

INQUIRY INTO SUPPORT PROVIDED TO VICTIMS OF CRIME

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Submission to the Legal Affairs and Safety Committee

**Brisbane Rape and Incest Survivors Support Centre -
BRISSC
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BRISSC
Email: admin@brissc.org.au
Mailing address: 15 Morrisey Street, Woolloongabba, QLD, 4102
Telephone number: 07 3391 2573

Who we are

The Brisbane Rape and Incest Survivor's Support Centre (hereafter referred to as BRISSC) was established in 1975 and continues to be a service in responding to sexual violence against women in Queensland. BRISSC is a collectively managed community organisation that provides direct support services to women who have experienced sexual assault at any time in their lives. Services provided include:

- Individual support and counselling (including support and advocacy for reporting sexual violence to the police and throughout the legal process);
- Telephone support, information, referral and advocacy;
- Support groups, social action groups and workshop programs (including specific groups focused on women navigating the criminal justice system and interested in restorative justice);
- Community education, awareness raising and sexual violence prevention activities;
- Professional development and training on best practices responding to victims/survivors of sexual violence;
- Library, lending resources and internet facilities;
- Meeting space for women; and
- Information and referrals to friends, relatives and supporters of women and children who have experienced sexual violence.

1. Introduction

It was recently revealed that sexual assaults in Australia are on the rise for the 10th year in a row, with a national increase of 13% since 2020. The state of Queensland saw a 35% increase, marking the largest increase nationally. The same statistics show that the number of female victims was six times higher than the number of male victims¹.

Evidence also demonstrates that sexual assault is one of the most under-reported criminal offences in Australia, with a large percentage of victim-survivors not reporting the crime or disclosing it until months or years after the crimes occurred.

The data from BRISSC (2019) indicates that 47.74% of women victims of sexual assault coming to our services decided not to report this offence to the Police, and 78.1% decided not to seek any medical or forensic treatment after the incident. 68.12% experienced more than one incident of sexual assault, and more than 85 % disclose assault months or years after the incident happened.

At BRISSC we believe that gender-based violence is a priority in the community, but there are significant gaps in addressing this issue. For that primary reason, BRISSC acknowledges and appreciates the role of the Legal Affairs and Safety Committee in seeking submissions to report on SUPPORT PROVIDED TO VICTIMS OF CRIME, and we hope this report will lead to structural changes to improve and ensure support for victims in the justice system.

Note: It is important to underline that this submission is based on BRISSC's knowledge and experience in providing sexual assault support to women who have been victims of sexual violence throughout their lives. This knowledge is based on almost five decades of practice.

¹ Australian Bureau of Statistics. Recorded Crime –Victims. Reference period 2021.
<https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release>

1. **Better coordination of state-wide services to ensure there is trauma informed, victim centric and timely support for victims, from the time of the incident and throughout the subsequent investigation and any prosecution, including:**
 - **how the criminal justice system, including the Queensland Police Service, the Office of the Director of Public Prosecutions, and court services currently support victims; and how restorative justice conferences and processes may be improved upon;**
 - **how to ensure victims are kept informed and included in an appropriate and timely way throughout the investigation, prosecution and parole period.**

The impact of trauma from sexual violence makes it incredibly difficult for victim-survivors to engage with the current criminal justice system as it is. In this submission, we will try to address briefly the different factors that contribute to this issue.

Firstly, when there is a lack of understanding of the impact of sexual violence after reporting, the ripple effect on victims and the community is wide and extensive. The repercussion is not lived individually – only - due to the re-traumatization effect, but in some cases, it forces the victims to return to live in a continuum of sexual violence that reproduces extensive damage in the community and impunity for sexual offenses in general.

The lack of coordination of services after reporting and along the process of criminal justice is another significant factor contributing to re-victimisation. The information that victims receive after reporting is perceived as very complex, difficult to comprehend, and in many cases variable or in worst cases erratic.

In general, the information to notify victims about the different options that exist, the length of processes after reporting, and the nuances of the process itself, is currently insufficient and quite inconsistent. In that sense, the mechanisms to ensure victim-centric services are provided reside in (well resourced) efforts of coordination and communication with special emphasis on the first point of contact for victims after reporting and during the process of investigation and prosecution. This is, police, DPP, VAQ and sexual assault services.

Victim centric vs. Defendants' rights

In general, victims of domestic violence and sexual crimes, perceive the current system as being accused/perpetrator focused. Measures are perceived as taken for their 'rights' as defendants in ways that victim-survivors are not. For example, sentencing decision-making tends to consider reduced or suspended sentences due to the impact this could have on the defendant's life (for example, to prevent defendants from losing their current jobs or current status in the community, or face deportation, etc.) This should have been a consideration for them not to commit sexual violence rather than a reason for not facing justice.

Another issue found consistently is the victim-survivors reduced to the role of witnesses of their own experience of sexual violence (during police investigation and court proceedings, mainly). Usually victims perceive being an "outsider" of the process having no control at all on how their case progresses.

Expansion and more resources into court and victim support

Specialist sexual violence services are limited in their own capacity to support victim-survivors through criminal justice proceedings due to roles restricted to counselling-only, budgetary

inadequacies and/or high demand. As sexual assault services we believe increasing a core budget to add appropriate and adequate court and/or victim support would have a significant positive impact on a victim-centric justice system.

Improving restorative justice conferences and processes

As sexual offenses are the most under-reported crime in Australia, and even when reported, the crime with the highest levels of acquittal and the lowest levels of criminal prosecution, we hope, as BRISSC, that restorative justice can offer victims a way to access justice, find closure and begin their long recovery process.

In the recent years, BRISSC has developed and facilitated spaces for victims of sexual assault to share their experiences and to identify needs and concerns about the justice system. During these processes, groups of women survivors expressed special interest in adult restorative justice to address sexual harm.

The first obstacle survivors identified regarding restorative justice, was the lack or total absence of information and resources offered in general. The second main obstacle found is accessing to RJ processes. For example, in cases where BRISSC has explored RJ as an option for victims, the DPP/QPS response has declined offering this option due to it 'not sending the right message to community'.

Knowing that there are consequences for sexual violence is critical, however, the outcomes of sexual violence cases show that there is little to no punitive justice. Alternative and transformative forms of justice must be explored if the community is truly to be positively impacted.

Consequently, the first action to improve restorative justice conferences and processes consists of resourcing agencies and services to promote information and facilitate access to conferencing processes. The difficulty of restorative justice process as it is now, is that there are not sufficient resources to implement restorative processes broadly and effectively. Police particularly, require specific training to offer restorative justice and effectively follow up on decisions made by victims and defendants.

The role of victim support services is also key in restorative justice. In essence, sexual assault and DV services' focus should be to advocate for victims' needs and ensure their safety during the entire process. This includes preparing victims for conferencing, liaising with ARJ and Police and following up on decisions made by victims (in coordination with government agencies).

2. The operation and effectiveness of the Victims of Crime Assistance Act 2009 (the Act) for victims of violence, including:

- **expanding the eligible victim's category to include home invasion; and enhancements to provide better, trauma informed and timely assistance and support to victims**
- **mapping victims' experiences through the financial assistance application process to identify the ways to reduce the burden on applicants**

A significant barrier for victims is the finances it takes to adequately apply for financial assistance. A common example is requiring an initial session and documentation from a psychologist to access VAQ. Many women we have supported to apply for VAQ assistance have had to wait until they receive their special recognition payment (sometimes two years

after application submission) in order to afford to see a psychologist (or similar mental health practitioner). Women will then submit additional documents to apply for psychological payment support following application approval.

Additionally, poverty and homelessness is not adequately taken into account under “urgent needs”. And have been told they have to wait for the application to be assessed like everyone else.

- **reviewing the Charter of Victims’ Rights to identify common complaint themes from victims to inform future sector training needs**
- **revising the existing government initiatives in relation to the Act’s operation and effectiveness.**

There are two main issues that victims report when seeking or accessing justice. The first is the role of victims as witnesses. Very often, victims do not receive enough information about their specific role as witnesses and how their cases will unfold.

Not understanding the role as witnesses makes victims feel alienated from the whole process. This occurs mainly at the investigative stage, but also during judicial mentions, communication between the defence and the prosecution (i.e., when deciding what charges are to be filed, plea bargains, etc.), and after or during sentencing, (i.e., many survivors are not told that during the sentencing hearing the charges will be read out in detail. If attending, what to expect from hearings is important for victims to be aware of. We share this information with survivors but are not always engaged with them before court processes). Another example is victim-survivors engaging in alternative ways to be a witness (e.g. through video, pre-recorded) and often seen and discussed as potentially hindering the case.

Since support services are also outside of the formal justice sector, we also lack information and communication from the police and the DPP. In that regard, sexual assault services should have capacity to communicate and coordinate with different government agencies to consistently communicate with victims and advocate for their needs. In general, we believe a stronger communication and coordination between police, DPP, and victim support services would help victims benefit from the justice process itself.

The second one is to understand the impacts of the gaps of current legislation on victims of historic sexual crimes. In the following section we are detailing a specific complaint as a case study:

A survivor-victim of historical sexual abuse, supported by BRISSC received a letter from VAQ in November last year informing her that her application for VAQ assistance was rejected due to the timing of the crime committed against her. As the crime took place prior to Dec 2009, VAQ had no choice but to (under the section 154 and 156 of the current Act) apply to the Criminal Code Act Queensland from 1899 which deemed her ineligible for VAQ assistance.

According to that Act, to be considered as victim of crime, the perpetrator needs to be charged in the District or Supreme Court and not just in the Magistrates Court. It did not matter that the perpetrator was sentenced only a few years ago and the responsibilities of the Courts have changed dramatically. In this case the timing of the committed crime was the final and sole determinant of the victim's eligibility.

The impact of this decision on the victim herself has been enormous and detrimental. Being a victim of horrendous crime and being rejected by VAQ felt as, in the victim's own words, "the trauma and the suffering received from the hands of the perpetrator was dismissed and the victimhood experience was denied".

By BRISSC support worker, [REDACTED]

Other themes BRISSC workers have identified as common issues are:

- The correspondence from VAQ is perceived as lengthy and difficult to understand. It uses reference to legislation and is very formal. Many victims are illiterate and/or have very little exposure to the language used by VAQ.
- Many victims of sexual abuse and severe violence experienced the crimes against them in their childhood (including many crimes facilitated by the family services and/or other institutional workers), and this results in their filing their complaint when they are adults or feel stronger/more ready to do it. We have found that many victims are falling in the category of the above-mentioned case.
- Many victims are from NESB (Non-English Speaking Background) and do not understand a system which is very convoluted and lengthy.
- The VAQ application is too complicated for NESB and/or illiterate victims.

BRISSC invites opportunities to provide further comment to any recommendations made herein.

For further information or commentary please contact:

The Collective

The Brisbane Rape and Incest Survivors Support Centre (BRISSC)

Telephone: 07 3391 2573

Email: admin@brissc.org.au

This submission was prepared by [REDACTED] on behalf of The Brisbane Rape and Incest Survivors Support Centre (BRISSC) April 2024.