karen, 'Trauma-Informed Police Responses to Rape Victims' (2019) 28(4) Journal of Aggression, Maltreatment & Trauma 463

Robinson, Amanda L, Independent Sexual Violence Advisors: A Process Evaluation (Final Evaluation, Home Office (UK), 24 November 2009) 16  
<<http://orca.cf.ac.uk/24241/1/isvareport.pdf>>

Rodwell, Laura and Nadine Smith, Evaluation of the NSW Domestic Violence Intervention Court Model (Attorney General's Department, 2008) <<https://www.ojp.gov/ncjrs/virtual-library/abstracts/evaluation-nsw-domestic-violence-intervention-court-model>>

Serrata, Josephine V et al, 'Well-Being of Latina Survivors of Intimate Partner Violence and Sexual Assault Receiving Trauma-Informed and Culturally-Specific Services' (2020) 35(2) Journal of Family Violence 169

Shaw, Jessica et al, 'Beyond Surveys and Scales: How Rape Myths Manifest in Sexual Assault Police Records' (2017) 7 Psychology of Violence 602

Smith, Olivia and Tina Skinner, 'Observing Court Responses to Victims of Rape and Sexual Assault' (2012) 7(4) Feminist Criminology 298

State of Queensland Department of Justice and Attorney-General, Domestic and Family Violence Common Risk and Safety Framework (15 July 2022) 48

Stern, Vivien, The Stern Review: An Independent Review into How Rape Complaints Are Handled by Public Authorities in England and Wales (Home Office (UK), 2010)

Substance Abuse and Mental Health Services Administration, 'SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach' (2014) HHS Publication No. (SMA) 14-4884

Universities Australia and Our Watch (eds), Practice Guidance: A Victim/Survivor-Centered Approach to Responding to Violence (Our Watch, 2021)

Vallely, Christine et al, Evaluation of Domestic Violence Pilot Sites at Caerphilly (Gwent) and Croydon, 2004/05 (Final Report, Crown Prosecution Service, June 2005) <<https://www.cps.gov.uk/publication/evaluation-domestic-violence-pilot-sites-caerphilly-gwent-and-croydon-200405>>

Victims' Commissioner for England and Wales, Victim Advocates: A Rapid Evidence Assessment (2019) <<https://victimscommissioner.org.uk/document/victim-advocates-a-rapid-evidence-assessment/>>

Victorian Law Reform Commission, Improving the Response of the Justice System to Sexual Offences (September 2021) <<https://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/>>

Victorian Law Reform Commission, Victims of Crime in the Criminal Trial Process: Report (No 34, August 2016) <<https://www.lawreform.vic.gov.au/publication/the-role-of-victims-of-crime-in-the-criminal-trial-process/>>

Walker, Sarah-Jane Lilley et al, 'Rape, Inequality and the Criminal Justice Response in England: The Importance of Age and Gender' (2021) 21(3) Criminology & Criminal Justice 297

Wasco, Sharon M and Rebecca Campbell, 'Emotional Reactions of Rape Victim Advocates: A Multiple Case Study of Anger and Fear' (2002) 26(2) Psychology of Women Quarterly 120

Williams, Robyn, 'Cultural Safety - What Does It Mean for Our Work Practice?' (1999) 23(2) Australian and New Zealand Journal of Public Health 213

Women's Safety and Justice Taskforce, Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System (1 July 2022)

Australian Human Rights Commission, ‘Chapter 4: Cultural Safety and Security: Tools to Address Lateral Violence’, Social Justice Report 2011 (2011)  
<<https://humanrights.gov.au/our-work/chapter-4-cultural-safety-and-security-tools-address-lateral-violence-social-justice#Heading48>>

Criminology, Australian Institute of, ‘Guilty Outcomes in Reported Sexual Assault and Related Offence Incidents’, Australian Institute of Criminology (18 December 2007)  
<<https://www.aic.gov.au/publications/cfi/cfi162>>

Department of Children, Youth Justice and Multicultural Affairs, ‘Creating a Culturally Safe Space’, Child Safety Practice Manual <<https://cspm.csyw.qld.gov.au/practice-kits/safe-care-and-connection/working-with-aboriginal-and-torres-strait-islander/responding/creating-a-culturally-safe-space>>

Judicial Commission of New South Wales, ‘The Trauma-Informed Courtroom’, Handbook for Judicial Officers — Therapeutic jurisprudence and the trauma-informed court (1 October 2021)  
<[https://www.judcom.nsw.gov.au/publications/benchbks/judicial\\_officers/trauma\\_informed\\_courtroom.html](https://www.judcom.nsw.gov.au/publications/benchbks/judicial_officers/trauma_informed_courtroom.html)>

Judicial Commission of New South Wales, ‘Trauma-Informed Courts’, Equality before the Law Bench Book (2022)  
<[benchbookhttps://www.judcom.nsw.gov.au/publications/benchbks/equality/section12.html](https://www.judcom.nsw.gov.au/publications/benchbks/equality/section12.html)>

‘Sexual Violence - Victimization | Australian Bureau of Statistics’  
<<https://www.abs.gov.au/articles/sexual-violence-victimisation>>

Sibosado, Amanda and Michelle Webb, ‘Consent Education Needs Blak Voices for the Safety and Well-Being of Young First Nations People’, The Conversation (22 March 2002)  
<<http://theconversation.com/consent-education-needs-blak-voices-for-the-safety-and-well-being-of-young-first-nations-people-177823>>

‘Supporting Survivors of Sexual Violence with Victim-Centric Investigations’, Queensland Police News (10 October 2022) <<https://mypolice.qld.gov.au/news/2022/10/10/supporting-survivors-of-sexual-violence-with-victim-centric-investigations/>>

Victorian Government, ‘Preferred Terminology’ (12 April 2022)  
<<http://www.vic.gov.au/family-violence-lived-experience-strategy/preferred-terminology>>

## B *Legislation*

*Criminal Procedure Act 1986* (NSW)

## C *Other*

Department of Children, Youth Justice and Multicultural Affairs, 'Creating a Culturally Safe Space', *Child Safety Practice Manual* <<https://cspm.csyw.qld.gov.au/practice-kits/safe-care-and-connection/working-with-aboriginal-and-torres-strait-islander/responding/creating-a-culturally-safe-space>>

Djirra, Submission No 9 to Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences* (September 2021)  
<<https://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/>>

Gold Coast Centre Against Sexual Violence, Submission No 7 to Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022)

Home Office (UK), The Role of the Independent Sexual Violence Adviser: Essential Elements (28 September 2017) <<https://www.gov.uk/government/publications/the-role-of-the-independent-sexual-violence-adviser-isva>>

Knowmore Submission to Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022)

Queensland Sexual Assault Network, Submission No 2 to Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022)

Sexual Assault Services Victoria, Submission No 17 to Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences* (September 2021)

Submission No 6127326 to Women's Safety and Justice Taskforce, *Hear Her Voice: Women and Girls' Experiences across the Criminal Justice System* (1 July 2022)

'Supporting Survivors of Sexual Violence with Victim-Centric Investigations', *Queensland Police News* (10 October 2022) <<https://mypolice.qld.gov.au/news/2022/10/10/supporting-survivors-of-sexual-violence-with-victim-centric-investigations/>>

Victims of Crime Commissioner, Submission No 45 to Victorian Law Reform Commission, *Improving the Response of the Justice System to Sexual Offences* (September 2021)

<<https://www.lawreform.vic.gov.au/project/improving-the-response-of-the-justice-system-to-sexual-offences/>>

Victorian Government, 'Preferred Terminology' (12 April 2022)

<<http://www.vic.gov.au/family-violence-lived-experience-strategy/preferred-terminology>>