

INQUIRY INTO SUPPORT PROVIDED TO VICTIMS OF CRIME

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Legal Affairs and Safety Committee

INQUIRY INTO SUPPORT PROVIDED TO VICTIMS OF CRIME

Brett Thompson (CEO. QHVSG)

The submission is for the attention of the Legal Affairs and Safety Committee commissioned to lead the Inquiry into Support for Victims of Crime. The submission is on behalf of Queensland Homicide Victims Support Group (QHVS), a not-for-profit organisation supporting victims in the aftermath of homicide. In the aftermath of homicide, it is the family and friends (the victims) who represent the homicide victim and deal with medical examiners, the criminal justice system, support services and the media. These interactions continue for many years, sometimes a lifetime, as does the emotional, spiritual, and psychological trauma caused by the homicide.

QHVS is well placed to contribute to this Inquiry with its 27-year history of collaborating with victims of homicide, providing support and advocating for policy reform. Critically, our work is based on the voices of the victim which exist across governance and operational levels.

It is important for me to acknowledge the genuine engagement from the services that form part of this inquiry. Over the past six years as CEO of QHVS, I have experienced genuine collaboration and effective stakeholder relationships with Victim Assist Queensland (VAQ), the Queensland Police Service (QPS), The Office of the Department of Public Prosecutions (ODPP), Queensland Corrective Services (QCS), the Parole Board Queensland, the Queensland Health Victim Support Service (QHVS), and the Queensland Courts. There have been countless conversations, meetings and joint projects which have led to genuine improvements to the experiences of those we support. This is a wonderful foundation to continue to work at meeting the needs of those who lose a loved one to homicide, and us who work in this essential space.

I am also pleased to acknowledge the ongoing collaborative work between the funded victim support organisations - the need to have specialist and independent organisations is critical and I commend the successive Queensland Governments who recognise the need to stay away from a one size fits all approach to victim support.

We thank the Legal Affairs and Safety Committee for their focus on victim support. We hope that this becomes an ongoing conversation.

For ease of reading, I have allocated a new page for each item which are:

Part 1

- A. The need for specialised homicide support
- B. Referrals for homicide support
- C. Court support
- D. Parole and deportation of offenders

Part 2

- A. The time limit constraints in the current VOCA Act (2009) do not reflect the needs of homicide victims.
- B. Compulsory third party and Workers Compensation

I acknowledge the operations team at QHVS for their invaluable input into this document. The thousands of conversations that we have with those we support and the insights from the peers who we work beside allow us to develop a deep understand of the complexities that are faced.

Part 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.

A. The need for specialised homicide support

I will begin by emphasising the need *to maintain specialised support for homicide victims*, which sits outside of government. Being independent of government provides a greater ability to advocate without the need to adhere to what can be complicated bureaucratic processes. The research which appears below identifies the need to specialist support which QHVSG has provided for almost thirty years. Our work mirrors these findings.

Mastrocinque et al. (2015) argue that homicide can be considered a public health issue which impacts the survivors, with complex and longstanding consequences. It is common for survivors to develop mental health disorders, and even those survivors who do not receive a diagnosis typically experience complex grief and trauma symptoms which impact their ability daily functionality (Stretesky et al., 2010; Mastrocinque et al., 2015). These symptoms can be further aggravated external factors, such as navigating the legal system or the processes they must complete to access support (Mastrocinque et al., 2015).

Survivors also identified experiencing isolation, and one of the major alleviating factors was to attend peer support groups (Mastrocinque et al., 2015). Notability, survivors found the benefit when attending peer support groups specifically for survivors was much more significant than when attending general support groups for all victims of crime (Mastrocinque et al., 2015). Unlike primary victims, related victims often feel it is their duty to honour the memory of their loved one (Mezey, Evans & Hobdell, 2002). Aspects of their journey can be significantly different to primary victims as a related victim not only needs to consider their own recovery needs but also what is 'doing right' by their loved one (e.g., forgiving an offender, pursuing convictions, appropriate grieving periods, whether it is 'okay' to go on a holiday). As such, it is more appropriate to have a specialist support service for homicide victims as the support are unique from all other primary victims.

Additionally, survivors often find they are pushed to 'grieve' or 'heal' in accordance with certain timeframes, both directly and indirectly (e.g., family suggesting they need to move on, limits on when funded support is available; Dowsley, 2003; Mastrocinque et al., 2015). Due to these factors, it is important for homicide victims to access specialist support which is going to be available to them for life, not just in the immediate aftermath. Horne (2003) recommends that survivors need access to specialist support that will provide support which considers their individual circumstances and provide consistent counselling and case management. This is particularly important during the 8 weeks immediately following the homicide; however, these supports should remain available to survivors beyond this initial crisis period.

Studies indicate that a key factor which increases survivor wellbeing is having a sense of control, including access to support, space to grieve and involvement in the legal system (Armour, 2012). Survivors need to feel that they are respected by professionals within the legal system (e.g., police and prosecution) and given the right to share their wishes (Armour, 2012). Co-victims need specialist case management which can provide immediate emotional and practical support, including crime scene clean up, financial assistance and safety planning (Dowsley, 2003). Specialists must be able to provide appropriate advice and referrals to resolve a range of unique support needs that may not arise for other victims of crime including executor of estate duties, grief management, funeral arrangements, coronial investigations, childcare arrangements and media interest (Dowsley, 2003). Due to the unique circumstances and support needs of homicide victims, generalist services often lack the knowledge and specialisation to deliver the quality and timely trauma-informed support (Dowsley, 2003).

In their literature review, Vincent, McCormack and Johnson (2014) identify the unique needs of people who are impacted by the loss of someone to homicide. Their findings and recommendations also refer to the need for specialised support which includes crisis and early intervention, long term support, advocacy on behalf of those that they support, case management and access to peer support. Recent research remains consistent, with Pollard (2020) recommending wraparound supports for co-victims including advocacy, outreach, financial assistance. Werner (2022) recommended co-victims should have access to specialist wraparound support throughout all of their journey, including pre-trial, trial and post-trial phases (Werner, 2022). As such, it is essential for specialist support service which has capacity to provide case management, offer emotional support and advocate on behalf of the survivor. QHVSG is such a service which offers lifelong practical and emotional support, including peer support and 24/7 support line.

In 2011, the United Kingdom's Commissioner for Victims and Witnesses undertook a review into the needs of families bereaved by homicide.

In her report, Louise Casey CB recognises the need for families to access specialist support to come to terms with the trauma of their bereavement, which include case workers, advocacy specialists and access to peer support to be able to talk to someone 'who really knows how they feel.'

She adds that this support should be available to meet their changing needs from the immediate aftermath, through the criminal justice process and in the years after for as long as is needed. QHVSG Provides all of these aspects of support, including support when the perpetrator is applying for parole - this can be over twenty years after the homicide.

A concern for those that we support would be any decision that moves away from specialized support service to a generalist program. Any decision that sees a single organisation taking carriage of all victims of crime would be simply ignoring what the research is telling us.

In its 2020 Victim Services Review, the Centre for innovative justice also supports the need for a 'a highly specialised service to support families bereaved by homicide' and recognises that 'families have unique needs and interactions with criminal justice and coronial processes that will typically require the most intensive support.'

It supports phone based proactive support so that the family knows that the system recognised their experience, and the use of peer support in which are specific to homicide.

It discusses the need for 'dedicated, individualised and proactive case management to understand and respond to the support needs of each individual and family, and to identify where support needs and risk factors change or escalate over time.'

Alongside their grief, families bereaved by homicide face many practical demands, often in the immediate aftermath of the crime. This can include body identification; crime scene clean-up (where the crime occurred in the home); funeral arrangements, including arranging for the primary victim's body to be returned; the police investigation; and managing media attention.

Later demands include navigating criminal justice or coronial processes, including, eventually, parole decision making, and securing financial assistance.

There is a need to provide compassionate and comprehensive support.

Solution

For the Queensland Government to continue to fund organisations which are independent of government, and who specialise in type of crime which has occurred.

B. Coordination of services – keeping it simple.

Background

Keeping things simple is a logical way to provide support, which starts for QHVSG when a homicide occurs anywhere in QLD.

Our referral pathway is a simple one; when a homicide occurs, the relevant QPS officer sends a 'Homicide notification form via email to our office within 24-48 hours. This form provides the consent and contact details of the next of kin – we can then make contact.

QHVSG will make referrals and applications to relevant organisations at a point which is appropriate. QHVSG can provide handover with additional detail and specific requests, to ensure the member does not need to repeat traumatic information unnecessarily.

Issue

There are currently multi referrals for the same next of kin going to multiple agencies which can cause confusion. These include via Infoxchange to counselling services such as Victim Connect, financial services such as Victim Assist QLD or if there was a child victim, a possible referral to PACT.

A consequence of this is that the family members may then be contacted by several different services, all sounding like the same program as most services have victim in their name. It may also cause people to need to repeat their story repeatedly in a very short period.

It may also be the case that the referral needs to go to a CTP claim and not VAQ, or to an agency that isn't across funeral support.

Solution

Ensure that homicide matters are only referred to QHVSG.

Reducing the points of contact with to QHVSG, and the QPS police at this early stage will be less confusing for victims and allow our team to commence our support with less disruption.

C. Court support

Background

As a part of our tender, QHVSG is paid to provide a wide range of services, which includes court support. Our court support occurs in two fundamental ways.

1. Providing non- legal information in relation to the various stages of the criminal justice process (e.g., mentions, committal hearings, trials, appeals); and
2. The provision of in-person support for homicide victims who wish to attend court.

For most people who have lost someone to homicide, interacting with the criminal justice system is an extremely challenging experience. It is lengthy process, and it sees the family and friends being repeatedly reminded of their loss. It often means seeing the alleged offender, as well as hearing, and seeing distressing details of the event.

In a trauma-informed service, QHVSG must do all we can to provide in-person support – this is and will always be at the request of the family.

It is important to acknowledge that for some families, there is no trial or sentencing.

It may then be the case that the family is exposed to other hearings such as coronial inquests.

Issue

There is simply not enough funding being provided in the tender to allow the depth and breadth of court support that is needed homicide victims. Our model uses both paid and voluntary staff to attend courts across Queensland, however we have always needed to use the services of other court support agencies. At times, we simply cannot have a support person present at the court.

Having a second agency support a family may be a solution, but it is not ideal when we know the family well and have provided case management for a number of years. Expecting the family to meet a new supporter from a different agency isn't ideal, as the last thing many people want is to feel the need to get to know someone else in what is a highly confronting environment. This is just one more thing that does need to occur.

To address this, QHVSG have recently created a dedicated role to manage such tasks as oversee the court scheduling, supporting our trained volunteers, providing pre-court tours, support the writing of victim impact statements and acting as what will be a single point of contact for the ODPP and QPS, who provide updates around matters.

This however was not a part of our budgeting, and in a nutshell, we need to raise more money to provide the court support that is needed.

I need to be very clear that the support from DJAG and the QPS is essential and is highly valued. These departments and the ministers who lead them are incredibly supportive of QHVSG.

It is natural for me to request increased funding, but we will only do so if the genuine need exists. The area of court support does need more funding to increase of capacity to support families in what is one of the most traumatic stages of their journey.

Solution

To increase the funding via a variation to contract. This will enable QHVSG to enhance our capacity to support more families before, during and after the court.

D. Parole and deportation of offenders

Background

Individuals who are sentenced to murder in QLD are eligible for parole after a minimum of twenty years.

In its work, the QCS Victim Register adheres to the Queensland Charter of victims' rights which states that;

1 An eligible person in relation to an offender will be kept informed of the following matters.

- (a) the offender's period of imprisonment or detention.
- (b) the transfer of the offender to another facility.
- (c) the escape of the offender from custody or whether the offender is unlawfully at large.

Issue 1

This right to be informed ceases if the offender is to be deported.

There is currently an obvious gap in the communication processes for victims of crime in Australia between State and Federal agencies; this is having a significant impact on some of our most vulnerable citizens. Specifically, when a prisoner is given parole, and falls under the Australian Border Force Act 2015, victims of crime are not able receive any information in relation to whereabouts, or when they will be deported.

This creates a situation where people are consuming valuable support resources trying to gain information that is not available to them and seeking additional support for the distress that causes.

Victims feel completely disempowered yet only wish to know:

- a. that the offender if not in the community
- b. if they are going to be deported.
- c. when they have gone.
- d. if they can return to Australia.

Solution

We feel that there needs to be a Legislative change to ABF Part 6, to allow disclosure to relevant persons (QHVSG already adheres to the Australian Privacy Act 1988); or

Categorise QHVSG as government funded body to enable QHVSG to access this critical information to support our members. We do this is QLD with Victim Register for our members.

Issue 2

There is a way for prisoners who have been sentenced to homicide offences in QLD to arrange low security facility status.

Background

In 2020, I wrote to QCS to state the follow concern.

“QHVSG strongly opposed any person found guilty of a homicide offence being able to transfer to a low security facility eligibility.

For our members to know that the prisoner is given the luxury of working in a low security farm setting, having been convicted of a homicide related event where their loved one has been taken, creates a sense of betrayal in our correctional service system.

We understand the philosophy of parole and how preparation for re-entry into the community is critical. We also feel however that there are many strategies that can be utilised to do achieve this, without the luxury of a low-security farm setting.

In the instances where this has occurred recently, the family is deeply impacted.”

We are grateful that QSC supports this point of view and does not allow prisoners who have been sentenced to homicide to be incarcerated at low security facilities in QLD.

However, in both examples below, the QLD prisoners are being transferred to interstate prisons where they will have far better conditions than a low security facility, as they can now have day release prior to parole eligibility.

We feel that the ability to access low security go against the values that have been set in QLD.

Case 1

Background

- A QHVSG member had a family member murdered in QLD in early 2000.
- The person was sentenced to life with a minimum 15-year non-parole period.
- QLD based prisoners who are sentenced to homicide related offences are not eligible to transfer to Low Security Facilities (e.g., prison farms or day release in QLD).
- The prisoner transferred to a NSW Prison in mid-2015 where they were been deemed a ‘Category 1’ minimum security prisoner who has unescorted leave at the discretion of the Governor of the Correctional Centre. This may include day leave, weekend leave, educational leave, work release.

Issue

- Currently QLD prisoners are not approved for interstate transfer if this leads to an ‘improved sentence’ in the new state.
- The ‘improved sentence’ does not currently prevent the prisoner from accessing better ‘conditions’ in another state or territory.
- The murderer was approved for day release in the community. This has been detriment to victims’ wellbeing.
- We are of the view that Prisoners in QLD are aware of this loophole and are exploiting it.

- Registered victims do live in other states. By transferring a prisoner to (for example NSW) and allow them to access unsupervised released, how can QCS ensure that this will not lead to that prisoner being within same community that the victim's family lives or works?
- There is no avenue for appeal for the victim if this occurs.

Solution

- Ensure that prisoners who are sentenced for any homicide related offence are not able to transfer to another state or territory if this means that they can access benefits such as day release; we feel that 'Improved conditions' should be recognised as a part of the sentence.
- Provide registered victims with the ability to submit relevant information before the decision to transfer is made.
- Ensure that all eligible persons can provide input. ** Refer to Item B issue.
- Provide an avenue for appeal for the victims.

Case 2

Background

- A QHVSG member had a family member was murdered in the late 2000's.
- The offender was sentenced to life with a minimum 15-year non-parole.
- QLD based prisoners who are sentenced to homicide related offences are not eligible to transfer to Low Security Facilities (e.g., prison farms or day release in QLD).
- The offender transferred to a NSW Prison after 5 years in prison where it is believed that he will attempt to be deemed a 'Category 1' minimum security prisoner who has unescorted leave at the discretion of the Governor of the Correctional Centre. This may include day leave, weekend leave, educational leave, work release.

Issue and solution- are the same as Case 1.

**** Item B – The Minister for Corrections does not have all relevant proximity information to make a valid and reliable decision as pertains to the PITA Act (1982)**

Concern around current PITA Act (1982)

When a prisoner has an active eligible person registered with the QCS VR , a check is conducted with the QCS VR to seek information on whether there would be proximity information regarding the prisoner's request to transfer. For example, if a prisoner applied to transfer to Western Australia and an active eligible person resided in Western Australia, this would be noted for the Minister to consider when deciding on whether to consent to the interstate transfer. An application may not be denied solely based on this information.

It is the case however that the victim is not contacted to ask about other family members who may reside in the area where the prisoner is applying to transfer to.

Issue 1

This being the case, the Minister may not have reliable proximity information to base that part of the decision.

Solution

Move ahead with the proposed ‘opt out’ QCS VR system so that each person receives relevant information.

Issue 2

Under section 325 of the Corrective Services Act 2006, it states that the QCS VR may release information about a prisoner to an eligible person when the prisoner transfers interstate or overseas under a scheme for the transfer of persons imprisoned under a sentence. But there currently is no provision in the legislation that enables the QCS VR to seek a submission from an eligible person on the register prior to a transfer occurring.

For our members, this causes re-traumatisation. It also leads to the possibility of the prisoner being released into the very community that a related victim lives.

Solution

The same solution would address this issue. Ask for input from the victims as a part of the decision.

Restricted prisoner legislation.

We commend the State Government and the PBQ for adopting the Restricted Prisoner legislation. As of 5 April 2023,, there are five publicly listed decisions around the new legislation.

Specifically, we acknowledge that:

- a. Victims may no longer need to be faced with annual parole applications by the prisoner, and
- b. The parole board is considering *the likely effect that the prisoner’s release on parole may have on an eligible person.*

To recognise the traumatic impact of the release is a significant addition to the deliberations and is providing the opportunity for victims of homicide to be truly heard and their concerns further understood.

Our request

We also feel that this consideration should be included in all parole decisions which relate to homicide. We base this on our belief that ‘risk to the community’ must include the risks to the victim’s health and wellbeing, as opposed to only a physical risk.

Disclosing information to victims around return to prison orders.

We know that some homicide offenders who have been granted parole breach their conditions of release and have their parole suspended or cancelled. When this occurs, it raises significant concern for the victims. For example, what did the person do, did they hurt someone, where they close where we live, were they looking to harm the victims?

At this point in time, there is no mechanism for the victims to be provided with any insight into the reasons for the return to prisoner order. This lack of clarity creates uncertainty, fear and is re-traumatising families.

We appreciate that there are always issues around privacy, however we also feel that there is a need to provide some insight into situation.

If this information is provided, victims will be better able to cope, and we will be in a better position to support. The support extends to be ability to discuss the parole processes, and de-bunk and myths which may exist.

Part 2 - The operation and effectiveness of the Victims of Crime Assistance Act 2009 (the Act) for victims of violence

A. The time limit constraints in the current VOCA Act (2009) do not reflect the long-term needs of homicide victims.

Background

VAQ is a key stakeholder for us, and I am pleased to confirm that VAQ is open to discuss challenges that we bring forward from those we support. We are in communication on a case management and senior management on a regular basis.

Often these conversations are around processes but are also in relation to how the Victims of Crime Assistance Act (2009) could be amended to better reflect the actual journal of the homicide victim.

Funding support from VAQ to homicide victims is available for up to six years after the application is assessed, however the average sentence for manslaughter as of 2017, was 8.3 years. For murder, the offender is sentenced to a minimum of 20 years before they can apply for parole, but they are a prisoner for the rest of their life.

Issue

The journey for the homicide impacted families is a lifelong one however the funding support expires after six years.

This time restriction does not consider the potential impact on the family when they are facing situations such as:

- the offender applying for parole, and the family wishing to create a victim submission to the Parole Board.
- the offender being released from prisoner due to their sentence being served.
- attending No Body, No parole hearings.
- a prisoner being returned to prison for breaching parole conditions.

It is important to understand that these situations will occur up to and beyond twenty years after the homicide. Additionally, because a convicted murderer in QLD is always on parole, if the offender is released, they could be returned to prison at any point before they themselves pass away.

We cannot predict the experience of every person, but what we do know is that the victims themselves do not know how they will feel when these externally driven situations arise.

When these situations arise, there are many people who feel as if the homicide has just occurred again, that their sense of safety has been impacted and that a level of uncertainty exists which did not previously exist. Many people express that they are taken back to the day of their loss and feel as if they need to start the effort to recover all over again. This is an intergeneration issue.

It is obvious that specialised support is required, and as much as QHVSG is there to provide information, advice and support, there is also a need for the Act to be able to provide support for psychologist sessions, and to cover expenses if there is a need to travel to legal hearings such as No Body No parole hearings.

Solution

For the Victims of Crime Assistance Act 2009 to be amended to support the needs of homicide victims, to better reflect the long-term needs which exist beyond the current six-year period.

B. Compulsory third party and Workers Compensation

Background

There are situations where a homicide involves the use of a motor vehicle, or the death occurs in a workplace. In these situations, victims may be directed to their Compulsory third party and Workers Compensation insurer.

If this occurs, VAQ require them to receive an outcome first before any funding can be provided.

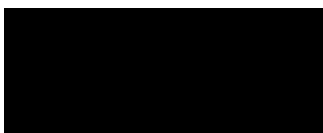
Issue

This creates a problem where the applicants are unable to access any financial assistance for long periods of time for urgent expenses (e.g., funeral, immediate safety concerns, loss of income).

Solution

For VAQ to assess the application and if approved, provide the financial support.

If the CTP or Workers Compensation is successful, the insurer must then reimburse all relevant funds to VAQ.



Brett Thompson

Chief Executive Officer

13 April, 2023.