

**Inquiry on strategies to prevent and reduce
criminal activity in Queensland**

Report No. 82

Legal Affairs and Community Safety Committee

November 2014

Legal Affairs and Community Safety Committee

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Abbreviations

ADCQ	Anti-Discrimination Commission Queensland
AFP	Australian Federal Police
AHRC	Australian Human Rights Commission
AIC	Australian Institute of Criminology
ALRC	Australian Law Reform Commission
ANSWLRC	Australian and New South Wales Law Reform Commissions
ATSILS	Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd
BAQ	Bar Association of Queensland
BDVS	Brisbane Domestic Violence Service
BOCSAR	NSW Bureau of Crime Statistics and Research
DVO	Domestic Violence Order
CALD	Culturally and linguistically different
CCRs	Coordinated community responses
CMC	former Crime and Misconduct Commission (now Crime and Corruption Commission)
Committee	Legal Affairs and Community Safety Committee
CPTED	Crime Prevention Through Environmental Design
DFV	domestic and family violence
EPIS	Evidence-based Prevention, Intervention and Support
FVIP	Family Violence Intervention Program (Australian Capital Territory)
GCDVIR	Gold Coast Domestic Violence Integrated Response
Inquiry	Inquiry on strategies to prevent and reduce criminal activity in Queensland referred to the Committee on
IWCADV	Ipswich Women's Centre Against Domestic Violence
PACSR	Keelty Police and Community Safety Review
PACT	Protect All Children Today Inc.
PLA	Prostitution Licensing Authority
QIFVLS	Queensland Indigenous Family Violence Legal Service
QLS	Queensland Law Society
QPRIME	Queensland Police Records Information Management Exchange

Abbreviations

QPS	Queensland Police Service
Senate Inquiry	The Australian Senate Legal and Constitutional Affairs References Committee inquiry – Value of a justice reinvestment approach to criminal justice in Australia
SPEAQ	Services and Practitioners for the Elimination of Abuse, Queensland
SRC	Social Responsibilities Committee of the Anglican Church of Southern Queensland
Taskforce	Special Taskforce on Domestic and Family Violence in Queensland
Terms of Reference	Means the terms of reference referred to the Committee on 22 May 2014, for the conduct of the Inquiry. The Terms of Reference are contained in Appendix A .
WIPAN	Women In Prison Advocacy Network
WLS	Women’s Legal Service
YAC	Youth Advocacy Centre

Chair's foreword

Crime affects every family, every organisation and business and every country. Governments spend substantial amounts on law enforcement, and dealing with crime after it has occurred, but it is in only recent times, the focus has moved to crime prevention and crime reduction.

There have been a number of reports emanating from our State, and other States, and the Commonwealth. Moreover, the United States of America have made great advances in how crime reduction and prevention is to be managed, the emphasis being on a diversion of funds to both reduction and prevention.

The themes to which I refer here impress me, though they must be taken as being within a holistic approach of all governments of Australia and governments in the future; a task for the steel willed and committed!

The themes to which I refer:

1. Government departments acting together in solving community problems: a family under the stress of alcohol abuse, drug abuse, truancy, unemployment – needing the support of Housing, Police, Corrections, Corrective Services, Health, Communities and Child Safety in a constructive and communal way;
2. Diverting revenue in an appropriate and measured way, from prisons to programmes for supporting families and, prisoners whose anti-social behaviour requires changing. This investment leading not only to a reduction in crime, but an increase in the number of productive members in our community;
3. Collecting data to assist in government in interpreting trends in crime. Assisting universities to assist in the research and in the interpretation of data and, lastly,
4. Knowing which diversionary or preventative programmes are effective. ensuring that these programmes are to be the subject of proper planning, with stated outcomes, and through the implementation and measurement of the progress in attaining those outcomes. Inputs and outcomes need then to be evaluated. The taxpayers of Queensland call for, and are entitled to, the maximum value for their dollar.

This report has been the focus of the Legal Affairs and Community Safety Committee and Secretariat for six months with an extensive travel itinerary. Substantial research and directed discussion and overall assistance was liberally given by our Secretariat. My Committee and I wish to acknowledge the hard work of the Secretariat. Our thanks, in particular, are extended to Mr Brook Hastie and Ms Lucy Manderson, and Mrs Gail Easton who worked tirelessly over the course of the Inquiry. With thanks also to Mr Peter Rogers, Ms Kelli Longworth and Mr Gregory Thomson who also supported the Inquiry and continued dealing with other demanding work referred to the Committee.

Personally, I wish to thank my Committee members for their constructive and non-partisan participation in a subject which is close to all our hearts; my Deputy Chairman, Mr Peter Wellington MP, Mr Bill Byrne MP whose contribution was limited by his movement to another Shadow Portfolio, but ably replaced by Mrs Yvette D'Ath MP.

Their assistance is both positive and experienced, and has given the report depth.

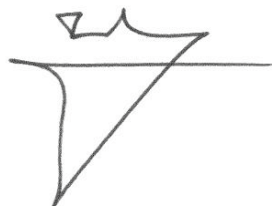
To my party colleagues, Mr Aaron Dillaway MP, Miss Verity Barton MP, Mr Sean Choat MP, and Mr Trevor Watts MP, I personally extend to each of them my heartfelt thanks for the effort and hours contributed by each of them. Their particular life skills, energies and background have all assisted in developing this report.

Chair's foreword

Their contribution was above what was required. Particularly when the number of Bills our Committee has had to consider without then considering the other work our Committee considers in its oversight role.

I thank all Members and at the Secretariat for their experiences, knowledge and considerations for each contributing to this report.

I commend this Report to the House!

A handwritten signature in black ink, consisting of a stylized, somewhat abstract shape that resembles a crown or a crest above a horizontal line, with a vertical line extending downwards from the center of the horizontal line.

Ian Berry MP

Chair

Recommendations

- Recommendation 1** **16**
The Committee recommends the Government develop a crime prevention framework for Queensland, consistent with the National Framework which can be used as a basis for all crime prevention activities throughout the State.
- Recommendation 2** **17**
The Committee recommends that a central repository of crime prevention strategies is established and made publicly available via a dedicated Queensland crime prevention website.
- Recommendation 3** **18**
The Committee recommends that the Government commit to a whole-of-government approach to crime prevention that can be applied across the State and develop a unified service delivery model across agencies to address current inconsistencies and inefficiencies.
- Recommendation 4** **30**
For crime prevention strategies to have maximum effect, the Committee recommends the Government make an ongoing commitment to research and evaluation and developing evidence based policies to address crime prevention.
- Recommendation 5** **31**
The Committee recommends the establishment of an independent unit or agency responsible for crime research, statistics, data collection and analysis to assist stakeholders with the provision of data and evidence to inform the development and implementation of crime prevention strategies.
- Recommendation 6** **40**
The Committee recommends the Government continues to support the Queensland Police Service's use of the QLITE systems and commits to (1) a further roll out of QLITE systems to officers around the State; and (2) appropriate training for officers to ensure the new technologies are used effectively.
- Recommendation 7** **40**
The Committee recommends the Government gives priority to actioning the PACSR recommendations in relation to Policelink to ensure the project is able to deliver results in accordance with its full capabilities.
- Recommendation 8** **41**
The Committee recommends that all relevant departments or agencies review their data collection practices with a goal to (a) improving the quality of data being collected; and (b) improving the capability for sharing the information across agencies.
- Recommendation 9** **41**
The Committee recommends the Government investigate the implementation and use of a unique person identifier to track offenders as they progress through the criminal justice system – including at a minimum interactions with the Queensland Police Service, appearances in courts and through corrections, and with possible extensions through education, health and other relevant agencies.
- Recommendation 10** **78**
The Committee recommends any legislation developed by the Government that creates a new offence, alters the penalty for an existing offence, or otherwise proposes to impact imprisonment incorporates an appropriate Corrections Impact Statement outlining associated imprisonment costs and savings.

Recommendation 11 **78**

The Committee recommends the Queensland Government explore options to reduce the number of prisoners on remand, and the median length of remand periods.

Recommendation 12 **78**

The Committee recommends the Queensland Government explore and evaluate options for improving engagement in educative and rehabilitative programs.

Recommendation 13 **78**

The Committee recommends the Queensland Government increase funding and resources for transitional and post-release support services for prisoners, to boost rehabilitation and address recidivism across the state.

Recommendation 14 **78**

The Committee recommends the Queensland Government review recidivism measures and variables to ensure collected data provides an accurate and useful informational picture to support informed and effective criminal justice policy.

Recommendation 15 **92**

The Committee recommends the Government recognise the importance of the collection of data for justice reinvestment initiatives and providing long term, sustainable funding for future programs including the provision of funding for robust evaluation.

Recommendation 16 **92**

The Committee recommends the Government commit to a justice reinvestment trial in Queensland (possibly in partnership with the Commonwealth, but not dependent on it), using a suitable Indigenous community and/or regional community as a justice reinvestment site. Such trial should be appropriately funded to extend beyond the electoral cycle and be subject to a robust evaluation process.

Recommendation 17 **108**

The Committee recommends the Government ensure the *Blueprint for the Future of Youth Justice in Queensland* includes scope for the implementation of evidence based, early intervention strategies to address each of the key age groups, being: (1) infancy and early childhood; (2) children under 10 years old; and (3) adolescents aged between 10 and 18 years.

Recommendation 18 **108**

The Committee recommends the Government review its funding models for early intervention programs to ensure funding is targeted at effective programs and ensure these programs have funding certainty, including funding for evaluation of the program.

Recommendation 19 **108**

The Committee recommends to achieve the desired success, the delivery of early intervention programs, including boot camps, include appropriate levels of post-activity services and support for program participants and their families.

Recommendation 20 **120**

The Committee recommends the Government recognise the benefits that can be obtained from a restorative justice approach and the potential savings to the criminal justice system that diversionary programs can deliver.

Recommendation 21 **120**

The Committee recommends the Government commit to robust evaluation of restorative justice and diversionary programs currently in operation to ensure programs are cost effective and deliver effective outcomes.

Recommendation 22 **120**

The Committee recommends the Government give consideration to reviewing the range of restorative justice and diversionary programs available, based on current evidence, to ensure the most effective options are implemented to achieve the best outcomes for Queenslanders.

Recommendation 23 **134**

The Committee recommends that any new domestic and family violence strategy developed by the Government include as key constituent components:

- o broad and targeted multi-level community, school, and local awareness and education programs to encourage violence-free attitudes and healthy relationships;
- o improved information sharing and integrated service delivery options to facilitate early intervention and coordinated service responses that appropriately address clients' specific support needs and safety risk factors;
- o more informed and specialised approaches to justice to better support victim safety, promote accountability, and target underlying attitudes and behaviours and other recidivism risks; and
- o ongoing research into the nature, extent and determinants of domestic and family violence, and systematic monitoring and evaluation of programs and their implementation, to ensure the State is best positioned to promote safe and healthy homes and families in Queensland.

Recommendation 24 **141**

The Committee recommends the Special Taskforce on Domestic and Family Violence in Queensland develop an agenda to support the ongoing implementation of primary prevention initiatives that engage a range of educative and behavioural skills approaches to reduce risk and increase protective factors at a number of levels, including schools, homes and the community.

Recommendation 25 **147**

The Committee recommends the priority development and funding of coordinated community responses to domestic and family violence at a local level within each region, including:

- o enhanced pathways and processes for information sharing, referrals, and service coordination;
- o the development and implementation of a shared risk assessment tool and best practice guidelines, in consultation with key domestic and family violence stakeholders;
- o the development of clear standards, requirements and protocols for information sharing subject to confidentiality, duty of care and risk reduction principles;
- o utilisation of high-risk assessment teams and mechanisms for case management approaches to high risk cases; and
- o the prioritisation of networking and professional development, including regular training for specific frontline roles, to support improved understanding and expanded capacity and domestic and family violence service performance across the criminal justice and community safety service sectors.

Recommendation 26 **172**

The Committee recommends increased resourcing and engagement of specialist domestic violence coordinators and liaison officers across the State, and throughout all stages of the policing and legal process.

Recommendation 27 **172**

The Committee recommends the provision of comprehensive and regular training regarding the complex nature and dynamics of domestic violence to all members of the Queensland Police Service and to other frontline service agencies, working with local specialist domestic violence services.

Recommendation 28 **172**

The Committee recommends consideration is given to the inclusion of the warning to the offender and instructions to the victim on the back of all domestic violence orders, similar to the wording proposed by the NSW Legal Assistance Forum Domestic Violence Working Group.

Recommendation 29 **173**

The Committee recommends the Special Taskforce on Domestic and Family Violence in Queensland consider appropriate actions for improved Queensland Police Service systems, guidelines and compliance, including:

- o options to streamline and enhance data recording and administrative processes to reduce duplication and support more informed, efficient and effective domestic and family violence responses;
- o mechanisms for improved evidence gathering and investigations, including emphasis on comprehensive collection of physical evidence and witness testimony, and use of evidence kits and options to support 'victim-free' prosecution;
- o improved client focus and consideration of extra domestic violence order conditions where appropriate;
- o a commitment to action on all incidents of breaches of domestic violence orders, including technical breaches;
- o a commitment to pursuing civil *and* criminal responses to domestic violence, including recording of reasons for action and inaction;
- o mechanisms to support improved communications and provision of information to clients, including performance standards and client surveys;
- o increased use of SupportLink and other referral mechanisms, including routine provision of information packs;
- o greater commitment to and employment of integrated and collaborative responses and approaches, including cross-agency placements; and
- o ongoing monitoring of application and charging practices, and service referrals, to support analysis of policy implementation and continuous improvement in service delivery.

Recommendation 30 **181**

The Committee recommends the Government develop and fund a comprehensive sector development strategy for intervention programs (men's behaviour change programs), to support a staged increase in the number and availability of programs and their enhanced delivery within coordinated community response frameworks across the State; including the necessary development of education, training and professional development and other support mechanisms, and accompanying monitoring and evaluation systems for continuous improvement.

Recommendation 31 **181**

The Committee recommends the Government review current professional practice standards in light of international best practice experience to ensure that programs are of an appropriate duration and form to best support behaviour change and family safety.

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- Recommendation 32** **181**
The Committee recommends the Special Taskforce on Domestic and Family Violence in Queensland review and recommend options for increased and early referral and uptake of intervention programs and improved program completion, including involuntary referral and program compliance mechanisms.
- Recommendation 33** **185**
The Committee recommends the application process for access to victim compensation be reviewed, simplified and streamlined to support more accessible and timely processing of applications in accordance with the requirements *and* principles of the *Victims of Crime Assistance Act 2009*.
- Recommendation 34** **185**
The Committee recommends the Special Taskforce on Domestic and Family Violence in Queensland review the need for amendments to the *Victims of Crime Assistance Act 2009* to ensure all victims of domestic violence are appropriately supported to access necessary assistance and compensation to support their participation in legal processes and ongoing safety needs.
- Recommendation 35** **186**
The Committee recommends that the Special Taskforce on Domestic and Family Violence in Queensland review consider possible legal amendments to strengthen the operation and application of the *Domestic and Family Violence Protection Act 2012* and associated legislation, including:
- o stand-alone domestic and family violence offences;
 - o aggravated offences of penalties for violence committed in the context of domestic and family relationships;
 - o alternative options for standards employed in legal tests for domestic violence orders; and
 - o statutory conditions for domestic violence orders.
- Recommendation 36** **186**
The Committee recommends that the Government take an active leadership role in encouraging inter-jurisdictional efforts to establish a national registration scheme for domestic and family violence orders.
- Recommendation 37** **197**
The Committee recommends the Queensland Government adopt a state-wide framework, policies and a whole-of-government approach to sexual violence that is consistent with the *National Plan to Reduce Violence Against Women and their Children, 2010-2022*.
- Recommendation 38** **204**
The Committee recommends as part of any Queensland Government framework adopted for addressing sexual violence, consideration is given to appropriate levels of research and funding for the development of education campaigns.
- Recommendation 39** **209**
The Committee recommends development of coordinated agenda to support the ongoing implementation of broad and targeted initiatives for the primary prevention of sexual assault across a number of settings and at various organisational levels, in line with best practice principles for behavioural change and key national frameworks and plans.
- Recommendation 40** **212**
The Committee recommends the Queensland Government explore options for gender segregation and other safety measures in psychiatric wards.

Recommendation 41 **212**

The Committee recommends the Queensland Government revise its guidelines for responding to sexual assaults within Queensland Health Inpatient Mental Health in consultation with key stakeholders, to ensure patients are provided with an appropriately safe and secure environment to support their recovery.

Recommendation 42 **214**

The Committee recommends the Queensland Government consider the introduction of legislation to create an offence for any person to intentionally distribute an intimate image or video of a person without consent.

Recommendation 43 **237**

The Committee recommends all Queensland Police Service officers be required to routinely undergo competency based training in understanding and responding to sexual violence that, including education in trauma and a strong attitudinal component.

Recommendation 44 **237**

The Committee recommends the Queensland Police Service explore options for the systematic training and use of forensic experiential trauma techniques by specialist officers.

Recommendation 45 **237**

The Committee recommends options to allow victims of sexual crimes to undergo an immediate forensic examination with forensic material stored for delayed release to police be reviewed, to support improved victim agency and evidential options.

Recommendation 46 **237**

The Committee recommends the Queensland Police Service consider the introduction of trained, specialist sexual violence officers and units with a view to implementation.

Recommendation 47 **237**

The Committee recommends the Queensland Police Service consider options to improve communication of information and feedback to victims, including quality assurance systems and communication-based performance standards and measures.

Recommendation 48 **237**

The Committee recommends the Queensland Government coordinate with stakeholders on the development of a comprehensive information pack and web resources that can provide victims with accurate information about their rights within the criminal justice system, legal process, and Queensland-based support options.

Recommendation 49 **237**

The Committee recommends the Queensland Police be required to record and communicate the reasons for discontinuance at each stage of the criminal justice program, to support research into the factors influencing case attrition, and particularly the significant reduction in sexual offences committed to the higher Courts in Queensland.

Recommendation 50 **237**

The Committee recommends the Government establish a multi-disciplinary working party of stakeholders including representatives drawn from police, ODPP, sexual violence services, forensic medical officers and victims/survivors to review and improve the criminal justice system response to sexual violence, including consideration of collaborative criminal justice models.

- Recommendation 51** **242**
The Committee recommends the Department of Justice and Attorney-General consider developing a comprehensive sentencing information package, similar to that available in New South Wales, to enhance the public’s knowledge on sentencing procedures and terminology.
- Recommendation 52** **248**
The Committee recommends the Government provide sufficient resources to the Queensland Courts to enable a full review of options for the broadcasting of court proceedings.
- Recommendation 53** **261**
The Committee recommends the Department of Justice and Attorney-General work with local courts to establish appropriate victim waiting rooms, protection and remote witness facilities to preserve confidentiality and safety in all local courts around the State.
- Recommendation 54** **271**
The Committee recommends the Government examine current shortfalls in interpreter services for all parties, and work with local courts to deploy technological and other solutions to address these service gaps.
- Recommendation 55** **271**
The Committee recommends the Domestic Violence Taskforce consider more systematic provision of options to allow victims of domestic and family violence to give evidence via audio-visual link, closed circuit television and other means, and to otherwise minimise unnecessary court appearances.
- Recommendation 56** **272**
In line with the ANSWLRC recommendations, the Committee recommends police operational guidelines, reinforced by training, should require police, when preparing witness statements in relation to breach of protection order proceedings, to ask victims about the impact of the breach, and advise them that they may wish to make a victim impact statement and about the use that can be made of such a statement.
- Recommendation 57** **272**
The Committee recommends the Queensland Police Service and Office of the District Public Prosecutor consider establishing minimum service standards for ensuring victims are kept well informed throughout the prosecution process.
- Recommendation 58** **272**
The Committee recommends the Department of Justice and Attorney-General and Legal Aid Queensland consider the establishment of a domestic and family violence duty lawyer service and other options to support the provision of specialised and experienced representation for domestic and family violence matters.
- Recommendation 59** **272**
The Committee recommends the Department of Justice and Attorney-General work to expand and maintain domestic and family violence respondent court work or other specialist court lists and processes across all Magistrates Courts in Queensland, together with accompanying support court services for aggrieved parties.

Recommendation 60 **273**

The Committee recommends the development of a comprehensive and role-specific education and training framework for all court staff (including registry staff, volunteers and Justices of the Peace), legal professionals and Magistrates about the nature, dynamics and risk indicators of domestic and family violence, in coordination with specialist domestic violence workers.

Recommendation 61 **273**

The Committee recommends that training for all Queensland Magistrates, Registrars and senior legal officials include instruction in the operation and integration of the *Domestic and Family Violence Protection Act 2012* (Qld) and the *Family Law Act 1975* (Cwth) (with relevant amendments).

Recommendation 62 **273**

The Committee recommends that the Queensland Attorney-General and Minister for Justice consult with the Commonwealth Attorney-General to develop effective methods for information sharing between the Family Court of Australia and Queensland courts, with a view to ensuring Queensland magistrates and judges have the technological and legal capacity to promptly determine whether a party is subject to a current family law order and the conditions of that order.

Recommendation 63 **273**

The Committee recommends that the Domestic Violence Taskforce review the feasibility of increased use of rehabilitative sentencing options for domestic violence offences to enhance tertiary prevention, including referrals to support services, treatment programs, counselling and intervention programs.

Recommendation 64 **282**

The Committee recommends the Queensland Government consider reforms to legislation on sexual assault communications privilege to protect the privacy of victims/survivors as occurs in other Australian States and Territories.

Recommendation 65 **284**

The Committee recommends the Queensland Government work with the Queensland Law Society and Bar Association of Queensland to explore options to expand and enhance education and training on sexual assault for all legal professionals.

Recommendation 66 **285**

The Committee recommends that the Queensland Government consider the introduction of sexual offence provisions providing that a judge must, if it is relevant to the facts in issue in a sexual offence proceeding, provide a direction in relation to the meaning and application of consent, in keeping with the recommendations of the ANSWLRC.

Recommendation 67 **285**

The Committee recommends the Queensland Government consider options for the introduction of time restrictions and other processes to expedite court proceedings for domestic violence, sexual offences, cases involving child victims and witnesses and other high sensitivity matters, whilst balancing the due process rights of the accused.

Recommendation 68 **285**

The Committee recommends that the Queensland Government give consideration to the development and trial of specialised court lists and prosecution units to respond to sexual offences in Queensland.

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- Recommendation 69** **285**
The Committee recommends the Queensland Government reforms legislation on sexual assault communications privilege to protect the privacy of victims/survivors in line with other Australian states and territories.
- Recommendation 70** **285**
The Committee recommends that special witness provisions are made mandatory for all violent sexual offences.
- Recommendation 71** **285**
The Committee recommends the Queensland Government provide funding for specialist sexual violence support and prevention services to provide court support for victims who have experienced sexual violence.
- Recommendation 72** **297**
The Committee recommends the Government take steps to action the outstanding recommendations from the Crime and Misconduct Commission's 2011 review of the *Prostitution Act 2009*.
- Recommendation 73** **297**
The Committee recommends the Government consider reviewing in further detail the incidence of trafficking, current support service levels in the prostitution industry, and the need for further policy development and response to ensure Queensland policies remain consistent with inter-jurisdictional partnerships and efforts.
- Recommendation 74** **311**
The Committee recommends the Government recognise the over-representation of Indigenous people in the criminal justice system can be best met by targeting the underlying causes of crime.**311**
- Recommendation 75** **312**
The Committee recommends the Government give consideration to trialling a bail hostel program in a suitable location, and dispensing with bail where the accused has committed a minor offence.
- Recommendation 76** **312**
The Committee recommends the Government establish an Indigenous Employment Taskforce to investigate sustainable employment and training opportunities for each Indigenous community in Queensland; and develop strategies specific to community need and geographic employment opportunities.
- Recommendation 77** **312**
The Committee recommends the Government investigate programs for greater culturally specific training and commit to the further development for teachers and teacher's aides working with Indigenous children.
- Recommendation 78** **312**
The Committee recommends the Government review its funding models for the provision of Indigenous services to ensure:
- o organisations providing a discrete service are not marginalised within the funding cycle;
 - o greater certainty is provided for programs that require long term funding; and
 - o greater coordination between service providers is achieved.

Recommendation 79 **312**

The Committee recommends the Government investigate programs to address the systemic hearing problems faced by the Indigenous youth, particularly in rural and remote communities.

Recommendation 80 **317**

The Committee recommends greater efforts be made to capture data about the representation of, and outcomes for, people with cognitive impairment and mental illness at all stages in the criminal justice system.

Recommendation 81 **321**

The Committee recommends the Queensland Police Service review their training packages, policies and procedural manuals to improve the way police interact with people with a disability. In particular, the following issues should be considered in detail:

- o Identification of people with disability;
- o Provision of support and advocacy for people with disability when they are subject to questioning and arrest; and
- o Appropriate questioning and interviewing techniques of people with disability.

Recommendation 82 **325**

The Committee recommends the current review of the *Mental Health Act 2000* not only addresses the deficiencies in the law raised by the Court of Appeal but also addresses the disconnect between orders of the court and other government departments to deliver a holistic approach to mental health issues.

Recommendation 83 **325**

The Committee recommends the Government consider expanding the court liaison staffing programs to include services for people with intellectual and cognitive impairment.

Recommendation 84 **328**

The Committee recommends the Government consider implementing a Disability Justice Plan for Queensland to give further recognition to the challenges faced by people with disability in accessing the justice system.

Recommendation 85 **340**

The Committee recommends the Government and local councils take an active role in promoting CPTED principles in the planning of all new developments.

Recommendation 86 **340**

The Committee recommends the Government engage with local councils to ensure there is a coordinated approach to funding CCTV programs for crime prevention.

Recommendation 87 **340**

The Committee recommends the Queensland Police Service continue to promote a greater use of social media with the community, particularly with Neighbourhood Watch programs in order to engage a broader cross-section of community involvement in these programs.

Recommendation 88 **340**

The Committee recommends the Queensland Police Service continue to engage with the community in developing advertising and education initiatives to raise awareness of the routine precautions individuals must take to build safer communities.

1. Introduction

1.1 Role of the Committee

The Legal Affairs and Community Safety Committee (Committee) is a bipartisan portfolio committee of the Legislative Assembly which commenced on 18 May 2012 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The Committee's primary areas of responsibility include:

- Justice and Attorney-General;
- Police Service; and
- Fire and Emergency Services.

Section 92 of the *Parliament of Queensland Act 2001* provides, in relation to its areas of responsibility, a portfolio committee is responsible for:

- considering legislation and proposed legislation;
- considering Appropriation Bills;
- performing a public accounts and public works role; and
- dealing with any other issues referred to it by the Legislative Assembly or under another Act of Parliament.

1.2 Referral of the Inquiry

On 22 May 2014, the Legislative Assembly agreed to a motion that the Committee conduct an inquiry on strategies to prevent and reduce criminal activity (Inquiry), by examining:

- the trends and type of criminal activity in Queensland, having regard to available crime statistics and issues in relation to unreported crime;
- the social and economic contributors to crime;
- the impacts of this criminal activity on the community and individuals, including the social and economic impacts;
- the effectiveness (including the cost effectiveness) of crime prevention strategies, including imprisonment, justice reinvestment, early intervention, alternative dispute resolution, and other models used in national and international jurisdictions;
- the experiences of Queenslanders with regard to the criminal justice system, including the experiences of victims of sexual violence and/or domestic violence including their interactions with the Queensland Police Service, the courts, prosecuting authorities, legal and support services and compensation processes; and
- possible strategies to increase collaboration and co-operation between various participants in the criminal justice system.

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

Under the terms of reference, the Committee was to recommend measures to curb criminal activity, reduce rates of recidivism, and build a safer community and in undertaking the Inquiry the Committee was to:

- hold public and private hearings across Queensland;
- ensure such hearings include an examination of available crime statistics for the relevant area or region; and
- take public and private submissions.

The Legislative Assembly set a reporting date for the Committee of 31 October 2014.

On 16 October 2014, the Legislative Assembly extended the reporting date for the Inquiry to 28 November 2014.

1.3 Inquiry process

After receiving the referral, the Committee determined it would call for public submissions and set a closing date at 18 July 2014. The Committee received a total of 85 written submissions. A list of those who made submissions is provided at **Appendix B**.

Due to the breadth of the Terms of Reference the Committee met early on with representatives from the Queensland Police Service (QPS) and the Department of Justice and Attorney-General to discuss a number of issues about the Queensland criminal justice system.² The Committee also invited academics to discuss the matters referred to in the Terms of Reference and get a broader understanding of some of the issues that the Committee might encounter throughout the course of the Inquiry.

In accordance with the Terms of Reference, the Committee also held a number of public and private hearings across the State to hear not only from professional bodies but also from individuals who told their story to the Committee, setting out their experiences with the criminal justice system. Hearings were held at:

- Southport on 28 July 2014;
- Ipswich on 29 July 2014;
- Mooloolaba on 30 July 2014;
- Toowoomba on 31 July 2014;
- Brisbane on 6 and 8 August 2014;
- Mount Isa on 11 August 2014;
- Townsville on 12 August 2014;
- Cairns on 13 August 2014;
- Rockhampton on 14 August 2014; and
- Cherbourg on 24 September 2014.

² The Private Meeting was held at the Parliamentary Annexe, Brisbane on 12 June 2014.

A list of witnesses who provided evidence to the Committee appears at **Appendix C**. Transcripts for the public hearings are available on the Committee website.³

The Committee received large amounts of evidence from submitters and witnesses and more information through its own research. This report sets out a summary of the Committee's consideration of the evidence and makes a number of recommendations for consideration by the Government on strategies to prevent and reduce criminal activity in Queensland and other related matters.

³ www.parliament.qld.gov.au/lacsc.

2. Crime Prevention Overview and Approaches

Crime prevention as a strategy for governments is not a new concept. It has long been accepted that implementation of strategies or programs aimed at preventing the incidence of crime is one of the most effective ways of reducing the overall levels of crime.

According to the National Crime Prevention Framework (prepared by the Australian Institute of Criminology (AIC) on behalf of the Australian and New Zealand Crime Prevention Senior Officers' Group), crime prevention includes:

...strategies and measures that seek to reduce the risk of crime occurring, and their potential harmful effects on individuals and society, including fear of crime, by intervening to influence their multiple causes.⁴

In addition to improving the general safety and security of individuals that comes with more general law enforcement efforts, crime prevention strategies can have a number of other benefits including:

- reducing the long term costs associated with the criminal justice system;
- reducing the direct costs of crime – both economic and social;
- reducing the indirect costs of crime – by increased savings in areas such as welfare and health care payments; and
- a general improvement in the quality of life of members in the community.

2.1 Approaches to Crime Prevention

While the concept of crime prevention appears relatively simple at first glance, crime prevention is complex with a range of factors influencing which type of strategy or program to use for a particular problem at any given time.

There are four generally accepted approaches to crime prevention, to which consideration should be given when looking at how to address particular problems.

Criminal Justice approaches – which see the police and other law enforcement agencies carrying out their core business of enforcing the laws and offenders being held to account by progressing through the courts and correctional facilities.

Social or developmental approaches – which focus primarily on 'early intervention' and targets areas to address the underlying social and economic causes of such crime. These types of approaches often focus on parenting programs and school based programs and aim to reduce the likelihood of young people entering the criminal justice system.

Situational or environmental approaches – which look more at the physical environment in which crime occurs. These approaches aim to reduce opportunities for crime through better design, organisation and management of public places, and generally improving security measures for both homes and businesses.

Community based approaches – which, as the name suggests, focus on neighbourhoods or suburbs where the community as a group develops initiatives that aim to strengthen the community spirit, encourage social interaction and reduce the incidence of crime through increased community

⁴ [National Crime Prevention Framework](#), prepared by the AIC on behalf of the Australian and New Zealand Crime Prevention Senior Officers' Group, page 4, Citing the United Nations Economic and Social Council, 2002, *Guidelines for the prevention of crime*. 11th Commission on the prevention of crime and criminal justice. Resolution 2002/13, Annex. New York.

engagement. A greater sense of community is aimed at changing the attitudes of would be offenders and involving them in community projects.

Research has shown that no single approach is more beneficial than any other, with each having their place to address individual problems. What has also been shown, is that whatever the approach is that has been taken, to ensure its success - it must be well planned and coordinated, appropriately resourced and have the commitment of all those involved.

2.2 National Crime Prevention Framework

The National Crime Prevention Framework was prepared by the AIC on behalf of the Australia and New Zealand Crime Prevention Senior Officers' Group in which Queensland has membership.

The National Crime Prevention Framework was developed as a resource which outlines the most effective approaches to the prevention of crime.⁵ Its stated purpose is to:

- *support a coordinated approach to addressing crime and safety issues of national importance, including new and emerging crime problems;*
- *promote an improved level of collaboration between crime prevention agencies operating in each jurisdiction;*
- *improve the effectiveness of crime prevention across Australia by promoting principles of good practice and successful strategies;*
- *encourage increased commitment to crime prevention at all levels of government and across different sectors; and*
- *assist in guiding the allocation of crime prevention resources to achieve the greatest impact.*⁶

The framework states it does not aim to prescribe specific actions that must be implemented by stakeholders involved in the delivery of crime prevention, but rather it provides '*guidance by way of information on best practice to assist with the development of appropriate policies, strategies and programs to address crime problems*'.⁷

The outcomes which the national framework aims to achieve are:

- *a reduction in crime and disorder problems that are of greatest harm and concern to the community;*
- *increased community safety, security and cohesion, including a reduction in the actual and perceived risk of victimisation;*
- *increased support for people to cope with the impact of victimisation; and*
- *a reduction in reoffending among those people who have already engaged in criminal or antisocial behaviour.*⁸

The national framework contains key principles for good practice. The principles are consistent with international standards for crime prevention, and are to a degree similar to the United Nations Guidelines for the Prevention of Crime (which are also set out in the national framework).

⁵ [National Crime Prevention Framework](#), prepared by the AIC on behalf of the Australian and New Zealand Crime Prevention Senior Officers' Group, page 3.

⁶ [Ibid](#), page 3.

⁷ [Ibid](#), page 3.

⁸ [Ibid](#), page 4.

The principles are:

1. *Strong and committed leadership at all levels;*
2. *Collaboration between multiple stakeholders to address the wide-ranging causes of crime and to draw upon the skills, expertise, resources and responsibilities necessary to address those causes;*
3. *The practical application of research and evaluation findings in the development and implementation of measures to reduce crime, targeted to areas of the greatest need and adapted to suit local conditions;*
4. *A focus on outcomes and a commitment to demonstrating measurable results through evaluation and performance measurement, with clear lines of accountability;*
5. *Building and maintaining the capacity to implement effective crime prevention policies and interventions;*
6. *Promoting an active and engaged community, and being responsive to the diversity and changing nature of communities;*
7. *Long-term commitment to achieving sustainable reductions in crime and savings to the criminal justice system and the community; and*
8. *Coordination across sectors to embed crime prevention into relevant social and economic policies, including education, employment, health, and housing policies, particularly those directed towards at-risk communities, children, families and youth.*⁹

The national framework also identifies five priority crime areas which require a concerted and coordinated response:

- Reducing alcohol-related violence;
- Improving the safety of young people;
- Improving the safety of Indigenous people;
- Preventing child abuse and neglect; and
- Reducing violence against women.¹⁰

The national framework is a working document that is intended to be subject to ongoing review so as to include new and emerging issues as they arise.

2.3 Crime prevention in other jurisdictions

Taking into account the development of the National Crime Prevention Framework as a resource for all Australian jurisdictions, the Committee briefly examined recent initiatives by other jurisdictions in approaching crime prevention.

National level

Although the states and territories have the primary responsibility for crime prevention and the operation of their respective criminal justice systems, the Australian Government has conducted a number of crime prevention initiatives in recent years.

⁹ [Ibid](#), pages 4-5.

¹⁰ [Ibid](#), page 11.

The National Community Crime Prevention Programme was established in 2004 and delivered funding of \$65.5 million over a period of four years for 'grass roots projects' designed to enhance community safety and security, and reduce the fear of crime.¹¹

Currently, the Australian Government is conducting the Safer Streets Programme which is designed to deliver effective solutions to local crime hot spots and address anti-social behaviours with a focus on retail, entertainment and commercial precincts.¹²

Funding under the Safer Streets Programme is only open to organisations who were invited to apply by the Commonwealth Attorney-General's Department in May 2014 for the delivery of specific commitments.¹³

Western Australia

The Western Australian Government conducted a strategic review of its crime prevention policy in 2011. Where crime prevention policy was previously undertaken by a separate and independent office – the Office of Crime Prevention, it is now managed by the Western Australian Police (WA Police).

The WA Police have a Strategic Crime Prevention Division which is responsible for identifying priorities for crime prevention and implementing the State Community Crime Prevention Plan 2011-2014 and Crime Prevention Strategy 2011-2014 which were developed out of the strategic review.

The WA Crime Prevention Strategy 2011-2014 has a number of priorities which are set out below:

Acquisition and application of intelligence

- *Aim: Improve the use of WA Police data and intelligence in the development of crime prevention initiatives.*

Community engagement

- *Aim: Create better relationships through community engagement.*

Education and support

- *Aim: Support all levels of police in the delivery of crime prevention.*

Partnership with agencies

- *Aim: Work with Government and partner agencies at local, district and state levels.*

Supporting Aboriginal and social minority groups

- *Aim: Support Aboriginal, Culturally and Linguistically Diverse and other emerging communities in their crime prevention efforts.*

Evidence based approach to crime prevention

- *Aim: Use an evidence based approach when developing crime prevention initiatives.*

¹¹ [National Community Crime Prevention Programme](#), Australian Government, Attorney-General's Department, Crime Prevention.

¹² [Australian Government Crime Prevention Initiatives](#), Australian Government, Attorney-General's Department, Crime Prevention.

¹³ [Ibid.](#)

Situational Crime prevention and designing out crime

- *Aim: Apply situational crime prevention methods in response to crime issues.*¹⁴

The WA Police crime prevention model relies heavily on partnerships with state and local government bodies, non-government agencies and local community groups to develop sustainable solutions for crime and anti-social issues.

New South Wales

The New South Wales Government does not have a stand-alone crime prevention framework or strategy however has committed to crime prevention in goal 16 of the New South Wales State Plan – ‘NSW 2021’.¹⁵

NSW 2021 was released in September 2011 as the NSW Government’s 10 year plan to guide policy and budget decision making and, in conjunction with the NSW Budget, to deliver on community priorities.¹⁶

Goal 16 of the plan commits to specific targets for New South Wales as follows:

Reduce Crime Levels

- *Reduce domestic violence;*
- *Reduce alcohol related assaults;*
- *Reduce other personal crime by 10% by 2015-16;*
- *Reduce property crime by 15% by 2015-16.*

Increase confidence in police

Increase confidence in the NSW Police Force so people feel comfortable reporting crime and know that an appropriate course of action will be taken. Key actions include:

- *Improve customer service via enhanced community engagement, victim support and service improvement initiatives;*
- *Implement a new Neighbourhood Watch program across NSW and trial the online Neighbourhood Watch program – project eyewatch – which gives local residents the opportunity to participate with their local Police in active crime prevention using the social network site Facebook;*
- *Strengthen Police and Community Youth Clubs.*¹⁷

Goal 17 of the NSW 2021 plan also sets specific targets for the reduction of re-offending by 5% by 2016. Initiatives for the reduction of re-offending rates include:

- *Expand the Drug Court by opening a second location in the Sydney metropolitan area to ensure offenders with drug addictions have access to appropriate rehabilitation services;*
- *Establish dedicated metropolitan drug treatment facilities focused on treatment, rehabilitation and keeping drugs out of prisons;*

¹⁴ [Crime Prevention Strategy 2011-2014](#), Western Australia Police, May 2011, page 5.

¹⁵ [NSW 2021, A Plan to make NSW Number One](#), NSW Government, September 2011, page 3.

¹⁶ [Ibid](#), page 3.

¹⁷ [Ibid](#), page 34.

- *Improve effectiveness of literacy and numeracy education programs provided to inmates;*
- *Encourage greater use of non-custodial punishment for less serious offenders and create availability and access to diversionary programs;*
- *Develop an effective strategy for reducing juvenile re-offending through improved early intervention and post-release support; and*
- *Expand the options available to courts and Police to reduce repeat traffic offenders.*

As part of breaking the re-offending cycle, Goal 17 of the NSW 2021 plan aims to increase completion rates for key treatment and intervention programs in which offenders participate. To that end, the NSW Government intends to:

- *Review treatment and intervention programs to identify ways to increase completion rates;*
- *Improve the way government agencies share information to deliver integrated services and management of offenders;*
- *Assist in diverting people with mental health problems out of the criminal justice system and into services which meet their needs.¹⁸*

Finally, linked to the reduction of crime and re-offending goals, the NSW 2021 plan contains a further goal (Goal 18) to increase community confidence in the justice system.

This is intended to be achieved in two parts, the first being through an efficient court system. The goal sets specific targets for court clearance rates and aims to increase community confidence through:

- *an improved web presence that provides accurate information about the court process, access to forms, and the ability to lodge documents online;*
- *increased access points including contact centres staffed for extended hours to answer inquiries; and*
- *an increase in awareness and use of Alternative Dispute Resolution and Community Justice Centres to resolve disputes.¹⁹*

The second initiative aims to increase community confidence in the justice system through an enhanced understanding of the justice system by victims and the community more broadly. This is stated to be achieved through greater transparency of decisions and broader understanding of why decisions are made; and giving greater support to and strengthening the justice system to better align with community expectations.

The NSW 2021 plan looks to establish a Commissioner of Victims' Rights to provide advice to the NSW Government, advance victims' rights, and also assist victims in their interactions with government agencies and other organisations. As part of its plan, the NSW Government will assess and promote community understanding of the justice system by undertaking surveys into confidence and participation in the court process; and increase stakeholder and community understanding of the management of offenders in custody and in the community through improved access to information.²⁰

¹⁸ [Ibid](#), page 35.

¹⁹ [Ibid](#), page 36.

²⁰ [Ibid](#), page 36.

While the NSW Police Force plays a large part in crime prevention, the Attorney-General's Department leads the implementation of crime prevention programs in NSW. Similar to Western Australia, the NSW model relies heavily on cooperation with local governments.

The Crime Prevention and Community Programs Division of the Department of Justice develops evidence-based policies and programs to prevent crime and in conjunction with the AIC, publishes strategies for implementation by local councils. Councils are able to develop and submit a Crime Prevention Strategy based on accurate data provided by the NSW Bureau of Crime Statistics and Research (BOCSAR)²¹ and if endorsed by the Attorney-General, receive a grant for the implementation of their plan.²²

Victoria

The Victorian Government has had a dedicated crime prevention Ministerial portfolio since 2010 when it established a Community Crime Prevention Unit of the Department of Justice. In response to the release of crime statistics in Victoria showing that crime against the person had increased in 2010, the Victorian Parliament's Drugs and Crime Prevention Committee conducted an in-depth inquiry into locally based approaches to community safety and crime prevention.²³

The Drugs and Crime Prevention Committee spent over a year examining the processes and models through which crime prevention policies and programs can be developed and implemented at local levels. That committee made 36 recommendations in its report including:

- *a crime prevention and community safety framework be developed for Victoria;*
- *implementation of crime prevention strategies should generally be led by the Community Crime Prevention Unit of the Victorian Government;*
- *the establishment of an Interdepartmental Crime Prevention Working Group to coordinate programs across government departments;*
- *all councils and shires that do not have a community safety and crime prevention committee should establish one;*
- *the need for state-wide evidence based research to be undertaken to ensure crime prevention strategies are effective and modelled on 'best practice'; and*
- *the Victorian Government establish an independent crime research, statistics and data/collection or analysis agency to inform the development and implementation of crime prevention strategies and initiatives.*²⁴

The Victorian Government either supported, or supported in principle all recommendations in the report and in 2014 released its own Community Crime Prevention Framework.²⁵ The framework has six principles underpinning the Victorian Government's approach to crime prevention:

- *Crime prevention actions should be based on knowledge about crime problems, their causes and proven practices;*
- *Local communities are best placed to develop and deliver crime prevention solutions that work in their neighbourhoods;*

²¹ The role of the BOCSAR is considered in further detail later in this report.

²² [Guidelines for developing a crime prevention strategy](#), NSW Government.

²³ [Inquiry into locally based approaches to community safety and crime prevention – Final Report](#), Drugs and Crime Prevention Committee, Parliament of Victoria, June 2012.

²⁴ [Ibid.](#)

²⁵ [Community Crime Prevention Framework](#), Department of Justice, State of Victoria, 2014.

- *Crime prevention is a shared responsibility; addressing the wide ranging causes of crime requires collaboration between multiple stakeholders;*
- *Government has a role in building capability in local communities and supporting and empowering them to identify and address local issues;*
- *Effective crime prevention measures should inform strategies and interventions; and*
- *Effective crime prevention requires the implementation of different types of interventions.*

Similar to the approaches in other states, the Victorian framework again relies heavily on the state government working together with local governments and local communities. Its community crime prevention program established a number of grant programs including:

Community Safety Fund Grants – for communities to implement locally based crime prevention projects;

Graffiti Prevention and Removal Grants – to councils to partner with local communities across Victoria to develop local solutions to graffiti;

Public Safety Infrastructure Fund Grants – to councils for the development of public safety and security infrastructure to improve community safety and confidence in public places;

Reducing Violence against Women and their Children Grants – to support primary prevention and early intervention focused partnership projects across community service organisations and local governments to reduce violence against women and children.

All these initiatives are contained on a single Victorian crime prevention website.

2.4 What is Queensland doing?

Queensland has approached crime prevention in a number of ways in recent years however there is no current state wide crime prevention strategy or framework.

Previous strategies

The most recent attempt at a whole-of-government crime prevention strategy arose out of the establishment of the Task Force on Crime Prevention by the then Premier, the Honourable Peter Beattie MP in 1998. The task force developed the *Queensland Crime Prevention Strategy – Building Safer Communities* as a crime prevention manual which was launched on 20 December 1999.

The *Queensland Crime Prevention Strategy* contained six key principles to guide crime prevention activity in Queensland. These principles were:

- *Community involvement and ownership;*
- *Working better and working together;*
- *A comprehensive approach;*
- *A focus on people and places;*
- *Value for money; and*
- *A focus on outcomes and on what works.*²⁶

²⁶ Building Safer Communities: A Crime Prevention Manual for Queensland, Department of the Premier and Cabinet, 1999, page 7.

The *Queensland Crime Prevention Strategy* also identified five key goals as:

- *Strengthening communities;*
- *Supporting families, children and young people;*
- *Reducing violence;*
- *Enhancing public safety; and*
- *Dealing with offending.*²⁷

At that time, the Queensland Department of the Premier and Cabinet established Crime Prevention Queensland as a unit of its Community Engagement Division to facilitate and support community involvement in crime prevention.²⁸ That unit no longer exists.

The current position

Currently, the QPS is the Government's lead agency for crime prevention in Queensland.²⁹ According to the QPS website:

*The QPS recognises that implementing and sustaining effective and efficient crime prevention programs can contribute significantly to the achievement of stopping crime and making Queensland safer. Effective approaches to crime prevention are outlined in the National Crime Prevention Framework developed by the Australian Institute of Criminology on behalf of the Australia and New Zealand Crime Prevention Senior Officers' Group. The Framework provides guidance to assist with development of appropriate policies, strategies and programs to address crime problems.*³⁰

The website contains links to a number of pages containing information about various programs the QPS delivers to assist Queenslanders to manage their safety and help reduce crime and states the QPS' key objectives as follows:

- *assist, support, develop, implement and review QPS community safety and crime prevention policies, programs and services;*
- *across the QPS and Queensland Government provide leadership, advocacy and advice on the strategic and operational direction for community safety and crime prevention; and*
- *with key government and non-government stakeholders across Queensland develop and support collaborative and coordinated partnerships and approaches to community safety and crime prevention.*³¹

While there is currently no dedicated crime prevention unit within the Government, the QPS uses a number of District Crime Prevention Coordinators throughout the State and Station Community Crime Reduction Officers, who coordinate the development, delivery and evaluation of preventative, problem solving programs and strategies for their individual areas.

²⁷ Ibid, page 7.

²⁸ Ibid, page 7.

²⁹ www.police.qld.gov.au/programs/cscp/, accessed September 2014.

³⁰ [Ibid.](#)

³¹ [Ibid.](#)

The Government also has a general website on *Preventing Crime*³² which in addition to the QPS website³³ sets out information on a number of programs run by the QPS to help the community, including:

- **Drink Rite Program** – to promote a responsible attitude to alcohol consumption and drink driving;
- **Mental Health Intervention Program** – designed to assist with safely resolving mental health crisis situations, and reduce injury to the community and agency staff;
- **Police Beats Program** – making individual police officers responsible for the community’s policing needs in a defined geographical area;
- **School-based Policing Program** – which includes school-based policing and Adopt-a-Cop programs to support students who are at risk of offending;
- **Police Citizens Youth Club programs** – which offer Queensland youth opportunities to participate in sporting, recreation, cultural and welfare programs; and
- **Home Assist Secure Program** – to assist with making homes healthier, safer and more secure for seniors and people with disability.

Both websites link to each other in places and at the time of writing this report, both sites contain a number of outdated links which have not been maintained appropriately.

As the Committee learned through evidence at its public hearings and from written submissions, there are many other crime prevention initiatives currently taking place across the State, which are not set out on either the QPS or other State Government websites. These initiatives involve both government and non-government agencies, sometimes operating alone, sometimes in partnership. Different communities are delivering a wide range of innovative local crime-based solutions and multidimensional interagency partnership interventions that are producing encouraging results based on anecdotal reports.

As a consequence, the lack of any systematic record or catalogue of these initiatives and their outcomes, or sharing of the collected wisdom from implementation experiences across different geographical areas has led to inefficiencies with some communities 'reinventing the wheel' in their development of effective local crime prevention programs (and also falling into identified implementation traps), where they might otherwise have benefitted from learned experience.

In line with this, Mr Randall Ross from Red Dust Healing and a number of other hearing participants reported a clear reluctance among different service agencies or programs to share information or to otherwise collaborate for better outcomes (including pooling resources) – a situation apparently further entrenched by the individualistic, competitive nature of funding distributions (as awarded and administered on a single-purpose basis).³⁴

Further, the establishment of a richer informational picture along the continuum of criminal justice agency services could also be expanded through new interfaces with other systems – including health, education, housing, and other community services.³⁵ Participants in public hearings have identified that this would help address current agency informational and operational ‘silos’ and

³² www.qld.gov.au/law/crime-and-police/crime-prevention-and-statistics/preventing-crime/.

³³ www.police.qld.gov.au/programs/cscp/.

³⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 25.

³⁵ MJ Keelty, *Sustaining the unsustainable: Police and Community Safety Review, final report*, August 2013, page 72. The PACSR Report also noted that interfaces with health systems could also help ensure prisoners receive adequate levels of care for various health and substance abuse issues, as a lack of sufficient service ‘impacts on prisoners, corrections centre staff and ultimately on rehabilitation and recidivism’.

support 'a coordinated wraparound service that is focused on the individual rather than focused on the department's own capacity to deliver one part of an agenda'.³⁶

For example, at the public hearing in Mount Isa, QPS Acting Assistant Commissioner, Northern Region, Paul Taylor noted:

...when I say that we are challenged with problematic people, I can tell you now with some assurance that the same problematic people that the police are dealing with are possibly the same problematic people that education are dealing with, that communities are dealing with, that housing and health are dealing with, and it goes on. I am not saying all. But I can tell you now that when we turn a card over on the table at a multiagency activity, talking about this particular card, a lot of people say, 'We deal with them. We deal with them. We deal with them.' So we deal with them in isolation.

In a perfect world we would have one repository of information and then we would control access as to who gets what—health only get health records and police get whatever. But we do not have that. We have multiple repositories of information. There is no point of truth, so to speak. So that is an issue. We have what I describe as veils of secrecy in some areas where people believe that the information is not available or should not be available. The way we collect information is not consistent. Again, in a perfect world, working collectively, there would be key pieces of information that we need to collect for the benefit of that environment that we should all agree to collect, so there is one point. So if you come to police or you come to education, we collect that information for the purpose of making ultimately your world better.³⁷

Acting Assistant Commissioner Paul Taylor highlighted these issues further:

Sometimes the individual will go in through one door and knock on that door and they are looked at from their limited perspective. They do not consider the consequences of what they are doing and they do not consider the opportunities for other partnered agencies... The services that are being provided at the moment are being provided with a lot of goodwill and enthusiasm, so there is nothing about the individuals and how they are doing it but it is being done in an ad hoc way.

So the analogy is of someone being involved in a serious car accident and being wheeled into a hospital requiring life-saving intervention. You go in there with multiple issues which require multiple specialist areas within the hospital to sustain your life. At the moment, what we are doing is we are getting the podiatrist in first on some occasions to fix your ingrown toenail and he is taking up all the time and no-one else can get to you. You have got no problem with your toe but your lungs have collapsed. We do not have a process where we look at complex situations and really triage them in a way where we can get best value for our buck—where we go in and sustain a platform and groundwork and build on that. Some agencies are involved in early intervention; others do not see that that is their domain. Yet if we all do not recognise the value of early intervention, it does not work.

...So at the end of the day, you can have individuals living in an environment with multiple and complex issues, and you can have someone from government banging on your door every day of the week, and most of them do not know that the others have been there. Not only do they not know that the others have been there, they do not have a clue what they did, how long they are doing it for or who they are doing it with. So

³⁶ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Townsville, 12 August 2014, pages 25-26.

³⁷ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Mount Isa, 11 August 2014, pages 13-14.

*there is huge scope in my view for a triage type impact... It really needs a common-sense approach where there is an opportunity to put the complex issues on the table, work collectively and say, 'What are the opportunities for us to intervene? What is the best way of doing that? Who should do it first? How do we manage that?'*³⁸

The Queensland Law Society (QLS) has noted New Zealand has made significant inroads in moving towards such a collaborative service delivery approach:

*It is bringing in the resources of departments like health, mental services and even maternity services. It is helping single mothers, even before there is a hint of a crime. What they are doing is giving the disadvantaged the tools to give people a good childhood, a good education... access to services, mental health services, alcohol rehabilitation, drug rehabilitation, these sorts of things. There is not much that a government could do better in addressing the causes of crime than looking at those sorts of socioeconomic issues at the earliest point in time... [This is] as an opportunity to redefine the debate, to recalibrate the way these things are done in this state and to leave a legacy for years which extends beyond the political cycle and which allows for the root causes of these things to be addressed and reduced.*³⁹

Some stakeholders further made suggestions as to the way in which this more holistic service approach might best be implemented. For example, during a number of public hearings, participants raised the prospect of introducing local crime boards or partnerships to manage coordinated, evidence-based policy interventions across multiple service areas, in cooperation with police and various government and non-government agencies.⁴⁰

Such a local service delivery approach is in line with a 'community coalition' implementation model employed to implement the findings and recommendations of Pennsylvania's Evidence-based Prevention, Intervention and Support (EPIS) Centre, with some encouraging results.

As the written submission of the Griffith University School of Criminology and Criminal Justice noted:

Papers published by Brian Bumbarger and his colleagues at Penn State demonstrate the effectiveness of their model of moving science to service. For example, recent evaluations of the effectiveness of the community coalitions promoting evidence-based practices that now operate in 80% of the state show a 12% reduction in youth crime and a similar decline in the influence of deviant peers, as well as a 33% improvement in school achievement scores and a 20% improvement in levels of engagement with school. These results have been shown to have been achieved in a cost effective manner.

*Thus the EPIS Centre makes the community safer, reduces youth crime and improves school engagement and achievement, and saves the state of Pennsylvania money millions of dollars each year. How can Queensland not afford to move in this direction?*⁴¹

The Social Responsibilities Committee of the Anglican Church of Southern Queensland (SRC), has alternatively pointed to New York juvenile justice system reforms as a possible template for Queensland reforms in its similar proposal for the 'establishment of an ongoing collaboration of

³⁸ Ibid, pages 11-12.

³⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 8 August 2014, page 23.

⁴⁰ See for example: *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Rockhampton, 14 August 2013, page 27; *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, pages 6-7; *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 13.

⁴¹ School of Criminology and Criminal Justice, Griffith University, Submission No. 76, page 12.

cross-sectoral stakeholders with a common agenda, open communication, and willingness to align existing activity or develop shared strategies to generate systemic change':⁴²

Between 2010 and 2012, the New York youth justice collective impact initiative saw:

- *Juvenile arrests decline by 24%;*
- *The number of juveniles admitted to detention decline by 23%;*
- *The number of juvenile probation intake cases decline by 20%;*
- *Admissions to State Placement decline by 28%.*

These outcomes were a result of collaboration between all levels of government, not for profit organisations, the advocacy community; the judiciary; law enforcement; and the New York City Department of Education, in a process that included data-driven analysis, extensive consultation with stakeholders, and benchmarking of effective practices across New York State and the Nation... We strongly suggest therefore that the establishment of a cross-sectoral collaborative framework that invites active and ongoing input from government, community and other stakeholders with the expertise and passion to make a real difference should be a priority strategy.⁴³

Committee Comment

Regardless of what individual strategies are being undertaken, it appears to the Committee that as a first step for the Government to improve efforts in crime prevention - immediate steps should be taken to improve co-operation and co-ordination between community groups and government; between levels of government (Federal, State and Local) and also between agencies within the Government itself. To achieve this, the Committee considers that a State-based crime prevention framework should be developed to assist with co-ordination of efforts across the State.

Recommendation 1

The Committee recommends the Government develop a crime prevention framework for Queensland, consistent with the National Framework which can be used as a basis for all crime prevention activities throughout the State.

In addition to the development of a state-based crime prevention framework, greater efficiencies must be made in the conduct of crime prevention strategies across the State. To avoid situations of 'reinventing the wheel' and to aid with understanding what works and what does not work - a central repository of crime prevention strategies should be established setting out:

- strategies currently in operation (and where they are operating);
- strategies that have been implemented and/or trials (and detailed results of the implementation or trial); and
- if possible, strategies that are in development – and who is developing them.

⁴² SRC, Submission No. 28, page 7.

⁴³ Ibid, page 9.

Such a repository should be made publicly available via a Queensland crime prevention website and should be maintained by one single agency with over-arching responsibility for crime prevention across the State.

The Committee does not consider this role should automatically fall to the QPS, but that the Government should ensure that one agency takes the lead for maintaining the website and liaising across agencies and departments to ensure that all relevant information is captured and presented to the public for consideration. Further commentary in this regard is made in the following chapter which discusses measuring crime and presentation and collection of crime related data.

Recommendation 2

The Committee recommends that a central repository of crime prevention strategies is established and made publicly available via a dedicated Queensland crime prevention website.

While the Committee considers there is a requirement for one agency to take the lead in crime prevention across the State – the evidence received throughout the Inquiry has been overwhelmingly clear that greater co-operation and co-ordination between government departments is required. Although it is almost cliché, agencies are continuing to work in silos when a co-ordinated, unified approach must be taken.

There needs to be a clear commitment that crime prevention is not just a QPS function but requires a whole-of-government response across all relevant agencies including, but not limited to, health, education, communities and housing. As highlighted by Superintendent Russell Miller of the QPS:

Generally in our area of the world after hours it is left to the police because there is nobody who works past four o'clock, particularly on a Friday afternoon. So all the other agencies basically close down. You might have an on-call number or something like that. But once four o'clock on Friday afternoon comes around it is left to the police, whether they be in Doomadgee or Mount Isa, to deal with the issues, particularly the social issues, of the day or the weekend.⁴⁴

The Committee was encouraged by the steps taken in Cairns with the establishment of the Cairns Safer Streets Task Force. As highlighted by Assistant Commissioner Taylor:

We are very fortunate here in Cairns that we have established what I believe is the way forward and that is true collaboration and cooperation across a number of government agencies. The Cairns Safer Streets Task Force was established a little over 12 months ago. That sees at the moment seven different government agencies working in the one room where we are able to, over time, demolish those bureaucratic barriers that frustrate not only police but anyone who is in or near government.⁴⁵

The Member for Cairns, Mr Gavin King MP also spoke to the Safer Streets Task Force:

...It is that whole-of-government approach, where you literally have health, education, police, communities, youth justice and the feds all located in the same room, in the same office, breaking down those silos. It has taken a mountain of work and that is just the state government agencies. There is federal, there is local government, there is the NGO sector. So you are talking about dozens and dozens of stakeholders. But the work of that whole-of-government, coordinated, targeted approach has just been extraordinary. I

⁴⁴ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Mount Isa, 11 August 2014, page 13.

⁴⁵ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Cairns, 13 August 2014, page 3.

*think it is ground-breaking work and it is only happening in Cairns. There is fantastic potential to replicate that across the state.*⁴⁶

The Committee agrees that there is great potential for the Cairns Safer Street Task Force model to be replicated across the State.

Recommendation 3

The Committee recommends that the Government commit to a whole-of-government approach to crime prevention that can be applied across the State and develop a unified service delivery model across agencies to address current inconsistencies and inefficiencies.

Before looking at the effectiveness or otherwise of individual strategies that would be appropriate for Queensland, the next section of this report looks at the challenges faced with measuring crime and how stakeholders are able to deal with the data available to inform crime prevention policies.

⁴⁶ Ibid, page 34.

3. Measuring crime and using crime data

3.1 The need for data

One of the issues that was brought to the attention of the Committee very early on in the Inquiry was the importance of being able to measure crime accurately and having accurate data available to policy makers to inform the development of evidence based policy.

As stated by the Griffith University in its written submission:

Criminal Justice Policy should be informed by strong, independent evidence of the effectiveness of possible strategies, and their likely social and economic impacts.

*Effective policy depends on the existence of accurate data about offending and victimisation, and on careful research into the effectiveness of various crime prevention and reduction strategies.*⁴⁷

Maintaining accurate data on crime rates is not limited to assisting policy makers, it is clear that systematic recording and efficient management of information is fundamental to ensuring that law enforcement agencies are best equipped to perform their core role of protecting the public and preventing crime.⁴⁸ With respect to maintaining law and order in a traditional policing sense, lax record keeping and administration can significantly limit the crime-solving and operational decision-making capacities of criminal justice officers;⁴⁹ while efficient and dynamic records management systems can conversely ensure the prompt provision of a wide range of criminal intelligence, boosting the ability of police to act promptly to detect, prevent and solve crime.⁵⁰

At a more strategic level, which the Committee has been considering as part of its Inquiry, robust data collections can also be leveraged to form a range of statistical inferences on the levels and nature of crime and victimisation within the community, supporting the development (and ongoing evaluation) of targeted, evidence-based policing and criminal justice interventions. This may include concentrated crime hotspot initiatives, special-purpose taskforces, and various support services and local inter-agency efforts to target underlying risk factors and vulnerabilities, building community resilience.⁵¹

A textbook example of how accurate crime data can assist with reducing crime was shown in an early QPS project which analysed crime characteristics following an increase in reported break and enters. This study *'proved to be of considerable significance in identifying common factors in break and enters, as well as risk locations and times'*; and enabled officers to advise businesses of identified vulnerabilities, and introduced the possibility of insurance companies offering incentives for changing certain types of windows in particular,⁵² among other preventative steps.⁵³

Data collection must not be limited to the offending acts alone. Courts and custodial data also constitute an important part of the overall criminal justice statistical picture that needs be collected. It has been noted that offender risk assessment crucially underpins processes for *'bail, sentencing,*

⁴⁷ School of Criminology and Criminal Justice, Griffith University, Submission No. 76, page 1.

⁴⁸ B Jenkins, [Caught red-handed: Why we can't count on Police Recorded Crime statistics – Public Administration Committee](#), 13th Report, Great Britain Parliament, House of Commons, Public Administration Committee, 9 April 2014, page 3.

⁴⁹ [Ibid](#), page 3.

⁵⁰ QPS, [QPRIME – a vital weapon in the fight against crime](#), Police Bulletin, 314, April 2007, page 7.

⁵¹ Victorian Ombudsman, [Investigation into an allegation about Victoria Police crime statistics: Whistleblowers Protection Act 2001](#), Victorian Parliament, Parliamentary Paper No. 43, Session 2010-2011, 15 June 2011, page 8.

⁵² C Dalglish (Manager Corporate Planning, QPS), [Overview of Crime Prevention in Queensland](#), National Overview on Crime Prevention, 1999, page 94.

⁵³ [Ibid](#), page 94.

prisoner classification, parole, the case management and supervision of community based orders and the provision of effective treatment'. As a result:

...any improvements in the predictive accuracy of assessments about risk of re-offending would result in more efficient criminal justice decision-making and improve public safety and offender rehabilitation.⁵⁴

Additionally, information on the way in which the latency and frequency of recidivism co-varies with a range of personal and offending variables can also critically highlight the relative efficacy of various adjudicatory, custodial and other program interventions.⁵⁵

This is particularly important for crime prevention efforts because, as the *Report on Government Services 2014* notes, in 2011-12 approximately 32% of all offenders in Queensland were repeat offenders,⁵⁶ with recidivist incidents accordingly accounting for a large proportion of all criminal activity within the community (the majority of criminal offences are committed by a minority of repeat offenders).⁵⁷ Systematic evaluations of offender program completion records and recidivism data can thus support the adequate resourcing, coordination and targeting of those initiatives and services which most effectively, equitably and cost-efficiently target offending risk and resilience factors, to promote best practice in crime prevention and criminal justice administration.⁵⁸

3.2 Measuring crime in Queensland

Given the obvious need for and benefits arising from accurate data being collected, the Committee examined how Queensland measures crime and uses the information received.

Crime statistics in Queensland are generally derived from two key sources:

1. *administrative data from State and Territory police forces, courts, hospitals, and community services, etc., which present offender or offence-based records; and*
2. *crime victimisation surveys, or victim-based records.⁵⁹*

Neither of these data sources can offer complete representations of the extent of crime, as statistics ultimately reflect only those incidents that have been reported.⁶⁰ For example, it is estimated that approximately 95% of all motor vehicle theft is reported to police, whilst only 33% of sexual offences are reported;⁶¹ such that relying only on reported offences as an indication of crime can lead to varying degrees of underestimation of the true rate of victimisation.⁶²

⁵⁴ B Gray, D Birks, T Allard, J Ogilvie, A Stewart and A Lewis, [Exploring the Benefits of Data Mining on Juvenile Justice Data, QCIF Final Report](#), Griffith University Justice Modelling, November 2008, page 10.

⁵⁵ S Ross and T Guarnieri, [Recidivism Rates in a Custodial Population: The Influence of Criminal History, Offence and Gender Factors](#), Criminology Research Council (Grant 35/89), February 1996, page 1.

⁵⁶ Steering Committee for the Review of Government Service Provision, [Volume C: Justice, Report on Government Services 2014](#), Table C.3 - Number of times offenders were proceeded against during 2011-12 (percent), Productivity Commission, Canberra, 2014, page C.22.

⁵⁷ [Ibid](#), page C.22. The *Report on Government Services 2014* further noted that of the adult prisoners released in Queensland during 2010-11, 38.3% returned to prison and 43.5% returned to corrective services (prison or a community corrections order) with a new correctional sanction within a two-year period.

⁵⁸ T Allard, [Understanding and preventing Indigenous offending](#), Indigenous Justice Clearinghouse, Research Brief No. 9, December 2010, page 7.

⁵⁹ House of Representatives Standing Committee on Legal and Constitutional Affairs, [Chapter 4 – Measuring Crime in Australia, Inquiry into crime in the community: victims, offenders and fear of crime](#), Vol. 1, 2004, page 64.

⁶⁰ [Ibid](#), page 63; QPS, Explanatory Notes, 2011-12 Annual Statistical Review, The State of Queensland, 2012, page 155.

⁶¹ QPS, Explanatory Notes, 2011-12 Annual Statistical Review, The State of Queensland, 2012, page 166.

⁶² Victorian Ombudsman, [Crime statistics and police numbers](#), Parliamentary Paper No. 173, March 2009, page 19.

A number of submissions to the Inquiry highlighted this representative shortfall in police and other administrative data records, noting that a large proportion of victims do not report sexual assault for a range of personal and systemic reasons, including fears of offender retribution or a desire to protect the offender; a fear of being disbelieved or being adversely treated by police; and a lack of confidence in the likelihood of prosecution or conviction.⁶³

The Centre for Innovative Justice and the Gold Coast Centre Against Sexual Violence Inc. in particular highlighted the damaging, discouraging effects of Queensland's high rates of attrition between reporting, prosecution and conviction;⁶⁴ with many sexual assault victims who do report going on to experiencing secondary trauma as well as describing the criminal justice process itself as 'revictimising'.⁶⁵ Submissions also noted an underreporting of domestic violence, due to various personal and family reasons, and perceptions of a lack of available protective avenues through the criminal justice system.⁶⁶

Submitters also set out specific personal testimonies detailing unfavourable interactions with criminal justice agencies in which the victim was not believed and was treated insensitively, with the result that they elected to have charges discontinued even amid repeat victimisation.⁶⁷

The development of an accurate and comprehensive picture of the nature and extent of criminal activity also depends on representative and contextual interpretations of identified statistics,⁶⁸ as crime levels are inevitably subject to fluctuations reflecting short-term population increases, demographic changes, seasonal variations, and other particular conditions. Any of these variations can give rise to a temporary upsurge in reported crime levels, which need not signify a broader inclination or trend towards greater levels of criminal activity.⁶⁹ This is particularly the case for a variety of offences related to drugs, prostitution, breaches of the *Weapons Act 1990*, and various public order and traffic-related incidents. As noted in the QPS 2011-12 Annual Statistical Review:

*An expansion of the Drug Squad, for example, may result in an enhanced ability to detect drug offences in Queensland. An increase in the number of offences recorded in police crime statistics may, therefore, be directly related to the effectiveness of the Squad rather than an actual increase in drug offences in Queensland.*⁷⁰

In addition, as in other jurisdictions, Queensland's collection and reporting of crime statistics is also subject to a range of informational and methodological considerations and limitations which can

⁶³ See for example: Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 2; Centre for Innovative Justice, Submission No. 64, page 16; Brisbane Rape and Incest Survivor's Support Centre, Submission No. 50, page 3.

⁶⁴ In the year 2012-13, the Office for the Director of Public Prosecutions observed a 23.2% decrease in adult sexual offences committed for trial, and a 44.3% reduction in child sexual offences being committed for trial in Queensland (Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 2).

⁶⁵ Centre for Innovative Justice, Submission No. 64, page 16; Gold Coast Centre Against Sexual Violence Inc., Submission No. 54, page 3.

⁶⁶ See for example: WLS, Submission No. 60, page 6, which cites the ALRC Report, *Family Violence – A National Legal Response*, October 2010, page 74. '...it is well recognised that initial positive police response is not only vital to victim safety, but to also whether victims report further victimisation or seek engagement with the legal system more generally'.

The BDVS also noted in its submission that some women have testified that 'the process for women to report a breach of a DVO is often characterised by inconsistent responses, lack of response and lack of information' (BDVS, Submission No. 56, pages 1-2). See also: IWCADV, Submission No. 53, pages 2-3.

⁶⁷ Confidential Submission No. 11; *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

⁶⁸ MJ Keelty, *Sustaining the unsustainable: Police and Community Safety Review, final report*, August 2013, page 17.

⁶⁹ See: D Weatherburn, *Uses and abuses of crime statistics*, Crime and Justice Bulletin, Contemporary Issues in Crime and Justice, New South Wales Bureau of Crime Statistics and Research, 152, November 2011, page 4.

⁷⁰ QPS, 'Explanatory Notes', *2011-12 Annual Statistical Review*, The State of Queensland, 2012, page 155.

affect comparability, or limit the degree to which more qualitative descriptions of crime may be formed.⁷¹

However, there has been some improvement in the breadth and manner of administrative collection over the last decade, with more systemic and robust data capture procedures having '*proved to be of considerable significance in identifying common factors*' in some crimes, and police increasingly working to engage this information in '*operational planning, targeted patrolling and community policing initiatives*'.⁷² National agencies also continue to work to establish uniform reporting systems and reduce obstacles to inter-jurisdictional comparability (the *Report on Government Services 2014* also identified that '*improvements in consistency and integrity of data reported are ongoing by all jurisdictions*').⁷³

3.3 Key opportunities and strategies for improvement

Taking the above into account, the challenge for governments is how to improve data collection and use, for better policy development and implementation of evidence-based strategies to reduce crime. Researchers and stakeholders have identified a wide range of data challenges and various options to improve the accuracy and accessibility of criminal justice administrative data, both at a sector-specific level (i.e. for QPS, and for the Courts and Corrective Services); and at a system-wide level more broadly.

Importantly, stakeholders have stressed the need for an ongoing and uninterrupted commitment to information management and statistical analysis, because the benefits or outcomes of interventions and actions can often take '*a couple of years to realise*'.⁷⁴ At a system-wide level, identified information improvement strategies have focussed largely on opportunities for (1) improved data integrity and operability, and (2) enhanced cross-sectoral information exchange.

As previously noted, in addition to the data challenges confronted by each of the criminal justice agencies individually, inconsistencies in reporting practices and methods between services have limited the ability to develop a comprehensive statistical picture of the criminal justice system and trajectories of offenders, as is necessary to support evidence-based policy development. Researchers have increasingly emphasised that understanding the flows of offenders between agencies over time is '*necessary to provide an integrated service to young people, understand their life course development and offending trajectories and evaluate the outcome of interventions and services provided*'.⁷⁵ However, while the necessary information generally is collected at each stage of the data process to support such efforts; the QPS, Courts and Corrective Services all administer and report their own incident and offender-based data collections separately and in different formats, with little inter-sectoral interaction or comparability.

As the AIC notes, 'police services record details about offences, the courts record data at an individual case level and corrections agencies record information about individual offenders'.⁷⁶ As a result, when it comes to tracking a person coming into the system from the police, through the courts and into detention, there can be confusion in whether agencies are all counting the same

⁷¹ For a broad discussion of some of these issues and challenges, see D Weatherburn, [Uses and abuses of crime statistics](#), November 2011.

⁷² C Dalglish, [Overview of Crime Prevention in Queensland](#), 2004, page 94.

⁷³ Steering Committee for the Review of Government Service Provision, [Volume C: Justice](#), *Report on Government Services 2014*, page 7.1.

⁷⁴ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014, page 9.

⁷⁵ A Stewart, *Establishing an Evidence Base – Transforming Administrative Data into Evidence*, Chapter 13 in *Evidence Based Policy & Practice in Youth Justice*, Leichardt, NSW: Federation Press, 2011, page 216.

⁷⁶ AIC, [Crime and justice statistics](#), *Australian crime: Facts & figures: 2011*, last modified 3 March 2012, accessed 18 June 2014.

thing – i.e. who the offender actually is from a correctional aspect, from a court aspect; and whether a person is being counted twice.

In response to such challenges, government agencies are increasingly considering the advantages of connecting administrative data sources using unique person identifiers that allow them to *'link incidents, apprehensions, court appearances and court outcomes, as well as correctional data, and track matters as they pass through the criminal justice system'*.⁷⁷ This ultimately provides a more helpful picture of criminal justice administration, as offenders' behaviours are not affected in discretely identifiable ways by each agency interaction, but rather as a cumulative continuum of experience – an understanding of which can support *'targeted interventions across sectors and avoid duplication of services'*.⁷⁸

Such initiatives are already in place in a number of jurisdictions. For example, South Australia has linked its police, courts and correctional data via a unique person identification number (and apprehension report numbers), as part of an *'integrated Justice Information System'* approach.⁷⁹ These identifier numbers are retained by police to match future events, and are transferred to the courts, corrections, and juvenile justice units within Families SA.⁸⁰ The SA approach was apparently informed by the work of the Developmental Crime Prevention Consortium established under the leadership of Professor Ross Homel in late 1997; and which identified:

*...pathways to crime that consisted of a series of transition points or occasions for change (such as the shift from home to high school and from high school to (un)employment), during which time... appropriate interventions may be put in place to divert the individual from becoming involved in offending.*⁸¹

The Australian Institute of Health and Welfare also recently released the thirteenth paper in its 'Data Linkage' series, outlining the results of a Commonwealth-funded study to link and analyse available crime protection, juvenile justice, and Supported Accommodation Assistance Program data, with results highlighting *'the valuable information that can be gained by data linkage'*.⁸²

More generally, however, much of the work on data linkage for research purposes across Australia has been conducted in the health area. Western Australia is the front runner in this regard, having established its WA Data Linkage System in 1995, through collaboration between the Centre for Health Services Research, the Department of Public Health at the University of WA, and the Health Information Centre, Department of Health.⁸³

⁷⁷ J Marshall, [Criminal Justice Data: Limitations and Implications for Policy Research](#), *Safety, crime and justice: from data to policy*, AIC Conference, Canberra, 6-7 June 2005, page 2.

⁷⁸ A Stewart, 'Establishing an Evidence Base', 2011, page 216.

⁷⁹ J Marshall, ['Criminal Justice Data'](#), 2005, page 3.

⁸⁰ [Ibid](#), pages 7-8.

⁸¹ G Skrzypiec, ['Offending at 16 to 20 years of age: Identifying Youth for Intensive Intervention'](#), *Research Findings*, Office of Crime Statistics and Research, Government of South Australia, April 2005, page 1.

⁸² Australian Institute of Health and Welfare, [Children and young people at risk of social exclusion: Links between homelessness, child protection and juvenile justice](#), Data Linkage Series No. 13, Cat. No. CSI. 13, Canberra, 2012, page 37.

⁸³ Marshall notes that the WA system: '...comprises a core of six data sets: birth registrations, death registrations, hospital separations, mental health clients, cancer notifications and midwife notifications, that can be linked to Commonwealth Data Systems such as aged care assessment, other state systems such as the electoral roll or ambulance data. The records have also been geo-coded where possible to a location point and have ABS collector district attached... The system also enables families to be linked together ... (which) has considerable potential in relation to criminal justice research, because we know that the family situation of an individual is a significant risk or predictive factor for offending' (Marshall, ['Criminal Justice Data'](#), 2005, page 7).

Growing momentum to learn from and leverage the WA experience and capabilities contributed to funding for a national Population Health Research Network extending across all states and territories; and the Queensland-based node established through the Research Linkage Group at Queensland Health may also offer lessons both in terms of effective linkage methodologies, and establishing procedures for compliance with necessarily *'strict security, privacy and confidentiality requirements'*.⁸⁴

The Committee understands Griffith University researchers are currently working on the establishment of a data laboratory at the university which would include police data and a number of other repositories. This direction is one which would be encouraging to researchers and with the establishment of such a central data laboratory or other priority information-sharing arrangements and research partnerships, costly delays to providing information may be minimised; and the State's considerable research expertise could be leveraged to provide analysis without placing undue additional burden on criminal justice agencies and departments.

3.4 What information is available?

Notably, analytical offerings have already been reduced with the discontinuation of the QPS' *Annual Statistical Review* publication,⁸⁵ which previously identified monthly and annual crime trends and informed assessments of service performance for *'evidence-based, strategic decision making'*.⁸⁶

The cessation of this publication coincides with a move away from analytical discussion and towards the publication of raw data for customisation and extrapolation, as part of the Government's commitment to open data.

Under this approach, the QPS instead now publishes:

- five-year annual summary offending tables and detailed monthly data tables dating from 1997 to the present;
- community-specific myPolice crime blogs and statistics pages;
- an overarching 'Queensland Crime Statistics' snapshot resource; and
- the location-based crime profile tool, 'Crime Map'.

The *Queensland Crime Statistics* customisable mapping tool allows users to graphically identify and depict the number and rate of a range of offences both state-wide and for specific regions, at either a monthly or calendar year level. The *Crime Map* tool allows users to map reported crime statistics for localised areas within the State – including for their street, suburb, postcode, local government area, neighbourhood watch area or police region, district or division.⁸⁷

Recent reports confirm the Government's commitment to this 'open data' approach, with the planned introduction in late 2014 of legislation which will require agencies to publish all collected data, forcing *'often secretive departments to reveal all the facts and figures, not pick and choose'*.⁸⁸ These developments have generally been welcomed by researchers and other stakeholders and community members,⁸⁹ and may also help to allay criticisms and perceptions that politicians and criminal justice agencies *'manipulate crime statistics in a way which best suits their*

⁸⁴ Queensland Government, Department of Health, *Queensland Data Linkage Framework*, March 2014, page 4.

⁸⁵ T Goldsworthy, *'A phony war: bikies aren't the only problem on Queensland's Glitter Strip'*, *The Conversation*, 17 October 2013.

⁸⁶ QPS, 'Commissioner's Foreword', *2011-12 Annual Statistical Review*, The State of Queensland, 2012.

⁸⁷ Balanced Justice Project, *'Crime statistics – the real picture'*, Factsheet, *Balanced Justice*, last updated 28 June 2013.

⁸⁸ M Killoran, 'New laws open door to hidden state data', *The Sunday Mail*, 17 August 2014, page 19.

⁸⁹ Balanced Justice Project, *'Crime statistics – the real picture'*, 2013, page 2; *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014.

objectives...(including) the downplaying of certain statistics or the bolstering of support for a proposed legislative reform'.⁹⁰

However, it has also been noted that the provision of more data does not necessarily translate to better information; and that while the Government's commitments to transparency are to be applauded:

...it is not good enough to dump data into the public domain. It must be analysed to be relevant, robust and fit for purpose.⁹¹

This is particularly the case given ongoing methodological challenges and the complex and interconnected relationships between crime and various socioeconomic and other variables, which call for expert interpretation and analysis in order to support the accurate communication of crime rates and trends to the public and key stakeholders.⁹²

The written submission of the Griffith University School of Criminology and Criminal Justice noted researchers' ongoing frustration that so little of the acquired evidence about the characteristics of offending and crime prevention best practice '*appears in public debate about crime*'; and that while '*without data, we have no way of establishing the extent of the problem, or the effect on it of chosen strategies*'; without research and analysis, '*we cannot understand why some things work and others are costly mistakes*'.⁹³

Local group the Balanced Justice Project has particularly expressed concern that in the absence of such contextualising and interpretive information, communities using myPolice blogs and other informational tools may '*end up with a skewed perspective about crime activities occurring in Queensland and make incorrect assumptions about what is happening across the state*'.⁹⁴ Media reports have also noted incidents in which out-of-date or insufficiently clarified QPS data have been reproduced on private crime mapping sites; including the example of a well-frequented site which publishes a map of all crimes occurring since 2000, such that users may gain a false sense of current levels of crime⁹⁵ where they do not correctly discern the relative currency of the different identified incidents.⁹⁶

Further, in similarly emphasising that '*statistics alone without analysis or explanation can be misleading*', the QLS's written submission to the Inquiry also highlighted a number of anomalies in recent media reports of Queensland crime statistics.⁹⁷

Giving fuel to these concerns, research frequently confirms there are often significant discrepancies between public perceptions of crime rates and trends and actual recorded levels of victimisation, with a substantial proportion of the population typically believing incorrectly that crime rates are worsening when they have in fact been declining over the last decade.⁹⁸ This is particularly important

⁹⁰ Balanced Justice Project, '[Crime statistics – the real picture](#)' 2013. See also: 'Your State Qld: Newman stands by disputed crime claim', *The Australian*, 28 July 2014, page 2; A Remeikis, '[Crime statistics tell varying stories on anti-gang laws](#)', *Brisbanetimes.com.au*, 11 June 2014.

⁹¹ Margaret Hodge MP, Chair, Public Accounts Committee of the United Kingdom Parliament, cited in Association of Chartered Certified Accountants, '[Parliamentary financial scrutiny in hard times](#)', December 2011, page 18.

⁹² Balanced Justice Project, '[Crime statistics – the real picture](#)', 2013.

⁹³ School of Criminology and Criminal Justice, Griffith University, Submission No. 76, page 1.

⁹⁴ Balanced Justice Project, '[Crime statistics – the real picture](#)', 2013.

⁹⁵ '[Online crime maps cause concern for residents](#)', *Sunshine Coast Daily*, 19 February 2014, updated 21 February 2014.

⁹⁶ The same site has also attracted concerns about privacy due to its identification of the specific street addresses at which the crimes occurred, with secondary implications of also potentially revealing homeowners as 'soft targets' or contributing to declines in home valuations (D Murray, '[Website that puts police crime statistics on the map slammed as invasion of privacy](#)', *The Courier Mail*, 17 February 2014)

⁹⁷ QLS, Submission No. 51, page 4.

⁹⁸ B Davis and K Dossetor, '[\(Mis\)perceptions of crime in Australia](#)', *Trends & issues in crime and criminal justice*, No. 296, July 2010, AIC, Australian Government, page 1.

because discrepancies between the public's perception of the likelihood of crime victimisation and the actual risk of victimisation not only effect feelings of public safety and community, but also tend to 'have a deleterious effect on the quality of public debate regarding law and order issues';⁹⁹ and exert considerable 'influence on policy decisions relating to operational activity in front line law enforcement and in judicial sentencing'.¹⁰⁰

At the Brisbane public hearing Mr Glenn Cranny, Chair of the QLS Criminal Law Committee, stated:

*The society has long championed the view that changes to criminal law really need to be based on empirical evidence, on data and on research rather than on any notions of public opinion or what the public might want. That is difficult, we appreciate, in the sense that research takes time, effort and concentration. Conversely, getting a sense of public opinion can be done in a very lazy way. It can be done by propping up the bar and hearing what people think, but the concern always is that unless you have a representative sample of people who are well informed then the policy initiatives which arise out of any such feedback is of limited value. The formulation of policy and legislation in the crime area, in particular, I think is susceptible to this notion of community values without any empirical base... We see an ongoing need for a serious attempt to continue to gather, define and analyse empirical evidence and data gathered.*¹⁰¹

In order to ensure the community is 'properly informed' and minimise incorrect inferences and potential adverse policy impacts, stakeholder group the *Balanced Justice Project* has called for the establishment of a specialist crime statistics agency which:

- monitors crime statistics and recording practices;
- publishes regular reports on crime trends;
- provides statistical information to the community; and
- provides independent advice to government.¹⁰²

Such calls have been echoed by the QLS,¹⁰³ the Law and Justice Institute (Qld) Inc.,¹⁰⁴ the Griffith University School of Criminology and Criminal Justice,¹⁰⁵ and the Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd (ATSILS).¹⁰⁶ Representatives from the QLS particularly suggested that such a body would also fill a perceived 'hole in the landscape' in terms of data gathering for 'ongoing policy formation' left by the disbanding of Queensland's former Sentencing Advisory Council.¹⁰⁷

The Law and Justice Institute (Qld) Inc. noted in its submission:

It is important to recognise that a community properly informed about its justice system, including sentencing trends, can formulate informed perceptions about crime... For the purpose of building a safer community it is important to distinguish between the actual risk of crime and the perception of criminal activity (Tulloch et al., 1998:19). Addressing the fear of crime for the purpose of creating a safe community will contribute to a decrease in the level of anxiety felt by individuals. By developing informed public opinion

⁹⁹ Victorian Ombudsman, [Crime statistics and police numbers](#), page 7.

¹⁰⁰ Davis and Dossetor, '(Mis)perceptions of crime in Australia', 2010, page 1.

¹⁰¹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Brisbane, 8 August 2014, page 20.

¹⁰² Balanced Justice, [Crime statistics – the real picture](#), 2013, page 2.

¹⁰³ QLS, Submission No. 51, pages 5-7.

¹⁰⁴ Law and Justice Institute (Qld) Inc., Submission No. 23, page 18.

¹⁰⁵ School of Criminology and Criminal Justice, Griffith University, Submission No. 76, page 2.

¹⁰⁶ ATSILS, Submission No. 34, page 30.

¹⁰⁷ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Brisbane, 8 August 2014, page 20.

about and allowing open access to research and reports, perceptions and fears of community safety can be addressed...

The Institute believes that Queenslanders would benefit from an independent research body reporting on criminal justice policy akin to the functions undertaken by the Australian Institute of Criminology and the New South Wales Bureau of Crime Statistics and Research. By establishing a body dedicated to promoting justice and reducing crime by undertaking and communicating evidence-based research to inform policy and practice, a safer community can be created. In addition, once research is collated, appropriate cost-benefit analysis can be undertaken.¹⁰⁸

The Griffith University School of Criminology and Criminal Justice submission recommended that a Queensland evidence-based crime prevention, intervention and support centre be established to translate and disseminate research on what works in crime reduction and prevention, and to support agencies to adopt these evidence-based approaches in practice.¹⁰⁹

The call for an independent criminal justice statistical and research agency is also consistent with the recommendations of a 2009 Victorian Ombudsman report on *Crime statistics and police numbers*, which noted that speculation about the accuracy of police crime reporting and statistics (as experienced in Queensland of late¹¹⁰) only served to undermine trust and confidence in the integrity of criminal justice agencies:¹¹¹

Public confidence in the integrity of crime statistics requires independent scrutiny and attention to the quality and integrity of the whole process, from crime recording to the production of the statistics. The public debate in Victoria regarding crime statistics is indicative that what Victoria Police produces may not be understood or indeed trusted to reveal the nature and extent of crime as the public experiences it. Given that crime statistics play a central role in assessing Victoria Police's performance and in its allocation of resources, police may have competing interests in reporting on crime data and crime trends...

...I recommend that the Victorian Government give consideration to establishing a unit external to and independent of Victoria Police to develop and maintain statistical databases on crime; to monitor trends in crime and publish regular reports on crime trends; and with a capacity to audit crime statistics and crime recording practices.¹¹²

Such crime statistics agencies are in place in South Australia (SA Office of Statistical and Criminal Research) and New South Wales (Bureau of Criminal and Statistical Research, BOCSAR), for example (both established under the Attorney-General's department but independent of the criminal justice agencies); while the Northern Territory operates a specific Criminal Justice Research and Statistics Unit which provides a shared service for the Department of the Attorney-General and Justice and the Department of Correctional Services, reporting '*crime, justice and wholesale alcohol supply statistics for the Northern Territory with regional breakdowns*'.¹¹³ Western Australia also formerly operated an

¹⁰⁸ Law and Justice Institute (Qld) Inc., Submission No. 23, page 18.

¹⁰⁹ School of Criminology and Criminal Justice, Griffith University, Submission No. 76, page 2.

¹¹⁰ 'Your State Qld: Newman stands by disputed crime claim', *The Australian*, 28 July 2014, page 2; A Remeikis, '[Crime statistics tell varying stories on anti-gang laws](#)', *Brisbanetimes.com.au*, 11 June 2014.

¹¹¹ Victorian Ombudsman, *Crime statistics and police numbers*, page 12.

¹¹² *Ibid*, pages 89-90.

¹¹³ Northern Territory Government, *Criminal Justice Research and Statistics Unit*, Department of the Attorney-General and Justice, November 2013, page 1.

independent Office of Crime Prevention,¹¹⁴ which under a 2014 restructure was subsequently transferred to WA Police as WA Police Strategic Crime Prevention.¹¹⁵

In addition to compiling detailed statistical pictures of crime in each of these jurisdictions, these specialist units have also engaged in a range of evaluation activities examining outcomes associated with various criminal justice programs. For example, a 2013 paper by Morgan and Homel noted that the AIC in 2008-09 developed a model performance based framework for community-based crime prevention on behalf of the WA Office of Crime Prevention and local government partners, 'to monitor and review the ongoing performance of local community safety plans across Western Australia'.¹¹⁶

Other international jurisdictions have conducted these activities on a much more systemic basis, as part of a comprehensive, whole-of-system applied research approach that feeds directly into state crime prevention policy development. The Washington State Institute of Public Policy, for example, provides a framework that directly informs that state's criminal justice program resource allocations, based on the results of research evidence and systemic evaluations of the relative efficacy and cost-effectiveness of crime prevention programs – a 'results first' policy analysis model which sees non-performing initiatives cut or eliminated after careful evaluation.¹¹⁷

The Institute, which has become a model for crime prevention the world over, provides a ranked inventory or 'shopping list' of crime prevention programs to the Washington legislature based on a cost-benefit analysis and identified return on investment (including risk analysis), which it updates in a series of periodic reports:

*In essence, this report is similar to an investment advisor's "buy-sell" list. It contains current information on policy options that can give taxpayers a good return on their crime fighting dollars (the "buys") as well as those well-researched strategies that apparently cannot reduce crime cost-effectively (the "sells"). The benefit-cost information can be used by policymakers to help write budgets identifying a portfolio of evidence-based options able to reduce crime and save money.*¹¹⁸

The legislature in turn is able to select a mix of programs from the list and allocates funding accordingly, with a mandatory requirement that a set proportion of all program funding must be spent on on-going program evaluation.¹¹⁹

The evidence-based policy development and funding model, which has supported the uptake of 'justice reinvestment', has enabled the State to move beyond cycles of partisan, reactive policymaking to 'a more impartial and transparent method of arriving at funding decisions';¹²⁰ all the while realising significant improvements in cost and offending outcomes and a decline in forecasted prison demand (including cancellation of planned prison facilities). That is, the State has experienced:

- *A greater improvement in crime rates and juvenile arrest rates, compared with the national average.*

¹¹⁴ Victorian Ombudsman, [Crime statistics and police numbers](#), page 12.

¹¹⁵ Western Australia Police Service, 'Strategic Crime Prevention Grants', [WA Police Strategic Crime Prevention](#), webpage, 13 November 2011.

¹¹⁶ A Morgan and P Homel, '[Evaluating crime prevention: Lessons from large-scale community crime prevention programs](#)', *Trends & issues in crime and criminal justice*, No. 458, July 2013, AIC, Australiana Government, page 7.

¹¹⁷ The Pew Center for the States, '[Better Results, Lower Costs: Washington State's Cutting-Edge Policy Analysis Model](#)', *Issue Brief*, The Pew Center on States and the MacArthur Foundation, 2012, page 1.

¹¹⁸ S Aos and E Drake, '[Prison, police and programs: Evidence-based options that reduce crime and save money](#)', No. 13-11-1901 (2013), Olympia: Washington State Institute for Public Policy, 2013, page 1.

¹¹⁹ [Ibid](#), page 1.

¹²⁰ T Gabor, LLC, '[Evidence-Based Crime Prevention Programs: A Literature Review](#)', Submitted to the Palm Beach County Board of County Commissioners and Criminal Justice Commissions, March 2011.

- *An incarceration rate lower than the national average.*
- *Savings of \$1.3 billion per two-year budget cycle, eliminating the need to build new prisons and making it possible to close an adult prison and a juvenile detention facility.*¹²¹

Researchers from the Griffith University School of Criminology and Criminal Justice have pointed also to the example of the EPIS Centre in Pennsylvania which operates as part of the Prevention Research Centre within Pennsylvania State University, and is funded by the Pennsylvania Commission on Crime and Delinquency. The submission also emphasised the importance of the centre's 'intermediary status', because:

*...it operates in the gap between researchers on the one hand and government agencies and non-government organisations on the other. It must be independent of both government and service providers so that the work it does is based on the best evidence, not compromised by political compromises or entrenched agency practices.*¹²²

ATSILS and the QLS have highlighted the potential utility of a guide produced by the Urban Institute Justice Policy Centre in the United States, which provides 'a very detailed brief' describing 'the steps involved in the justice reinvestment process, the challenges that may be encountered, and examples of how those challenges can be overcome',¹²³ including 'exactly what data is needed, how it can be collected and from where'.¹²⁴

Notably, the above submissions are all largely consistent with the findings of a 2004 Federal *Inquiry into crime in the community*, which included in its recommendations with regards to 'Measuring Crime':

- *improved coordination between police forces, justice departments and statistical agencies to develop more consistent methods of recording and releasing statistical information to enable more effective research, program implementation and evaluation...[and] allow for the early identification of national, State and Territory crime trends;*¹²⁵
- *that data resulting from research be collected centrally and be made available to others (including agencies and individual researchers) for further research;*¹²⁶
- *that compulsory evaluation procedures are built into requirements for crime prevention grant funding;*¹²⁷ and
- *recognising the value of longitudinal research, the Committee recommends that funding be made available accordingly.*¹²⁸

¹²¹ The Pew Center for the States, [Better Results, Lower Costs](#), 2012, page 1.

¹²² School of Criminology and Criminal Justice, Griffith University, Submission No. 76, page 11.

¹²³ ADCQ, Submission No. 31, page 4.

¹²⁴ ATSILS, Submission No. 34, page 30.

¹²⁵ House of Representatives, Standing Committee on Regional Australia, [Chapter 4 – Measuring Crime in Australia](#), 2004, page 71.

¹²⁶ [Ibid](#), page 75.

¹²⁷ [Ibid](#), page 77.

¹²⁸ [Ibid](#), page 76.

Committee Comment

Evidence based policy

One aspect of the Inquiry which has been overwhelming in submissions is the requirement for evidence based strategies to address crime prevention. There is a wealth of information available from across the globe. Policy makers must be allowed to formulate strategies based on empirical data and not on what could be described as populist ideas that the general public thinks would have the best effect. The Committee notes the submission of the Bar Association of Queensland (BAQ) in that regard:

Because law and order is such a highly politicised area, the need for proper analysis and measurement is particularly acute. The temptation for bureaucrats and politicians to assume that feel good policies are being effective is strong and the world of spin doctors in which we live allows people who want things to be true to find reasons to believe that they are true.¹²⁹

Expanding further on the recommendations in Part 1 of this report, the establishment of a comprehensive inventory of trials and programs implemented around the State and in other national and international jurisdictions and documenting their aims, approach and outcomes would be of valuable assistance to stakeholders at all levels in harnessing the existing knowledge and accumulated experience and expertise. In stating this, there must be commitment at all levels for this to work. While this does not sound to be too much on its face, the Committee sees this as an important step in the success or otherwise in crime prevention.

Recommendation 4

For crime prevention strategies to have maximum effect, the Committee recommends the Government make an ongoing commitment to research and evaluation and developing evidence based policies to address crime prevention.

Access to relevant data

To support the commitment to establishing a good evidence base for crime prevention – access to reliable data must be a precondition. Over the course of the Inquiry, the Committee has been provided with countless sets of statistics - based on different periods of time; relating to different geographical locations; some with caveats as to the collation of the data, some without. The Committee has considered a range of statistics presented in the media with varying results depending on who released the data and where it was published. Put simply, the numbers are malleable and will often be presented to give the best (or worst) light depending on the situation at hand.

While the Committee applauds the open data initiatives of the Government; in order to reduce the incidence of misreporting of crime statistics and ensure that accurate information is presented to stakeholders, the Committee sees merit in the establishment of a specialist crime statistics agency or unit independent from the QPS, which is charged with not simply providing the raw data, but also providing the necessary analysis that needs to accompany the data.

¹²⁹ BAQ, Submission No. 70, page 2.

In that regard, the Committee again notes the submission of the BAQ:

The Association urges the Government to allocate resources to research and evaluation. Well directed research can identify the levels of crime; which crimes are increasing and which types of crime are well controlled; and which crimes impact most seriously upon the populace.

...

Once policies are adopted and implemented, there is a great need for sufficient resources to be allocated to ensure rigorous evaluation using properly scientific measurement and analysis. All evaluation processes should make use of proper control samples and data should be statistically adjusted to take account of other influences to ensure the effects of the policy under consideration is what is in fact being measured.

The Committee considers that such a body might draw on the structure of the NSW BOCSAR or might be established as a joint venture with existing research institutes or universities in Queensland. Subject to the design of such a body, it may also take on the responsibility of maintaining the repository of crime prevention strategies (Recommendation 2) and provide a service similar to that of the Washington State Institute of Public Policy.

Recommendation 5

The Committee recommends the establishment of an independent unit or agency responsible for crime research, statistics, data collection and analysis to assist stakeholders with the provision of data and evidence to inform the development and implementation of crime prevention strategies.

3.5 The Queensland Police Service: Records Management and Administrative Systems and Capacity

Reviews of police record keeping and data collection in Australia have routinely sought to emphasise that *'the administrative burden on police for data capture is significant'*.¹³⁰ In Queensland, police reports and details are entered and managed via the information management system QPRIME (Queensland Police Records Information Management Exchange).

An examination of the various systems primarily used by the QPS is set out in the following pages.

QPRIME was first introduced in April 2006 and rolled out over a series of release phases. The one-stop database replaced over 234 other systems (many of which were non-compatible) with a single, integrated records management system for *'most police incident types including traffic crashes, missing persons, sudden deaths, crime, custody, charging, organised crime and gangs, Crime Stoppers and intelligence'*.¹³¹

At the time of QPRIME's initial deployment, QPS declared that the new streamlined system would allow officers to record and access crucial details such as *'a suspect's address, known aliases and associates, photographs and defining features at the click of a button'*,¹³² giving police faster and easier access to information when investigating crimes.¹³³

¹³⁰ Victorian Ombudsman, *Crime statistics and police numbers*, page 8.

¹³¹ QPS, 'QPRIME', *Annual Report 2009-10*, October 2010, page 84.

¹³² QPS, 'QPRIME – a vital weapon in the fight against crime', *Police Bulletin*, 314, April 2007, page 7.

¹³³ M Wenham, Great leap ahead lost in the matrix, *The Courier-Mail*, 22 April 2010.

Reports during the early years of QPRIME's operation suggested that the system's time-consuming informational requirements and convoluted data entry processes in fact significantly increased the length of time required to complete crime reports and process warrants, with the effect of potentially discouraging police from making arrests for some minor matters¹³⁴ and 'undermining the QPS' ability to fight crime'.¹³⁵ These system issues were exacerbated by poor quality records and vast inconsistencies in data entry procedures across the 234 hundred-odd disparate information systems that were integrated into the QPRIME database upon its commencement.

For example, former QPS Data Manager, Graeme Campbell¹³⁶ noted in 2012 that records had previously been entered with little or no validation and poor systems or indexing, such that it was not unusual to encounter:

- multiple personal and business name iterations;
- invalid addresses;
- inaccurate personal details; and
- and other considerable data inconsistencies.

Unfortunately, it was noted that as a result of the above:

...nearly twice the population of person records in Queensland was recorded in QPRIME...

*A single suburban department store had up to 120 variations in its name alone. Instead of trying to find the correct person or location to attach an event to, police officers just created a new one, adding to the huge number of variations already stored in the database.*¹³⁷

The QPS has since deployed specialist 'identity resolution' software to search, match and cleanse 210,000 poor-quality offender records, and a 'data quality' software offering which reduces the likelihood of duplicate records being created. These data and procedural rationalisation processes have reportedly delivered significant informational flow-on effects, including the provision of records of a higher standard of integrity to 'external agencies such as legal teams, the court and prisons', aiding 'subsequent criminal justice analytics'.¹³⁸

Despite these improvements, the final report of the Keelty Police and Community Safety Review (PACSR) found that QPRIME search capabilities ultimately remain poor, with searches for some specific records potentially taking 'a number of officers many hours or even days to find – if they find it'.¹³⁹ The QPS Acting Assistant Commissioner, Northern Region, Paul Taylor noted:

*If I can give a couple of challenges that police face. We have a lot of people on our system that are recorded in several different ways. Whilst we have some that mean to do that, we have others that misspell their name or cannot remember how to spell their name.*¹⁴⁰

¹³⁴ See Police Union commentary: [Police avoid arrests due to time-consuming QPRIME computer system](#), *The Courier-Mail*, 28 November 2008; and comments of the Honourable JP Langbroek MP: R Ironside, [Queensland Police Service spends \\$6 million on computer system to track gun licences](#), *The Courier-Mail*, 21 October 2010; P Doneman, Flawed policies bog down police – Secret papers reveal overwhelmed service, *The Sunday Mail*, 1 March 2009, page 37.

¹³⁵ [Queensland Police Service Reduces Crime and Saves Lives with Informatica](#), *Informatica: Success Story*, 2012, page 1.

¹³⁶ Mr Campbell serviced as QPS Data Management Manager from March 2007 through to January 2012 appointment ([Graeme Campbell](#), *LinkedIn*, 2014).

¹³⁷ [Queensland Police Service Reduces Crime and Saves Lives with Informatica](#), *Informatica: Success Story*, 2012, page 1.

¹³⁸ [Ibid](#), page 2.

¹³⁹ MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 19.

¹⁴⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, page 13.

However Assistant Commissioner Mike Wright also reported that police are becoming increasingly adept at using the system after an initial period of transitional training and adjustment, citing a recent example in which police were able to immediately identify a suspect based on very specific particulars recorded in the QPRIME system, securing the individual in custody within 'a few short hours' of the offending behaviour having taken place.¹⁴¹

The Policelink telephone reporting system, which is used by the QPS both as alternative to triple zero calls for police assistance in non-emergency matters and as the primary contact point for police recording of incident reports, has been identified as also having the potential to engender more efficient data collection and record keeping; and to better leverage public contributions to the crime reporting and evidence-gathering process. As the 2013 QPS structural review summary report noted:

*Police will always have to react, and report and do 'paperwork' of some sort; it's the nature of the business. The courts require it; we require it to share information... We also need to receive information from the public to do our job. But we don't always need to actually talk to someone to take a report. We don't always need to send police officers to an incident to take a report. Some of the services we currently deliver may not be delivered in the same way or at all in the future.*¹⁴²

Policelink operators are data entry experts 'who can efficiently input the data onto QPRIME' in 'less than 50% of the time taken by officers themselves to input data'. Use of the process thus also encourages consistency in data entry and serves as a quality control, 'which is important as this data feeds into the national reporting for crime statistics'.¹⁴³ The QPS website states that 'Policelink also assists officers managing crime in your area by identifying emerging trends from the information you provide when you make your report to Policelink'.¹⁴⁴

The PACSR report noted, however, that the ability of Policelink to deliver on its promise and 'maximise QPRIME usability and quality'¹⁴⁵ has to date been limited by chronic understaffing and processing backlogs, which apparently continue to loom as ongoing barriers to the prompt reporting of incidents of crime and their particulars. In a number of locations Policelink operator staffing levels were found to be below minimum staffing standards and recommendations,¹⁴⁶ with testimonies suggesting that more often than not, the line rings out.¹⁴⁷ Consequently, victims of crime typically make numerous calls before being successfully connected to an operator.

¹⁴¹ Assistant Commissioner Mike Wright noted that: 'On one particular night shift in Toowoomba the police officers spoke to a young male person who was wearing distinctive clothing but in particular a distinctive belt buckle. It was recorded and put into the QPRIME system. Some days later, late at night an altercation was taking place in a house. A woman looked out of her window and down at the house. She could see a male person moving around in the house and she could identify this particular belt buckle. The police officers went back and reviewed that particular description and within two hours they had the offender in custody. The offender had just committed a murder of an elderly gentleman. It was the use of QPRIME and the ability to identify small particulars – tattoos, belt buckles – that had the offender in custody within a few short hours'. (Transcript of Proceedings (Hansard), Public Hearing, LACSC, Ipswich, 29 July 2014, page 7)

¹⁴² QPS, [Overview of the proposed changes to the structure and governance of the Queensland Police Service](#), 2013, page 21.

¹⁴³ MJ Keilty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 294.

¹⁴⁴ QPS, [Benefits of Policelink](#), Policelink webpage, last updated 25 August 2014, accessed 10 November 2014.

¹⁴⁵ Queensland Government Chief Information Officer, [Application and technology duplication: An annex to the Queensland Government ICT Audit 2012](#), The State of Queensland, 2013, page 69.

¹⁴⁶ QPS, [Overview of the proposed changes to the structure and governance of the Queensland Police Service](#), 2013, page 27.

¹⁴⁷ J Sollars, [Police crisis as call centre 'grossly understaffed'](#), *Warwick Daily News*, 22 May 2013; A Templeton, [Policelink rates as a spectacular failure: Hold the line for hours](#), *Townsville Bulletin*, 22 January 2013, page 5.

During the Inquiry's public hearing in Townsville, Ms Torhild Parkinson of Townsville Crime Alerts and Discussions reported that delays and inefficiencies meant that some organisation members *'are not reporting crimes because of the hoops they have to jump to go through Policelink'*:

...you ring Policelink. You go through the reportings and you will get someone from the communications centre. They will say, 'Okay, what is your situation?' You will tell them. Then they will say, 'Hold, please, and we will put you through to Townsville.' If Townsville is too busy, then you end up in Mount Isa or Cairns. I have had people tell me that they have actually gone from Brisbane to Cairns, back to Brisbane and to Townsville. We have actually had people who have been on hold for more than 15 minutes before they have actually been able to report the crime that they have seen... It just seems that there is such a backlog.¹⁴⁸

However, while acknowledging such community frustrations, QPS Superintendent Ron Van Saane suggested the operation of the system had also made reporting offences more accessible, and would continue to improve as part of an ongoing adjustment process.

My experience is that Policelink has caused some frustration to members of the community; on the other hand, we have seen ... more reporting of offences than possibly there have been in the past. It is a lot easier from that perspective: you do not have to go to the police station and speak to a police officer face to face; you can make the call and do the downloads as required... The only downside is, and I have heard it too, that response times are longer for certain classes of calls or complaints. But I have spoken to our communications people at length and Policelink sent it to our coms people with a caveat saying, 'This is not urgent. The people said it happened six hours ago. They know there is nothing we can do about it. They are doing it for insurance purposes only. Would you get to it when you can get to it.' So I have asked for Policelink response times, and for routine incidents the response times is two hours and 32 minutes for Capricornia. That is hardly what I would assume would be a suitable time, but further digging down shows some are two days because the people have been contacted, they are not there, we have not got there and it just averages out over a year to that.

From a Capricornia perspective, and we were speaking about this earlier too, there are a lot of country areas in Capricornia west of Westwood and down through Biloela and that where the people are still genuinely prefer to speak to a police officer face to face. They prefer to go to the police station to make a report. They prefer to be able to know who that person is and have a direct phone call to them. That has been phased out and it is causing some teething problems, but we are certainly all realists within the QPS and it is a matter of community education. It is a matter of educating to the point of what you have lost here you make up with probably an extra couple of police officers in the future because of the reduction in having to stay around at the office and more hours on the road.¹⁴⁹

It should be noted the joint-purpose nature of the service means that just as citizens must wait to report incidents, police officers calling to register crime reports must also sometimes wait for considerable periods to log or receive information (the PACSR report noted that police officers without mobile access reported waiting *'upwards of 15 to 40 minutes in order to register their report on Policelink which is the very same system used by the public to register their reports of crime'*, such

¹⁴⁸ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Townsville, 12 August 2014, pages 21-22.

¹⁴⁹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Rockhampton, 14 August 2014, pages 11-12.

that *'frustration with this cumbersome and time consuming process could be resulting in under reporting but there is no real way of telling'*).¹⁵⁰

This is of concern from not only an administrative but also an operational standpoint, for as the Victorian Ombudsman recently observed, *'delays in recording data affect the reliability of decisions'*, such that police then face the prospect of making operational choices based on out-of-date information.¹⁵¹ The same applies with regards to delays faced by officers calling the line from the field to request a search of the QPRIME database, or details of an offender record. Reports suggest police currently often look to circumvent the system by using their own recording and storage devices to capture and store information, and using private devices for online lodgement or to send information to an in-station colleague – a worrying trend that has raised some privacy-related concerns.¹⁵²

However, the rollout of new mobile systems has the potential to address this concern and *'overcome many of the issues raised by frontline police'*.¹⁵³ The Government has committed to the roll out of another 1,250 devices prior to the November 2014 G20 summit, following on from the initial *'tremendous success'* of a 2013 trial of 500 iPad minis.¹⁵⁴ As a result, where officers were previously required to return to the office to complete their incident reports or otherwise report via phone – both of which were identified as a potential disincentive to comprehensive record-keeping and constraint on active beat time and mobility – Police Minister Jack Dempsey MP suggested the devices can *'save up to 30 minutes per officer per shift in desk time'*. These positive comments have largely been affirmed by police representatives in the Committee's public hearings.¹⁵⁵

In addition, the QPS has identified that the new QLITE mobile systems can deliver significant benefits through real-time intelligence sharing (including access to QPRIME records and live CCTV footage feeds), particularly for those officers in full-time proactive roles *'such as traffic branch and tactical crime squads'*:

*We expect benefits in targeting crime and incidents of concern to the community such as assaults, graffiti, hooning and drug dealing.*¹⁵⁶

In line with this, Minister Dempsey noted *'officers now have access to crucial information in the palms of their hands, giving our law enforcement teams an immediate 'leg-up' in the fight against crime'*.¹⁵⁷ (QPS Commissioner Ian Stewart acknowledged in a private meeting of 12 June 2014 that previously officers wishing to retrieve information from QPS systems *'made a radio call or a call on the mobile phone to our communication centres, which were often quite busy and under stress with*

¹⁵⁰ MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 17.

¹⁵¹ Victorian Ombudsman, [Crime statistics and police numbers](#), page 10.

¹⁵² D Murray, [Queensland Premier Campbell Newman says civilians will take place of police in speed camera vans on back of Keelty review](#), *The Courier-Mail*, 10 September 2013.

¹⁵³ MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 296.

¹⁵⁴ R Ironside, [iPads the weapon of choice for that keep Queensland Police away from the desk and out on the streets](#), *The Courier-Mail*, 2 April 2014.

¹⁵⁵ See for example: the comments of Assistant Commissioner Mark Wright: *'The ability of police officers now to upload data using the QLITE system has gone a long way to improving, as I mentioned, operability and the maintenance of front-line policing on the road, where they need to be. I know that there have been some changes whereby there have been some long delays in trying to put details on—phoning through to Policelink. That has also been rectified and been improved. It is a case of evaluating the systems we have. Nothing will be perfect. If we continue to evaluate it and improve it, we can never get to utopia but we are certainly on the way to that'*. (Transcript of Proceedings (Hansard), Public Hearing, LACSC, Ipswich, 29 July 2014, page 8).

¹⁵⁶ QPS, [Overview of the proposed changes to the structure and governance of the Queensland Police Service](#), 2013, page 25.

¹⁵⁷ Media Statement, [Police hit the digital beat](#), the Honourable Jack Dempsey MP, Minister for Police, Fire and Emergency Services, 2 April 2014.

the normal day-to-day operations, to get that information'.¹⁵⁸ Assumedly the same still applies to those frontline police to whom the mobile systems have not yet been extended.)

Ongoing improvement in police information systems could also support the increased uptake of 'predictive policing' approaches, which see police departments adapt business techniques used to predict consumer behaviour for the prediction of offending behaviours.¹⁵⁹

Assistant Commissioner Taylor described the practical benefits of the QLITE system to the Committee at its Townsville public hearing:

We can do, say, a bail or curfew check in, roughly, just under seven minutes on average. So if you are a recidivist and you commit, say, a break and enter, a break and enter also takes, on average, probably an hour and 10 minutes. That is when you take into account the resources that have to go there. So this one person in seven minutes has captured where you are, what you are doing and all of those things, made sure that it is compliant with the curfew and it is in the system.

So when we start looking at technology, we start looking at crime overnight and we map, for example, QLITE street checks and curfew checks. Straightaway this person here appears where all of these breaks have occurred. This person here is known for breaks. This person here is known for their modus operandi—how they break into houses—and the observations and the analysis of the houses are consistent. So you have a lot of technology that is assisting what is really going on, which lifts it to another level. Seven into an hour and 10 minutes goes 10 times. So potentially, 10 recidivists are checked as opposed to going to one break and enter.¹⁶⁰

In line with the Inquiry's terms of reference, such strategies encompass a shift from the traditionally reactive law enforcement strategies to 'proactive' aims and goals, based on analysis of space, time and social networks. Using various data analysis techniques and prediction algorithms, leading police departments around the world are identifying crime hotspots and temporal offending patterns, and mapping interpersonal connections to pinpoint high-connectivity central network actors. These data-dependent activities are providing actionable information upon which various pre-emptive deployment and resource allocation decisions are being made.¹⁶¹

While the QPS has made some in-roads with these types of approach,¹⁶² perhaps the best known example of such initiatives is the Memphis, Tennessee Police Department's Operation Blue 'Crush' (Criminal Reduction Utilising Statistical History). The operation resulted in a 31% reduction in crime over the five years following its 2006 launch,¹⁶³ including a 26% reduction in the numbers of major property and violent offences and a 40% drop in car break-ins, muggings and murders.¹⁶⁴

The predictive approach was developed by criminologists and data scientists at the University of Memphis using IBM predictive analytics software. Put simply, they compiled crime statistics from across the city over time and overlaid it with other datasets – social housing maps, outside

¹⁵⁸ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014.

¹⁵⁹ J Bachner, [Predictive Policing: Preventing Crime with Data and Analytics](#), IBM Center for The Business of Government, Spring 2014, page 87.

¹⁶⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 8.

¹⁶¹ J Bachner, [Predictive Policing: Preventing Crime with Data and Analytics](#), IBM Center for The Business of Government, Spring 2014, pages 88-89.

¹⁶² *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014, page 3.

¹⁶³ D Henschen, [Memphis Cuts Crime with Predictive Analytics](#), *InformationWeek*, 21 July 2010.

¹⁶⁴ J Vlahos, The Department of Pre-Crime, *Scientific American*, January 2012, page 63.

temperatures etc. – then instructed algorithms to search for correlations in the data to identify time-spatial crime ‘hot spots’. Police then flooded those areas with highly targeted patrols.¹⁶⁵

Currently, the ability of QPS or other agencies to conduct such activities is limited due to an apparent lack of resources allocated to the statistical preparation and reporting of data. As the PACSR report noted:

*Under the provisions of the Police Service Administration Act 1990 the Minister is entitled to provide a general direction to the Commissioner on the administration and priorities of the police service based upon advice from the Commissioner. That advice should, however, be based upon empirical evidence. Currently, this evidence is not available due largely to a lack of cost allocation ability.*¹⁶⁶

This state of affairs was affirmed by Dr Michael Townsley of the Griffith University School of Criminology and Criminal Justice in the initial private meeting with the Committee:

*For instance, for some of my projects that I have had approved through the QPS, I have had to wait six to nine months to get the data, because there is one person who does the extraction and the cleaning, and this person gets lots of requests internally and externally. Unless that person is multiplied, we will always have a six to nine month lag in all of our projects...*¹⁶⁷

Other key informational and communication shortfalls highlighted in the PACSR report which could be addressed to boost police information management and responsiveness to crime, include:

- Police must negotiate overlaps and incompatibilities in and between the QPS’s new computer aided dispatch system employed at seven major QPS sites and the 20-year-old system used in 12 smaller sites across the State.¹⁶⁸ This includes a dependence on a static response model which lacks any GPS or vehicle location information such that ‘*the system relies heavily upon the integrity of the patrols to announce that they are the nearest car or for a supervisor to intervene and allocate the jobs*’ and ‘*...in some very minor matters, it can be weeks before the complainant is interviewed by police*’.¹⁶⁹
- The QPS continues to lag behind other jurisdictions in its automation of perfunctory tasks (eg. traffic infringement notices etc.), and in terms of the stalled roll-out of automated number plate recognition¹⁷⁰ and availability of mobile fingerprint readers for on-the-spot offender identification.¹⁷¹

It has also been suggested that opportunities to increase community input through online information lodgement portals and expansion of existing police media offerings (eg. myPolice blogs) could also improve operational information bases, as well as contributing to community perceptions and responsibility for safety.

¹⁶⁵ L Hickman, [How algorithms rule the world](#), *The Guardian*, 2 July 2013.

¹⁶⁶ MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 304.

¹⁶⁷ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014, page 26.

¹⁶⁸ A Coyne, [Qld Police rolls out new dispatch system](#), *itnews*, 2 October 2013.

¹⁶⁹ MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 19, 293.

¹⁷⁰ The report noted that following a 12-month trial of automatic number plate recognition (ANPR) technology the QPS placed one unit in use in 2011, but had made very little progress in its use with just 12 mobile ANPRs in use at the time of publication; none of which were linked up to the Department of Transport (registration information). This is despite the potential for such technologies to change driver behaviours. In New South Wales, conversely, the fit-out of over 200 police units, including all highway patrol cars, has apparently ‘*proved successful enough that motorists no longer have to display registration stickers*’ (M Lee, [Qld Police ‘significantly behind’ on technology: Keelty Review](#), *ZDNet*, 10 September 2013).

¹⁷¹ R LeMay, [Surprise? Qld Police stuck in IT dark ages](#), *Delimiter*, 11 September 2013. See also: MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 256.

3.6 The Courts and Corrective Services: Records Management and Administrative Systems and Capacity

As with police data, courts and corrections data are often insufficient to support allegations of causal associations between reported patterns, such as the apparent efficacy of one or another form of sentencing option and corrective program.¹⁷² To fully understand whether one form of punishment and/or rehabilitation is associated with a lower level of recidivism would require a whole range of information including a defendant's community ties, employment status, income, educational background, drug abuse history, and mental health status'.¹⁷³

However, evidence from witnesses at public hearings suggested the range of offender particulars recorded can often be limited, and that a continuum or trajectory of an offender's interaction with different service agencies may also not be easily distinguished due to the discrete nature of service delivery and associated failures in information transfer.

In line with this, it has been reported that as data collections are essentially 'operational' and not research-based, they typically contain only the minimum information required to progress and process the alleged offender through the criminal justice system in the most effective way, with limited information on the 'why' of crime:

*They do not necessarily need to record information about the circumstances that triggered the criminal event, either immediate or long term, including the specific characteristics of the individual or their family, neighbourhood or community. So, for example, they do not need to know that the person has mental health problems, extreme financial difficulty, drug issues or a gambling addiction to link the alleged offender to an offence. They do not need to record that the young person has experienced extreme family violence or abuse or neglect, that they have particular health issues and that the neighbourhood he or she lives in has high levels of youth unemployment and social disadvantage.*¹⁷⁴

In some circumstances this type of information is recorded in the 'narrative' description provided in incident or apprehension reports; but there are generally no comprehensive rules as to what socioeconomic and other background information must be recorded in the required fields of official records. Where information is recorded in narratives, there is no way to access the information efficiently, as data typically must be extracted manually. This can represent a significant obstacle for researchers looking to ascertain the broad-scale impact or prevalence of certain variables or risk factors among offenders – including, for example, homelessness, gambling and other addiction problems.¹⁷⁵

Data limitations appear to be especially acute at the court adjudication level and for the Supreme and District Courts in particular. The Committee understands that around 97% of crime in Queensland is dealt with through the Magistrates Court, such that the serious and more complicated (individualistic) nature of many of these remaining matters may somewhat account for the lack of any systematic record of offender characteristics in these instances.

Integrity and comprehensiveness of overall recording systems aside, the courts also face various informational capacity constraints on their successful administration. Increasing lodgements pose a challenge in terms of clearance rates and the timely finalisation of matters (timeliness of finalisation

¹⁷² Bureau of Justice Statistics, [State Court Processing Statistics Data Limitations](#), Data Advisory, Office of Justice Programs, U.S. Department of Justice, March 2010, page 1.

¹⁷³ Ibid, page 1.

¹⁷⁴ Marshall, '[Criminal Justice Data](#)', 2005, page 3.

¹⁷⁵ Ibid, pages 3-4.

remains one of the important service indicators employed by the Courts).¹⁷⁶ Such growing case burdens were also acknowledged by the PACSR, which raised concerns over an apparent lack of ease of access to court information, identifying:

*The need to increase the use of technology to facilitate court appearances and to share information appropriately across the criminal justice system, including the legal profession...*¹⁷⁷

For example, the PACSR report noted increased use of technology to share information could eliminate delays and inefficiencies related to the fact that:

- *Paper based systems are used to deal with the request for an appearance of a prisoner before a court by their legal representative;*
- *Paper based systems are used for the transfer of prisoners from Queensland Corrective Services to the Queensland Police Service at the watch-house; and*
- *Police must wait for a paper based decision from the court before they can transfer a prisoner to Queensland Corrective Services.*¹⁷⁸

Further, with regard to ongoing information-sharing and data transfer difficulties in particular, that report also noted:

...it appears that there are regular discrepancies between the data held by Queensland Corrective Service and police on the length of time Queensland Corrective Service prisoners have been held in watchhouses – better data in this regard is central to improved management of the issue.

*There is scope for courts to have better integrated court lists so that inefficiencies within Queensland Corrective Service and Queensland Police Service can be addressed; particularly the length of time a prisoner is held in a watchhouse.*¹⁷⁹

Within Corrective Services, improved collection and transfer of data across each of the offender's program interactions could also help inform a more coordinated response to offender management; all the while supporting the development of a richer informational picture and evaluative evidence base.¹⁸⁰

Specific data on recidivism results by correctional facility or by specific program are not yet well developed for a range of reasons (eg. movement of prisoners across facilities based on risk profile after sentencing). Queensland Corrective Services has identified the need for improved case management as part of a draft strategy document 'Stronger Corrections' to improve recidivism, and this would need to be supported by improved, place or program based measures of recidivism.

*This is a positive initiative supported by the Review team. The Review further notes the development of effective metrics on recidivism is a key success factor in the development of effective social benefit bonds for youth justice and adult corrections.*¹⁸¹

¹⁷⁶ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014, page 6.

¹⁷⁷ MJ Keilty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 78.

¹⁷⁸ *Ibid*, page 72.

¹⁷⁹ *Ibid*, page 78.

¹⁸⁰ *Ibid*, page 68.

¹⁸¹ *Ibid*, page 68.

The Review team also noted:

While the corrections environment has relatively mature performance indicators within the Report on Government Services 2013 reporting framework, more specific assessment of performance could be undertaken involving those within the system. Public confidence in the system should be a key performance indicator, given the taxpayer is the primary customer...

Better metrics targeted at these direct stakeholders has the potential to provide useful information and thus measurable improvements that could then inform public confidence in the system... Furthermore, the cost of transporting prisoners, the cost of health services for prisoners, the reduced cost of appearances through use of technology and the level of recidivism, after specific interventions or programs could all be measures more accurately.¹⁸²

Committee Comment

Having regard to the issues relating to the quality of data outlined to the Committee during the Inquiry, further work needs to be taken to ensure the duplication of data and inaccurate reporting of information is reduced.

In relation to the QPS use of advanced technologies, the Committee sees great potential in the further rollout of the QLITE technology as it has obvious benefits to QPS officers on the ground, and their ability to swiftly transfer information, or receive information. Creating greater efficiencies in the QPS' day to day duties is essential, however the benefits of having real-time intelligence is eroded if the data in which these systems are interrogating is not accurate.

The issues brought to the attention of the Committee in relation to the Policelink system cannot be ignored. It was disappointing to hear that witnesses who were attempting to report a crime, felt they were hampered in doing so, due to the use of advanced technology. Being diverted to a region at the other end of the State or having the line ring out is clearly not acceptable. The Committee accepts that Policelink is not designed for reporting emergencies, however considers it is of vital importance that the public has faith in the police reporting systems for all matters. Further, the PACSR report findings of chronic understaffing and backlogs in the use of Policelink must continue to be monitored and addressed.

Recommendation 6

The Committee recommends the Government continues to support the Queensland Police Service's use of the QLITE systems and commits to (1) a further roll out of QLITE systems to officers around the State; and (2) appropriate training for officers to ensure the new technologies are used effectively.

Recommendation 7

The Committee recommends the Government gives priority to actioning the PACSR recommendations in relation to Policelink to ensure the project is able to deliver results in accordance with its full capabilities.

¹⁸² MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 76.

In relation to data sharing on a more general level, the Committee considers it is essential that information-sharing and data transfer between agencies within the criminal justice system is also enhanced. The Committee considers that using unique person identifiers as is occurring in other jurisdictions, could significantly improve the data sets being collected and enable offenders to be tracked across agencies, as they progress through the various stages of the criminal justice system.

Recommendation 8

The Committee recommends that all relevant departments or agencies review their data collection practices with a goal to (a) improving the quality of data being collected; and (b) improving the capability for sharing the information across agencies.

Recommendation 9

The Committee recommends the Government investigate the implementation and use of a unique person identifier to track offenders as they progress through the criminal justice system – including at a minimum interactions with the Queensland Police Service, appearances in courts and through corrections, and with possible extensions through education, health and other relevant agencies.

4. Social and Economic Contributors to Crime

It has long been recognised that strategies targeting the underlying social and economic contributors to crime can be powerful in preventing crime from occurring. A wealth of information exists in relation to the social and economic contributors to crime with significant research and investigation of this broad area occurring over many years within Australia and in international jurisdictions. Numerous submissions commented on a range of contributors, to crime generally, as well as to specific aspects of crime, including the overrepresentation of Indigenous people in the criminal justice system, domestic and family violence and human trafficking.

4.1 General observations

In the Anti-Discrimination Commission Queensland's (ADCQ) view, no other report has examined the drivers of imprisonment rates in Australia in the past 30 years, as has the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC):

RCIADIC's examination of the deaths of ninety-nine Aboriginal men, women and juveniles (and to a lesser extent Torres Strait Islander men) in prisons, police watch houses and lock ups and juvenile detention institutions, between 1 January 1980 and 31 May 1989 in Australia highlighted the drivers that brought these individuals into the justice system at that time.

RCIADIC found that underlying issues behind the over-representation of the Aboriginal men, women and juveniles in the justice system included unemployment, poverty, the inability to pay fines, poor health (particularly mental health), lack of education, alcoholism and drug addiction, race discrimination, homelessness, as well as police practices, prison procedures and judicial processes.¹⁸³

The Queensland Law Society (QLS) set out similar factors seen as contributing to crime from observations by its legal practitioner members, who interact on a daily basis with the criminal justice system:

...family factors including exposure to domestic and sexual violence, mental health issues, socioeconomic status, disengagement from education, unemployment and drug and alcohol abuse. We also highlight significant concerns with the overrepresentation of Aboriginal and Torres Strait Islander peoples in the justice system.¹⁸⁴

Various other submitters provided similar lists of various social and economic contributors to crime, including Hopecentre Services,¹⁸⁵ ATSILS,¹⁸⁶ Ipswich City Council¹⁸⁷ and SupportLink National Pty Ltd.¹⁸⁸

In its submission, the Queensland Council of Social Service (QCOSS) provided a copy of a table entitled '*Risk and Protective factors associated with antisocial and criminal behaviour*', sourced from the Commonwealth Attorney-General's Department's National Crime Prevention 1999.¹⁸⁹ The risk factors presented in the table are divided into child factors, family factors, school context, life events and community and cultural factors.

¹⁸³ ADCQ, Submission No. 31, page 7.

¹⁸⁴ Queensland Law Society, Submission No. 51, page 7.

¹⁸⁵ Hopecentre Services, Submission No. 21, page 1.

¹⁸⁶ ATSILS, Submission No. 34, page 2.

¹⁸⁷ Ipswich City Council, Submission No. 62, page 4.

¹⁸⁸ SupportLink National Pty Ltd, Submission No. 75, page 3.

¹⁸⁹ QCOSS, Submission No. 17, page 4.

Common social and economic contributors to crime repeatedly raised in submissions included:

- social exclusion (a contributor which is said to group together a number of the below contributors);
- drug and alcohol related issues;
- unemployment, underemployment and socioeconomic conditions, such as poverty and housing issues;
- family factors, such as parenting standards, family criminalisation and exposure to domestic and sexual violence;
- moral decline and breakdown of community structures;
- health issues, intellectual disabilities and mental illness;
- media influence, including journalistic and social media, as well as information and communication technologies; and
- education factors.

These particular contributors are examined in further detail below.

4.2 Social exclusion

In its submission, the Australian Institute of Criminology (AIC) contended the risk of becoming involved in crime, or being victimised, is greater in communities that experience high levels of social exclusion or a lack of social cohesion:

Aspects of social exclusion including neighbourhood disadvantage, unemployment, intergenerational disadvantage, limited education prospects, poor child health and wellbeing and homelessness are important risk factors for criminal behaviour (Hayes et al. 2008).¹⁹⁰

It continued, quoting: 'Victimisation and fear of crime can lead to further social isolation and exclusion (Hayes et al. 2008)¹⁹¹; and observing other factors, including '...child neglect and abuse, poor physical and mental health, a lack of support from parents, families and friends, and the prevalence of family violence and abuse (Snowball & Weatherburn 2006)¹⁹².

In making similar observations about social exclusion issues, the SRC cited the following from the Australian National Crime Prevention Framework:

A focus on strengthening communities recognises that crime is strongly associated with the coincidence of a series of structural determinants present within particular communities (eg. different rates of access to housing, employment, education, and health services, among other factors).¹⁹³

¹⁹⁰ AIC, Submission No. 77, page 1.

¹⁹¹ Ibid, page 1.

¹⁹² Ibid, page 1.

¹⁹³ SRC, page 4, citing the Australian National Crime Prevention Framework.

4.3 Drug and alcohol related issues

The AIC referred to a review of the research into the relationship between drug use and crime, which found ‘...the drug using population is responsible for a disproportionate amount of crime and that a significant proportion of offenders report using illicit drugs (Urbis Keys Young 2004)’.¹⁹⁴

The research was also said to have found ‘drug use and offending are associated with one another, and both can be considered as the manifestation of deviant behaviour and are mutually reinforcing’.¹⁹⁵ Illicit drug use was found to be associated with both violent crime and property crime, but having the strongest association with property crime.¹⁹⁶ The BAQ made similar observations, stating: ‘The correlation between drug addiction and property offending extends to offences such as breaking and entering, fraud and stealing’.¹⁹⁷

The AIC cited a meta-analysis conducted by Bennett, Holloway and Farrington in 2008 which ‘...identified that the odds of offending for drug users were three to four times greater than for non-drug users’.¹⁹⁸

It also submitted that since 1999 it has undertaken the Drug Use Monitoring in Australia Program which has collected data, on a quarterly basis, on alcohol and other drug use and criminal offending in the Australian police detainee population. Data from 2011-12 revealed:

- 69 percent of police detainees (n=2,912) who provided a urine sample tested positive to at least one drug;
- approximately a third of police detainees (33%; n=1,378) who provided a urine sample tested positive to two or more substances;
- 23 percent of detainees (n=1,738) self-reported that illicit drug use was a contributing factor in their current offending, for which they were being held by police at the time of interview; and
- 19 percent of detainees classified as violent offenders (n=393), by most serious offence classification, and 31 percent of those classified as property offenders (n=445) attributed drugs as a cause of their current offending.¹⁹⁹

In relation to alcohol consumption, the AIC asserted there is ‘...strong evidence of an association between the consumption of alcohol and violence’²⁰⁰, noting it is estimated ‘...between 25% to 75% of all assaults are alcohol related’.²⁰¹

The BAQ quoted that 35% of Queenslanders have been affected by alcohol-related violence.²⁰² It quoted results published in the Foundation for Alcohol Research and Education’s July 2013 report entitled ‘Alcohol-related harms in Queensland’, showing ‘there were 35,149 alcohol-related hospitalisations in 2011-12 in Queensland, a 57% increase from 2002-3’ and ‘a 31% increase in alcohol-related emergency department presentations’.²⁰³

¹⁹⁴ AIC, Submission No. 77, page 2.

¹⁹⁵ Ibid, page 2, citing Urbis Keys Young 2004.

¹⁹⁶ Ibid, page 2, citing Urbis Keys Young 2004.

¹⁹⁷ BAQ, Submission No. 70, page 15.

¹⁹⁸ AIC, Submission No. 77, page 2.

¹⁹⁹ Ibid, page 2.

²⁰⁰ Ibid, page 2, citing Graham & Homel 2008.

²⁰¹ Ibid, page 3, citing McAtamney & Morgan 2009.

²⁰² BAQ, Submission No. 70, page 23, citing the Queensland Coalition for Action on Alcohol.

²⁰³ Ibid, page 24.

Acknowledging the interrelation between the various contributors to crime, the AIC advised:

*The relationship between alcohol and aggression is the result of a complex interaction of the pharmacological effects of alcohol, individual characteristics, effects of the drinking environment and societal attitudes and values (McAtamney & Morgan 2009).*²⁰⁴

Various other submitters identified drug and alcohol issues as a contributor to crime. The Salvation Army noted its South Queensland prison chaplains ‘...have observed that a large portion of prisoners are incarcerated due to alcohol and other drugs related issues’.²⁰⁵

4.4 Unemployment, underemployment and socioeconomic conditions, such as poverty and housing issues

The AIC considered regional areas with less stable populations, higher unemployment and low economic stability have higher crime rates.²⁰⁶ It made some relevant observations about crime in New South Wales, advising that male unemployment has been identified as a significant predictor of robbery²⁰⁷ and that an increase in average weekly earnings and possibly a fall in long term unemployment contributed to the decline in property offending in that State.²⁰⁸

Reflecting the interrelated nature of the various contributors to crime, the AIC submitted social and economic stress can have an impact on parenting practices resulting in neglect, poor supervision and inconsistent disciplinary practices, which increase the risk of juvenile involvement in crime.²⁰⁹

According to the Logan City Council, the socio-economic status of a city can have far-reaching impacts on behavioural and lifestyle choices made by residents:

*When areas of high social disadvantage are closely grouped this can pose challenges for creating a homogenous community... Areas which experience high levels of social disadvantage can also experience a higher crime rate than areas that are not as socioeconomically disadvantaged.*²¹⁰

Hopecentre Services expressed concern at the trend for unemployment to run through 2 or 3 generations of a family, with younger members displaying the behaviours of older members.²¹¹ It claimed housing costs and availability bring these types of families into close proximity, resulting in the development of low socioeconomic areas.²¹²

According to Sisters Inside, single women and families on Centrelink benefits are experiencing increasing financial hardship as the real value of benefits decrease and the cost of living increases:

*With reductions in public housing throughout Australia over the past 30 years, most women and families on low incomes are forced to access housing through the private rental market. Little is left for the costs of daily living which have continued to increase generally faster than increases in the Consumer Price Index (CPI).*²¹³

²⁰⁴ Australian Institute of Criminology, Submission No. 77, page 3.

²⁰⁵ The Salvation Army, Submission No. 18, page 1.

²⁰⁶ AIC, Submission No. 77, page 3, citing Carcach 2000.

²⁰⁷ Ibid, page 3, citing Chilvers & Weatherburn 2003.

²⁰⁸ Ibid, page 3, citing Moffat et al. 2005.

²⁰⁹ Ibid, page 3, citing Weatherburn 2001.

²¹⁰ Logan City Council, Submission No. 84, page 1.

²¹¹ Hopecentre Services, Submission No. 21, page 1.

²¹² Ibid, page 1.

²¹³ Sister’s Inside Inc., Submission No. 29, page 8.

In Janet Wilkinson's view:

*Economically these days people expect to have everything immediately and this, coupled with a lack of values and good role models, puts pressure on young people to turn to crime as an "easy" way to get what they want but can't afford. Young people are often introduced to crime by bad company and peer pressure. Gambling and drug use add to financial poverty and desperation leads to crime.*²¹⁴

4.5 Family factors, such as parenting standards, family criminalisation and exposure to domestic and sexual violence

In relation to social contributors to crime, Janet Wilkinson identified the reduced importance given to 'good old fashioned manners and values' and the time spent by parents and other key people in fostering them in young people:

*These values used to be taught and enforced by parents in the home and reinforced by clubs and organizations such as the Girl Guides and Boy Scouts, and the very successful Girls and Boys Brigades. School teachers were empowered to apply physical discipline in the form of "the cane" and knew they had the support of parents to do so, so that children were exposed to uniform good values and behaviour expectations from several different areas whilst growing up.*²¹⁵

She cited a paucity of good role models for young people as a contributor, linking this with the contemporary family unit:

*Modern families sometimes lack grandparents for many reasons and the role of good grandparents can't be overvalued. The lack of real values, real parenting, real discipline and real love and belonging while growing up, can lead to young adults experiencing insecurity and feelings of inadequacy, lack of purpose and often leads to binge drinking to fit in and feel good. Sometimes it leads into bad company and crime. Good role models are vital so that young men and women can see and hear and understand what they themselves are supposed to be developing into.*²¹⁶

Ms Wilkinson also contended children, who have been subjected to dysfunctional families and physical and sexual punishment and abuse, are more likely to grow up to be dysfunctional adults who commit crimes.²¹⁷

Protect All Children Today Inc. (PACT) claimed children learn through observation and exposure, concluding a child's home environment is one of the significant contributors to crime.²¹⁸ It further observed '...children in families experiencing financial hardship and generational disadvantage are at greater risk of domestic violence and exposure to crime'.²¹⁹

Sisters Inside Inc. identified family criminalisation as a contributor to crime. It commented that the '...social and economic profiles of criminalised women, criminalised children and young people and families impacted by the child protection system are identical' and noted these characteristics '...have been summarised by the Queensland Child Protection Commission of Inquiry'.²²⁰

²¹⁴ Janet Wilkinson, Submission No. 57, page 3.

²¹⁵ Ibid, page 2.

²¹⁶ Ibid, page 2.

²¹⁷ Ibid, page 2.

²¹⁸ Protect All Children Today Inc., Submission No. 7, page 2.

²¹⁹ Ibid, page 2.

²²⁰ Sister's Inside Inc., Submission No. 29, page 8.

The AIC asserted poor parenting practices and child neglect are one of the strongest predictors of juvenile involvement in crime:

*There is evidence of a relationship between parental abuse and neglect, parental conflict and disciplinary practices, deviant parental behaviours and attitudes and family disruption and juvenile involvement in crime (Tomison 2000; Weatherburn 2001).*²²¹

Moral decline and breakdown of community structures

Elizabeth Ann Hobson communicated her concerns regarding the decline of compassionate socialising influences, which she viewed as a contributor to crime:

*Churches and community groups struggle to keep functioning as women as well as men, driven by economic necessity, seek to enter the work force and are no longer available to perform community service. The values of honesty, integrity, forgiveness, honour, hospitality, restraint, decency, 'fair go', & communal & family pride are no longer heard by children whose teachers are now so focussed on 'academic' achievement from their students that values education is off the curriculum.*²²²

Janet Wilkinson shared concerns regarding the deterioration of morals and values.²²³

Health issues, intellectual disabilities and mental illness

Sisters Inside Inc. quoted a large proportion of women prisoners have a psychological/psychiatric disability.²²⁴

According to Janet Wilkinson, the Australian Bureau of Statistics and Mindset websites report a growing and alarming incidence of mental illness and depression in young people.²²⁵ She referred to recent media reports, including claims over 35% of children today are prescribed antidepressants:

*One noticeable and alarming report on 19.6.14 in an ABC TV documentary was that "GP's often prescribe psychiatric drugs for children with behavioural problems when counselling fails". When I was a child I received an appropriate consequence for bad behaviour not counselling and definitely not drugs!... Another statistic on the same program was that the number of children prescribed Ritalin for ADHD had risen 35% over the last 4 years and now more than 20% of all Australians were affected by mental illness. That is an alarming statistic. One in five of us are not of a sound mind...*²²⁶

Susan Savage cited the following:

*Mental health issues, possibly related to marijuana, which is in common use, or to other psycho-active drugs, including body-building substances, commonly used by young males with an image problem... very poor eating habits and nutritional deficiencies with readily available fast food... the obesity and anxiety epidemics... and young men returning from prison with major anxiety disorders following prison rape.*²²⁷

²²¹ AIC, Submission No. 77, page 3.

²²² Elizabeth Ann Hobson, Submission No. 49, page 2.

²²³ Janet Wilkinson, Submission No. 57, page 2.

²²⁴ Sister's Inside Inc., Submission No. 29, page 5.

²²⁵ Janet Wilkinson, Submission No. 57, page 2.

²²⁶ Ibid, page 2.

²²⁷ Susan Savage, Submission No. 14, page 2.

Media influence, including journalistic and social media, as well as information and communication technologies

Janet Wilkinson contended: The media often undermine good values for their own purposes by sensationalizing crime and bad behaviour, by showing scandalizing photos of models and TV stars with revealing clothing and provocative poses and making much of bad behaviour and generally being a bad influence on our young people.²²⁸

She commented specifically on how the media represents the prison system, claiming it does not communicate a message of deterrence to prospective criminals:

*The media, instead of portraying prison as a deterrent factor which it should be, seem to love to do "scandalous" far-fetched articles on how "easy" prisoners get it in jail, how light the sentences are, and other such rubbish which is far removed from the truth. If the media were allowed more access to prisons to print and present real news items about jail, then less people would end up there and then say, "I had no idea how awful jail is".*²²⁹

The AIC noted: 'The increased use of ICT creates new opportunities for technology-enabled crime to occur, including fraud, identity related crime, computer vandalism, theft of information and the dissemination of objectionable material online (Choo et al. 2007)'.²³⁰ It also asserted increased use of information and communication technologies has the potential to increase the risk of organised crime and terrorism.²³¹

Education factors

Sisters Inside Inc. referred to a prisoner health study conducted by the Australian Institute of Health and Welfare which identified as at 30 June 2012:

*3 out of 4 prison entrants have not studied past year 10 and only 17% have completed year 12 studies. In addition, in 2007 according to the Department of Correctional Services in Queensland, 76% of women prisoners had not completed their secondary education.*²³²

Elizabeth Ann Hobson referred to the '...widely held belief that anybody can achieve anything in our 'egalitarian' society' and the logical conclusion '...it is the poor person's fault if they don't 'make it' financially, professionally or socially'.²³³ She rejected this 'myth', identifying it as a contributor to crime and arguing '...the education system is based on competition right from the start, and some parents (who have also 'failed to make it') have simply not been able to give their child the same start to educational achievement available to families like my own'.²³⁴ She continued:

*Some children don't have the mental readiness at the age deemed 'right' by some educational timetable. Their failure at school can destroy any chance they might have had to 'get ahead' in life. Drugs offer some comfort, and often lead to crime or complete helplessness in which the drugged person will become neglectful of responsibilities and may also become a perpetrator of crimes in a mind-altered state.*²³⁵

²²⁸ Janet Wilkinson, Submission No. 57, page 3.

²²⁹ Ibid, page 3.

²³⁰ AIC, Submission No. 77, page 3, citing Choo et al. 2007.

²³¹ Ibid, page 3.

²³² Sister's Inside Inc., Submission No. 29, page 8.

²³³ Elizabeth Ann Hobson, Submission No. 49, page 1.

²³⁴ Ibid, page 1-2.

²³⁵ Ibid, page 2.

Other social and economic contributors to crime

Submitters identified numerous other types of social and economic contributors to crime.

The ADCQ submitted:

*Law and order concerns often driven by political debate during election campaigns that have resulted in changes to policing policies and sentencing legislation (mandatory sentencing and mandatory non-parole periods) can also be considered a driver in the growth of imprisonment rates over the past thirty years at state and territory government levels. More recently justice reinvestment proponents in the United States of America and United Kingdom have identified similar driver patterns through the continuous collection and analysis of data relevant to the criminal justice system.*²³⁶

It also listed the following social and economic drivers of crime: ‘the increase and diversity of the population and the challenges this presents’, ‘systemic discrimination’ and the reintroduction and enforcement of policing policies such as ‘public nuisance’ and ‘move on powers’.²³⁷

The QLS particularly noted the brief prepared by the NSW Bureau of Crime Statistics and Research which provides a snapshot of various causes of crime. The QLS agreed that ‘...crime is “opportunistic”, and occurs where a range of factors are present which incentivise crime’ and identified the factors included in the paper:

*...lax physical security, lax personal security, lax law enforcement or a low perceived risk of apprehension, high levels of alcohol consumption, open illicit drug markets, attractive commercial or residential targets and easy opportunities for selling or disposing of stolen goods.*²³⁸

Elizabeth Ann Hobson claimed attitudes about the sacredness of the family are a contributor to crime, arguing:

*Child Safety Departments are over worked, understaffed, underpaid, and badly supported in legislation. Children ‘at risk’ can only be removed in the most extreme of circumstances from violence or neglect. Funding for School Counselling is being dropped in favour of chaplaincy options, which cannot protect children from the vicious or predatory behaviour in homes where most of the criminal attitudes are fostered by parents unfit for their role. Early intervention in the struggling family is taboo. This attitude makes life for a vast number of children very unsafe, especially when compounded by other societal attitudes...*²³⁹

Bruce Taylor suggested the ‘...lack of respect for Police and the rather soft approach from the courts is a contributing factor’ to crime.²⁴⁰

Specific aspects of crime

As mentioned above, numerous submissions commented on specific aspects of crime, including the overrepresentation of Indigenous people in the criminal justice system, domestic and family violence and human trafficking. The Committee addresses each of these specific matters in further detail later in this report.

²³⁶ ADCQ, Submission No. 31, page 8.

²³⁷ Ibid, page 7.

²³⁸ Queensland Law Society, Submission No. 51, page 8.

²³⁹ Elizabeth Ann Hobson, Submission No. 49, page 2.

²⁴⁰ Bruce Taylor, Submission No. 2, page 1.

Overrepresentation of Indigenous people

According to sources quoted by the AIC, recent Australian research has identified the following social and economic factors as being associated with Indigenous people being in contact with the justice system:

- *substance abuse, including the abuse of alcohol, cannabis, inhalants and, increasingly, amphetamines;*
- *early school leaving;*
- *unemployment;*
- *low rates of social involvement;*
- *living within households that have experienced financial stress;*
- *living in a crowded household;*
- *living in an area with perceived neighbourhood or community problems; and*
- *being a member of the 'stolen generation' (Delahunty & Putt 2006; Putt et al. 2005; Weatherburn et al. 2006).²⁴¹*

The BAQ asserted the issue of Indigenous overrepresentation is complex and involves the interlinking of a wide variety of economic and social factors, policing and legislation: *'It is important that all of these factors are considered when addressing the issue of Indigenous over representation in the prison population'*.²⁴² It cited various factors, including drug and alcohol issues, a range of physical and mental health issues, low school attendance rates, unemployment, socioeconomic backgrounds, inadequate accommodation and family/community violence.²⁴³

Domestic and family violence

Services and Practitioners for the Elimination of Abuse Queensland (SPEAQ) noted there are a range of key factors contributing to the choice to use violence:

*As DFV is found predominantly to be committed by men against women, male attitudes towards women play a major role. Belief in men's entitlement, privilege and superiority; expectations of women; rigid gender roles; adherence to hyper masculine male stereotypes; as well as a range of other social and individual psychological factors predispose some men to use violence and abuse.*²⁴⁴

It identified other factors significant in the relationship behaviour of men who perpetrate domestic and family violence, including: *'...lack of skills in relation to self-awareness, emotional self-regulation, rational thinking, communication and conflict resolution; the impact of the man's own childhood trauma and experience of violence; and problematic attachment styles'*.²⁴⁵

²⁴¹ AIC, Submission No. 77, page 1.

²⁴² BAQ, Submission No. 70, page 27.

²⁴³ Ibid, pages 30-33.

²⁴⁴ SPEAQ, Submission No. 78, pages 7-8.

²⁴⁵ Ibid, page 8.

Taking into account the interrelationship between contributors, SPEAQ contended:

*...alcohol and illicit drug taking, particularly methamphetamines, increases the likelihood, frequency and severity of domestic violence; though very rarely can be said to be the cause of domestic violence in the absence of other factors.*²⁴⁶

It commented that in lower socio-economic areas employment instability, housing insecurity or homelessness and poverty are contributing factors, and that:

*Working class families also tend to embrace traditional patriarchal views of the father's role more than middle class families. Changing economic conditions, eg. where men have lost their jobs but female partners still working, contribute to stresses which touch directly on violence-supporting attitudes.*²⁴⁷

Human trafficking

Fighting for Justice Foundation claimed that although there are:

*...various economic, social, cultural and other extenuating push and pull factors such as poverty that lead to the crime of human trafficking, the trafficking of persons would not be required if there was no demand for a service which sees consistent violence against women and children, and encourages gender inequality.*²⁴⁸

Committee Comment

As observed by the AIC there are '*...a range of social and economic factors that may contribute to the type and level of crime in the short term*' and the causes of crime are wide ranging and complex.²⁴⁹

The contributors to crime mentioned in this section are interrelated and should not be considered in isolation.

These contributors were raised with the Committee at all the public hearings. There is no simple solution to address any or all of these underlying causes of crime, however policy makers and Governments need to consider that any strategy to combat crime must consider the above issues and how they relate to, and impact on, each other.

²⁴⁶ Ibid, page 8.

²⁴⁷ Ibid, page 8.

²⁴⁸ Fighting for Justice Foundation, Submission No. 44, page 14.

²⁴⁹ AIC, Submission No. 77, page 1.

5. Imprisonment

5.1 Prisons and Corrective Rehabilitation

Imprisonment is an important aspect of the criminal justice system, utilised as a key accountability and standard setting tool which meets society's needs for reparation or retribution for crimes committed, and reflects the community's denunciation of the offending behaviour.²⁵⁰ As a crime prevention tool, its utility rests primarily in effects to be rendered by any of incapacitation, deterrence, and/or rehabilitation.²⁵¹

Since the 1980s, its employment as a favoured approach among policymakers to administer justice and combat crime has led to a broad increase in imprisonment rates across Australia, despite a general decline in the rate of crime experienced over the same period.²⁵² In Queensland, after a 6% decrease in imprisonment rates from 2002 to 2012, including a five year period of relative stability from 2008,²⁵³ the State once more recorded significant growth in its prison population in 2013, with a 9% increase in the number of prisoners to 6,076 overall, lifting the crude rate of incarceration from 159 per 100,000 population in 2012 to 169 per 100,000 population in 2013.²⁵⁴ During 2013-14, a further 1,000 prisoners have been added to the prison population approximately.²⁵⁵

As of 1 June 2014, the State's prison population stood at 7,222, with an incarceration rate of 189 per 100,000 putting the State just above the national average.²⁵⁶ This was notably in excess of the State's prison built cell capacity at this time, which stood at 6,832, across a total of 13 correctional facilities.²⁵⁷

Queensland Corrective Services has accommodated this surge in the penal population through a variety of measures, including 'using cells built for dual occupancy and temporary bunk beds, trundle beds and mattresses in secure cells or residential areas', subject to prisoner suitability assessments.²⁵⁸ However, submitters have identified that these developments have placed considerable strain on government funding and resources,²⁵⁹ with prison overcrowding and a burgeoning custodial budget raising significant questions not only about the sustainability of these developments, but also their efficacy and cost-effectiveness in preventing crime. Similar conversations are being had in other jurisdictions both around the country and internationally.

The effects of imprisonment on offending have been a subject of significant research, discussion and debate around the world, generating sometimes widely divergent views. This section of the report focuses on material presented to the Committee regarding the relative merits and cost effectiveness of prisons generally, and the ways in which Government policy and the management of these institutions can influence outcomes in this regard.

²⁵⁰ Australian Social Trends, 'Repeat Imprisonment,' *The Crime and Punishment Debate*, Issues in Society, Vol. 328, The Spinney Press: NSW, 2010, page 21;

²⁵¹ D Weatherburn, J Huo and S Moffat, 'How much crime does prison stop? The incapacitation effect of prison on burglary?,' *Contemporary Issues in Crime and Justice*, NSW Bureau of Crime Statistics and Research, No. 93, January 2006, page 1.

²⁵² SRC, Submission No. 28, page 5.

²⁵³ BAQ, Submission No. 70, page 23.

²⁵⁴ Women in Prison Advocacy Network, Submission No. 27, page 2; BAQ, Submission No. 70, page 11.

²⁵⁵ BAQ, Submission No. 70, page 11.

²⁵⁶ Ibid, page 10.

²⁵⁷ Steering Committee for the Review of Government Service Provision, 'Table 8A.2, Correctional custodial facilities, at 30 June 2013 (number),' *Report on Government Services 2014*, Volume C: Justice, Commonwealth of Australia: Melbourne, 2014, page 1 of Table 8A.2.

²⁵⁸ Department of Justice and Attorney-General, cited in BBAQ, Submission No. 70, page 11.

²⁵⁹ WIPAN, Submission No. 27, page 2; SRC, Submission No. 28, page 5.

The Prisoner Population

Much as this report's examination of the socioeconomic contributors to crime suggests, prisoners are disproportionately drawn from among the most disadvantaged sectors of society. Citing the work of Borzycki and Baldry in this regard, the SRC submitted:

*... 'personal barriers to integration, such as intellectual disabilities, mental illness and poor life skills, feed into more systemic obstacles such as poor education, unemployment and debt', and ... factors such as poverty, poor education, unemployment and poor physical health, accompanied by alcohol, drug and mental health issues, intellectual disability, and poor social and communication skills, can place individuals at high risk of imprisonment and reimprisonment.*²⁶⁰

The Australian Institute of Health and Welfare statistics similarly indicate high levels of disadvantage among prison entrants, and Indigenous prison entrants in particular, who are significantly overrepresented in custodial settings:

- 34% of prison entrants have less than Year 10 at school (46% of Indigenous and 27% of non-Indigenous offenders);
- 48% of prison entrants were unemployed in the 30 days prior to imprisonment (57% of Indigenous offenders and 43% of non-Indigenous offenders);
- 35% of prison entrants report they were homeless in the four weeks prior to imprisonment (including short term and emergency accommodation) (43% of Indigenous and 32% of non-Indigenous offenders);
- 21% of prison entrants report one or more of their parents had been imprisoned when they were a child (28% of Indigenous and 17% of non-Indigenous offenders);
- 38% of prison entrants report they have been told at some point by a doctor, psychologist or nurse that they have a mental health disorder (including drug and alcohol abuse (29% of Indigenous and 43% of non-Indigenous offenders);
- 31% of prison entrants have a high or very high level of psychological distress, as measured by the Kessler 10 (K10) scale (20% of Indigenous and 38% of non-Indigenous offenders).²⁶¹

The Committee discusses the incidence of intellectual disability among inmates later in this Report, however it is estimated around 40% of prisoners have IQs in the intellectual disability or borderline intellectual disability range, and almost a third are identified as having a mental illness. The ADCQ noted a significant proportion of the Indigenous custodial population in particular are affected by hearing loss or deafness; and *'often a person in prison will have a number of these attributes in combination, compounding their disadvantage'*.²⁶²

Other submissions highlighted significant drug and alcohol use histories among prisoners; and the Drug Use Monitoring in Australia (DUMA) program confirmed that in 2010 around two thirds of detainees at Queensland's Brisbane and Southport watchhouses tested positive for at least one drug, and that nearly half of all respondents confirmed that substance use contributed to their offending.²⁶³ Alcohol was most likely to have factored in violent and drink driving offences, while

²⁶⁰ SRC, Submission No. 28, page 3.

²⁶¹ Source: Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2012*, Cat. No. PHE 170, Australian Institute of Health and Welfare: Canberra, 2013, pages x-xv.

²⁶² ADCQ, Submission No. 31, page 10.

²⁶³ J Sweeney and J Payne, *'Drug use monitoring in Australia: 2009-10 report on drug use among police detainees'*, *Monitoring Report No. 17*, Australian Institute of Criminology, March 2012, pages 56, 122.

other substances (eg. heroin, amphetamine) were most likely to be implicated by drug offenders.²⁶⁴ The *Health of Australia's Prisoners 2012* report also identified that 70% of prison entrants reported engaging in illicit drug use in the 12 months prior to their incarceration (67% of Indigenous and 71% of non-Indigenous prisoners).²⁶⁵ Sisters Inside reported that prisons might appropriately be considered 'default (mental) health institutions, housing services and detoxification facilities';²⁶⁶ and the Women in Prison Advocacy Network (WIPAN) also noted of women prisoners in particular:

*...many of them have not only been victims of substance abuse, domestic violence and mental health and cognitive disorders (MHDCD), but of poor socioeconomic status and limited education. Their criminal behaviour can be traced back to the lack of opportunities and general presence of disadvantage in their lives.*²⁶⁷

Sisters Inside emphasised the majority of these prisoners – or specifically, 62%, according to recent figures – had committed offences which could be categorised as drug offending, property offending and regulatory and traffic offending, and which did not include offences of personal violence.²⁶⁸

The ADCQ submission further highlighted research indicating that the major factors of disadvantage often coalesce within localised environments of high vulnerability, such that just a small percentage of postcodes and communities nurture significant proportions of the State's prisoners:

Costs associated with chronic offenders in Queensland have been estimated at ranging from \$14,041,855.00 as the highest cost from postal area 4350 (Toowoomba and surrounding areas extending to western Queensland); to \$2,421,583.00 being the lowest cost at postal area 4812 (Currajong, Hermit Park, Townsville and surrounding areas extending to central and northern parts of Queensland)... The Dropping off the edge report found that just 1.7 percent of postcodes and communities across Australia account for more than seven times their share of top rank positions on the major factors that cause intergenerational poverty, and further stated that:

*Our findings demand recognition of a common pattern associated with inadequate education and training – unemployment, low income, poor health and 'making ends meet' by criminal means, resulting in high rates of convictions and imprisonment.*²⁶⁹

The ADCQ submission also highlighted research indicating children who have progressed further into the youth justice system are particularly likely to have had a child protection history;²⁷⁰ and the *Doing Time – Time for Doing* report released in June 2011 identified as a national crisis:

*... 'the disturbing over-representation of Aboriginal and Torres Strait Islander youth in the criminal justice system' who present with multiple health issues ranging from Foetal Alcohol Spectrum Disorder, alcohol and substance misuse, hearing loss, mental health and impaired thought processes.*²⁷¹

²⁶⁴ J Sweeney and J Payne, [op cit](#), pages 56, 122.

²⁶⁵ Australian Institute of Health and Welfare, [The Health of Australia's Prisoners 2012](#), Cat. No. PHE 170, Australian Institute of Health and Welfare: Canberra, 2013, pages xii.

²⁶⁶ Sisters Inside, Submission No. 29, page 2.

²⁶⁷ Women in Prison Advocacy Network, Submission No. 27.

²⁶⁸ Sisters Inside, Submission No. 29, page 7.

²⁶⁹ ADCQ, Submission No. 31, pages 8-9.

²⁷⁰ *Ibid*, page 14.

²⁷¹ *Ibid*, page 11.

The Costs of Imprisonment

Prison is widely recognised as an expensive option for addressing crime. The 2014 *Report on Government Services* identified that in 2012-13, the total cost per prisoner per day in Queensland was \$315.52 (operating and capital expenditure).²⁷² With an average daily prison population of 5,849 during this period, this equates to imprisonment costs of \$1.845 billion for all prisoners per day, or approximately \$673.598 billion per annum.²⁷³ This contrasted with costs of approximately \$14.09 per prisoner per day for community corrections, and daily costs of \$0.210 million for the state's average 14,294 community corrections offenders, or approximately \$76.844 million a year. The SRC also highlighted that analysis by Deloitte Access Economics of the cost of prison as compared to residential treatment determined state governments could save more than \$110,000 per person in direct financial costs through the diversion of Indigenous offenders into community rehabilitation services instead of incarceration (not including anticipated economic benefits in the order of \$92,759 associated with lower mortality and better health-related quality of life).²⁷⁴

These imprisonment costs are set to continue to climb in coming years, with the QLS highlighting the Queensland Budget 2014-15 also contains \$63.1 million over five years to accommodate anticipated further increases in prisoner numbers, in addition to \$64.5 million over three years in prison capital costs.²⁷⁵

Further, in addition to being economically costly, incarceration is associated with a number of significant social costs, the extent of which the Australian Government Senate Legal and Constitutional Affairs Committee report, *Value of a justice reinvestment approach to criminal justice in Australia*, cited as 'almost impossible to calculate'.²⁷⁶

For example, as ATSILS submitted:

*...periods of imprisonment typically lead to loss of family connection, poor employment outcomes and poor health outcomes for prisoners including an increased risk of mortality post-release.*²⁷⁷

Similarly, Sisters Inside identified that even a short period of incarceration can see offenders lose:

- *Their housing and employment.*
- *Many lose custody of their children, where their children all too often go into state care.*
- *Any treatment regime which was being implemented for mental health issues or substance abuse will cease or at best be suspended.*
- *If the individual was participating in education or training they may permanently lose their place.*
- *Many will have accumulated debts and a poor credit rating, and have lost most of their household items and personal belongings as a result of their incarceration.*

²⁷² Steering Committee for the Review of Government Service Provision, 'Table 8A.7, 'Net recurrent expenditure, per prisoner and offender, per day 2012-13 (a),' *Report on Government Services 2014*, Volume C: Justice, Commonwealth of Australia: Melbourne, 2014, page 1 of Table 8A.7.

²⁷³ QLS, Submission No. 51, page 10.

²⁷⁴ NATSILS in ATSILS, Submission No. 34, page 19.

²⁷⁵ QLS, Submission No. 51, page 10.

²⁷⁶ SLCAC, cited in SRC, Submission No. 28, page 5.

²⁷⁷ NATSILS in ATSILS, Submission No. 34, page 16.

- *They leave prison with a new or extended criminal record which is an added barrier to accessing employment, housing and other service.*²⁷⁸

In relation to health issues, the *Health of Australia's Prisoners 2012* report confirmed studies have consistently found high levels of exposure to bloodborne viruses, including hepatitis C, hepatitis B and HIV among prisoners, noting that '*transmission often occurs through partaking in high-risk behaviours such as intravenous drug use, sharing of contaminated injecting equipment and unprotected sex*' – behaviours which '*occur commonly within the prison environment*'.²⁷⁹ The report identified approximately 22% of prison entrants test positive to Hepatitis C and 19% to Hepatitis B, and approximately 69% of prison discharges test positive to either a bloodborne disease or a sexually transmitted disease.²⁸⁰

Concerns about housing and employment impacts were a particular focus for the SRC, which noted that pre-existing vulnerabilities in this regard can be further intensified by the prison experience:

*...[S]table accommodation can become hard to obtain because on release, ex-prisoners do not have the financial means to secure private housing, or may be ineligible for priority public housing.*²⁸¹

In addition, while prisoners already tend to possess lower levels of workplace skill and education, '*the addition of a custodial term to an ex-offender's personal history further diminishes employability*':

*A study of the perceived employability of ex-prisoners indicated that attitudes toward employing ex-prisoners (while influenced to some extent by the severity, number and type of offence), were largely negative — in fact, the prospect of obtaining employment with a criminal background was rated fourth highest of five hypothetical 'disadvantage conditions', below people with a chronic illness, those with a physical or sensory disability, and people with a communication difficulty. This is an important issue, because pre-existing disadvantage has implications for the ability of a prisoner to cope when released and ultimately, the effectiveness of imprisonment as a crime prevention strategy.*²⁸²

Sisters Inside submitted for many women prisoners, these losses will appear as insurmountable obstacles:

*Many will engage in self harm and some will commit suicide. At least 40% will return to prison (17% within 12 months; 27% within 2 years)... One study found that 70% of Aboriginal and Torres Strait Islander women returned to prison within 9 months.*²⁸³

Submitters also widely emphasised social costs extend well beyond the actual individual incarcerated, and can often effect whole communities, leading to an intergenerational transfer of disadvantage, particularly for Indigenous offenders. The SRC identified that the situation is exacerbated when the prisoner is a parent, '*creating a less stable and predictable home life for children and generating a higher chance of their offending in the future*'.²⁸⁴

²⁷⁸ Baldry, cited in Sister's Inside Inc., Submission No. 29, page 9.

²⁷⁹ Australian Institute of Health and Welfare, [The Health of Australia's Prisoners 2012](#), Cat. No. PHE 170, Australian Institute of Health and Welfare: Canberra, 2013, page 53.

²⁸⁰ Australian Institute of Health and Welfare, [op cit](#), pages xi.

²⁸¹ SRC, Submission No. 28, page 5.

²⁸² Borzycki and Baldry, cited in SRC, Submission No. 28, page 5.

²⁸³ Sisters Inside Inc., Submission No. 29, pages 9-10, citing Baldry 2007.

²⁸⁴ SRC, Submission No. 28, page 5.

ATSILS further explained:

*Around 40,000 children in Australia have a parent incarcerated. Research has found that it is likely that disruption associated with parental imprisonment, and the values, attitudes and behaviours that are promoted in the child throughout this experience, have a negative impact on the child and can be associated with family breakdown, disruption in living and care arrangements, mental health issues, poorer educational outcomes and increased probability of the child him/herself offending later in life. Intergenerational offending in particular needs to be recognised, and treated as a social condition which becomes more entrenched with every expansion of the criminal justice system.*²⁸⁵

The ATSILS and SRC submissions further highlighted 'there is credible research that sending people to prison weakens the entire community', and thereby undermines safety:

*Every time an Indigenous person goes to prison and leaves their community, there are children that are losing parents, sisters, brothers and uncles and aunties. We need to act to disrupt this cycle of crime to prevent the harm for victims and offenders alike.*²⁸⁶

*High rates of incarceration: 'break down the social and family bonds that guide individuals away from crime, remove adults who would otherwise nurture children, deprive communities of income, reduce future income potential, and engender a deep resentment toward the legal system. As a result, as communities become less capable of managing social order through family or social groups, crime rates go up'.*²⁸⁷

The SRC submission highlighted that the Senate report on the *Value of Justice Reinvestment* concluded its chapter on the economic and social costs of imprisonment by noting that given the significant economic and social costs of imprisonment and their intergenerational impacts, 'it is difficult to see why imprisonment is seen to be a solution for use in any circumstances but last resort, when necessary for the prevention of public order and safety'.²⁸⁸

Effectiveness of Imprisonment in reduction and prevention of crime

Submitters to the Inquiry widely accepted that imprisonment as a form of punishment is the only appropriate penalty in certain situations. However, it was also generally noted that it has limited effect in reducing crime in the community.²⁸⁹

In the most basic sense, theorists have identified that imprisonment stands to reduce crime and enhance community safety by way of incapacitation – that is, while in prison, an offender cannot offend in the community.²⁹⁰ While it is hard to argue with this logic, the overall efficacy and cost-effectiveness of imprisonment as a tool of incapacitation hinges on the manner in which it is used.²⁹¹

Weatherburn et al note many offenders commit large numbers of offences and have long criminal careers, and these people account for a disproportionate amount of all offending – that is, a majority of offences are committed by a minority of individuals.²⁹² However, there are also many individuals who are unlikely to commit serious crimes were they to be released, or would not commit many

²⁸⁵ NATSILS in ATSILS, Submission No. page 16-17.

²⁸⁶ ADCQ, Submission No. 31, page 11.

²⁸⁷ Senate Legal and Constitutional Affairs Committee cited in SRC, Submission No. 28, page 5.

²⁸⁸ SRC, Submission No. 28, page 6.

²⁸⁹ Ibid, page 5.

²⁹⁰ Sentencing Advisory Council, 'How Much Does Imprisonment Protect the Community Through Incapacitation?', *Sentencing Matters*, Sentencing Advisory Council, July 2012, page 3.

²⁹¹ Ibid, page 3.

²⁹² D Weatherburn, J Hua and S Moffatt, 'How much crime does prison stop? The incapacitation effect of prison on burglary,' *Contemporary Issues in Crime and Justice*, no. 96, January 2006, page 2.

serious crimes. Researchers have identified that incapacitation-based imprisonment interventions are most likely to be effective in reducing burglary and property-related crime when targeted at serious repeat offenders.²⁹³

In line with this, some success has been had where the policy has been very narrowly applied, and used only as a sentencing option of last resort – for example, in the case of drug-using, older individuals who had more than ten offences on their record.²⁹⁴ However, it has been broadly concluded that a blunt increase in penalties through mandatory minimum or offender threshold (eg. ‘three strikes’, etc.) policies cannot distinguish between the criminal careers of the individual offenders, and that a significant number of offenders can be caught by attempts to ‘excise hard core offenders’ through selective incapacitation.²⁹⁵ Siegel has identified for young offenders particularly, given that most individuals ‘grow out’ of offending as they enter adulthood,²⁹⁶ the potential criminogenic effects of such a policy are concerning.²⁹⁷ The Victorian Sentencing Advisory Council similarly noted:

*...the costs of such policies may outweigh the initial benefits, and ... as the imprisonment rate increases, those benefits may even be reversed to a point where the crime rate begins to increase due to the criminogenic influence of imprisonment.*²⁹⁸

Other theoretical arguments about the benefits of prisons have centred largely on notions of deterrence. The QLS and BAQ submitted evidence from empirical studies suggests the threat of imprisonment generally does generate a general deterrent effect²⁹⁹ – that is, a deterrent based on the certainty of apprehension and punishment.³⁰⁰ However, the QLS also cited research conducted by the Victorian Sentencing Advisory Council that determined that increases in the severity of penalties, such as increasing the length of imprisonment, ‘do not produce a corresponding increase in the general deterrent effect’:

*The research shows that imprisonment has, at best, no effect on the rate of reoffending and is often criminogenic, resulting in a greater rate of recidivism by imprisoned offenders compared with offenders who received a different sentencing outcome. Possible explanations for this include: prison is a learning environment for crime, prison reinforces criminal identity and may diminish or sever social ties that encourage lawful behaviour and imprisonment is not an appropriate response to the needs of many offenders who require treatment for the underlying causes of their criminality (such as drug, alcohol and mental health issues). Harsh prison conditions do not generate a greater deterrent effect, and the evidence shows that such conditions may be criminogenic.*³⁰¹

²⁹³ D Weatherburn, J Hua and S Moffatt, op cit, page 8; T Helm and J Doward, ‘[Longer prison terms really do cut crime, study shows](#),’ *The Guardian* (online), 8 July 2012.

²⁹⁴ Sentencing Advisory Council, ‘How Much Does Imprisonment Protect the Community Through Incapacitation?’, *Sentencing Matters*, Sentencing Advisory Council, July 2012, page 39.

²⁹⁵ Sentencing Advisory Council, op cit, page 44; QLS, Submission No. 51, page 25.

²⁹⁶ K Richards, ‘[What makes juvenile offenders different from adult offenders?](#),’ *Trends & issues in crime and criminal justice*, Australian Institute of Criminology, no. 409, February 2011, page 2.

²⁹⁷ L Siegel, *Criminology: The Core*, fifth edition, Cengage Learning: Stamford, 2014, page 102.

²⁹⁸ Sentencing Advisory Council, op cit, page 3.

²⁹⁹ QLS, Submission No. 51, page 8.

³⁰⁰ BAQ, Submission No. 70, page 3.

³⁰¹ QLS, Submission No. 51, page 8.

ATSILS also argued imposing harsher penalties has repeatedly been proven not to deter crime, noting the following statement of former Western Australia Supreme Court Judge Christine Wheeler QC:

*We assume it (prison) deters people from crimes - that is, that people think, 'I better not commit this crime because I might get three years...' Deterrence works for people like you and me, who think about consequences and would not commit the offences anyway. It doesn't work for drug addicts, it doesn't work for alcoholics, it doesn't work for people who are mentally ill.*³⁰²

In line with this, ATSILS conveyed that an 'inordinate' amount of crime is committed on the spur of the moment, without rational consideration, and often accompanied by excessive alcohol (or drug) consumption: 'Little thought is given to consequences at the point in time of the commission of the offence'.³⁰³ Or, as another contributor put it:

*...they do not stop at the door of your house and think, 'Gee, I might get eight years for this.' [However] deterrence relies on them stopping at the door of your house and having a think about it and knowing what previous sentences are there and so on. The more you think about it, the more you think it is ridiculous.*³⁰⁴

Further, as Ms Janet Wilkinson noted:

*...it doesn't matter how harsh the sentence is if the news is not getting through to the people who need to know...without some reference of what that means they just don't get it. One 15 year old boy, upon being sentenced to 13 years jail for a serious crime, sat in his cell the first night and tried to work out on his fingers how old he would be when he got out. It was years before he fully comprehended it.*³⁰⁵

ATSILS also referred to the February 2012 findings of the NSW Bureau of Crime Statistics and Research (BOCSAR), whose study considered the extent to which the probability of arrest; the probability of imprisonment; and the duration of imprisonment; impacted on crime rates in NSW during 1996 to 2008. The study is reported to have found a higher risk of arrest and a higher risk of incarceration are greater deterrents to crime than a longer sentence of incarceration; and an increased incarceration sentence does not lead to a reduction in crime.³⁰⁶

As a result, as ATSILS noted, there is 'little evidence to support the notion that incarceration improves community safety';³⁰⁷ and any limited effect in reducing crime that may be recorded ultimately 'diminishes over time the higher incarceration rates climb', with a likely 'negative or crime producing effect in the long term', especially for 'particular communities and groups such as African Americans in the US and Aborigines in Australia'.³⁰⁸

WIPAN asserted these arguments are currently being borne out in Australia, where imprisonment and high recidivism rates are having mutually reinforcing, and costly effects:

Statistics show that 65% of prisoners in Queensland had been imprisoned before (ABS 2013c). This can be contrasted with 55% in NSW and 58% in Australia as a whole (ABS 2013d; ABS 2013e). The statistics suggest that imprisonment is failing as an effective tool for crime control. Despite being a popular strategy, it has not achieved sufficient and/or positive results in terms of preventing crime and reducing reoffending. As such, there is a

³⁰² Rubinsztein-Dunlop, cited in ATSILS, Submission No. 34, page 4.

³⁰³ ATSILS, Submission No. 34, page 4.

³⁰⁴ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014.

³⁰⁵ Janet Wilkinson, Submission No. 57, page 4.

³⁰⁶ ATSILS, Submission No. 34, page 4.

³⁰⁷ ATSILS, Submission No. 34, page 2.

³⁰⁸ SRC, Submission No. 28, page 5.

*need to rethink current criminal justice responses and develop new solutions and policies.*³⁰⁹

ATSILS argued this is especially important given the case given that other interventions may not only be more appropriate and effective, but also significantly less costly:

*Tax payers are not getting value for money in terms of current prison expenditure and it is time that the economic rationality tests that are applied to all other areas of government spending are applied to justice expenditure. The ever increasing expenditure on prisons is diverting resources away from investment in more (cost) effective ways of reducing crime as well as away from other priority areas of benefit to taxpayers such as education, health and infrastructure.*³¹⁰

Submitters widely identified that the inefficiency and cost-ineffectiveness of imprisonment relative to other alternatives largely reflects its failure to address the underlying risks and vulnerabilities that influence offending behaviour; and that various alternative approaches informed by such understandings stand to maintain community safety and promote rehabilitation in a more sustainable and fiscally prudent way.³¹¹

The Law & Justice Institute (Qld) Inc. emphasised criminal behaviour is strongly associated with a number of demographic characteristics that are not addressed by imprisonment, concluding punishments should be crafted so as to attempt to address these underlying issues and traumas.³¹²

Similarly, WIPAN submitted high instances of substance abuse, mental health disorders and cognitive disability, trauma and disadvantage among female prisoners make imprisonment a wholly inadequate tool for dealing with crime:

*Instead of equipping women with the skills and resources they need to transform their lives, prison isolates them from their communities' environments. By doing so, it leaves them unprepared for life after prison. A more suitable response would be one that is focused on rehabilitation and reformation.*³¹³

WIPAN claimed imprisonment should only be used as a last option, after all other alternatives have been exhausted: 'Through the use of such community-based alternatives, women offenders will be better able to overcome the problems that push them towards crime, instead empowering and supporting them to make significant life changes'.³¹⁴

Custodial Conditions and Rehabilitation

While submitters emphasised there are more economic and more effective ways of preventing and deterring crime than incarceration, they also widely identified a range of custodial practices and rehabilitative and treatment programs which can support personal behavioural development within custodial facilities and assist prisoners to lead productive and law-abiding lives upon their release to the community.

These suggestions were largely in accord with Queensland Corrective Services' *Pathways to Reduced Crime* strategy, which identifies that effective offender management requires the use of multi-modal approaches employed over the course of an offender's sentence and beyond; and with integration of a range of services, supports and interventions embedded within offender management systems,

³⁰⁹ WIPAN, Submission No. 27, page 2.

³¹⁰ NATSILS in ATSILS, Submission No. 34, page 16.

³¹¹ QLS, Submission No. 51, page 10.

³¹² Law & Justice Institute (Qld) Inc., Submission No. 23, page 11.

³¹³ WIPAN, Submission No. 27, page 3.

³¹⁴ Ibid, page 3.

processes and practices.³¹⁵ The critical objectives linked to outcomes for prisoners and for offenders supervised in the community include:

- Employment and a structured lifestyle
- Stable and positive social support
- Stable family relationships
- Community and cultural integration
- Moral belief system
- Pro-social goals and a desire for a better life.³¹⁶

For most prisoners, these objectives are considered to best be achieved through *'opportunities to work, access education and training, address substance abusing behaviour, participate in mandated progression through the custodial system, and receive assistance in safely returning to the community on release'*.³¹⁷

These priorities and strategies were widely endorsed by all submitters. However, this was often in the context of observations of significant shortcomings or inaction in this regard – in essence, the very steps submitters identified as lacking and requiring implementation, were often largely reflected in those key principles and approaches outlined in existing strategies and documents. The Committee understands a significant proportion of prisoners are incarcerated for periods of less than three months, offering limited opportunities for the delivery of intervention services. However, it is evident that program implementation is also being significantly curtailed by overcrowding and accompanying changes in prison management. As the recent Western Australian Inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies identified: *'even with strong policy direction and a committed staff, the practicalities on the ground can create significant problems in successfully translating policy into practice'*.³¹⁸

Several studies identified overcrowding in prisons increases the *'pains of imprisonment'* and deprivation for prisoners by amplifying the sense of confinement and reducing access to resources due to the increased competition for limited facilities and services; all of which can lead to frustration and aggression, and consequently, increased violence.³¹⁹ As well as reducing health and safety and undermining prisoners' access to the *'safe secure and humane custodial environment'* that Corrective Services aims to provide;³²⁰ overcrowded prisons also have negative consequences for the community at large because inmates discharged from these custodial settings tend to have higher

³¹⁵ Queensland Corrective Services, [Pathways to Reduced Crime](#), Queensland Government, Department of Community Safety, 2013, page 4.

³¹⁶ Queensland Corrective Services, [Pathways to Reduced Crime](#), page 4.

³¹⁷ Queensland Corrective Services, [Pathways to Reduced Crime](#), page 4.

³¹⁸ Community Development and Justice Standing Committee, Interim Report: 'Making Our Prisons Work': An inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies, Report No. 4 in the 38th Parliament, Legislative Assembly, Parliament of Western Australia: Perth, 2010, page 89.

³¹⁹ J Kremling, 'Prison Overcrowding,' in S Barton-Bellessa (ed.), *Encyclopedia of Community Corrections*, SAGE Publications: Thousand Oaks, CA, 2012, page 324.

³²⁰ The Report on Government Services identifies that Corrective services *'Corrective services aim to provide a safe, secure and humane custodial environment and an effective community corrections environment in which prisoners and offenders are effectively managed, commensurate with their needs and the risks they pose to the community. Additionally, Corrective Services aim to reduce the risk of re-offending by providing services and program interventions that address the causes of offending, maximise the chances of successful reintegration into the community and encourage offenders to adopt a law-abiding way of life'*. See: Steering Committee for the Review of Government Service Provision, 'Table 8A.24, 8A Corrective Services Attachment,' Report on Government Services 2014, Volume C: Justice, Commonwealth of Australia: Melbourne, 2014, page 8.1.

recidivism rates than inmates from prisons that are not overcrowded, for a number of reasons.³²¹ Primarily, this includes a lack of treatment and rehabilitation programs for substance abuse and mental health issues, reduced education and vocational training programs, and reduced opportunities for use of progression and incentive schemes – all of which can reduce prisoners' behavioural and skill development and increase the likelihood that they will '*relapse into criminal behaviour after release*'.³²²

Accounts of the effects of overcrowding in Queensland are largely in step with international experience in this regard. Corrections staff members from Together Queensland identified that since March 2012, changes introduced in various corrections facilities have included:

- Prisoners being placed on mattresses on the floor of other prisoner cells ('doubling up'), or on common areas on the prison farm (Capricornia Correction Centre Farm);
- Reductions in prisoner out-of-cell time from 11 hours a day to 10 hours a day (prisoners are secured in their cells an hour earlier each day);
- Reduced meaningful employment due to significant closures or reductions in industries – the Capricornia Correctional Centre Farm has seen its dairy closed '*along with all other farm associated work*',³²³ while employment industries have been 'halved' or cut from around seven days a week to four days a week with shorter split shifts on work days in many facilities,³²⁴ including reduced opportunities for prisoners to work as trade instructors;³²⁵
- Significant reductions in programs offered to prisoners across facilities, including '*reduced programs on offer in education*',³²⁶ and reduced sport and recreation;³²⁷ and
- Loss of the dog squad at night on the prison farm.³²⁸

Submissions from Together Queensland from each of the six facilities identified their staff members:

...are of the opinion that the Queensland Government's strategy of the increasing incarceration of offenders and the overcrowding of the Centre has decreased the effectiveness of Prisoner rehabilitation and increased the likelihood of reoffending.

This along with the reduction in programs and prisoner employment has also significantly increased the level of serious incidents and assaults of prisoner on officer and prisoner on prisoner.

The impacts have serious and long-term implications for prisoners, staff and their families.

³²¹ J Kremling, op cit, page 324.

³²² According to the Commission on Safety and Abuse in America's Prisons, those prisons with more structured programs and prisoner work and activity engagement experience fewer incidents of misconduct and unrest among prisoners and staff. See: Commission on Safety and Abuse in America's Prisons, cited in J Kremling, 'Prison Overcrowding,' in S Barton-Bellessa (ed.), *Encyclopedia of Community Corrections*, SAGE Publications: Thousand Oaks, CA, 2012, page 324.

³²³ Together Queensland - Capricornia Correctional Centre, Submission No. 36, page 2.

³²⁴ Together Queensland- Brisbane Womens Correctional Centre, Submission No. 35, page 2; Together Queensland, Capricornia Correctional Centre, Submission No. 36, page 2; Together Queensland - Lotus Glenn Correctional Centre, Submission No. 38, page 2.

³²⁵ Together Queensland - Wolston Correctional Centre, Submission No. 39, page 2.

³²⁶ Together Queensland - Capricornia Correctional Centre, Submission No. 36, page 3.

³²⁷ Together Queensland - Lotus Glenn Correctional Centre, Submission No. 38, page 2.

³²⁸ Together Queensland - Brisbane Correctional Centre, Submission No. 35, page 2; Together Queensland - Capricornia Correctional Centre, Submission No. 36, page 2; Together Queensland - Capricornia Correctional Centre Farm, Submission No. 37, page 2.

The impacts also have significant and cost effectiveness implications for the State and the local community as follows but not limited to:

- *Cost of sick leave and Workcover QLD premiums to the taxpayer when Custodial Correctional Officers are injured at work*
- *Cost of lengthening incarceration due to charges arising from offences of prisoners*
- *Cost of increase reoffending and return to incarceration due to the lack of rehabilitation programmes preparing prisoners to re-enter the community*
- *Cost to local businesses which no longer have prison industry supplying goods and knock-on effect to local employment*
- *Cost and risk to safety of the community due to increase in escapes and perimeter breaches.*³²⁹

At the Inquiry's public hearing in Brisbane, Together Queensland Director Industrial Services, Mr Michael Thomas, further identified that in the wake of the changes, figures for the first six months from January 2013 indicated a 23% increase in the number of incidents and a 47% increase in offensive behaviour in the state's correctional centres. He submitted the current prisoner levels and the accompanying reduction in the programs and industries in which prisoners are involved, meant: *'the very systems that are put in place to try to rehabilitate these prisoners in terms of program support, industry support and so forth have reduced over the last couple of years [due to] budgetary considerations'* rather than *'as a result of any sort of analysis in terms of the effectiveness or otherwise of the industries'*.³³⁰

In response to these developments, Together Queensland submissions variously called for the government to restore 'unlock' time hours to 11 hours a day and reintroduce programs and other activities designed to rehabilitate prisoners; as well as restoring pre-existing safety measures, and affording more time for consideration of placement and collection of information on new receptions arriving to the centre. Members of the Together Queensland Escort Security Branch also called for the government to address concerns about safety risks associated with reductions in the level of security outside centres, following staff reductions in the face of concurrent increases in the higher security classifications of prisoners.³³¹

In summary, while acknowledging the significant budgetary pressures and challenges inherent in managing the state's large and over-capacity prisoner population, Mr Thomas stated:

The point we make... is that we think the ramifications of some of the changes that have been introduced over the last two years in terms of the long-term effect that it will have on the safety and security of the Queensland community and the cost to the Queensland community, have not necessarily been weighed up when looking at a short-term issue of the budget and the cutting up of the pie, as you referred to. I think any analysis this committee does has to look into that aspect of, 'What do we do once we lock them up?'

³²⁹ Together Queensland - Brisbane Correctional Centre, Submission No. 35, page 2; Together Queensland - Capricornia Correctional Centre, Submission No. 36, page 2; Together Queensland - Capricornia Correctional Centre Farm, Submission No. 37, page 2; Together Queensland - Lotus Glenn Correctional Centre, Submission No. 38, page 2; Together Queensland - Wolston Correctional Centre, Submission No. 39, page 2; Together Queensland - Brisbane Womens Correctional Centre, Submission No. 35, page 2.

³³⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 6 August 2014, page 26.

³³¹ Together Queensland - Escort Security Branch, Submission No. 35, page 2.

It is not just enough to say, 'Hey, look, we've locked up more people.' ... we need to consider that the ramifications of what seemingly may be, 'They're locked away a little longer,' and, 'They don't get to do this industry,' have a huge flow-on effect. In terms of recidivism rates of prisoners coming out because the programs have not been done and they have not been trained in industries, that means they get out and they are not equipped to come back into the community and we will see recidivism, we will see incarceration and the cycle continues, and we have heard some of that today.³³²

Offender Assessment, Management and Treatment

Ms Janet Wilkinson submitted the 'highly structured, highly controlled environment' of high security facilities is not conducive to the development of personal responsibility among prisoners, and can reduce their capacity to engage productively with society on release:

Prisoners are told when to eat, when to sleep, when to exercise, where to line up, they have no choice of what to wear or what to eat or where to go. They have no decision making power except to obey, and no possibility of change until their time is up. Inmates tell me that it takes many years to learn to live in this high security environment. Isn't it foolish of us to expect them to be able to undo in a few days what has taken many years for incarceration to do to them? Most of them will be released one day and it is in the community's interest to provide them with rehabilitation so that they can handle the change, get a job and re-establish relationships and re-establish their part in the community.³³³

The Salvation Army made similar observations, submitting its chaplains have observed a disturbing trend that some prisoners feel safe and 'at home' in prisons, having effectively been 'institutionalised' rather than supported to become engaged and well-functioning citizens:

Some have confided in our Chaplains that when released after considerable time in prison, they don't know how to interact in society when they feel there are no clearly defined boundaries they live in fear and feel unsafe. Many are relieved if they are again imprisoned to a place of clearly defined rules and regulations.³³⁴

In addition, a confidential submitter suggested some offenders may prefer incarceration, rather than:

...having to work and fend for themselves outside prison therefore continually reoffend so they can be inside and taken care of. A great majority have family there as well. It's comfortable, they become accustomed to penal life and they don't have to work.³³⁵

Queensland Corrective Services' Pathways to Reduced Crime strategy recognises the importance of 'managed progression through the custodial system', incorporating an Incentives and Enhancement Program (IEP) designed to provide 'a fair, consistent and structured process to reward individual prisoners who commit to the opportunities provided for them and display appropriate standards of behaviour'.³³⁶ The IEP includes a wide array of basic, standard and enhanced earnable privileges, together with scope for transition to low custody arrangements, subject to the offender's individual management plan.³³⁷

³³² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 6 August 2014, page 27.

³³³ Janet Wilkinson, Submission No. 57, page 7.

³³⁴ The Salvation Army, Submission No. 18, page 1.

³³⁵ Confidential Submission No. 13.

³³⁶ Queensland Corrective Services, *Custodial Operations Standard Operating Procedure*, version 2, 6 December 2012.

³³⁷ *Ibid.*

However, with the system gridlocked as a result of overcrowding, it is clear that scope for physically moving prisoners to the security classification they may be eligible for is currently stymied, removing an incentive to participate actively in behavioural programs or broader personal development; and limiting scope for offenders to transition to more autonomous custodial conditions that better resemble the environments in which they will be expected to operate on release.

Together Union representative from the Capricornia Correctional Centre, Mr Jay Boal, expressed a view that many Queensland prisoners currently face too few restrictions on access to services at the commencement of their sentence, such that options for additive incentives may be limited; and that better scaled introduction of privileges may be required.³³⁸ This lack of incentives was also identified as an obstacle to effective engagement of those individuals on court-ordered parole in particular who, due to their set parole date as opposed to a behaviourally-dependent, risk-assessed parole date; could stand to gain particular benefits from effective use of other custodial inducements or motivations.³³⁹ Notably, the QLS submission identified '*Queensland Corrective Services has confirmed that court ordered parole is its most successful supervision order*', which has '*reversed the growth in short sentence prisoners, delaying the need to invest in prison infrastructure*'.³⁴⁰

With regards to progressive use of security arrangements in particular, current inmate Mr Stephen Carter expressed a view that that '*the few low security facilities are being used to house short term inmates, who would be better served by doing their time in a secure facility as a real deterrent to re-offending, especially for the younger offenders*'.³⁴¹ Prioritisation of low security placements for positively assessed long-term inmates, Mr Carter noted:

...would allow long term inmates the necessary environment to lose the secure mentality that comes with years spent in a tense and over structured setting. As years are spent adjusting and adapting to the secure environment, it cannot be expected to undo this damage in a few months or even a couple of years for those who have spent a decade or more in high security facilities.

*Therefore there needs to be a series of forward progressive environmental steps to correctly reintegrate long term inmates successfully back into the community. Again this cannot be rushed through in the last couple of years, if an inmate has spent a decade or more in a high security facility.*³⁴²

Ms Wilkinson similarly noted:

*Young offenders doing their first term in jail should NOT be sent to low security Prison Farms if their sentence is under three or four years. The purpose of farms should be for rehabilitation for long term offenders (more than 4 years) to assist them to continue their demonstrated good behaviour and allow them more opportunity to continue to be responsible for their behaviour in preparation for their release into the community. Short term offenders who are sent to Farms too soon tend to think it is too easy and therefore there is a danger that imprisonment could lose its deterrent value to those offenders. We need more Low Security Farms not less. We need more rehabilitation not less. We need more progression, not less.*³⁴³

³³⁸ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Rockhampton, 14 August 2014, page 24.

³³⁹ Ibid, page 24.

³⁴⁰ QLS, Submission No. 51, page.

³⁴¹ Kenneth Park (Kenneth Park, Janet Wilkinson, Stephen Carter), Submission No. 4, page 9.

³⁴² Ibid, page 8.

³⁴³ Janet Wilkinson, Submission No. 57, pages 7- 8.

Breaches and disciplinary measures were also acknowledged as an important component of the behavioural incentive mix, with Ms Wilkinson emphasising that they *'should be taken into account and have consequences in the progress system'*.³⁴⁴

In this regard, submissions from Together Queensland representatives identified concerns that recent changes to breaching guidelines and disciplinary options had increased red tape and now may *'perversely act as an incentive to staff to not breach offenders'*.³⁴⁵ The Together Queensland submission from members at the Capricornia Correctional Centre Farm stated:

*Changes that have occurred in this process make it a task that most staff would rather not complete. It is a lengthy electronic process which has little consequence for bad behaviour. This then leads to no deterrence for bad behaviour. Supervisors are regularly told to manage their prisoners on the farm rather than breach them but the reality of this is there are little other options available and an apparent lack of understanding by managers.*³⁴⁶

Submitters also identified that streaming practices more broadly could be improved to support progressive behavioural aims. Mr Kenneth Park called for streaming to ensure that young and/or vulnerable offenders are separated from bad influences, identifying that a tendency to stream offenders according to the crime they committed fails to appreciate the particular characteristics and risks associated with individual offenders, and can have serious consequences. More in-depth assessments on entry and engagement with prisoners regarding their individual goals and offender management plan, he argued, could help prevent the 'folk lore' that youths who *'make a couple of silly and immature judgements get sent to prison, and come out of prison hardened prisoners'* from becoming a reality.³⁴⁷

*The streaming which isolates the hardened criminals and the violent types from those who are progressing towards a better life needs to be encouraged. The main streaming events are the transition from high security to a low security establishment, and from there, to work camps and finally to parole. Again, these transitions must never be based on arbitrary factors but rather upon the rewards and punishments of a "carrot and stick" approach. At all costs, bad influences within the prisons must not be enabled to spread their poison to those others who are capable of rehabilitation.*³⁴⁸

PACT identified similar concerns about possible impacts on young offenders of insufficient streaming or exposure to criminogenic influences, noting:

*Automatically transferring a child to an adult facility without appropriate transition measures and in the absence of any consideration of the individual's needs and level of functioning will expose young offenders to unnecessary stressors. Moreover, in the absence of ongoing and appropriate rehabilitation programs, or the introduction of secure youth housing, young offenders will be exposed to, and/or influenced by, adult criminals unnecessarily. The impact of this will be increased recidivism and/or will result in more young people becoming victims of violent crimes by older prisoners. The trauma and long term effects of this must be considered.*³⁴⁹

³⁴⁴ Ibid, page 7.

³⁴⁵ Together Queensland - Capricornia Correctional Centre, Submission No. 36, page 4.

³⁴⁶ Together Queensland - Capricornia Correctional Centre Farm, Submission No. 37, page 2-3.

³⁴⁷ Kenneth Park (Kenneth Park, Janet Wilkinson, Stephen Carter), Submission No. 4, page 5.

³⁴⁸ Ibid, page 5.

³⁴⁹ PACT, Submission No. 7, page 2.

Sisters Inside also identified concerns that inappropriate security classifications may be particularly exacerbating mental health issues and risks of self-harm and family breakdown among many women prisoners. Their submission reported:

*...there are issues surrounding the over-classification of women prisoners as dangerous when many commit small, non-violent crimes. This is exemplified by the number of high security classified women in Queensland where in 2013 approximately 54% of women in custody were classified as high security offenders. This maximum classification also impacts on the availability of parole orders.*³⁵⁰

Sisters Inside intimated these higher risk assessments are somewhat informed by the limited number of low security beds, such that most women are imprisoned in maximum-security facilities with fewer opportunities for access to graduated release to lower security arrangements, and face more constrained activities as a result of this. In addition, the organisation argued that security classifications are being informed by risk assessments which conflate disadvantage with risk; such that those in disadvantaged groups or with specialised needs tend to be automatically assessed as higher risk offenders.³⁵¹ For those with mental and general health conditions, further, placement is limited to high security facilities only, because treatment facilities are not accessible at low security prisons.³⁵²

Treatment and Rehabilitation Programs

Evidence suggests that a package of interventions and support, both within prison and after release, is likely to be the most effective way in which to reduce the likelihood of re-offending.³⁵³ Treatment programs which address underlying mental health, substance abuse and trauma issues (including lingering impacts of domestic violence and sexual abuse) and are an important component of this, and may preclude the effectiveness of engagement in other behavioural interventions and education or employment initiatives.

Notably, presence of a mental health condition – and particularly, of a major psychiatric disorder – is associated with elevated risks of prisoner recidivism; and Butler and Alnutt have identified that without appropriate support, *'the mentally ill often revolve through prisons, with periods of incarceration interspersed with spells in the community and place high demand on services'*.³⁵⁴ Similarly, the resumption of or failure to address alcohol and drug use also precipitates or contributes to much recidivism.³⁵⁵ While mental illness and substance abuse and dependence are independent risks for re-offending, when these disorders occur together, there is *'an exponential risk of re-offending'*.³⁵⁶ According to Crow, there is now *'a perception that prisons that are devoid of adequate treatment and rehabilitation facilities are inadequate, ineffective and unjust'*.³⁵⁷

³⁵⁰ Sisters Inside, Submission No. 29, page 11.

³⁵¹ Ibid, page 12.

³⁵² Ibid, page 12.

³⁵³ Community Development and Justice Standing Committee, Interim Report: *'Making Our Prisons Work': An inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies*, Report No. 4 in the 38th Parliament, Legislative Assembly, Parliament of Western Australia: Perth, 2010, page 38.

³⁵⁴ T Butler and S Alnutt, *Mental Illness Among New South Wales Prisoners*, NSW Corrections Health Service, 2003, page 50.

³⁵⁵ M Prendergast, 'Interventions to Promote Successful Re-Entry Among Drug-Abusing Parolees', *Addiction Science & Clinical Practice*, April 2009, page 4.

³⁵⁶ Senate Select Committee on Mental Health, *A national approach to mental health – from crisis to community: First report*, Commonwealth of Australia: Canberra, March 2006, page 359.

³⁵⁷ Crow, cited in Community Development and Justice Standing Committee, Interim Report: *'Making Our Prisons Work': An inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies*, Report No. 4 in the 38th Parliament, Legislative Assembly, Parliament of Western Australia: Perth, 2010, page 33.

While there are a range of program structures employed in facilities around the country to address these issues, evidence suggests that correctional programs that follow the three principles related to risk, criminogenic needs and responsivity produce the best outcomes.³⁵⁸ These principles respectively suggest that levels of intervention should be matched with the degree of risk (i.e. such that offenders with the more severe drug problems should receive higher intensity treatment, while those at lower risk of relapse might be referred to less intensive programs, including drug education and monitoring and self-help and support group efforts); that correctional treatment should focus on those needs that are related to recidivism (including targeting impulsivity, limited self control, poor-problem-solving skills, and dependence issues, as well as other resilience factors); and that program selection should be appropriately matched to the learning styles and cultural and other needs of offenders.³⁵⁹

Cognitive behavioural therapy (CBT) programs have been identified as key tools to address the thought patterns which influence an individual's decision to engage in criminal behaviour. CBT aims to teach offenders to monitor their own thinking, identify thoughts that immediately precede criminal behaviour and learn other, pro-social ways of responding to those thoughts. The BAQ noted of these interventions:

The systematic review of CBT effectiveness in reducing reoffending conducted by Lipsey, Landenberger and Wilson (2007) found that CBT programs on average produce a 25% reduction in reoffending.

These types of programs cost far less than imprisonment and some reduced risk of reoffending by up to 17% (Aos Miller and Drake 2006).³⁶⁰

Importantly, submitters emphasised that such behavioural programs are likely to be most effective when the prisoner is willing and committed to personal change, and where they are afforded opportunities to engage techniques in practice: and when implemented as part of comprehensive strategy that also addresses other risk and protective factors (as reflects the co-morbidity and often mutually reinforcing effects of many recidivism related characteristics).

Other programs that seek to build relationships, interpersonal relationships skills and community links have also been identified as effective means of improving offenders' social skills and support networks. The Elders Program particularly was highlighted as '*one of the most effective and functioning programs for adult corrections that is in place*' in this regard:

One small example is a dance troupe called One Mob Different Country where the elders gave approval for prisoners to learn song lines and dance-alongs from different tribes and different skin groups, which is normally not allowed. The sense of pride and actually addressing and re-engaging with culture that happens from a simple dance is quite incredible. That is being driven because of—and it is the same thing happening in the Derby regional prison in Western Australia. Elders are being brought in, allowed into the system through the gate, which is a direction we will be going in eventually. 'Through the gate' means that a return to the community starts before the end of the prison sentence.³⁶¹

³⁵⁸ M Prendergast, 'Interventions to Promote Successful Re-Entry Among Drug-Abusing Parolees, *Addiction Science & Clinical Practice*, April 2009, page 4.

³⁵⁹ M Prendergast, op cit, pages 6-7.

³⁶⁰ BAQ, Submission No. 51, page 30.

³⁶¹ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014.

At the same time, while the potential benefits of various programs were emphasised, submitters also identified a number of concerns that the provision of various programs is sufficiently below levels required by prisoners to effectively address their personal and behavioural needs. For example, a confidential submitter identified:

*Many offenders are incarcerated for under 3 years and therefore have no treatment at all. Others receive some treatment just prior to release. This is totally unacceptable. Research recommends front end treatment.*³⁶²

Sisters Inside further reported:

*...short term courses may be offered but those programs are scheduled without consideration of women's availability and are subject to Queensland Corrective Services staff exercising a discretion to allow offender participation. Many women prisoners have reported not having assistance for their ongoing drug use (as high as 84%), where 50% of women prisoners continue to use drugs while in prison.*³⁶³

The BAQ also noted its concerns that although there are many publications which reflect planning and strategy for health care service and mental health care service delivery in Queensland prisons, 'most of those publications contain 'motherhood' type statements':

*There are very few which identify actual inmate health care or mental health care needs of actual data of the individual prisoner access to health care services or mental health services. From the few publications that are available it is clear that the needs of prisoners in respect of mental health and general health care needs are not being adequately met.*³⁶⁴

Education, Vocational Training and Employment Programs

A number of submitters emphasised the importance of education and vocational training programs. Mr Russell Wattie in particular conveyed his 'firm belief that if the prison system were to focus on education as an avenue to improving the life skills of prisoners, we would see a marked reduction in recidivism'.³⁶⁵ Citing prisoner numeracy and literacy rates substantially below that of the non-prison population, Mr Wattie pointed to a 'solid link' between a lack of education and reduced scope 'to live a productive life free from crime'.³⁶⁶

Mr Kenneth Park similarly identified:

*Education is the key to a better life. It is essential that all prisoners return to society with basic 3R abilities. It was a lack of education that was the probable root cause of most offenders finding themselves in prison. I have not become aware that the prison service is making a serious and coordinated effort in this area. The effort required to get text books and educational material into a high security prison would deter all but those with high perseverance. For those that do already possess a basic education, every opportunity should be made to encourage inmates to progress their education to higher levels....*³⁶⁷

³⁶² Confidential Submission No. 13.

³⁶³ Sisters Inside, Submission No. 29, page 11.

³⁶⁴ BAQ, Submission No. 70, page 12.

³⁶⁵ Russell Wattie, Submission No. 81, page 1.

³⁶⁶ Ibid, page 1.

³⁶⁷ Kenneth Park (Kenneth Park, Janet Wilkinson, Stephen Carter), Submission No. 4, page 6.

Sisters Inside expressed concerns that there are currently a range of obstacles preventing women from accessing education or vocational training. The organisation's submission noted:

*In relation to education generally, women are often prevented from doing full time study because they are discouraged by prison staff and because of the choice between low-security and therefore low-education facilities against high-security facilities. There are extremely poor library facilities and very limited access to electronic materials.*³⁶⁸

The Committee notes a 2010 Productivity Commission report identified the number of prisoners in education and training is less than 40% around Australia, and in NSW and Queensland, that figure is under 30%. As the report identified:

*It's not simply a case of prisoners not availing themselves of the opportunities. Governments are not spending enough on expanding opportunities for prisoners – this is borne out by the fact that the amount of money spent on programs per prisoner has only risen by \$6 in the past six years. Given CPI increases that means the actual dollars have dropped.*³⁶⁹

As of 2012-13, the Report on Government Services identified that only 24.5% of eligible Queensland prisoners participated in education and training programs, which is not only significantly below the national average of 33.1%, but is also the second lowest rate in the country (South Australia, Victoria and NSW have the highest participation rates at 43.3%, 38.1% and 36.1% respectively).³⁷⁰

However, despite these shortcomings, and evident issues of access for some disadvantaged groups in the past, the ADCQ and the Office of the Public Advocate acknowledged there do appear to have been advances in the programs offered to persons with intellectual disability: '*Literacy, education and vocational programs suitable for persons with disability are now provided in Queensland correctional centres and steps have been taken by other jurisdictions to provide persons with disability with access to programs, most notably sexual offender treatment programs*'.³⁷¹

The submission recommended the Queensland government review interstate initiatives and consider the introduction of additional programs targeted toward people with intellectual impairments in the future. In addition, it suggested that more targeted and suitable programs might be able to be offered to people with intellectual impairments if they were grouped together in certain units or correctional centres:

*This [may]... encourage a focus on the needs of persons with intellectual impairments and facilitate further improvement or expansion of those programs. It would also have the benefit of avoiding or minimising any negative influence on persons with intellectual impairments by other offenders or by the correctional system as a whole.*³⁷²

In addition to education programs, reviews of prison programs have particularly highlighted the importance of skills-based training and employment in work industries for prisoner rehabilitation.

³⁶⁸ Sisters Inside, Submission No. 29, pages 11-12.

³⁶⁹ G Barns, 'Report reveals chronic overcrowding in our jails,' *The Crime and Punishment Debate*, Issues in Society, vol. 328, The Spinney Press: NSW, 2010, page 19.

³⁷⁰ Steering Committee for the Review of Government Service Provision, 'Table 8A.24, 8A Corrective Services Attachment,' *Report on Government Services 2014*, Volume C: Justice, Commonwealth of Australia: Melbourne, 2014, page 1 of Table 8A.24.

³⁷¹ ADCQ and the Office of the Public Advocate, Submission No. 32, page 21, citing Department of Community Safety, 'Department of Community Safety Annual Report 2011-12) (Annual Report 2011-2012, Department of Community Safety, 10 September 2012) 38.

³⁷² ADCQ and the Office of the Public Advocate, Submission No. 32, page 21, citing Phillip French, 'Disabled Just ice: The Barriers to Justice for Persons with Disability in Queensland' (Queensland Advocacy Incorporated, May 2007) 101.

As a private submitter to the Inquiry noted:

*...working towards employability produces rehabilitative benefits. If they get a job that increases the benefit. Building the skills that allow someone to be employed is important. A lot of it has to do with their work readiness—the discipline and structure within someone’s life and how well it is organised has rehabilitative benefits, even if they do not get a job.*³⁷³

The recent WA Senate Inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies also identified:

There is strong evidence that well structured strategies that lift prisoners’ general education, and instil basic work disciplines together with pre and post release employment support, reduces recidivism. Internationally, notably in Singapore and in some states in the United States of America, such integrated strategies have seen declines from 40%+ recidivism rates down to 25%.

*In particular this has occurred where there is a priority on the development of workplace skills that are relevant to the workplace outside the prison and where there is a real focus placed on assisting prisoners into employment prior to their release.*³⁷⁴

However, despite supports for education and training programs and their benefits, particularly when incorporating transitional agreements and partnerships to support entry into employment on release, it was evident that overcrowding and cuts to programs have led to significantly reduced employment and job share options. Together Queensland representatives submitted these developments are leading to idleness and boredom and are in contrast to the intent of providing a structured work environment that resembles conditions in the community; with implications both for skills development and employability, and reducing potential sources of income generation and local business activity.³⁷⁵

*Our workshops used to run seven days a week; now they only run four days a week and they also do split shifts. That means we have one crew of prisoners come up in the morning and then we have a different crew in the afternoon. Now, obviously we would like to keep the prisoners employed as much as possible but, again as part of cost-cutting measures, at the moment our workshops have gone from, like I said, seven days a week to four days a week. But also—and this is from my own personal perspective...to create employment in prisons is a wonderful thing. It is a good thing because they need to be employed. However, at the moment it seems to be more about ticking a box and we get as many employed as possible doing jobs that take half an hour, and he is classed as employed. From my own perspective, if we are talking about rehabilitation, I do not really know how we can say, ‘Yes, you’ve been employed for the last year, let’s say, so now go out into the community and do a real job’.... I cannot really see how that is really gainful employment or teaching them what it is like on the outside world to go out and get a real job.*³⁷⁶

³⁷³ Transcript of Proceedings (Hansard), Private Meeting, LACSC, Brisbane, 12 June 2014.

³⁷⁴ Community Development and Justice Standing Committee, Interim Report: ‘Making Our Prisons Work’: An inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies, Report No. 4 in the 38th Parliament, Legislative Assembly, Parliament of Western Australia: Perth, 2010, page xv.

³⁷⁵ Together Queensland - Capricornia Correctional Centre, Submission No. 36, page 3.

³⁷⁶ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Rockhampton, 14 August 2014, page 17.

Unsentenced Prisoners

The Committee notes the Salvation Army, Sisters Inside and the BAQ highlighted concerns about the significant number of prisoners on remand in Queensland, and the financial and other impacts of these arrangements for those involved. As at 30 June 2013, the median number of months that unsentenced prisoners spent on remand in Queensland was 3.5 months – the highest of any Australian jurisdiction.³⁷⁷ The mean number of months on remand was 5.5 months, and more than 30% of unsentenced prisoners were on remand for 6 months or longer.³⁷⁸

The Salvation Army questioned the justice of this scenario, particularly for those prisoners who wait on remand for considerable periods of time because bail is refused – ‘sometimes over a year’.³⁷⁹ Its submission noted:

These prisoners wait because they plead not guilty. If they plead guilty they serve less time. Legal aid often counsels them to plead guilty, even if they are not guilty, because they will serve less time in prison. A more streamlined justice system is required that does not leave 800-1,000 people caught in prisons on remand at any one time.

*The Salvation Army is concerned for families when a person is incarcerated and they are left unsupported, particularly where children are concerned. We appreciate this is a complex issue, but would encourage more thought into how to address this as the ripple effects on the community when families and children lose hope is very costly.*³⁸⁰

The submission also called for:

*...a full time, fully programmed, drug rehabilitation unit [to] be provided within the remand centres for prisoners selected by magistrates, psychologists, counsellors, chaplains and other appropriate agencies. This would satisfy the judiciary’s common request for drug rehabilitation as a bail or parole conditions and would make optimum use of the prisoners’ incarceration time.*³⁸¹

Sisters Inside also noted its concern over the significant number of women on remand, and the manner in which their custody is managed:

*Women who are placed in custody on remand are placed in high security prisons. Pursuant to section 12(1A) of the Corrective Services Act 2006 a prisoner admitted on remand for an offence must only be classified into a security classification of high or maximum. Pursuant to section 13 prisoners on remand cannot have that security classification reviewed. In practice in Queensland, female untried prisoners are not separated from convicted prisoners.*³⁸²

The BAQ identified the significant proportions of unsentenced prisoners on remand may be attributed largely to the fact that a high proportion of Indigenous persons are being refused bail and held on remand. The Association suggested ‘these rates may be reduced through the introduction of bail hostels, or by dispensing with the need for bail in certain circumstances, or through implementation of better risk assessment tools’.³⁸³

³⁷⁷ Australian Bureau of Statistics, ‘[Prisoners in Australia, 2013 – Queensland](#),’ 4517.0 – Prisoners in Australia, 2013, 5 December 2013.

³⁷⁸ Australian Bureau of Statistics, ‘Table 32, Unsentenced Prisoners, time on remand,’ 4517.0 – Prisoners in Australia, 2013, 13 June 2014.

³⁷⁹ Salvation Army Queensland Division, Submission No. 18, page 2.

³⁸⁰ Ibid, page 2.

³⁸¹ Ibid, page 1.

³⁸² Sisters Inside, Submission No. 29, pages 10-11.

³⁸³ BAQ, Submission No. 70, page 27.

Post-release supervision

A number of submitters emphasised a key strategy in addressing recidivism is the provision of sufficient material and social support upon release to assist the prisoner in adjusting to community life, and interrupt the cycle of release and arrest which '*can become increasingly difficult to break*'.³⁸⁴ Taking an individual from detention and placing them back in the same risk environment – but with increased vulnerability due to the interruptive impact of their custodial sentence – is likely to lead to the same offending outcomes unless sufficient transitional work and follow-up support is provided as part of a rehabilitation continuum.³⁸⁵

In its submission to the Inquiry, Sisters Inside particularly sought to highlight the '*A Place to Call Home Pilot Project*', which explored practices considered most effective and efficient in helping women move from homelessness to long term housing, after release from prison. The associated evaluation report demonstrates the success of the program in addressing this goal.³⁸⁶ Sisters Inside submitted:

After a period of living in an institutional setting, women are expected to make a fast transition from being fully controlled by others inside prison (a good prisoner), to taking full control of their own life immediately upon release (a good citizen). It is hardly surprising then that:

- *Some women re-offend (consciously or unconsciously) in order to return to a familiar environment. Those living with constant violence may even perceive prison as a relatively safe place to be. Women struggling with homelessness often prefer the security of prison, with its guaranteed food and accommodation, to the cost and complexities of living in the community;*
- *Many women experience an ongoing fear of authority. This can function as a barrier to accessing the very services they need in order to adjust to their new life.*
- *Many women harm themselves or attempt suicide. For example, 35% of women in Goulding's Western Australian study said they had attempted suicide within days or weeks of release.³⁸⁷*

The project evaluated access to accommodation and services and found that housing debts are a serious barrier to accessing housing in Queensland, noting that women are precluded from access to Department of Housing services if they have a Department of Housing debt. The evaluation report also determined that access to support services is inadequate and '*a large number of women are released without adequate preparation or support*'.³⁸⁸ Sisters Inside added:

Many did not even have essential resources such as photo ID and a Medicare card. This made them ineligible to access ongoing Centrelink payments after the first 2 weeks (for which prison release papers would suffice), prove they were 18+, get a driver's license or access most forms of housing. A high proportion of women with a serious mental illness were released without medication and without any follow-up appointments with community-based mental health services. This problem was further exacerbated when mental health services were unwilling to engage with women after their release - as in the case of Mary and many other women. In circumstances where mental health services

³⁸⁴ SRC, Submission No. 28, page 10.

³⁸⁵ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014.

³⁸⁶ Sisters Inside Inc., Supplementary Submission 29, page 4.

³⁸⁷ *Ibid*, page 8.

³⁸⁸ *Ibid*, page 43.

*accepted responsibility for supporting women, they often (apparently arbitrarily) ceased to provide services, with no transition arrangements in place.*³⁸⁹

In addition to realising the inadequacy of services available to prisoners after their release from prison, the Committee heard from a private witness that community supervision is an integral part of effective community reintegration: *'if a prisoner is released from custody without supervision, they are more likely to reoffend than a prisoner who is released with supervision'*.³⁹⁰ Another witness also provided:

*There is evidence starting to emerge about the rehabilitative benefits of certain ways of supervising offenders in the community. However, we know that about 60 percent of the current prisoner population has been in prison before. Of the approximate 9,700 offenders released from prison in 2011, over 3½ thousand were back within two years and younger prisoners are even more likely to reoffend. Of those serving time before their 19th birthday, 70 percent will be back before they are 35.*³⁹¹

Importantly, supervision approaches informed by risk, need and responsivity principles have been identified as more efficient in reducing overall recidivism, by supporting deployments of supervisory resources in accordance with assessments of offenders' distinct risk and protective factors. US-based research has identified that community supervision using this differentiated approach produces almost five dollars of crime-reduction benefits per dollar of costs.³⁹²

The Catholic Prison Ministry submitted there needs to be a focus on providing post-release assistance to prisoners in order to reduce criminal activity. Catholic Prison Ministry stated:

*Lack of accommodation, employment opportunities, existing or ongoing substance dependency issues, lack of family support and ineffective pre and post release support are major barriers to ex-prisoners successfully reintegrating into the community. Providing assistance to ex-prisoners to address these barriers not only promotes community reintegration but also has been shown to reduce recidivism and hence provides a safer environment for all.*³⁹³

The Catholic Prison Ministry further provide:

*Recently released prisoners are among the most disadvantaged in the community, often facing complex and difficult issues and facing significant barriers to reintegration into the community (Graffam & Shinkfield, 2012). The needs of released prisoners can be broadly split into the immediate needs of prisoners on release and the broader reintegration needs post-release. When prisoners are released they often require immediate support with transport from the prison, clothing, money, food and accommodation (Walsh, 2004). Following the period immediately after release, ex-prisoners are faced with the challenge of successfully reintegrating into the broader community. In summary, two of the most significant problems faced post-release are housing, which also links closely to chances of recidivism, and a lack of support with reintegration needs.*³⁹⁴

³⁸⁹ Ibid, pages 43 – 44.

³⁹⁰ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014.

³⁹¹ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014.

³⁹² S Aos and E Drake, *Prison, Police, and Programs: Evidence-Based Options that Reduce Crime and Save Money*, Doc No. 13-11-1901, Washington State Institute for Public Policy, November 2013, page 4.

³⁹³ Catholic Prison Ministry, Submission No. 80, page 2.

³⁹⁴ Ibid, page 3.

To address these significant issues Catholic Prison Ministry suggested the provision of adequate housing and adequate access to programs in prison and post-release.³⁹⁵ Outlining the current Queensland Government response, and evidence of the need for further improvements, the submission stated:

The Queensland Corrective Service's Offender Reintegration Support Service (ORSS) program has been operating since 2007. This service is delivered by a number of community organisations across the state. There are a significant issues facing those being released from prison and there is evidence the current delivery of the ORSS program is not performing as effectively as it could be. In a study undertaken by Catholic Prison Ministry in 2013, 88% of the 42 respondents to a questionnaire had received offers of support from an ORSS worker in areas such as transport from prison, accommodation assistance, Centrelink assistance and clothing. Post-release however, 45% stated they had not contacted by their ORSS worker, 16% had seen their worker once and 31% had heard from their ORSS worker by phone or only very briefly to drop off vouchers (CPM, 2013).

Although the sample group is small, these findings appear to illustrate that the service delivery of the ORSS program did not generally meet the needs or expectations of respondents post-release. As this is the only service funded by QCS/Dept of justice for assisting prisoners post-release, it is incumbent on Queensland Corrective Services to ensure the program runs effectively and appropriate services are provided to ensure reintegration and safety for those who have recently been released from prison.

Catholic Prison Ministry believes that the level of funding provided by the government to assist people leaving prison is grossly inadequate. Service providers appear unable to meet client needs with some ORSS workers reporting a caseload of well over 150. These figures are anecdotal however if they are remotely accurate it is clear that the level of support offered to people leaving prison is token at best, increasing their likelihood of reoffending and returning to prison.³⁹⁶

Informed Policy

Scholars have identified that getting the right mix in terms of a balance between retribution and rehabilitation is a complex challenge for the criminal justice system, 'especially when these principles interact with a number of non-legal factors – community perceptions of safety and justice, politicians' electoral agendas, the rights of victims, and frequently exaggerated or inaccurate media reporting on criminal cases'.³⁹⁷ The Committee notes that a number of submitters expressed a view that the balance has tipped too far towards retribution; and that increased penalties and changes to legislation and sentencing have been too often shaped by reactive attempts to address perceived shortcomings or misinformed community concerns, and have presented an obstacle to 'the uptake of more sustainable options which could address the social and economic contributors underpinning the criminal behaviour in the first place'.³⁹⁸

In support of a more informed, evidence-based approach to criminal justice policy that may better serve to enhance community safety and deliver significantly improved returns on dollars currently invested in imprisonment, the QLS highlighted that some jurisdictions have adopted corrections

³⁹⁵ Ibid, pages 4 -5.

³⁹⁶ Catholic Prison Ministry, Submission No. 80, page 6.

³⁹⁷ J Healey, 'Criminal Justice and Punishment,' *The Crime and Punishment Debate*, Issues in Society, vol. 328, The Spinney Press: NSW, 2010, page 29.

³⁹⁸ QLS, Submission No. 51, page 8. See also: Sisters Inside, Submission No. 29, page 2; WIPAN, Submission No. 27, page 5; Russell Wattie, Submission No. 81, page 3.

impact statements, which are used for proposals that will have implications for sentencing and corrections.³⁹⁹ These instruments have been particularly employed as part of a comprehensive justice reinvestment approach implemented across a number of US Jurisdictions, and summarised as follows:

Fiscal impact statements put a price tag on proposed legislation. At least 16 states require the use of specialized corrections impact statements, which provide information to legislators that is unique to sentencing and corrections policies.

In Virginia, a corrections impact statement is required when a proposal will have a fiscal impact on correctional populations or criminal justice resources. Impact statements in Virginia include a six-year projection of correctional populations and associated increases in operating costs, an analysis of the impact on local jails and community corrections programs, and any required adjustments to the sentencing guidelines to conform with the proposal. In order for the General Assembly to adopt legislation that would result in a net increase in prison populations, a one-year appropriation is required in the amount equal to the highest single-year increase in operating costs identified within the six-year projection. As part of a larger corrections reform effort, Kentucky adopted a similar requirement in 2011.

Corrections statements often provide an analysis of the impact on existing programs, services and policies. In North Carolina, legislative fiscal research staff provide a five year projection on correctional populations and bed capacity and the associated costs, including any capital costs for proposals that would increase prison populations. In addition, for bills that would create a new crime or change the classification or penalty range of an existing crime, the Sentencing and Policy Advisory Commission advises whether the provision is consistent with the statutorily defined crime classification and punishment criteria. The criteria was established to ensure a systematic and rational basis for classification that is based on harm to the victim.⁴⁰⁰

The QLS submission also provided an example of the relevant legislative provision dealing with corrections impact statements from the 2014 Iowa Code:

Prior to debate on the floor of a chamber of the general assembly, a correctional impact statement shall be attached to any bill, joint resolution, or amendment which proposes a change in the law which creates a public offense, significantly changes an existing public offense or the penalty for an existing offense, or changes existing sentencing, parole, or probation procedures. The statement shall include information concerning the estimated number of criminal cases per year that the legislation will impact, the fiscal impact of confining persons pursuant to the legislation, the impact of the legislation on minorities, the impact of the legislation upon existing correctional institutions, community-based correctional facilities and services, and jails, the likelihood that the legislation may create a need for additional prison capacity, and other relevant matters. The statement shall be factual and shall, if possible, provide a reasonable estimate of both the immediate effect and the long-range impact upon prison capacity.⁴⁰¹

While these specialised statements may contribute to greater transparency and ensure that policies are implemented in an informed manner, they also necessarily require a commitment to improved evidence gathering and evaluative mechanisms.

³⁹⁹ QLS, Submission No. 51, page 18.

⁴⁰⁰ Sisters Inside, Submission No. 29, page 2.

⁴⁰¹ Ibid, page 2.

The Committee notes that a number of promising rehabilitative and other corrective initiatives were highlighted during the course of its Inquiry. However, it was also repeatedly indicated that results were largely anecdotal, and that programs are generally not subject to any fulsome evaluation.

Additionally, concerns were raised regarding the way in which recidivism – as the foremost evaluative outcome in this regard – is determined and measured. At the public hearing in Rockhampton, for example, Together Queensland representative, Mr Jay Boal, identified:

...[when] we actually determine what is a recidivist prisoner, I would like to understand if we are actually aware of how that is actually formed and what actually is classed as a recidivist prisoner, because official rates are 30% in Queensland. As a custodial officer, after eight years working in the reception yard, there is no way that only one in three prisoners coming to jail is an offender that has been in before. So I cannot really understand how we are going to make decisions on what offends and what changes things and stuff like that if we are still working on 30%.⁴⁰²

Mr Boal expressed concern that offenders being imprisoned for distinct classes of offences may not be considered recidivist because they are not reoffending in the same way, but demonstrating differentiated – but ultimately still criminal behaviour. While acknowledging motivational or underlying features may be different, he noted, for example:

To me, if someone comes in for stealing a car and does three months in jail and comes in six months later for a break and enter, I would class that as a person who has not really learned from his time in jail... jail is meant to be a learning experience as well as a deterrent.⁴⁰³

Research confirms that measuring recidivism is a complicated challenge, especially given the difference between offending as a behaviour, and the criminal justice system's categorisation of that behaviour into discrete activities.⁴⁰⁴ Given its importance in underpinning program evaluation, and supporting the monitoring of progress in crime reduction, the Committee considers it is crucial that recidivism variables are clearly informed and defined, and subject to comprehensive and systemic data collection.

Committee Comment

While submitters to the Inquiry acknowledged that imprisonment serves an important purpose, they also widely emphasised it generally has not been effective in reducing crime and imposes significant economic and social costs on individuals and society; and should accordingly be reserved for use only as a last resort.

Current prisoner levels are clearly unsustainable and may adversely impact on prisoner recidivism by undermining the implementation of a range of educative and rehabilitative interventions, and must therefore be addressed. Evidence received by the Committee also points to the need for these programs to be delivered as part of a continuum of service that extends beyond their period of incarceration, to support prisoners in overcoming the significant barriers associated with their reintegration in the community.

⁴⁰² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Rockhampton, 14 August 2014, page 14.

⁴⁰³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Rockhampton, 14 August 2014, page 14.

⁴⁰⁴ J Payne, *Recidivism in Australia: findings and future research*, Research and Public Policy Series, Australian Institute of Criminology: Canberra, No. 80, page 42.

These efforts should be accompanied by thorough data collection and systematic evaluation, to support the ongoing development and improvement of programs which target offenders' underlying risk and protective factors, and help support them to participate as healthy and productive members of society.

The Committee considers the introduction of a Corrections Impact Statement is consistent with the ongoing commitment required to support such changes, together with a longer-term shift in the balance of criminal justice investment towards early intervention and prevention.

Recommendation 10

The Committee recommends any legislation developed by the Government that creates a new offence, alters the penalty for an existing offence, or otherwise proposes to impact imprisonment incorporates an appropriate Corrections Impact Statement outlining associated imprisonment costs and savings.

Recommendation 11

The Committee recommends the Queensland Government explore options to reduce the number of prisoners on remand, and the median length of remand periods.

Recommendation 12

The Committee recommends the Queensland Government explore and evaluate options for improving engagement in educative and rehabilitative programs.

Recommendation 13

The Committee recommends the Queensland Government increase funding and resources for transitional and post-release support services for prisoners, to boost rehabilitation and address recidivism across the state.

Recommendation 14

The Committee recommends the Queensland Government review recidivism measures and variables to ensure collected data provides an accurate and useful informational picture to support informed and effective criminal justice policy.

6. Justice Reinvestment

As a crime prevention strategy, the concept of ‘justice reinvestment’ has been progressively receiving more and more attention in recent years. The Australian Senate Legal and Constitutional Affairs References Committee conducted a recent inquiry (the Senate Inquiry) and tabled a comprehensive report in June 2013 on the value of a justice reinvestment approach to criminal justice in Australia.⁴⁰⁵

According to a fact sheet published by the Australian Justice Reinvestment Project,⁴⁰⁶ justice reinvestment originated 11 years ago in the United States of America when researchers Susan Tucker and Eric Cadora published an article of the same name.⁴⁰⁷ The article described the ‘*cumulative failure of three decades of prison fundamentalism*’ and advocated for a place based approach ‘*driven by the realities of crime and punishment*’.⁴⁰⁸

In its simplest form, justice reinvestment means investing in communities, instead of prisons. In its submission to the Senate Inquiry, the Law Council of Australia described justice reinvestment in more detail as:

*...the diversion of funds that would ordinarily be spent on keeping individuals in prison, and instead, investing this money in the development of programs and services that aim to address the underlying causes of crime in communities that have high levels of incarceration. It has been described as “data-driven” and comprehensive approach which makes us think more broadly and holistically about what really leads to crime and how we can prevent it.*⁴⁰⁹

In their initial article, Tucker and Cadora proposed the goal of justice reinvestment was:

...to redirect some portion of the \$54 billion America now spends on prisons to rebuilding the human resources and physical infrastructure — the schools, healthcare facilities, parks, and public spaces — of neighborhoods devastated by high levels of incarceration.

*Thus, as originally conceived, JR involves advancing fiscally sound, data driven criminal justice policies to break the cycle of recidivism, avert prison expenditures and make communities safer.*⁴¹⁰

Submitters to both the Senate Inquiry and this Inquiry have supported a justice reinvestment approach in Australia, and more particularly in Queensland. The ADCQ submitted to both inquiries:

*Justice Reinvestment presents an opportunity to interrupt the cycle of migration of communities to prison and back again, and to arrest the ripple effects of imprisonments that are felt throughout a community. The process of decarceration through community capacity building becomes mutually reinforcing; crime prevention decreases imprisonment; and community engagement strengthens the community so the preconditions for crime are reduced.*⁴¹¹

⁴⁰⁵ Legal and Constitutional Affairs Reference Committee, [Value of a justice reinvestment approach to criminal justice in Australia](#), June 2013, Senate Committee, Parliament of Australia.

⁴⁰⁶ The Australian Justice Reinvestment Project is a two year project funded by the Australian Research Council.

⁴⁰⁷ C Young, [Australian Justice Reinvestment Project, Fact Sheet: Justice Reinvestment Basics](#), page 1.

⁴⁰⁸ S Tucker and E Cadora, [Justice Reinvestment](#), Ideas for an Open Society, Open Society Institute, Vol. 3, No. 3, November 2003, page 3.

⁴⁰⁹ Law Council of Australia Submission, page 5; Legal and Constitutional Affairs Reference Committee, [op cit](#).

⁴¹⁰ S Tucker and E Cadora, [op cit](#), page 2.

⁴¹¹ ADCQ, Submission No. 31, pages 4-5.

6.1 How justice reinvestment works

A number of submitters set out for the Committee the methodology used when implementing justice reinvestment.⁴¹² The four basic steps in the process are as follows:

1. *Analysing and mapping to ascertain which geographical areas have the highest levels of offenders;*
2. *Development of options to generate savings and improve local communities;*
3. *Quantifying and re-investing savings in high needs communities, and*
4. *Evaluation of the impact of that reinvestment.*⁴¹³

As is evident from the steps above, justice reinvestment is dependent on the availability of accurate data at both the analysis and mapping stage and also at the time of the evaluation of the programs that are implemented.

The South Australian Justice Reinvestment Working Group provided a list of data to the Senate Inquiry, which it considered was needed to properly evaluate a suitable area for a justice reinvestment pilot:

- offender's residence at time of offending;
- prisoner's release residential address;
- nature and type of offending;
- social demographics of the residential areas;
- prisoner's family and cultural background; and
- what services have been and are currently on offer in the residential areas.⁴¹⁴

It is noted that the 'justice mapping' which occurs under a justice reinvestment approach differs from 'crime mapping' in that it focuses on the areas where offenders come from, and return to, so that effective community programs can be put in place to stop that cycle, rather than mapping the areas where the crime itself occurs. As described by the Australian Human Rights Commission (AHRC):

Justice reinvestment is based on evidence that a large proportion of offenders come from a relatively small number of disadvantaged communities. Demographic mapping and cost analysis in the United States has identified 'million dollar blocks' where literally millions of dollars are being spent on imprisoning people from certain neighbourhoods.

*...This concentration of offenders logically suggests that there should be a commensurate concentration of services and programs to prevent offending in these communities.*⁴¹⁵

A further example of justice mapping has been seen in the Australian Capital Territory where it was identified in Canberra that there were about six different families that were the main generators of crime.

⁴¹² See for example: BAQ, Submission No. 70; ADCQ, Submission No. 31, Balanced Justice, Submission No. 61; WIPAN, Submission No. 27; QLS, Submission No. 51.

⁴¹³ N La Vinge, SR Neusteter, P Lachman, A Dwyer, CA Nadeau, [Justice Reinvestment at the Local Level: Planning and Implementation Guides](#), Urban Institute Justice Policy Center, 2008.

⁴¹⁴ South Australian Justice Reinvestment Project Submission, page 10. Legal and Constitutional Affairs Reference Committee, *Value of a justice reinvestment approach to criminal justice in Australia*, Senate Committee, Parliament of Australia.

⁴¹⁵ AHRC Submission, page 12; Legal and Constitutional Affairs Reference Committee, [op cit.](#)

A justice reinvestment approach would see programs developed to work intensively with those families to break that crime cycle and lead to greater reductions in the overall crime levels of the city.

Challenges to implementation of a justice reinvestment approach were comprehensively set out in Chapter 7 of the Senate Inquiry and the Committee directs readers to that report for a full consideration of the issues. As highlighted by the Committee earlier in this report, these challenges include a lack of evaluation data from the conduct of programs that have already been rolled out:

Data needed for evaluations must be built into programs before they are rolled out. This does not always occur, either because it is not considered during the development phase or because of funding concerns.

Another issue identified is that evaluation is hampered by the method of funding of programs. Often programs are funded for a pilot and then the program is defunded after a period so that no evaluation can be carried out as to whether or not the program has been successful.⁴¹⁶

Further, as this Committee has discussed earlier, the difficulties of collecting data due to the operation of agencies working in silos was also noted. The following example provided to the Senate Inquiry could very well apply in Queensland:

...the Productivity Commission would like to develop an indicator which measures whether people get access to appropriate support services when they leave prison that will help them integrate into the community and to get a job. However, once a person leaves prison, they become the responsibility of a different portfolio, and the two data systems are not comparable. As a consequence, the proportion of people who leave prison leave into a case managed or a supported system cannot be identified... [a]lthough it is an indicator we would like to work on, the silos are stopping us from developing an appropriate data set to support it.⁴¹⁷

The Committee has highlighted issues with the collection of data earlier in this report and notes this is another reason why the collection of accurate consistent data across portfolios is essential.

A further challenge for the implementation of a justice reinvestment approach is the development of programs which successfully address the drivers of crime. As highlighted by Balanced Justice, 'the types of justice reinvestment programs adopted will vary according to the needs of particular areas'... and 'as the causes of crime are complex and may also be location specific, programs need to be tailored accordingly'.⁴¹⁸

6.2 Application of justice reinvestment overseas

Experiences overseas have shown justice reinvestment has the potential to deliver very successful outcomes. Justice reinvestment has been fully embraced in the United States where 16 states have signed up with the Council of State Governments Justice Centre, the justice reinvestment coordination body, to investigate or apply justice reinvestment schemes and other states have followed justice reinvestment through different avenues.⁴¹⁹

⁴¹⁶ Legal and Constitutional Affairs Reference Committee, [op cit.](#), Chapter 7.

⁴¹⁷ Legal and Constitutional Affairs Reference Committee, [op cit.](#)

⁴¹⁸ Balanced Justice, Submission No. 61.

⁴¹⁹ QLS, Submission No. 51, page 11.

The BAQ provided examples of the effectiveness of a justice reinvestment approach throughout the United States and also in the United Kingdom as follows:

In Michigan, justice reinvestment measures such as: providing employment opportunities to juveniles not attending work or school; responding to parole violations quickly and proportionately; and ensuring all individuals leaving prison received a period of supervision in the community were introduced in 2008.

By 2010, the prisoner population had reduced by 6,000, enabling Michigan to close 21 prisons and reinvest the savings into the development of community services and programs.

...

In the United Kingdom, the House of Commons Justice Committee released a report 'Cutting crime - the case for justice reinvestment' in 2010. The Justice Committee made a number of recommendations, including that the Government put in place appropriate community-based services to prevent potential offenders from entering the criminal justice system and commit to a significant reduction in the prison population by 2015, with a particular focus on women and those whose criminality is driven by mental illness and/or addictions to drugs or alcohol.⁴²⁰

The BAQ,⁴²¹ QLS,⁴²² Balanced Justice⁴²³ and Women in Prison Advocacy Network (WIPAN)⁴²⁴ all referred the Committee to the success of a justice reinvestment approach in the US State of Texas. The QLS provided the Committee with a case study on Texas from a recent report of the Justice Committee of the House of Commons in the UK Parliament:

Texas has long been regarded as a state with some of the "toughest" criminal justice policies in the US. In 2007, its prison population was projected to grow by more than 14,000 people over a five-year period, costing taxpayers an additional \$523 million for the construction and operation of new prison facilities. With bipartisan leadership, policymakers identified and enacted alternative strategies in an attempt both to increase public safety and avert the projected growth in the prison population at a net saving to the state as they would cost only \$240m.

These included investing in: parole and probation policies; expanding the capacity of community-based treatment programmes and residential drug and alcohol treatment facilities; expanding drug courts and other specialist courts to place offenders who committed minor crimes in treatment programmes; and expanding the nurse-family partnerships programme (an evidence-based, community maternal health initiative, referred to in the UK as family nurse partnerships, that serves low-income women pregnant with their first child) using savings generated by reductions in prison expenditure with a view to improving outcomes for low-income children and families.

At the same time funding was authorised for the construction of three new prisons which could proceed only if the new policies and programs were not effective. This has not been necessary. Furthermore, one prison has since been closed and the legislature has authorised the closure of two more. Texas now has the lowest crime rate since 1968.⁴²⁵

⁴²⁰ BAQ, Submission No. 70, page 22.

⁴²¹ Ibid, page 22.

⁴²² QLS, Submission No. 51, page 11.

⁴²³ Balanced Justice, Submission No. 61.

⁴²⁴ WIPAN, Submission No. 27, page 4.

⁴²⁵ Justice Committee, [Crime reduction policies: a co-ordinated approach?](#), June 2014, UK Parliament House of Commons.

The Committee understands that in terms of prisons and justice reinvestment, the State of Washington recently decided not to go ahead with the building of a new prison because their crime rates have reduced to such an extent after they made the commitment as a state to fund only evidence based treatment and prevention programs.⁴²⁶ The Committee was also advised about the closure of juvenile justice detention centres in the State of Pennsylvania. In that state, the juvenile justice office has been funding Penn State University as a prevention research centre for over 20 years to pioneer the transfer of knowledge from the university to counties throughout the state to implement evidence based programs for primary prevention but also for juvenile justice treatment of offenders. One of its youth justice detention centres was recently closed because the numbers had gone down to such an extent it was no longer needed.⁴²⁷

It can be seen from the above examples, in addition to the benefits to the community that there are also clear economic benefits from justice reinvestment initiatives. This was highlighted in the Senate Inquiry:

...cost savings have been seen as a major benefit of the justice reinvestment approach. Some submitters, for example, the National Association of Community Legal Centres argued that while the benefits other than cost savings are the primary reasons for implementing a justice reinvestment approach, there is also an economic argument.

First, justice reinvestment is cost effective: it does not require additional funding, merely a reallocation of money that has been already assigned to corrections. Because of its evidence-based approach, it ensures that funding is spent where it will have the greatest impact for potential offenders. In addition, it was argued that savings arise from the implementation of community programs which are more cost effective than imprisonment. NATSILS concluded that utilising a justice reinvestment approach ensures that taxpayers receive a better 'bang for their buck' in regard to government spending on the justice system. It would ensure a cost-effective, fiscally sound approach to justice spending that prevents wastage on ineffective policies.⁴²⁸

6.3 Application of justice reinvestment in Queensland

The AIC has conducted a number of research activities into justice reinvestment and its potential application in Australia. The AIC submitted while the United States has embraced justice reinvestment on a large scale, there are many differences between the structure of the criminal justice system and the population more generally between the US and Australia, which would indicate many of the approaches used in the US may not be easily transferable to Australian jurisdictions.⁴²⁹

However, the AIC considers there are a number of aspects of the justice reinvestment approach that are relevant to Australia, including its focus on high levels of collaboration and the conduct of rigorous evaluation including cost-benefit analysis. The AIC submitted:

...the model of justice reinvestment that would most likely benefit Queensland would be a focus on investing in cost-effective strategies proven to prevent crime in order to reduce the costs associated with the criminal justice system. This requires redirecting resources away from the criminal justice system and into primary, secondary and more effective tertiary responses.⁴³⁰

⁴²⁶ Transcript of Proceedings (Hansard), Private Meeting, LACSC, Brisbane, 12 June 2014.

⁴²⁷ Ibid.

⁴²⁸ Legal and Constitutional Affairs Reference Committee, [op cit](#), page 66.

⁴²⁹ AIC, Submission No. 77, page 6.

⁴³⁰ AIC, Submission No. 77, page 6.

This approach is consistent with the first introduction of justice reinvestment into Queensland in 2009, by the then Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Tom Calma.⁴³¹ In his Queensland Anti-Discrimination Mabo Oration address, Mr Calma stated:

*The criminal justice system is failing Indigenous people and making our communities weaker. We need to proactively invest in the front end of the system on crime prevention rather than focus on the overwhelming majority of funding on criminalization.*⁴³²

The *Social Justice Report 2009* released by Mr Calma in his role as Aboriginal and Torres Strait Islander Social Justice Commissioner concluded:

Justice reinvestment is a pragmatic solution to the problem of Indigenous imprisonment but it is based on some sound principles that meld with Indigenous perspectives and approaches.

It takes the role of community seriously, recognising the damage for the individual and community each time a person is imprisoned. It recognises that there are 'high stakes' communities where it is imperative that preventative resources and systemic change is put in place to address imprisonment.

*Most importantly, it provides a real role for the community to have a say in what is causing offending in their communities and what needs to be done to fix it. All of these principles would guide a partnership approach to addressing Indigenous imprisonment.*⁴³³

The Griffith University, School of Criminology submitted that a fully functional justice reinvestment approach is both front-end active through community-based crime prevention, intervention and diversion programs, and rear-end or post release programs through community supervision, job placement and education. Griffith considered that based on the success from overseas justice reinvestment programs there would be little doubt that Australian jurisdictions would follow with similar approaches. The international experiences with over-incarceration inefficiencies and seemingly constant budgetary pressures would highlight existing approaches as unsustainable.⁴³⁴

Diversionsary programs

A number of programs or strategies that have previously operated in Queensland would appear to be consistent with a justice reinvestment approach - in that they aim to reduce levels of offending (and re-offending) and divert people away from the mainstream courts and prisons. While these measures are also discussed later in this report, the lack of proper evaluation, funding and support for programs such as these highlights the challenges with truly accepting an ongoing justice reinvestment approach to crime prevention.

Several submitters referred to established diversionsary programs or courts abolished in the past two years in order to save the direct funding costs of the initiatives.⁴³⁵ The Queensland Murri Court, the Drug Court, the Special Circumstances Court, the Indigenous Alcohol Diversion Program and court referred youth justice conferencing were all recently disbanded in an effort to save costs.

⁴³¹ ADCQ, Submission No. 31, page 3.

⁴³² T Calma, "From self-respect comes dignity, and from dignity comes hope": Meeting the challenge of social justice for Aboriginal and Torres Strait Islander People, The Mabo Oration, 5 June 2009, page 22.

⁴³³ Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2009*, AHRC, 2009, page 56.

⁴³⁴ School of Criminology and Criminal Justice, Griffith University, Submission No. 76, page 4.

⁴³⁵ See: ADCQ, Submission No. 31; QLS, Submission No. 51; BAQ, Submission No. 70; ATSILS, Submission No. 34.

With respect to the removal of court referred youth justice conferencing, the program was discontinued to enable the Government to introduce Boot Camp Orders as an additional diversionary program in Queensland. Without debating the merits of either program, at the time the Committee considered the Youth Justice (Boot Camp Orders) and Other Legislation Bill 2012, concerns were raised that the cost of diversionary programs should not simply be limited to the costs involved in the delivery of the program, but must be considered against the long term benefits of keeping the subjects out of the custodial system.⁴³⁶ The Committee sought further details as to the cost-benefit analysis carried out in the decision to remove court referred youth justice conferencing however no information other than the direct savings to be achieved was provided in the Government Response:

*The removal of court referred youth justice conferencing is expected to save more than \$11.2m over the next two full financial years.*⁴³⁷

The Government response stated further that cost savings would be monitored to ensure that the decision was an effective fiscal measure.⁴³⁸

In its submission to this Inquiry, the ADCQ considered it was too early to know if the Boot Camp programs were working and if they were preventing young offenders from further contact with the justice system. Consistent with a justice reinvestment approach – it is imperative that a full costs/benefits analysis of the programs are undertaken to establish an accurate evidence base prior to the roll out of the program on an ongoing basis.

In relation to the Murri Court, the BAQ noted the comments by the Honourable Jarrod Bleijie MP, Attorney-General and Minister for Justice (Attorney-General) around the time the program ceased. The Attorney-General was reported as saying the program had been ceased due to it not working effectively and that this was due to many offenders returning to their communities where they were exposed to the same levels of unemployment and drug and alcohol use.⁴³⁹ The BAQ considered a justice reinvestment approach '*would appear to be aimed squarely at dealing with just those issues*' – on the offender's return to their community. '*If problems within particular communities are creating risks of recidivism, then the logical and sensible approach is to put in place programs additional to the Murri Court to deal with the identified issues*'. Parallels were made by the BAQ with the Texas experience where individuals released from prison are subject to supervision and reintegration back into their community.⁴⁴⁰

Finally, with respect to the Drug Court, the ADCQ noted the 2010-11 Annual Report of the Magistrates Court of Queensland recorded a saving of 588 years of prison time in 2010-11 alone by diverting 115 people from prison. The associated cost savings of the Drug Court were pointed out by Dr John de Groot, president of the QLS:

*In dollar terms, based on a conservative estimate of the cost of imprisonment of \$200 per day, per person, the money saved for taxpayers and the Government by the Drug Court is in excess of \$41 million.*⁴⁴¹

⁴³⁶ LACSC, Report No. 18, Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012, page 17.

⁴³⁷ Queensland Government Response, LACSC, Report No. 18, Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012, page 5.

⁴³⁸ Ibid, page 6.

⁴³⁹ BAQ, Submission No. 70, page 22.

⁴⁴⁰ Ibid, page 22.

⁴⁴¹ ADCQ, Submission No. 31, page 16. See also: Frances Long, Submission No. 12; Catholic Prison Ministry, Submission No. 80.

Throughout the inquiry, the Committee received information on a number of other diversionary initiatives that could be implemented on a broader scale under a justice reinvestment approach. One such initiative was the Logan: City of Choice Summit which resulted out of an incident of street violence between residents of two different cultures in Logan City.

As the host of the program, the Logan City Council brought together thousands of residents, representatives from all levels of government and representation from the not for profit sector for a three day workshop to discuss key themes for a harmonious and productive city. The five key areas of concern were Education, Employment, Housing, Safety, and Social Infrastructure. The Logan City Council submitted:

...it would have been simple to look at the catalyst event for the summit as just an isolated act of violence and nothing more. One simplistic option would have been to address this issue as a law enforcement issue and disregard some of the fundamental underlying causes of such eruptions of public violence and disharmony. Logan City, however, decided to harness the wealth of resources and ideas present in the city to create lasting change and address the systems underlying causes of such events.⁴⁴²

As submitted by the ADCQ, it is hoped that a range of early initiatives of a justice reinvestment nature will flow as a result of the Logan summit.

Relevantly, in the context of justice reinvestment involving diversionary programs, the National Indigenous Drug and Alcohol Committee, Australian National Council on Drugs, released a report prepared by Deloitte Access Economics in 2012. This report made the following findings in relation to diverting nonviolent Indigenous offenders from prison to community residential rehabilitation services:

1. It is \$111,458 cheaper to therapeutically treat an offender in a community residential rehabilitation service rather than incarcerate the offender;
2. The offender's health and mortality improves from receiving therapeutic treatment in a community residential rehabilitation service rather than incarceration;
3. If 1,600 non-violent Indigenous offenders were treated in community residential rehabilitation service rather than incarcerated, the states and territory's would save a total of \$340 million per year; and
4. If just 100 non-violent Indigenous offenders were treated in community residential rehabilitation service rather than incarcerated, the savings would be enough to run 20 rehabilitation centres.⁴⁴³

Rear-end/Post release programs

What has become apparent in submissions through this Inquiry and also with the Committee's consideration of the Youth Justice and Other Legislation Amendment Bill 2014, is that more work needs to be done at the rear end/post-prison stage to reduce recidivism and divert people from re-entering the criminal justice system. In a recent study, funded by the Criminology Research Council it was found:

At present, the few post-release programs that do exist for ex-prisoners in Australia are fragmented, often under-funded and usually based on limited evidence. A useful next step in bringing the concept of 'throughcare' into policy and practice would be the development and rigorous evaluation of an integrated post-release support program,

⁴⁴² Logan City Council, Submission No. 84, page 9.

⁴⁴³ ATSIILS, Submission No. 34, page 6.

*building on the pre-release programs already in place, and linking prisoners with the communities to which they will eventually return.*⁴⁴⁴

The Catholic Prison Ministry submitted that understanding the post-release needs of those leaving prison and meeting those needs is paramount to reducing recidivism and criminal activity in Queensland. Consistent with a justice reinvestment approach the Catholic Prison Ministry submitted:

Research indicates that drug and alcohol programs, employment programs and adequate support regarding housing and other practical needs post-release are all effective in reducing recidivism.

*Although there are post-release programs in place in Queensland they are clearly inadequate. Funding for post release support requires a substantial boost to come close to meeting the needs of people leaving prison, which in turn will lead to a lowering of the recidivism rate and a safer community. We believe that dedicated transitional housing must be provided by Queensland Department of Housing. These steps are necessary not only because they assist those in need, but because they can effectively reduce recidivism and criminal activity, and are more cost-effective than imprisonment.*⁴⁴⁵

The AHRC also commented on post correctional programs in its submission to the Senate Inquiry:

*Current correctional policies promote individual and group programs but provide little support for community reintegration and community capacity building. The bottom line is that you can put an individual offender through the best resourced, most effective rehabilitation program, but if they are returning to a community with few opportunities, their chances of staying out of prison are limited.*⁴⁴⁶

The Committee understands inroads are being made in the Northern Territory with post-release programs such as the Sentenced to a Job program which starts while prisoners are still serving and are released during the day to work and earn a real wage. According to the Northern Territory Sentenced to a Job information brochure:

Research indicates that when prisoners combine vocational education and training with 'real world' work opportunities linked to a job in the community, the likelihood of them returning to a correctional centre decreases significantly.

A reduction in recidivism will see significant savings to the criminal justice system – a reduction in the direct costs of courts, policing and social welfare.

*There are also significant indirect cost savings to society – in reduced expenditure on correctional facilities capital infrastructure projects.*⁴⁴⁷

It is understood that some businesses have been so impressed with the work that prisoners have carried out that they have been offered employment on release, at the same workplace. Initiatives such as this should be able to be implemented in Queensland, as has been done in the Northern Territory, with relative ease.

⁴⁴⁴ SA Kinner, [The Post-Release Experience of Prisoners in Queensland](#), *Trends & Issues in crime and criminal justice*, September 2006, AIC, Australian Government, page 38.

⁴⁴⁵ Catholic Prison Ministry, Submission No. 80, page 12.

⁴⁴⁶ AHRC Submission, page 12. Legal and Constitutional Affairs Reference Committee, [op cit.](#)

⁴⁴⁷ Department of Correctional Affairs, [Sentenced to a Job – Prisoner Employment Program](#), Northern Territory Government.

Examples of other successful post-release programs were brought to the attention of the Committee at the Committee's Townsville hearing. The Committee heard evidence from Mr Gavin Kum Sing and Mr Randall Ross, both gentlemen having been involved in smaller scale programs working with Indigenous prisoners post-release. Mr Kum Sing outlined similar observations to those outlined in written submissions to the Committee. In discussing the level of post-release services for prisoners,

Mr Kum Sing stated:

One of the things that I found was that whilst they are in jail they have a job, they have three square meals a day, they have accommodation, they have a family, they have health issues and health services come to them to support them. Then once they are released from jail I found that there were no services there to support them whatsoever, because everything had been provided to them on a silver platter while in jail...

When it came to finding ways of how we are going to allow these people to be released back into the community and looking for what services are going to be there to pick that person up, there are no services whatsoever. This is why this person constantly fails and goes back to jail. It is the same with the young people.⁴⁴⁸

Mr Kum Sing advised the Committee of a successful program he developed in 2009 called 'Pipeline to Prosperity'. In a similar process to that used in justice reinvestment, Mr Kum Sing advised:

...by separating out the five areas or avenues of services—I always refer back to the RCIADIC, the Royal Commission into Aboriginal Deaths in Custody—homelessness, education, unemployment, the court system and health, they are spread over the community. There is not one hub or service that could support them.

When a person comes through the door you will find that nine times out of ten, four or five of those issues are what hinders that person from achieving something in life. So I tailored a mentoring program that specifically targeted dealing with those issues, helping them to understand by relating to three doable goals whilst they are with me.⁴⁴⁹

The program ran for 18 months in conjunction with the Townsville City Council, whereby a number of released prisoners maintained a pipeline of approximately 70km from Townsville to Paluma, clearing vegetation and leading into a mentor program. According to Mr Kum Sing, 95% of the 30 participants did not return to jail.⁴⁵⁰ In explaining the difficulties faced by prisoners, post release, Mr Kum Sing advised:

Seventy percent of them were homeless. We were able to then break down the barriers of real estate agencies around here and partner up with them to get those people into their own accommodation. The funding that we had sourced also allowed us to purchase white goods for them which they would never have the capacity to buy because they have bad credit. Whilst they were working, they would pay it back, so that then enabled us to get something else for someone else. So, once we dealt with all of those issues, we found that these people were able to move on in life.⁴⁵¹

⁴⁴⁸ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Townsville, 12 August 2014, page 24.

⁴⁴⁹ Ibid, page 24.

⁴⁵⁰ Ibid, page 25.

⁴⁵¹ Ibid, page 25.

Mr Kum Sing advised the program had ceased but that he was now involved with a further program named Brothers Act of Random Kindness or BARK. Again, the program was developed in partnership with the Townsville City Council and targeted the long-term unemployed. As explained by Mr Kum Sing:

*...the main aim I am trying to push is about dealing with poverty. If you can give that person a job, that then helps that person, that helps that one family, that helps the community, so there is less stress on that area.*⁴⁵²

Mr Kum Sing also raised the issue of a lack of post-release services available to youths who had completed a boot camp program. The Queensland Government response to the Committee's consideration of the Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012 stated, 'Research has also shown that young people need to be provided with adequate aftercare after they have completed the boot camp programs to support their community integration'.⁴⁵³ Mr Kum Sing advised of his attempts to obtain information from the local boot camp operator in Townsville:

*I wanted to know what they have in place for after the kids leave the boot camp. The day that I came here for the information session to apply, with other community leaders, there was no talk about the after-effect. They just said that they will be stepped back into the community for three months and can tap into services. I am thinking, 'What services?'*⁴⁵⁴

The Committee also received evidence from Mr Randall Ross about a different program which was currently operating around Australia, predominantly with members of the Indigenous community, called Red Dust Healing. The Red Dust Healing program is a cultural healing program that was developed for Indigenous men and their families with the goals of the program being to heal and rehabilitate Indigenous offenders and those at risk of offending. Red Dust Healing covers a range of issues significant to healing including: identity; family roles and structure; relationships; Elders roles; men's business; Indigenous history and the impacts of colonialism; drug and alcohol use; family violence; grief and loss; stress and mental health issues; anger management; education and employment; housing issues; and meetings, community contribution and governance.⁴⁵⁵ Mr Ross explained:

*When we talk about healing, it is a holistic picture, because many of our men do not see themselves as the source of their families. They have never had a source in their own family. So if they are seeing that generationally, how are they supposed to learn how to be a source themselves—as a provider, as a protector, as a law? When we say 'law', it is setting boundaries for our children, teaching them right and wrong. That is the problem with many of our children today. They are growing up without that source in their own family. That is why they do not know what is right and what is wrong. That is why, as part of that, we complement many services—from mental health to employment agencies. We complement their programs.*⁴⁵⁶

⁴⁵² Ibid, page 26.

⁴⁵³ Queensland Government Response, LACSC, Report No. 18, Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012, page 6.

⁴⁵⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 33.

⁴⁵⁵ www.thereddust.com.

⁴⁵⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 29.

Mr Ross provided a number of anecdotal successes to the Committee of the Red Dust Healing program. Just two weeks prior to the hearing, a Red Dust Healing program focused on employment was run on Palm Island with a capacity for 12 participants:

*It was an employment program and it enabled us to come in and run it for their clients. But because we came and people had heard they were on the island, 22 men had rocked up from around the whole island itself and said, 'We need to do this. We want to do this.'*⁴⁵⁷

Mr Ross attributed the success of the program to the culturally sensitive manner it is presented:

*...it is how you address it in the cultural way to make them become self-sufficient. This is where, using cultural tools we have designed as part of the program, it helps men see themselves how to be that source again. Like I said, even though jobs are limited in many of our remote communities, many of them start their own initiatives. We talked about Pormpuraaw earlier with the Queensland police. There are probably 15 men who have been through it at Pormpuraaw and three of those men themselves started vegetable gardens, because they knew that the fruit and vegetables were not fresh when they were being ported through to Pormpuraaw. Now, they supply their own families with fresh vegetables. This is what we are trying to challenge our men—'Think outside the box. As a source, you can be that economic provider. You have gifts and talents but how many of us use their gifts and talents?'*⁴⁵⁸

In another example, the program was run in the Cleveland Juvenile Detention Centre for approximately 40 participants. After 18 months of monitoring, eight of the boys had reoffended on minor offences but had received community based orders. The other 32 participants had not returned to the detention centre, including a chronic offender who was 15 years old at the time and had been in detention since the age of 10:

*The staff of juvenile detention at Cleveland were taking bets that he would be the first boy to come back and he is one of them who has not been back in either Cleveland or even prison to this day since doing the program itself. That is why it is important.*⁴⁵⁹

In response to the Committee's query on how the program receives funding, Mr Ross explained funding was received on an ad hoc basis through agencies as they see a need. Red Dust Healing had met with the Commissioner for Corrective Services three years ago to discuss bringing it into the prisons, because as described by Mr Ross 'the prisons and prisoners are screaming for it. They know that their communities are going through it but they cannot get it in the prison system', however had been advised by corrections they did not have appropriate funding to deliver the program into the prisons themselves:

*Even with the local Stuart prison, they have made numerous attempts to get us into the actual prison, but again unfortunately it comes back to funding. They do not have enough funding to be able to run and fully support the program. Many of the men from the communities are telling their family members in prisons, 'There is a program out here that can help you. We have a program of our own'.*⁴⁶⁰

⁴⁵⁷ Ibid, page 29.

⁴⁵⁸ Ibid, page 29.

⁴⁵⁹ Ibid, page 30.

⁴⁶⁰ Ibid, page 30.

Mr Russell Wattie submitted it was about time governments stopped pushing the message of 'getting tough on crime' and started espousing 'getting smart on crime'.⁴⁶¹ A justice reinvestment approach appears to be one such process where governments can get smart on crime and set up a platform for long term reductions of crime in Queensland.

Committee Comment

The social and economic benefits of a justice reinvestment approach in Queensland cannot be ignored. While there are a number of challenges which may need to be addressed, the Committee considers further investigations in this regard need to commence and a commitment to justice reinvestment needs to occur. Consistent with the Committee's earlier recommendations, the success or otherwise of a justice reinvestment approach will again be dependent on quality evaluation and systematic, evidence-based decision making by policy makers to ensure the right programs are implemented and funding is directed in the right places. A co-ordination of efforts between agencies also needs to occur to ensure issues are addressed holistically and not individually by areas with competing interests.

Justice reinvestment is not a panacea for crime prevention; prisons will still be needed in Queensland, but the Committee considers there needs to be a shift in the current approach to law and order policy making. In a recent article, Mr Simon Rosenberg, CEO of Northside Community Service and treasurer of the ACT Council of Social Services stated in relation to justice reinvestment:

*Justice reinvestment is just that - an investment, not a quick fix. Results may not become apparent within one electoral cycle, and it will require a bold long-term commitment.*⁴⁶²

For justice reinvestment to succeed in Queensland, it will require a commitment by all sides of Government and by all levels of Government. Evidence must be adduced and appropriate programs must be developed. These will differ from region to region. The additional economic benefits to government through a move away from funding prisons to funding diversionary projects and rehabilitation will accrue over time and the Committee considers, through this approach, there is a real opportunity to change lives.

While there may be issues with the lack of data in justice mapping of geographical areas across Queensland and evaluation of existing programs, the Committee considers there are already a number of suitable primary, secondary and tertiary programs that would be suitable for expansion under a justice reinvestment approach. Given the over-representation of Indigenous people in Queensland's prisons, any justice reinvestment trial should be targeted at Indigenous communities as this is the area where there is the greatest need for assistance and there is an excellent opportunity to make a significant change to the lives of many Queenslanders.

In addition to implementing justice reinvestment by geographical region as has been the case in the United States, as suggested by the ADCQ, there is also the possibility to deal with individual 'cohort groups' in Queensland that are over-represented in the criminal justice system. This was also highlighted in the Senate Inquiry where NATSILS commented:

*...justice reinvestment would also be an effective means of addressing the over-representation of people with a mental illness or cognitive/intellectual disability. Savings can be generated through a justice reinvestment approach by treating people with a mental illness or cognitive/intellectual disability outside of the prison system. These savings can be reinvested in further community support and treatment facilities.*⁴⁶³

⁴⁶¹ Russell Wattie, Submission No. 81.

⁴⁶² S Rosenberg, [Prison investment needs justice reinvestment](#), *The Canberra Times*, 29 April 2014.

⁴⁶³ Legal and Constitutional Affairs Reference Committee, [op cit](#), page 72.

The Committee has considered the potential savings of a justice reinvestment approach for people with cognitive impairment elsewhere in this report.

The Committee notes the Senate Inquiry made nine recommendations directed primarily to the Commonwealth government in relation to committing to a justice reinvestment approach and establishing trials of justice reinvestment throughout Australia. The Committee supports those recommendations and considers the Queensland Government should take steps to ensure that it works in partnership with the Commonwealth, where possible, on any justice reinvestment initiatives. Similar to the recommendations flowing out of the Senate Inquiry, the Committee makes the following recommendations.

Recommendation 15

The Committee recommends the Government recognise the importance of the collection of data for justice reinvestment initiatives and providing long term, sustainable funding for future programs including the provision of funding for robust evaluation.

Recommendation 16

The Committee recommends the Government commit to a justice reinvestment trial in Queensland (possibly in partnership with the Commonwealth, but not dependent on it), using a suitable Indigenous community and/or regional community as a justice reinvestment site. Such trial should be appropriately funded to extend beyond the electoral cycle and be subject to a robust evaluation process.

7. Early Intervention

Building on the themes already discussed, early intervention programs have long been recognised as being essential for the successful prevention of crime and are critical for a justice reinvestment approach. Early intervention targets the social and economic contributors to crime and operates in the true sense of ‘prevention’ rather than dealing with crime after it has occurred.

Preventative justice is, upon every principle of reason, of humanity, and of sound policy, preferable in all respects to punishing justice.⁴⁶⁴

Early intervention aims to reduce risk factors and enhance protective factors that impact on the likelihood that a young person will engage in offending behaviour. As a crime prevention strategy, early intervention is based on the premise that intervening early in a young person’s development can produce significant long term personal, social and economic benefits.⁴⁶⁵ Early intervention does not just mean early in life, but can also focus on other crucial transition points across a lifetime. While the obvious points will be around birth and the preschool years, the transition from primary to secondary school, and subsequent transitions to higher education, employment, and so on are also vitally important.⁴⁶⁶

Generally, however, the focus of early intervention programs is on young people most at-risk of developing anti-social behaviour. There is a growing body of evidence which demonstrates that early intervention can be effective in achieving significant reductions in crime involvement;⁴⁶⁷ and also evidence that early intervention is a more cost effective strategy than more conventional approaches to reducing crime.⁴⁶⁸

7.1 Support for Early Intervention

A number of submissions advocated for greater use of early intervention programs and argued with the QLS providing strong support as follows:

Put another way, the resources being invested into the criminal justice system need to be targeted at the ‘front end’ of criminal behaviour (i.e., the causes), rather than the back end (i.e. the consequences). This has been the consistent view of practitioners, academics and sociologists for many years. The difficulty with ensuring this type of focus appears to be largely a political one. The rewards are real, and lasting, but they are subtle, and often times run counter to the ‘tough on crime’ mantra that has become commonplace in political dialogue.

In reality, the community would benefit enormously from programs which address social and economic contributors to crime, thereby stopping or reducing crime, rather than a focus on only dealing with crime once it has occurred.⁴⁶⁹

⁴⁶⁴ William Blackstone, Commentaries on the Laws of England (1753), quoted in Submission No. 31, ADCQ, page 16.

⁴⁶⁵ Australian Government, Australian Institute of Criminology, *Cost effectiveness of early intervention*, 6 February 2007.

⁴⁶⁶ Australian Institute of Criminology, Developmental and early intervention approaches to crime prevention, AICrime reduction matters No. 4, July 2003.

⁴⁶⁷ Homel R, 2005, Developmental crime prevention, in Tilley N (ed), Handbook of crime prevention and community safety, Devon: Willan: 71-106, cited in Cost Effectiveness of Early Intervention, AICrime Reduction Matters No. 54, Australian Institute of Criminology, February 2007.)

⁴⁶⁸ Australian Government, Australian Institute of Criminology, *Cost effectiveness of early intervention*, 6 February 2007.

⁴⁶⁹ QLS, Submission No. 51, page 7.

PACT also supported early intervention, submitting one of the major issues that needed addressing was prompt support, counselling and intervention for children and young victims of crime to prevent them becoming future offenders. PACT noted that many offenders have a history of being victims or witnesses of violence or abuse as children:

*As PACT has been in operation for almost 30 years we are starting to see children that we supported as complainants (victims) of sexual assault now going through the Criminal Justice System as the alleged offender for crimes committed against children and young people. This demonstrates that children learn through observation and exposure and sadly as a result, their interpretation of what is “normal” is distorted. Early intervention is required to teach them that this is not normal or acceptable behaviour.*⁴⁷⁰

Susan Savage submitted ‘a government that has the courage to take action to prevent, rather than to punish, community violence would leave a lasting and cost-effective legacy, the fruits of which would be most evident when its first supported children becoming young adults’.⁴⁷¹

7.2 What is ‘Early Intervention’?

For intervention to be ‘early’, it should ideally have started before the child has turned 18. In this regard, the ADCQ and the Office of the Public Advocate noted in their combined submission:

*[T]he Honourable W J Carter QC emphasised that positive behaviour support must start at infancy and is particularly important for young people, who have not yet reached the age of 18 years, as early intervention could prevent the adoption of challenging behaviours later in life.*⁴⁷²

Based on the evidence presented to the Committee, ‘early intervention’ generally applies to programs aimed at various different age groups with the most common breakdown of age groups being:

- infancy and early childhood;
- children under 10 years old;
- adolescents aged between 10 to 18 years old; and
- intervention for young offenders already in the system.⁴⁷³

Each of these stages is considered in further detail below.

Infancy and Early Childhood Programs

As noted in the landmark *Pathways to Prevention* report, programs targeting infancy and early childhood often begin in the prenatal period or soon after childhood and will primarily consist of home visitation. The more successful programs have included both family support and early education and last for at least 2 years.⁴⁷⁴ Anecdotal evidence of the long term benefits of early intervention programs in the United States was brought to the attention of the Committee in the submission from Elizabeth Hobson:

My main recommendation would be to ramp up early intervention. I once heard of a church in Chicago that had a lot of groups with activities for youth – sporting & social

⁴⁷⁰ PACT, Submission No. 7, pages 2-3.

⁴⁷¹ Susan Savage, Submission No. 14, page 3.

⁴⁷² ADCQ and the Office of the Public Advocate, Submission No. 32, page 7.

⁴⁷³ See Youth Advocacy Centre, Submission No. 55, page 13.

⁴⁷⁴ [Pathways to Prevention: Developmental and early intervention approaches to crime in Australia](#), page 147.

*activities, but the crime rate kept going up until they disbanded their youth program and started a support program for mothers on the birth of their children. Workers visited the home and supported the mother in raising the child, and twenty years later the crime rate started to go down.*⁴⁷⁵

The QCOSS similarly highlighted the importance of early intervention programs being implemented for at-risk children at a very young age due to this being a critical time in the development of children. QCOSS explained:

*It is a juncture where there are significant opportunities to build protective factors that lessen the chance of future criminal behaviour. The years from pre-birth to six are a critical time for brain development in children, which impacts heavily on the future health and wellbeing of individuals and their future life opportunities, including meaningful employment and productive engagement in society.*⁴⁷⁶

QCOSS considered there are two main avenues to promote early childhood development: (1) providing children with access to quality Early Childhood Education and Care; and (2) providing support to parents to assist them in enhancing child development outcomes.⁴⁷⁷

One of the most effective ways of supporting young children and families was described by QCOSS as facilitating participation in quality early childhood education and care. This has shown to have:

*...significant positive impacts on children's development, particularly for children from a disadvantaged background ... [and] participation in early childhood learning improves school readiness, strengthens educational outcomes and contributes to improved outcomes in employment, health and other areas.*⁴⁷⁸

Programs that assist and promote school readiness were extremely important:

*...life trajectories for children become increasingly difficult to change as differences in skills and abilities become entrenched and initial differences between school ready and school unready children are amplified.*⁴⁷⁹

Parenting education and support was thought to be equally critical as '*parental behaviours can also increase the risk of future offending*'.⁴⁸⁰ Specifically, Australian studies have shown that there is a link between child maltreatment, neglect and the experience of family violence with future offending. Additionally, '*poor parenting, characterised by harsh, erratic and inconsistent discipline, are clear risk factors for future delinquency*'.⁴⁸¹ QCOSS advised the Committee of a New Zealand study which concluded that family circumstances and parenting behaviours are correlated with future offending above other factors, such as ethnicity.⁴⁸²

Susan Savage recommended the Government consider maintaining, funding and supporting early intervention for the birth to five year age group in all families (not just "at-risk" or vulnerable families) with newborns to '*ensure appropriate nurturing parenting behaviours and a community network for children*'.⁴⁸³

⁴⁷⁵ Elizabeth Ann Hobson, Submission No. 49, page 3.

⁴⁷⁶ QCOSS, Submission No. 17, page 5.

⁴⁷⁷ Ibid, page 5.

⁴⁷⁸ Ibid, page 5.

⁴⁷⁹ Ibid, page 5.

⁴⁸⁰ Ibid, page 5.

⁴⁸¹ Ibid, page 5.

⁴⁸² Ibid, page 5.

⁴⁸³ Susan Savage, Submission No. 14, page 3.

QCOSS further points out the risk of children offending in the future ‘depends greatly on the capacities of parents or carers to provide conditions conducive to a child’s learning and development’.⁴⁸⁴ For these reasons, QCOSS concluded ‘where at-risk or vulnerable children and families, a combined approach, which targets both child and parent is more effective’.⁴⁸⁵

Programs aimed at the under 10 year old age group

Programs aimed at the pre-school and early primary school years will often target children who are displaying precursors of problems due to an increased risk of abuse by their parents or other negative outcomes. Similar methods to early childhood programs are used such as focusing on parental training, however the programs now involve teacher training in behavior management and are also aimed at providing quality schooling and child skills training as well.⁴⁸⁶

The Pathways to Prevention project in South-East Queensland is a prime example of an early intervention program aimed at this age group. The project began in 2001 with the aim of involving family, school and community in a broad set of planned interventions to prevent anti-social behaviour among the target group of four to six year old children who were in transition to school. The project focused on enhancing their communication and social skills and empowering their families, schools and ethnic communities to provide supportive environments for positive development.⁴⁸⁷

Evidence from the Pathways to Prevention project has shown that outcomes for young children can be improved when high quality early education is combined with intervention programs to support parents or carers.⁴⁸⁸ Programs that target the family have been shown to reduce offending by between 13.3% and 52%.⁴⁸⁹

At the Committee’s Ipswich public hearing, the Committee heard from representatives of the Base Youth Agency which predominantly supports young people between the ages of 10 and 18 and their families who present with high extreme needs usually associated with behavioural, anger or criminal issues. The Committee heard there was a lack of services for the under 10 age group, although it represents a key period for intervention. Ms Leanne Brown, Service Manager, of the Base Youth Agency explained there were few programs addressing this younger age group:

Although our service agreements are for those aged 10 to 18, what we have found we will do—because we do have a little umbrella which is our fee-for-service area—is we tend to work with the under-10s as well. They either come through via a young person who has been referred so they are considered a family member so a sibling, or if they are in the eight to nine age group and there is no other service that will work with the behaviours.

We are finding in our region there are very few services that will work with the high to extreme behaviours so we will support that family because that is part of our community obligation. Like you have said before, to be able to get them at that age helps us to do more effective work than if we are picking them up at 15 and we know that is what is going to happen anyway.

⁴⁸⁴ QCOSS, Submission No. 17, page 5.

⁴⁸⁵ Ibid, page 5.

⁴⁸⁶ [Pathways to Prevention: Developmental and early intervention approaches to crime in Australia](#), page 148.

⁴⁸⁷ The Pathways to Prevention project: doing developmental prevention in a disadvantaged community, Australian Institute of Criminology, Trends and Issues in crime and criminal justice, No. 323, August 2006.

⁴⁸⁸ QCOSS, Submission No. 17, page 5.

⁴⁸⁹ QLS, Submission No 51, page 12.

*We have had people who have waited till their child has turned 10 to be able to refer to us. To answer your question, to my knowledge there are very few agencies. There are a couple but, again, they are quite inundated and they may not do the extreme behaviours that we look after in that area.*⁴⁹⁰

Ms Brown considered it would be of great assistance if more programs were available for children of that younger age group.

The Committee was pleased however to hear from Assistant Commissioner Tony Wright during the Toowoomba Public Hearing that the Queensland Police Service is trialing a program for under-10s:

*There are a number of emerging partnership projects we are working with at the moment. Superintendent Marcus may expand on those later if required. These are looking at trying to break the cycle—looking at a proactive approach to juvenile crime and trying to circumvent young people becoming involved in the criminal justice system. At the moment we have a partnership—it is very early stages for both of these—with Justice and Attorney-General and Education Queensland for an early-intervention program of facilitated conversations. It is a trial project targeting young persons under 10 years of age who are deemed to be not criminally responsible for their acts but who are being identified as high risk in terms of current and future offending. It is very much an interagency partnership.*⁴⁹¹

Additionally, testimony was provided during the hearings about the good work being done in the under-10 age group at local Police Citizen Youth Clubs.⁴⁹²

Programs aimed at adolescents aged 10-18 years

As mentioned earlier, there are a number of transition points for early intervention including when children commence secondary school, university or move into the workforce. Early intervention is equally applicable to children in this older age group. Many early intervention programs aimed at adolescents between the ages of 10 and 18 are designed to work in conjunction with the families of the individuals, but there is also a shift to giving the subject child a greater sense of worth.

The Youth Advocacy Centre (YAC) operates programs based on its holistic, multi-disciplinary model to address the legal and social welfare needs of 10 to 18 year olds. In terms of youth support services, YAC provided the following information:

*YAC's youth support advocate (YSA) is able to assist these young people by addressing their social welfare issues, especially where the young person is disconnected from their family and has no consistent 'significant other' adult on whom they can rely. This can include finding and supporting them in suitable accommodation, ensuring they have a legitimate source of income, are engaged with school/training/work as well as helping to address any mental health or substance use issues or other challenges a young person may be facing. Where appropriate, in complex matters YAC will bring together the various stakeholders who may be working with a young person in order to work effectively and in a coordinated manner for that young person.*⁴⁹³

⁴⁹⁰ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Ipswich, 29 July 2014, page 27.

⁴⁹¹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Toowoomba, 31 July 2014, page 4.

⁴⁹² Ibid, page 5.

⁴⁹³ Youth Advocacy Centre Inc., Submission No. 55, page 15.

The reasons why this age-group is the target of a majority of the available programs was highlighted by YAC in its submission:

A small study by Legal Aid NSW, which analysed the 50 most frequent users of its legal aid services between July 2005 and June 2010, found that 80% of high users of its services were children and young people who were under 19 years of age and had complex needs because of their environment and a range of welfare issues. It concluded that it can be difficult to meet the needs of these clients through the traditional legal service delivery model where legal and non-legal services are not joined up.⁴⁹⁴

Similarly, the programs offered by the Base Youth Agency out of the Ipswich Youth Justice Centre are predominantly aimed at 10 to 18 year olds. Ms Brown explained their philosophy to the Committee as follows:

Our vision is to empower young people and families to create positive change and achieve their aspirations. The base is a therapeutic service which operates and practices under an eclectic counselling and case management model. We recognise that no one individual theory approach works for all of our clients, and instead we choose to borrow from each.

We sometimes refer to ourselves as practical councillors, as we often tend to engage in non-traditional approaches when we start with where the client is at. For example, if a young person has been referred on behavioural issues and they express they do not have the money for food and they may be eligible for Centrelink payments but do not have the means to apply, we will help them support their applications and make appointments, et cetera. The concepts like above are a small example. It sets out what sets us apart from other youth organisations in our region.

Another aspect that indicates that we are extremely different is the fact that we work support with parents and families. Our philosophy is that change starts from observations; therefore, by educating parents we are often able to provide them with, and support them to, implement strategies at home. This could be building up confidence in the parent so that they have the ability to implement boundaries and follow through with consequences. Essentially parents are then teaching the young person that there will be consequences for their actions. We also support parents to recognise that the child's issues are the problem, not the child itself. By doing this the parents are able to encourage a more positive relationship with the young person, and the young person feels supported and therefore a positive reinforcement link is created.⁴⁹⁵

Intervention for those already in the system

The YAC submitted early intervention programs are also vital for those already in the system. It considered 'recognising the value of early-intervention as a crime prevention strategy does not mean that we continue the failed "lock up and throw away the key" approach for those already caught up in offending behaviour'.⁴⁹⁶ There is still an ability at this juncture for children to be set on the right path other than one towards continued incarceration. YAC explained:

Where young people are incarcerated, a greater range of targeted support services and resources for young people and their families when exiting detention should be available to assist young people reintegrate into the community and provide follow up. This must

⁴⁹⁴ Youth Advocacy Centre, Submission No. 55, page 14.

⁴⁹⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 26.

⁴⁹⁶ Youth Advocacy Centre, Submission No. 55, page 13.

*include accommodation options where the young person has nowhere safe and appropriate to go to. These programs require a brokerage component to ensure transitions back into the community are resourced and developed appropriately.*⁴⁹⁷

Ms Brown from the Base Youth Agency explained during the Ipswich Public Hearing that her organisation also assists those who are already in the system and their families:

*From our point of view and from the work that we do, it really is about working with the families. It is not working with the young person in isolation; it is allowing workers to go into the youth justice detention centre to develop a rapport with that young person, keep in mind possibly the barriers that they have already faced and what has landed them where they are. It means you need to really get in there, get to know that young person, get to know their family, get to know their history, find out whether there are undiagnosed disorders that have led to the behaviours. Many of the young people we work with have more letters behind their name than possibly people with a number of degrees so we look at that holistic family history, tracking it right back from the family of origin—if there is any history with the parents’ mental health, DV, drugs and alcohol. It is looking at that holistic picture. Certainly when they are in the detention centre is when we do a lot of our great work.*⁴⁹⁸

In relation to groups who are over-represented in the criminal justice system such as Aboriginal and Torres Strait Islander people, early intervention is critical.⁴⁹⁹ ATSILS listed the following range of early intervention programs or services as being relevant to effectively address the underlying causes of offending and prevent recidivism as alternatives to punishment in Indigenous communities. Such programs/services include:

- Early childhood intervention/family support and school attendance programs;
- Improved public housing and transport programs, especially in regional and remote areas;
- Services for youth in crisis, and their families;
- Provision of civilian ‘sobering up centres’;
- Alcohol and drug counselling, including both residential and community based rehabilitation options, psychological and psychiatric counselling, anger management and family violence counselling services. Ensuring that such are linguistically accessible and culturally appropriate is essential for Aboriginal and Torres Strait Islander peoples;
- Diversion/cautioning by police and courts;
- Police and Court referred Restorative Justice/Conferencing Programs;
- Initiatives like community courts that engage Aboriginal and Torres Strait Islander elders and community leaders in the justice process;
- ‘Problem solving’ courts like mental health and drug courts;
- Community work programs as an alternative to jail eg. working on maintenance of community facilities, working for community organisations providing essential social services, working in community service roles like ranger programs and community work parties (subject to security clearance);

⁴⁹⁷ Ibid, page 13.

⁴⁹⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 28 July 2014, page 26.

⁴⁹⁹ ATSILS, Submission No. 34, Attachment, page 9.

- Increasing resources for prison support and Throughcare projects which provide intensive pre and post release case management. This could also include community driven initiatives like Strong Bala men’s program in Katherine to support offenders once they leave prison; and
- Reducing caseload and shifting focus of community corrections officers so that they can work with people who are released on parole and under supervision to support their re-integration rather than having only a policing/compliance role.⁵⁰⁰

7.3 Cost-Benefit of Early Intervention and Funding

A number of the witnesses at the public hearings and many of the submissions discussed the cost benefits of early intervention.⁵⁰¹ For example, YAC noted:

*Cost benefit analyses have clearly established that a focus on community corrections and offender rehabilitation can reduce the number of young people that become involved in criminal behaviour, and can dramatically reduce the social cost of crime.*⁵⁰²

The submission from YAC went on to examine three case studies which involved a cost benefit analysis of various community corrections programs or early intervention programs for young people, the effectiveness of which was compared to juvenile detention or traditional probation and parole treatment. The results in terms of cost-benefit all came out in favour of the early intervention programs.⁵⁰³

In the context of persons with intellectual and mental health impairments, the ADCQ and Public Advocate made the following observations about the cost-benefit of early intervention in their joint submission:

*To accommodate people with intellectual and mental health impairments, Queensland must address the risks that increase the likelihood of contact with the criminal justice system. A key means of addressing these risks is by increasing the availability of supports that may prevent or reduce contact with the justice system. Intervention at this stage is particularly beneficial because no harm is done to the community if an offence is prevented and no cost is incurred by the state in policing, processing and incarcerating an offender. It is likely that the cost of intervention programs would be less than the total cost of the criminal justice process, from apprehension to incarceration. This approach may also reduce or prevent criminal socialisation and the cycle of recidivism.*⁵⁰⁴

Further discussion on the over-representation of people with intellectual and mental health impairments appears at Chapter 14 of this report.

ATSILS commented on the cost-benefit of early intervention as follows:

The cost savings generated by prevention, early intervention, diversion and rehabilitation programs/services represents an opportunity for long term fiscal savings for the community. There is also the opportunity to produce immediate reductions in prison numbers and thus relatively rapid cost savings through certain specific reforms, such as removing ‘street time’ provisions from parole law and shifting towards a model of

⁵⁰⁰ ATSILS, Submission No. 34, pages 16-17.

⁵⁰¹ In terms of witnesses at the Public Hearings, see for example: the Very Rev. Dr Catt and Ms Wood, SRC, *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 6 August 2014, page 34. In terms of submissions, see: ATSILS, Submission No. 35, page 18; ADCQ and Office of the Public Advocate, Submission No. 32, page 6.

⁵⁰² Youth Advocacy Centre Inc., Submission No. 55, page 11.

⁵⁰³ Youth Advocacy Centre Inc., Submission No. 55, pages 11-12.

⁵⁰⁴ ADCQ and the Office of the Public Advocate, Submission No. 32, page 6.

community corrections supervision that is based on risk assessment rather than strict compliance.

Although the longer term benefits of preventative measures may take some time to produce appreciable cost savings, the NATSILS believe this investment can be considered analogous to a public health approach that values investment in the front end of the system, emphasising the importance of addressing issues early on so that they don't develop into more serious problems that are harder and more difficult to treat. For example, it makes fiscal sense to try and address health problems early on when they can be treated relatively simply and cheaply by a local GP rather than allowing the problem to escalate to the point that costly, complicated treatment is required from the emergency department.

The same arguments can be made for prevention, early intervention, diversion and rehabilitation programs/services. While some programs/services may be more resource intensive than others, and some (such as increasing rehabilitation options and reintegration support within corrections) may increase costs in the short term, the money that they save 'down the line' should be more than enough to justify such expenditure. Further, it has been shown that even relatively costly services such as residential rehabilitation programs are significantly less costly than imprisonment. By effectively addressing the underlying causes of offending such programs/services also have great potential to save further dollars through preventing reoffending.⁵⁰⁵

ATSILS also provided the Committee with details of recent research on the cost-benefit of early intervention measures undertaken by Deloitte Access Economics on behalf of the Australian National Council of Drugs:

In 2009–10, there were 30 facilities providing residential drug and alcohol treatment to Indigenous people...Estimated expenditure per residential treatment client (including both operating and capital costs) ranged from \$8,608 to \$33,822, with a mean of \$18,385 and median of \$15,556. The total average cost per client per day (including both operating and capital costs) is between \$204.50 and \$284.90.

The analysis in this report highlights the considerable benefits associated with the diversion of Indigenous offenders into community residential drug and alcohol rehabilitation services instead of incarceration. Diversion is associated with financial savings as well as improvements in health and mortality.

The total financial savings associated with diversion to community residential rehabilitation compared with prison are \$111,458 per offender.

The costs of treatment in community residential rehabilitation services are substantially cheaper than prison. Diversion would lead to substantial savings per offender of \$96,446, based on a cost of community residential rehabilitation treatment of \$18,385 per offender). Even if the high side estimate of the cost per offender for residential rehabilitation treatment was used (\$33,822), the saving would still be substantial at around \$81,000.

Community residential treatment is also associated with better outcomes compared with prison — lower recidivism rates and better health outcomes, and thus savings in health system costs. The savings associated with these additional benefits of community residential treatment are approximately \$15,012 per offender.

⁵⁰⁵ ATSILS, Submission No. 34, page 18.

In addition, treatment of Indigenous offenders in the community rather than in prison is also associated with lower mortality and better health-related quality of life. In monetary terms, these non-financial benefits have been estimated at \$92,759 per offender.

*As the residential treatment scenario is lower cost and is associated with better outcomes than incarceration, it is clearly the more advantageous investment.*⁵⁰⁶

Relevantly, research conducted by Professor Ross Homel in 2005 revealed:

*A long term follow up evaluation of the 1960s Perry Preschool Project in the US found that the program had produced a saving to the community of \$13 for every dollar invested (Schweinhart 2004). There is equally impressive evidence of the long term financial return from other US projects before the 1980s, such as the Elmira Prenatal/Early Infancy Project and the Seattle Social Development Project.*⁵⁰⁷

Subsequent research by Professor Homel in 2006, illustrated the demonstrated savings produced by these programs are numerous and include:

- reductions in welfare assistance;
- decreased need for special education;
- increases in income tax revenue from the higher wages of participants (due to improved educational attainment);
- reduced operational costs to the criminal justice system; and
- reduced costs to victims.⁵⁰⁸

Amnesty International also noted a 2010 review of the New South Wales Juvenile Justice System found that 'addressing risk factors, intervening early and preventing children and young people from entering the juvenile justice system is the most cost effective approach',⁵⁰⁹ and that in 2013 a NSW Attorney-General's Department report also stated that interventions aimed at reducing criminal activity need to be provided at the first indication that the juvenile is at risk of continued offending.⁵¹⁰ The 2013 report also identified various risk factors which may lead to a young person becoming involved in criminal activity, and stressed the need for individually tailored programs. Amnesty International added:

*Programs proven to reduce offending behaviour in young people include: rehabilitation; skills training; re-engagement with education; aggression replacement training; functional families therapies; cognitive behaviour therapy; community employment; drug treatment; and early intervention programs targeted at preschool and primary school children.*⁵¹¹

⁵⁰⁶ ATSIILS, Submission No. 34, page 13.

⁵⁰⁷ Homel R, 2005, Developmental crime prevention, in Tilley N (ed), Handbook of crime prevention and community safety, Devon: Willan: 71-106, cited in Cost Effectiveness of Early Intervention, AICrime Reduction Matters No. 54, Australian Institute of Criminology, February 2007.

⁵⁰⁸ Homel R et al, 2006, The Pathways to Prevention Project: the first five years, 1999-2004, Sydney: Mission Australia and the Key Centre for Ethics, Law, Justice & Governance, Griffith University, cited in Cost Effectiveness of Early Intervention, AICrime Reduction Matters No. 54, Australian Institute of Criminology, February 2007.

⁵⁰⁹ Amnesty International, Submission No. 45, page 7, citing Report of the Minister for Juvenile Justice, April 2010 'A Strategic Review of the New South Wales Juvenile Justice System', page 87.

⁵¹⁰ Amnesty International, Submission No. 45, page 7, citing NSW Attorney General Department Youth on Track: A model for early intervention with young people, page 6.

⁵¹¹ Amnesty International, Submission No. 45, page 7, citing Report of the Minister for Juvenile Justice, April 2010 'A Strategic Review of the New South Wales Juvenile Justice System', page 10.

Importantly, the 2013 report also provides:

*Interventions that have been found not to be successful include: specific deterrence interventions; compliance only supervised probation or parole; home confinement; and correctional boot camps.*⁵¹²

Funding

Funding issues in the area of early intervention was also raised during the course of the Inquiry in a number of the submissions and also by witnesses during the public hearings.⁵¹³ The ADCQ submitted *'the effectiveness of alternatives to imprisonment, including prevention, early intervention and other models including diversionary and rehabilitation measures, has not been well-researched in Australia'*.⁵¹⁴ This has the flow on effect that *'the lack of an evidence base to justify spending on some of these initiatives can lead to well-regarded programs and initiatives losing funding and support'*.⁵¹⁵

An example of how cuts to funding affect early intervention programs was also discussed by the Base Youth Agency at the Ipswich Public Hearing:

*...No sooner do you start working with the young person—we are a long-term counselling therapeutic service—no sooner do you start to get to know that family than that funding runs out. You then have staff who are looking for other work even if you are trying to continue that funding. They have moved on. So you are now starting from scratch with that young person and their family. That family has already been traumatised for whatever background that they come from. They have already had people drop them and say, 'Sorry, we cannot do that. That is way too hard.'*⁵¹⁶

Similar concerns were raised in the submission from Safer Toowoomba Regional Partnerships Inc.:

*The uncertainty arising from short term funding programs (6 months - 2 years) has been an ongoing focus of discussion in the Australian community sector. Short term funding for programs builds community expectations and enthusiasm, then the funding runs out. It was suggested that it might be better having fewer programs that connect well across multiple agencies and can operate over longer timeframes.*⁵¹⁷

One of the key recommendations from QIFVLS related specifically to funding for early intervention for victims of crime in remote Indigenous communities in particular:

*QIFVLS recommends that the Queensland Government address the barriers faced by Indigenous victims in remote communities by providing sufficient funding to legal and support service providers, after consulting with the various stakeholders to determine how this funding is best targeted to assist victims.*⁵¹⁸

⁵¹² Amnesty International, Submission No. 45, page 7, citing Report of the Minister for Juvenile Justice, April 2010 'A Strategic Review of the New South Wales Juvenile Justice System', page 10.

⁵¹³ For example, see Sisters Inside, Submission No. 29, page 3; and QIFVLS, Submission No. 19, page 1.

⁵¹⁴ ADCQ, Submission No. 31, page 16.

⁵¹⁵ Ibid, page 16.

⁵¹⁶ Ipswich Public Hearing, 29 July 2014, page 27.

⁵¹⁷ Safer Toowoomba Regional Partnerships Inc., Submission No. 5, page 7.

⁵¹⁸ QIFVLS, Submission No. 19, page 1.

Ms Anderson from ATSILS commented at the Brisbane Public Hearings that additional funding would assist greatly in ensuring that early intervention measures have a much higher impact.⁵¹⁹ ATSILS stated in their written submission:

In order for diversion and rehabilitation programs to be available and effective, it is essential that they are allocated sufficient funding to retain qualified staff and provide a high level of service. Government funding for these important services should be long term to ensure their sustainability and long term viability. NATSILS consider that funding insecurity and funding cuts to essential diversion and rehabilitation programs, is significantly undermining the important work that these services carry out around the country.⁵²⁰

NATSILS provided the following example from the Northern Territory where a lack of long term vision and funding affected programs:

...the Balanu Foundation in the Northern Territory has recently been advised that the Northern Territory Government will not be renewing its funding for 2013 and has had to close its doors. The Balanu healing program is a justice reinvestment program that in its own small way worked to close the gap and build stronger futures for young people, particularly young Aboriginal people in the Northern Territory. One of the many strengths of the program lay in the fact that it was Aboriginal and Torres-Strait Islander owned and operated. It was a grass-roots charity that has grown out of a real need to work with at-risk young people to build their self-esteem, resilience and re-connect to their culture.

The Coordinator-General for Remote Services in the Northern Territory recently observed that funding for youth services in particular, is "often piecemeal, short term, uncoordinated and with little promise of sustainable long term benefits" and that "only 8% of the 7,000 grants made by FaHCSIA were to Indigenous organisations." This is a concerning trend that requires ongoing attention from Commonwealth and State and Territory governments.

In its submission, the Queensland Child Safety Legislation Action Network also recognised funding of early intervention programs as being critical: *'Again I would stress while all four of your aspects are important and integral points to a strategy, early intervention is the key and therefore needs to attract key funding initiatives'.⁵²¹*

The YAC provided the following practical insights regarding a suggested model for the cost-effective delivery of relevant services:

As has been clearly demonstrated, the best chance for success in reducing crime, particularly crime committed by young offenders, is to ensure government services operate from a common understanding of the linkages between social, education, health and wellbeing factors and criminal behaviour. The preferred method of ensuring cost effective delivery of relevant services through the non-government sector would be having single agreements which focus on the delivery of a continuum of services. This would reduce red tape for both government and non-government agencies in terms of contracts, contract management and reporting.⁵²²

⁵¹⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 8 August 2014, page 13. See also ATSILS, Submission No. 34, page 18.

⁵²⁰ ATSILS, Submission No. 34, Attachment, page 17.

⁵²¹ Queensland Child Safety Legislation Action Network, Submission No. 46, page 3.

⁵²² Youth Advocacy Centre Inc., Submission No. 55, page 16.

7.4 Queensland Youth Justice Reforms and existing programs

Over the past few years the Government has been very active with its youth justice initiatives, most notably with the introduction of its boot camp trials in 2012 to enhance the range of options in dealing with at-risk young offenders. Notably, the boot camp trial did not simply include sentenced boot camps but also early intervention boot camps to address the issues that often lead young people into a life of crime.

Early intervention boot camps see children taking part in challenging physical activities, undergoing strict routines and having other experiences designed to teach them more about themselves and the consequences of their actions. Early intervention camps are currently running on the Gold Coast, in Rockhampton and on the Fraser Coast/Sunshine Coasts.⁵²³

Sentenced Youth Boot Camps enable a court to divert youth offenders from detention and required them to participate in a holistic integrated program response that instils discipline and respect, addresses the causes of crime, provides a direct consequence for offending and increases supervision.⁵²⁴ The Committee heard mixed reports on the effectiveness or otherwise of the Boot Camps at the Townsville public hearing. Ms Torhild Parkinson advised:

*...there is one child in particular that I know about who has finished a seven-month stint at the detention centre. He has participated in the boot camp. He had been home out of the boot camp two weeks and he is already back in remand now. What I would like to know is what is going to happen to this child now? I am told that will be left to the judge's discretion. Does he get sent back to the boot camp? Does he get another warning or probation?*⁵²⁵

Acting Assistant Commissioner Taylor confirmed consideration needed to be given to participants after finishing programs:

*Frequently you will have a support mechanism which is provided, whether it be a program initiative or whatever, and then when that finishes it just drops off and there is nothing. It is very important that with all of these things, whether it be people transitioning out of a detention centre or transitioning out of a correctional facility, we have in place a means whereby transition back into community and back into a productive opportunity for them is managed. I think it is fair to say that we have not done that well in the past. When I say 'we' I mean collectively. The various stakeholders have not done it well.*⁵²⁶

In relation to the overall effectiveness of boot camps, the Attorney-General advised the Committee at the 2014 Estimates Hearing:

*While it is still early days in the trial of the boot camp, the Early Intervention Youth Boot Camp program is showing a 91 percent success rate in stopping participants from entering the youth justice system, while the sentence youth boot camp is providing an 83 percent success rate in reducing reoffending.*⁵²⁷

While further consideration may need to be given to the development of post-program support, the Committee sees these early results as making a positive difference in the early intervention area.

⁵²³ Queensland Government, [Youth boot camps in Queensland](#), website, accessed November 2014.

⁵²⁴ [Sentenced Youth Boot Camp Fact Sheet](#), Department of Justice and Attorney-General.

⁵²⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 13

⁵²⁶ *Ibid*, page 19.

⁵²⁷ *Transcript of Proceedings (Hansard)*, Estimates Hearing, LACSC, 15 July 2014, pages 22-23.

A number of other legislative amendments were made in 2014 strengthening the youth justice system, primarily dealing with increased recidivism. A number of submissions to the Committee's consideration of the Youth Justice and Other Legislation Amendment Bill 2014 considered the reforms to be harsh and did not recognise the work being undertaken by the Government in parallel on the *Blueprint for the Future of Youth Justice in Queensland* (the Blueprint).⁵²⁸ In the Government Response to the Committee's report, the Government confirmed the Blueprint would be '*a plan to transform the youth justice system to one that addresses the causes of youth offending and reduces the incidence of children becoming entrenched in a life of offending.*'⁵²⁹

Consistent with the themes outlined above in relation to early intervention, the Government advised the Blueprint would involve the implementation of long term; evidence-based reform and the close engagement of partner agencies and organisations in the delivery of integrated services to at-risk children; and would be structured around the following four reform areas that reflect the key points for intervention:

- Intervening early;
- Preventing a life of crime;
- Holding young offenders accountable; and
- Changing entrenched criminal behaviour.⁵³⁰

The Government Response recognised the factors contributing to youth offending and confirmed the Youth Justice area of the Department of Justice and Attorney-General would:

...collaborate closely with partner agencies in implementing the Blueprint to ensure young people who are at risk of offending or who have just started to offend are diverted away from the youth justice system and supported to make positive changes in their lives. This will extend the youth justice system beyond its traditional boundaries, involving it in building capacity across Government to better respond to the earliest indications of anti-social behaviour.

*The active involvement of the non-government sector will also be critical to the Blueprint's success. Implementation of the Blueprint will therefore involve taking stock of existing government and non-government services to identify what services are required and where, developing minimum standards for new services such as bail support and family support and the re-commissioning of youth justice grant funding.*⁵³¹

Importantly, and consistent with the submissions to this inquiry, the Government Response also recognised the available evidence shows the most effective way to prevent young people from offending or becoming entrenched in the youth justice system is to reduce their risk factors and strengthen their protective factors. At the time of its release, the Blueprint was stated as having a focus on guiding implementation of interventions which increase the capacity of service providers to respond early to known risk factors and to strengthen at-risk children's protective factors.⁵³²

⁵²⁸ LACSC, Report No. 58, Youth Justice and Other Legislation Amendment Bill 2014, March 2014, page 10.

⁵²⁹ Ibid, page 2.

⁵³⁰ Ibid.

⁵³¹ Ibid, page 3.

⁵³² Ibid.

Initiatives to be contained in the Blueprint included:

- Piloting risk screening and referral to support services for young people who are displaying anti-social and criminogenic behaviours within families and schools and young people coming to the attention of the police;
- Focusing on working with the whole family, with the support of families critical to young people's capacity to lead steady and law-abiding lives; and
- Strengthening coordination with child safety services and focusing clearly on parental accountability and support. Addressing the causes of youth offending necessarily involves recognising the strong link between child maltreatment and youth offending, with the trauma of abuse and neglect adversely impacting on a child's development, education and mental health.⁵³³

In relation to the funding of programs, the Government advised the Committee ongoing investment would be guided by the need to support delivery of innovative and locally responsive services. Accordingly, public funding would be targeted where there was the highest need and towards the most effective services which can demonstrate good outcomes for young people and families and deliver value for money.⁵³⁴

Committee Comment

The Committee has reviewed a significant amount of background information and research on the many and various facets of early intervention to prevent or, at least, reduce youth offending. The evidence has shown that early intervention programs not only have the potential to make significant inroads in reducing the rates of youth offending, but are cost-effective in the sense of the long term savings to the community and the offenders themselves.

The Committee eagerly awaits the release of the *Blueprint for the Future of Youth Justice in Queensland* and considers this will be critical in addressing the rates of youth offending. The Committee notes the comments from Ms Susan Savage in her submission where she stated '*a government that has the courage to take action to prevent, rather than to punish, community violence would leave a lasting and cost-effective legacy, the fruits of which would be most evident when its first supported children becoming young adults*'.⁵³⁵

The Government response to the Youth Justice and Other Legislation Amendment Bill 2014 indicated the Blueprint will contain an appropriate mix of both early intervention and other youth offender initiatives. In delivering the Blueprint, the Government should ensure there is provision for appropriate funding to assist with the provision of early intervention programs aimed specifically at each of the key age groups, being (1) infancy and early childhood; (2) children under 10 years old; and (3) adolescents aged between 10 and 18 years.

With respect to the implementation and use of specific early intervention programs, the Committee considers that consistent with earlier comments in this Report, consideration must be given to those which are proven to have had success. The Committee recognises that funding is not unlimited and must be used efficiently. Regard should be had to the many initiatives which have had been subject to rigorous evaluation and any future programs should continue to be subject to evaluation.

⁵³³ Ibid.

⁵³⁴ Ibid.

⁵³⁵ Susan Savage, Submission No. 14, page 3.

When the Committee met with a number of academics shortly after the commencement of the inquiry, Professor Ross Homel spoke passionately to the Committee about early intervention:

It is a source of continuing frustration to me that we still do not have strong policies and funding for early prevention in any of our states in Australia. We talk about it, we talk about the language now, but we are not committed to it. The American research now is so exciting about what can be achieved with this approach.⁵³⁶

Professor Homel acknowledged there is no magic bullet, no one approach that solves all problems, but that early intervention methods which strengthened communities and gave parents greater capacity to raise children, would deliver significant outcomes.

The Committee agrees that such a holistic approach recognising the value of families and increasing support has the capacity to significantly enrich the lives of young people who might otherwise follow a different path. Simple matters such as ensuring children receive appropriate nutrition have been shown to curb behavioural problems and have positive flow on effects later in life.

Recommendation 17

The Committee recommends the Government ensure the *Blueprint for the Future of Youth Justice in Queensland* includes scope for the implementation of evidence based, early intervention strategies to address each of the key age groups, being: (1) infancy and early childhood; (2) children under 10 years old; and (3) adolescents aged between 10 and 18 years.

Recommendation 18

The Committee recommends the Government review its funding models for early intervention programs to ensure funding is targeted at effective programs and ensure these programs have funding certainty, including funding for evaluation of the program.

Recommendation 19

The Committee recommends to achieve the desired success, the delivery of early intervention programs, including boot camps, include appropriate levels of post-activity services and support for program participants and their families.

⁵³⁶ *Transcript of Proceedings (Hansard)*, Private Meeting, LACSC, Brisbane, 12 June 2014, page 28.

8. Restorative Justice and Diversionary Programs

8.1 Restorative Justice

The concept of restorative justice is widely accepted to incorporate the bringing together of victims, offenders and communities to discuss and resolve an offence, most commonly realised through programs operating within the criminal justice system victim-offender mediation, conferencing and circle sentencing.⁵³⁷

The difficulty in defining restorative justice can be partly attributed to the wide range of practices that it can include; that is, 'diversion from court prosecution; actions taken in parallel with court decisions, and meetings between victims and offenders at any stage of the criminal process'.⁵³⁸

Restorative practices include approaches to justice, criminal sanctions and rehabilitation that attempt to incorporate either offender awareness of the harm they have caused, or offender efforts to pay back the community for that harm, without necessarily engaging in restorative justice or in any way repairing harm done to their victims.⁵³⁹

Central to understanding restorative justice and the concept of 'restoration' is understanding who is the object of 'restoration'; that is, who the victims are and what the community is in that context. Victims (those harmed by a crime) may be individuals who were directly harmed, indirect victims with an emotional connection to the direct victim, or collective/institutional victims.⁵⁴⁰

Further, understanding the concept of 'community' is an important element of restorative processes. 'Community' has been variously defined to include 'family and friends of those directly affected', to 'a place that has certain specific characteristics, to a group of people who share something in common such as a profession, and to even a 'we spirit' feeling state.⁵⁴¹

A universal element of restorative justice process is that the offender seeks to repair the harm caused in order to be reintegrated into the community. It therefore remains paramount to success that the community's perspective is heard in the 'right way'. To date, in Australia, restorative justice has been used to deal almost exclusively with offenders who have admitted to an offence.⁵⁴²

Background

One of the earliest reports on restorative justice programs in Australia was released by Heather Strang for the Criminology Research Council in 2001.⁵⁴³ According to the AIC, at that time restorative justice programs were largely seen as suitable only for juvenile offenders and for less serious offences:

Every state and territory had a youth conferencing scheme in place, while only Queensland, Western Australia and the Australian Capital Territory were using conferencing with adult offenders. At the time, the use of restorative justice beyond police and courts was beginning to be explored.⁵⁴⁴

⁵³⁷ J Joudo Larsen, [Restorative justice in the Australian criminal justice system](#), Research and Public Policy Series No. 127, AIC, 2014, page vi.

⁵³⁸ *Ibid.*, page 3.

⁵³⁹ *Ibid.*

⁵⁴⁰ *Ibid.*, page 4.

⁵⁴¹ *Ibid.*

⁵⁴² *Ibid.*, pages 4-5.

⁵⁴³ Strang, H. (2001) *Restoring Justice Programs in Australia: A report to the Criminology Council*. Canberra: Australian Institute of Criminology.

⁵⁴⁴ J Joudo-Larsen, [op cit](#), pages vi-vii.

Restorative justice practices now span conferencing for both young and adult offenders, with circle sentencing or victim-offender mediation in operation in most states across Australia:

As at 30 October 2013, a wide range of restorative justice options were available across Australia, specifically:

- *Conferencing for young offenders was available in all Australian states and territories;*
- *Conferencing for adult offenders was available in New South Wales and South Australia;*
- *Circle sentencing was available in New South Wales and Western Australia; and*
- *Victim-offender mediation was available in jurisdictions, with the exception of Victoria and the Australian Capital Territory.⁵⁴⁵*

The AIC report identified three key challenges facing restorative justice as:

- *Extending restorative justice to adult offenders* - there remains some debate as to whether it is appropriate to extend restorative justice to older offenders, however, the research suggests some positive outcomes in reducing reoffending, victim and offender satisfaction, and positive attitudinal change among adult offenders.
- *Extending restorative justice to serious offences* – similarly, while restorative justice was formerly seen as appropriate only for less serious offences, it is increasingly being used to respond to the harm caused by more serious offending, such as murder, sexual assault and family violence, and there is growing evidence of positive outcomes in this area.
- *Achieving ‘restorativeness’* – whether ‘restorativeness’ is achieved is highly dependent on the willingness of victims and offenders to engage in restorative justice processes. Further, it is difficult to assess whether restorativeness has translated into programs the way it was intended, as there are many variations in implementation and what is considered to be ‘restorative’. This is also complicated by the fact that theory in this area has, and continues to, develop alongside practice. The endorsed Restorative Justice National Guidelines are intended to provide guidance on outcomes, program evaluations and are an important step towards promoting consistency in the use of restorative justice in criminal matters across Australia.⁵⁴⁶

The AIC concluded evidence to support the effectiveness of restorative justice ‘*remains mixed*’, and stated:

...the literature is replete with reports of high levels of victim satisfaction and feelings that the process is fair. Further, while some significant issues remain, research conducted to date consistently demonstrates that restorative justice programs work at least as well as formal criminal justice responses.

Although there remains much debate about where restorative justice fits in, what is certain is that where it is done well, it goes beyond what traditional responses can achieve and as a result, the potential impact upon individuals, communities and society is substantial.

Restorative justice is about more than traditional notions of justice; it is about repairing harm, restoring relationships and ultimately, it is about strengthening those social bonds that make a society strong.

⁵⁴⁵ Ibid.

⁵⁴⁶ J Joudo-Larsen, [op cit](#), pages vii-viii.

The evidence base on restorative justice would benefit from future research extending the focus from asking 'does it work?', to considering how, when and for whom it works best in order to contribute to the growing evidence that seeks to provide a more nuanced understanding of the circumstances under which restorative justice is more effective.⁵⁴⁷

8.2 Restorative Justice in Queensland

Community conferencing has been operating in Queensland since 1997. It initially started with amendments to the Juvenile Justice Act 1992 commencing as a pilot project in three locations throughout the State. Both diversionary and a sentencing option were provided where police could divert young offenders from the court system by referring them to conferencing. As an alternative, Courts could either divert or order a pre-sentence conference or make an indefinite referral as a method of dealing with a charge.⁵⁴⁸

After the program was evaluated in 1998, the Community Conferencing Pilot was expanded to a number of further locations across the state eventually becoming the Youth Justice Conferencing program. Due to a significant increase in demand, the program underwent further changes to service delivery structure in 2006 to better deliver the program across the state.⁵⁴⁹

The Committee noted the success of Youth Justice Conferencing in its consideration of the Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012. In that report, the Committee noted:

In 2011-12, the Youth Justice Conferencing program received 2,937 referrals (an increase of 2.8% from the previous year). There were 1,691 referrals by the courts and 1,246 referrals from police. In total 2,282 conferences were held. 95% of conferences resulted in an agreement being reached.

Queensland courts made 1,328 (45.2%) indefinite and 363 (12.4%) before sentence referrals whilst 1,246 (42.4%) diversionary referrals were made by Queensland Police.

In 2011-12, 98 percent of youth justice conferencing participants (including victims) were satisfied of the conferencing outcome.⁵⁵⁰

Due to the high levels of success of youth justice conferencing, the Committee went so far as to reject the proposal in the Bill for the removal of Court Ordered Youth Justice Conferencing and recommend that it be retained.⁵⁵¹

Although Court ordered conferencing was removed under the Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012, police referred conferencing remains. During 2012-2013, 99 percent of youth justice conferencing participants (including the victim and/or their representative) were satisfied with the outcome.⁵⁵²

The QLS and Amnesty International were among submitters who called for the reinstatement of Court Ordered youth conferencing.⁵⁵³ Amnesty International welcomed the possibility for the re-introduction of court referred Youth Justice Conferencing as a means of alternative dispute resolution. It urged the Queensland government to also consider a range of innovative justice programs being trialled throughout Australia, including: the Neighbourhood Justice Centre in

⁵⁴⁷ Ibid, page viii.

⁵⁴⁸ Ibid, page 11.

⁵⁴⁹ Ibid.

⁵⁵⁰ LACSC, Report No. 18, Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012, pages 17-18.

⁵⁵¹ Ibid, page 19.

⁵⁵² J Joudo-Larsen, [op cit](#), page 11.

⁵⁵³ QLS, Submission No. 51, page 3; Amnesty International, Submission No. 45, page 7.

Victoria, which is Australia's first community justice model and includes community based programs including young adult restorative justice conferencing; use of mediation in court; an integrated in reach service model; a community advisory group; and community building – an initiative modelled on the Red Hook Community Centre in Brooklyn, New York.⁵⁵⁴

Despite the high levels of satisfaction from both offenders and victims, QIFVLS submitted alternative dispute resolution processes are fraught with difficulties and risk for victims of domestic violence, due to obvious power imbalances and fear, and highlight the benefits of a criminal justice process that actively involves Indigenous victims in safe and culturally appropriate ways would assist to identify and impose penalties that limit unintended impacts on the victim.⁵⁵⁵

The QLS recognised that although imprisonment is an important aspect of the criminal justice system, acting as a deterrent for criminal behaviour, it represents the most severe form of criminal penalty. The QLS referred to research which shows imprisonment is not a strong deterrent for future criminal behaviour and has little to no impact on re-offending rates.⁵⁵⁶ It supported Justice Mediation as an addition or alternative to conventional resolution of court matters, and acknowledged it is a valuable rehabilitation tool for both complainants and defendants:

We strongly encourage the Government to increase the number of courts that have access to the Justice Mediation Program. The initiative provides for resolution of suitable matters being resolved without valuable court time and resourcing being utilised. Justice Mediation can also reduce the high demand for the finite funding and resources Legal Aid has access to. Anecdotally, our members have also noted that because consent is required before Justice Mediation can be undertaken, it can result in positive effects on both victims and defendants.

However, it must be noted that the current restricted access to the program based on geography is inequitable and places certain defendants at a disadvantage.

It is the understanding of the Society that various Courts have expressed an interest in adopting the scheme who are otherwise restricted due to resource issues. The Society is willing to assist where possible in any implementation of, or consideration of, an expanded Program. We suggest ...investigating the expansion of justice mediation throughout the State.⁵⁵⁷

In its experience across a number of jurisdictions, SupportLink stated there were two considerations in maximising and finding success within alternative dispute resolution models that needed to be addressed:

- Establishing the mechanisms for police to identify and refer disputes for resolution; and
- Many resolutions services continue to work to rigid and often less effective models that include disputing
- parties needing to agree to face to face mediation sessions.

SupportLink considered 'If mediation services were more phone-based and utilised shuttle mediation (mediator engaging both parties via phone) and there was more emphasis on delivering an agreed outcome to the dispute, this service would be vastly more effective and be able to be utilised across the state. This would also reduce costs and give access to rural, remote, regional and metro areas.'⁵⁵⁸

⁵⁵⁴ Amnesty International, Submission No. 45, page 8.

⁵⁵⁵ QIFVLS, Submission No. 19, page 16.

⁵⁵⁶ QLS, Submission No. 51, pages 8-9.

⁵⁵⁷ QLS, Submission No. 51, page 16.

⁵⁵⁸ SupportLink National Pty Ltd, Submission No. 75, page 4.

8.3 Diversionary Courts

As mentioned by the Committee previously, when considering a justice reinvestment approach, submitters considered a number of recently disbanded diversionary programs, including the Murri Court, the Special Circumstances Court and the Drugs Court, were consistent with a justice investment approach. While not strictly restorative justice programs in that they do not aim to bring the victim and the offender together, these diversionary programs offer alternatives to mainstream courts and imprisonment, and are considered in further detail below.

Murri Court

The Murri Court operated in Queensland from 2006 until its recent discontinuance in 2012. It was established through joint arrangements with the local Magistrates and Elders from local Indigenous communities, with the primary aim being to reduce the over-representation of Indigenous people in the criminal justice system.

The Murri Courts operated within a Magistrates Court framework, however the process included additional opportunities for involvement of Indigenous Elders and respected persons. Accordingly, Murri Courts operated in a more informal manner in order to be less intimidating and focused on delivering sentences that focused on rehabilitation rather than incarceration.

The BAQ recommended the re-instatement of the Murri Court to assist in addressing the social contributors to crime within the Indigenous community,⁵⁵⁹ arguing:

*Murri Courts are effective in providing practical access to justice for Aboriginal and Torres Strait Islander offenders and provide responsive outcomes that focus on the rehabilitation and reintegration of offenders into their community.*⁵⁶⁰

The 2010 Final Report of the AIC on the Evaluation of the Queensland Murri Court (the Evaluation Report) established 'there was no significant difference in rates of recidivism between Indigenous persons appearing before mainstream courts and Murri Courts',⁵⁶¹ but also stated the Murri Court is said to be 'highly valued' and 'has demonstrated considerable success in improving the relationship between Magistrates Court and Indigenous communities in dealing with Indigenous justice issues, delivering a range of benefits to those directly involved in the program'.⁵⁶²

The BAQ noted the Evaluation Report made 30 recommendations for enhancing the operation and effectiveness of the Murri Court program and noted '*it appears that none of these recommendations was acted upon before the program was, in the opinion of the Association, prematurely, shut down.*' The BAQ considered the Evaluation Report's recommendations should have been considered and appropriately implemented, and that further evaluation would lead to continued improvement in respect of preventing recidivism as well as the other social benefits of the program.⁵⁶³

The QLS similarly advocated for the reinstatement of the Murri Court expressing disappointment at its closure.⁵⁶⁴

⁵⁵⁹ BAQ, Submission No. 70, page 17.

⁵⁶⁰ Ibid, page 18, citing Magistrates Court of Queensland, 2010-2011 Annual Report page 35.

⁵⁶¹ Ibid, page 18, citing Anthony Morgan and Erin Louis, Evaluation of the Queensland Murri Court: Final Report, Australian Institute of Criminology, Technical and Background Paper 39, October 2010, pages xv, 109, 111 and 114.

⁵⁶² Anthony Morgan and Erin Louis, Evaluation of the Queensland Murri Court: Final Report, Australian Institute of Criminology, Technical and Background Paper 39, October 2010, page 150.

⁵⁶³ BAQ, Submission No. 70, pages 18-19.

⁵⁶⁴ QLS, Submission No. 5, page 12.

In a supplementary submission to the Committee, ATSILS considered too much emphasis had been given by the Government on the statement in the Evaluation Report – ‘*there was no significant difference in rates of recidivism between Indigenous persons appearing before mainstream courts and Murri Courts*’. ATSILS considered this statement had overlooked the average recidivism rate of that specific cohort of offenders:

Offenders referred to the various Murri Courts by our Organisation (the vast bulk of those appearing), on average were those at risk of imprisonment and had criminal histories consistent with being high-end recidivists. As a consequence of such, given their recidivism rate was on par with offenders dealt with in mainstream courts, it actually meant that this particular cohort of offenders demonstrated a significant reduction in their recidivism rate.⁵⁶⁵

ATSILS considered there were a range of positive outcomes from the operation of the Murri Courts. As witnessed by ATSILS’ legal staff, these outcomes included:

Aboriginal and Torres Strait Islander offenders often felt shamed from being sentenced in front of their Elders. This sense of shame aided offenders in coming to grips with ‘ownership’ of their offending behaviours and thus with their rehabilitation.

The Elders were able to provide offenders with additional insight into their offending behaviour – drawing on community and family –specific knowledge. We notice many clients who were sentenced in the Murri Courts demonstrate a greater sense of remorse for their actions, and a greater willingness to address their offending behaviour.

The Murri Court process required offenders to speak on their own behalf and address tough and uncomfortable questions from both presiding judicial officers and Elders. Such was far more confronting for them than mainstream courts (where offenders are in effect shielded from questions by virtue of the presence of their lawyers).

The communicative process associated with the Murri Courts also ensured a better comprehension by the offender of the sentencing outcome (which as a corollary, made compliance with any sentencing conditions more likely). Such also provided offenders with a sense of ‘ownership’ of their particular sentencing outcome. Such did not prevent offenders being sentenced to imprisonment in the Murri Court – but they tended to accept same in the knowledge that such was a fair and reasonable outcome – with an associated positive psychological effect and the feeling of a ‘just’ system.⁵⁶⁶

Special Circumstances Court Diversion Program

The Special Circumstances Court Diversion Program commenced in 2009 as a pre-sentence bail based and post-sentencing court based rehabilitation program for defendants experiencing homelessness or with impaired decision making capacity. It was available in the Brisbane Magistrates Court for eligible participants who were identified by police, community organisations, Government agencies, Magistrates, legal aid, duty lawyers and the defendants themselves.

The role of the Special Circumstances Court was to focus on the underlying reasons for the offending behaviour and the personal circumstances of the offender. It could consider alternatives through the diversion of eligible participants from the criminal justice system and aimed at reducing the costs to the community of detention.⁵⁶⁷

⁵⁶⁵ ATSILS, Submission No. 34 – Supplementary, page 1.

⁵⁶⁶ ATSILS, Submission No. 34 – Supplementary, pages 2-3.

⁵⁶⁷ QLS submission to the AHRC Inquiry: Access to justice in the criminal justice system for people with a disability, August 2013, page 3. www.humanrights.gov.au/our-work/disability-rights/access-justice-submissions

The Special Circumstances Court was also discontinued in 2012 and replaced with the Queensland Courts Referral Program (QCRP). While the QCRP has only been in operation a short time, members of the QLS have reported the QCRP was not performing as well for those at risk; was more difficult for defendants to access; and was unable to offer the same benefits as the Special Circumstances Court.⁵⁶⁸

In relation to the performance of the Special Circumstances Court, Sisters Inside Inc. strongly supported the operation of the program advising it had a 96% success rate in diverting women from prison:⁵⁶⁹

*As at June 2010, 30% of program participants were Aboriginal and Torres Strait Islander women. Every Aboriginal and Torres Strait Islander woman involved in the program between 2007 and 2010 either did not re-offend nor had a reduced rate of offending throughout the three year period.*⁵⁷⁰

Sisters Inside Inc. considered the program was successful because of ‘the philosophy and approach taken by the diversionary program. The program addressed holistically the causes of criminalisation and sought to change behaviours rather than punish offenders’. Sisters Inside Inc. conservatively estimated, in addition to the value of the program to the women who were involved, a total amount of \$250,000 was saved in imprisonment costs.

Drug Courts

The *Drug Court Act 2000* established the ability for courts to impose and oversee Intensive Drug Rehabilitation Orders as a jail diversion sentencing option. Drug Courts operated in five Magistrates Courts in Queensland at Beenleigh, Southport, Ipswich, Townsville and Cairns. After pilots were completed in 2006, the Drug Courts became a permanent sentencing option in those courts until 2012, when the program was discontinued.

The goals of the Drug Court as set out in the objects of the *Drug Court Act 2000* were to:

- reduce the level of drug dependency in the community and the drug dependency of eligible persons;
- reduce the level of criminal activity associated with drug dependency;
- reduce the health risks to the community associated with drug dependency ;
- to promote the rehabilitation of eligible persons and their re-integration into the community; and
- to reduce pressure on resources in the court and prison systems.⁵⁷¹

In 2008 the AIC assessed recidivism rates in the first 100 graduates of the Drug Court program. The study found graduates’ general offending declined by around 80 percent compared to the 12 month period prior to undertaking the program, representing a 17 percent improved outcome than graduates of the comparison groups, namely, Drug Court participants who did not finish the program, and a separate offender sample who had been sentenced to immediate imprisonment for similar drug-related offences. Graduates who completed the program were sentenced to alternatives to imprisonment, thus avoiding 588 years of imprisonment.⁵⁷²

⁵⁶⁸ QLS submission to the AHRC Inquiry: Access to justice in the criminal justice system for people with a disability, August 2013, page 4. www.humanrights.gov.au/our-work/disability-rights/access-justice-submissions

⁵⁶⁹ Sisters Inside, Submission No. 29, page 14.

⁵⁷⁰ Ibid.

⁵⁷¹ Section 3, Drug Court Act 2000.

⁵⁷² BAQ Submission No. 70, page s 19-20; Magistrates Court of Queensland Annual Report 2010-2011.

A 2008 study of the similar NSW Drug Court program concluded that individuals who completed the program were, in comparison to a control group: 37 percent less likely to be reconvicted of any further offence during the follow up period; 65 percent less likely to be reconvicted of an offence during the follow up period; and 35 percent less likely to be reconvicted of a property offence during the follow up period.⁵⁷³

As referred to earlier, the ADCQ noted figures in the Magistrates Court of Queensland 2010-11 Annual Report that reveal Queensland saved 588 years of prison time in 2010-11 by diverting 115 people from prison, at an estimated saving in excess of \$41 million.⁵⁷⁴

8.4 Mornington Island Restorative Justice Project

The Dispute Resolution Branch (DRB) within the Queensland Department of Justice and Attorney-General (Department) manages the Mornington Island Restorative Justice (MIRJ) Project. DRB promotes mediation as a timely, non-adversarial and effective means of resolving disputes such as business disagreements, family conflicts, neighbourhood differences, workplace issues, minor civil disputes and suitable criminal offences. In its 22 years, the DRB has mediated approximately 43,500 disputes. In 2011-12 its 30 staff and 150 mediators conducted approximately 3,000 civil mediations and 300 criminal mediations and 60 training programs.⁵⁷⁵

The MIRJ Project worked with families to establish a community-based alternative dispute resolution (mediation or peacemaking) service inclusive of Island culture and conforming to the requirements of the criminal justice system.

In 2007, the project was initiated after the DRB received requests from visiting magistrates, police and community justice groups for assistance to provide mediation services to remote communities experiencing high levels of conflict. In 2008, after initial scoping conducted by the Commonwealth with local stakeholders, the MIRJ Project Manager commenced working with the Mornington Island community: consulting families, negotiating and developing a peacemaking model, creating a mediation service and mediating disputes. In September 2009 the mediation model was developed, and in August 2009, the mediation service was launched. 157 interventions were completed in the two years and nine months between October 2009 and June 2012, with a success rate of 95 percent. Wherever possible, mediations were guided by Elders' rules and eight step processes. The project was completed in 2013.

The objectives of the MIRJ project were to:

- Enhance the capacity of the community to deal with and manage its own disputes without violence by providing ongoing training, support, supervision and remuneration for mediators;
- Reduce Indigenous people's contact with the formal criminal justice system;
- Encourage community ownership of the program;
- Improve the justice system's responsiveness to the needs of the community; and
- Increase satisfaction with the justice systems for victims, offenders, their families, and the broader community.⁵⁷⁶

⁵⁷³ BAQ Submission No. 70, page 20.

⁵⁷⁴ ADCQ, Submission No. 31, page 16.

⁵⁷⁵ Department of Justice and Attorney-General, *Mornington Island Restorative Justice (MIRJ) Project*, Report on its Development, Implementation and Transition to Community Management 2012, page 2.

⁵⁷⁶ Department of Justice and Attorney-General, *Mornington Island Restorative Justice (MIRJ) Project*, Report on its Development, Implementation and Transition to Community Management 2012, page 18.

The Statistical overview of service delivery: 2009-2012 provided that there were 154 successful outcomes reached, however, cases where a referral was made but parties did not engage are not counted; figures were not initially kept for this 'no engagement' category; participation was voluntary; and much care was taken in preparing parties for mediation to avoid further conflict or violence in mediation. Matters resulting in successful resolution are often those where participants have engaged well in preparation.⁵⁷⁷

While the MIRJ project was intended as a pilot to develop an effective model of service capable of introduction into other remote Indigenous communities, the project report stated it may inform work in other communities in the following ways:

- It is preferable that development of a peacemaking project arises out of local initiatives as a request for assistance rather than going in to 'sell a good idea';
- New initiatives need to be explicit at the outset in the level of human and financial support they can provide;
- Surveying family opinion and enlisting widespread community support provides the authority to proceed with implementation;
- Elders and other family representatives' input is needed to shape how things will be done;
- Existing community knowledge, skills strengths, resources and initiatives in relation to peacemaking must be supported and built upon;
- Justice Groups are to be worked with closely and supported so that separate justice related initiatives, incapable of economic sustainability, are not developed;
- The Kinship consultation Model of mediation, as developed on Mornington Island, may be a core starting point to develop mediation models in other communities but local input may make significant changes. For example, families may provide authority for Elders or their Justice Group to conduct all mediation and remove the right of families to choose;
- Peacemaking services can be adapted to accommodate cultural and kinship needs.⁵⁷⁸

The MIRJ project highlights the importance of proper consultation and development leading to successful implementation for other communities. It is reasonable to suggest developing peacemaking services in other communities can be informed by the Mornington Island experience and could occur more effectively within a shorter timeframe.⁵⁷⁹

8.5 Victim-offender programs

In Queensland, the Justice Mediation Program accepts post-sentence referrals at the request of a victim, victim's family or offender wishing to meet the other party after the court process runs its course. These requests are generally for very serious offences, for example manslaughter and murder. They require a separate process and may come at any time after sentencing. These mediations are generally case managed and conducted by the senior Justice Mediation Program staff. Usually the offender is in prison or on parole and they do not occur very often.⁵⁸⁰

⁵⁷⁷ Ibid, page 28.

⁵⁷⁸ Ibid, page 42.

⁵⁷⁹ Ibid, page 43.

⁵⁸⁰ J Joudo-Larsen, [op cit](#), page 20.

Sycamore Tree Project

At the Ipswich Public hearing, the Committee heard evidence from Mr David Way, State Executive Director of the Prison Fellowship of Australia, Queensland. Mr Way spoke to the Committee about the Sycamore Tree Project, a victim offender program running since 2011, in the Southern Queensland Correctional Centre near Gatton.

In essence, the Sycamore Tree Project is an eight week program that brings together volunteer victims of crime and volunteer offenders from prison (not necessarily from the same incident) and enables them to share their stories without accusation and share how their lives have been affected since the crime happened. Mr Way advised the Committee:

The prisoners are volunteers and mostly for the first time prisoners or offenders see what crime really does. They see face to face the effects of crime. The victim and the offender are not related by the crime. There is no connection in that first stage. In some parts of the world we are running actual victim and offender and that is really dynamic.⁵⁸¹

The project runs internationally with some areas having the actual victim and offender meet, however, it was submitted that even without meeting the victims of their own crimes, prisoners start to see the effects of their actions and build empathy. As explained by Mr Way:

...which is what the psychologists in the prison are looking for, particularly in cases for parole et cetera. So when the victims see the prisoner start to express an empathy, a genuine contrition for their own crimes, the victims actually get healing.⁵⁸²

Mr Way explained he had difficulty in obtaining Government funding for the program as it was considered 'soft on crime'. In response to this assertion he stated, '*I do not know how much harder you can be on prisoners until you actually sit them in front of victims and get them to witness voluntarily what life has been like for them.*'⁵⁸³

The project was described as having an additional impact on members of the judiciary as well:

I have spoken to the former Chief Justice, now our Governor, about this and have invited him to every one of the closing ceremonies. He has not been able to get there, but he has sent a High Court judge, a magistrate or a judge to every session. I sat with him at a breakfast in May and he said it is having a profound effect on his judges.⁵⁸⁴

The Sycamore Tree Project has been running in Western Australia since 2005 and in New Zealand since 1997. While there have been no local published evaluations of the program, an evaluation of the UK program in 2009 found:

The Sycamore Tree programme has a positive impact on programme respondents with a reduction between pre- and post-programme scores on all scales. However, the analysis of programme impact by institution suggests that some institutions have better results than others. This provides an opportunity to explore the features of the programmes and the participants where improvements were seen in order to improve the programme's effectiveness in all institutions.

⁵⁸¹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Ipswich, 29 July 2014, page 31.

⁵⁸² Ibid.

⁵⁸³ Ibid.

⁵⁸⁴ Ibid.

*Although there are a number of difficulties in measuring impact in isolation of other contextual information, the significant reductions in attitudes illustrate that the programme is having a positive impact on participants.*⁵⁸⁵

8.6 Impact of restorative justice

A key criticism of restorative justice has been that it fails to deliver much talked about restoration of victims and offenders. However, proponents suggest this criticism is based on a misinterpretation of the goals of restorative justice, in that it is unrealistic to think in terms of ‘undoing’ the crime, but that the impact of restorative justice can be measured through more specific goals.⁵⁸⁶

Assessments of restorative justice outcomes need to be mindful of the variation in eligibility and processes implemented across the jurisdiction, and also take into consideration the different methodological approaches to analysis and the substantial variation in the quality of studies. This is particularly important for studies comparing restorative justice outcomes with those of traditional criminal justice processes. Where the methodologies used differ significantly, it is not possible to compare the results of one study with another. Following a review of research comparing court with restorative justice, Weatherburn, McGrath and Bartels (2012:799) noted the findings of many studies were comprised by ‘*small sample size, limited controls for selection bias, selective attrition, ambiguous comparison groups, and conclusions unwarranted by the evidence presented*’.⁵⁸⁷

One key methodological issue which is often not adequately addressed is that of selection bias, meaning, fewer restorative justice options are available for offenders who commit serious offences and who have a history of offending therefore lower rates of reoffending are more likely to be found among offenders eligible for restorative justice than the more serious offenders for whom it is less likely to be an option. Self-selection bias is also another consideration.⁵⁸⁸

Committee Comment

There have been a number of programs in operation throughout Queensland that fit within the broader meaning of restorative justice or otherwise contain elements which divert offenders from mainstream court processes. The Committee notes the largely positive, yet sometimes anecdotal reports on how these programs have performed, particularly in relation to the positive impacts on victims.

There is clearly value in including restorative justice programs in the array of methods to deal with crime prevention, however before programs are implemented they must be proven to work and have significant and real impacts on reducing crime. The Committee recognises that allocating funding for these programs will always be an issue so it is important that in addition to being effective on reducing crime, programs must also be cost-effective. Similar to the Committee’s considerations in relation to a justice reinvestment approach, it is vital that decisions are made based on sound evidence.

In assessing the cost-effectiveness of restorative justice or other diversionary programs, any evaluation or costs/benefit analysis needs to take into account not only the direct costs of implementing the program, but the anticipated savings to the criminal justice system from the effects of the program.

⁵⁸⁵ An evaluation of the Sycamore Tree Programme: based on an analysis of Crime Pics II data, August 2009, page 19.

⁵⁸⁶ J Joudo-Larsen, [op cit](#), pages 194-206.

⁵⁸⁷ Ibid, pages 22-23.

⁵⁸⁸ J J Joudo-Larsen, [op cit](#), pages 22-23.

It is essential that thorough research which rigorously evaluates both the effectiveness and cost-effectiveness of such programs is conducted prior to the commencement of new programs and before decisions are made discontinuing existing programs. In the case of existing programs, evaluations must not take place, until programs have been allowed to run for a sufficient period of time to ensure an accurate indication of their effectiveness is obtained. Where appropriate, on-going evaluation should occur over time to monitor programs continuing effectiveness over the long term.

Recommendation 20

The Committee recommends the Government recognise the benefits that can be obtained from a restorative justice approach and the potential savings to the criminal justice system that diversionary programs can deliver.

Recommendation 21

The Committee recommends the Government commit to robust evaluation of restorative justice and diversionary programs currently in operation to ensure programs are cost effective and deliver effective outcomes.

Recommendation 22

The Committee recommends the Government give consideration to reviewing the range of restorative justice and diversionary programs available, based on current evidence, to ensure the most effective options are implemented to achieve the best outcomes for Queenslanders.

9. Domestic and Family Violence in Queensland

9.1 Introduction

The Committee's Terms of Reference were very broad and far reaching, however they specifically referred to examining matters relating to domestic violence, where no other specific crimes were mentioned. Not surprisingly, a large proportion of the submissions received by the Committee related to domestic and sexual violence and the Committee devoted a large amount of time to consideration of the issues in this area.

The Committee heard from a number of witnesses at its public hearings, both in public and in private session and received a number of confidential submissions outlining the experiences of victims of domestic violence. For some, it was incredibly difficult to tell their story and for others it was less so, however all witnesses and submitters understood that by providing their story to the Committee, there was a chance to make a difference and contribute to the prevention or reduction of domestic violence in the future. The Committee thanks all submitters for taking the time to share, what can only be classed as, their devastating stories. Many stories were also relayed to the Committee on behalf of victims by support workers and other professionals. The Committee thanks them too for their assistance.

Midway through the Inquiry, on 10 August 2014, the Premier, the Honourable Campbell Newman MP, announced that former Governor-General, the Honourable Dame Quentin Bryce AD CVO, would be chairing a Special Taskforce on Domestic and Family Violence in Queensland (Taskforce). The Taskforce was established including Members of Parliament, other than members of this Committee, and also other community representatives. The Committee notes the Taskforce will be delivering its report at the end of February 2015, some three months after this report has been tabled.

As there will inevitably be some overlap between the two inquiries, the Committee has attempted to structure its considerations taking into account this further referral and considers the Taskforce can build on the Committee's recommendations when it provides its final report to the Government next year. Although there may be some overlap, the conduct of this Inquiry is different to that of the Taskforce and it is important for the Committee to outline its findings in this report in detail.

9.2 What is Domestic or Family Violence?

Domestic and family violence is a grave and serious act that goes to the very heart of personal and community safety. As a profound violation of trust within people's closest relationships with intimate partners and family members, it sees many of our community living in fear in a place that should be a secure safe haven – their homes. In addition, its pervasiveness across our society and the wide-ranging and varied nature of its many ill effects mean it is also a destructive social and public health issue, with links to death, physical and mental ill health, disability, child abuse and homelessness.⁵⁸⁹

Essentially referring to acts of violence that occur within current or past intimate and family relationships and take place in domestic settings or contexts;⁵⁹⁰ domestic violence has traditionally been associated primarily with physical and sexual assaults. However, it is increasingly recognised that domestic violence can be expressed in any number of criminal and non-criminal behaviours,⁵⁹¹

⁵⁸⁹ Standing Committee on Social Issues, Report No. 46, [Domestic violence trends and issues in NSW](#), Legislative Council, New South Wales Parliament, August 2012, pages xx-xxi.

⁵⁹⁰ Morgan and H Chadwick, [Key issues in domestic violence](#), AIC, Research in Practice, Summary Paper, No. 7, December 2009, page 1.

⁵⁹¹ Council of Australian Governments, [National plan to reduce violence against women and their children 2010-2022](#), May 2011, page 2.

with the central, defining feature of these acts being a systematic abuse of power aimed at physically or psychologically controlling a partner or family member through fear.⁵⁹²

Oftentimes, perpetrators may use a range of tactics to exercise this power and control, including:

- *Emotional abuse* – blaming the victim for all problems in the relationship, undermining the victim’s self-esteem and self-worth through comparisons with others, withdrawing interest and engagement and emotional blackmail;
- *Psychological abuse* – making threats regarding the custody of children, asserting the justice system will not believe or support the victim, destroying property, abusing pets and driving dangerously;
- *Verbal abuse* – swearing and humiliation in private and public, focussing on intelligence, sexuality, body image, or the victim’s capacity as a parent or spouse;
- *Social abuse* – systematic isolation from family and friends, denying access to communication devices, controlling and restricting movements and interactions with other people, and instigating and controlling relocations to a place where the victim has no social circle or connections;
- *Spiritual abuse* – denying or manipulating religious beliefs or practices to force victims into subordinate roles or justify other forms of abuse;
- *Economic abuse* – exerting control over household or family income by preventing the other person’s access to finance and financial interdependence, including restricting access to bank accounts, providing an inadequate ‘allowance’, preventing the victim seeking or holding employment and taking wages earned by the victim;
- *Physical abuse* – threatened or direct physical assaults on the body, use of weapons (including objects), assault of children, locking the victim out of the house, sleep and food deprivation; and
- *Sexual abuse* – any form of pressured/unwanted sexual contact or sexual degradation, including rape, causing pain during sex, coercive sex without protection, making the victim perform sexual acts unwillingly and criticising or using degrading insults.⁵⁹³

In many cases domestic violence is also described as family violence, as intended to more comprehensively capture the broad range of violent incidents that can occur between family members as well as between intimate partners, and to reflect the reverberating impacts of this abuse across the entirety of the family unit:

*Family violence includes inter-generational violence and abuse and recognises all victims, whether they are affected directly or indirectly. Abused family members and survivors of family violence can include parents, uncles, aunts, (step) children, (step) siblings, cousins, grandparents, in-laws and distant relatives. An individual can be both a perpetrator and a victim at the same time in a family situation.*⁵⁹⁴

⁵⁹² A Day, D Chung, P O’Leary, D Justo, S Moore, E Carson and A Gerace, [Integrated responses to domestic violence: Legally mandated intervention programs for male perpetrators](#), *Trends & issues in crime and criminal justice*, No. 404, December 2010, AIC, Australian Government, page 1.

⁵⁹³ Morgan and H Chadwick, *op cit*, page 2; L Mitchell, [Domestic Violence in Australia – an overview of the issues](#), Parliament of Australia, Parliamentary Library, Background Note, 23 November 2011, pages 2-3 .

⁵⁹⁴ Secretariat of National Aboriginal and Islander Child Care, [Through Young Black Eyes: A handbook to protect children from the impact of family violence and child abuse](#), SNAICC, February 2013, Page 3.

Given the complex interactions of kinship structures and extended family relationships for many Indigenous Australians, ‘family violence’ is often preferred by Aboriginal and Torres Strait Islander communities, and is accordingly used in conjunction with ‘domestic violence’ (i.e. as ‘domestic and family violence’ or DFV) throughout this chapter.⁵⁹⁵

Importantly, victims and perpetrators can be of both genders and preventative systems and responses must take account of the diversity of individual circumstances and needs. However, the Committee supports the near consensus view among Inquiry participants that domestic violence is an inherently gendered crime, with the majority of violence perpetrated on women by men.

9.3 The prevalence of Domestic and Family Violence in Queensland

Given the private nature of the relationships within which violence occurs, the scope of the behaviours it entails, and the fact that most incidents of DFV go unreported, it is near impossible to measure the true extent of the problem.⁵⁹⁶ Unfortunately, what we do know is that DFV is common and widespread. Domestic violence has been identified as the leading cause of physical injuries to women of reproductive age, and Australian women are also more likely to be killed in their home by their male partner than anywhere else or by anyone else.⁵⁹⁷

The most recent Australian Bureau of Statistics Survey of Personal Safety estimated that in 2012 approximately one in six (17%) Australian women aged over 18 years had experienced physical or sexual violence at the hands of a current or former partner since the age of 15; and approximately one in four (25%) has experienced emotional abuse.⁵⁹⁸ For 65% of women experiencing violence at the hands of a current partner, this entailed more than one incident, and for 73% of women victimised by a previous partner, this violence was also expressed on more than one occasion.⁵⁹⁹ Where women had children in their care when the violence occurred, 34% of those experiencing current partner violence and 48% of those experiencing violence while living with their most recently violent previous partner stated that the children had seen or heard the violence.⁶⁰⁰

Despite this significant incidence of abuse, however, for a variety of reasons many women fail to tell anyone else about their experience or seek advice or support; and even fewer will take the step of contacting police.⁶⁰¹ In the 2012 Personal Safety Survey an estimated 80% of women who had experienced current partner violence had never contacted police about the violence and approximately 58% of women who had experienced previous partner violence had never contacted police about the violence.⁶⁰²

⁵⁹⁵ T Calma, *Family Violence in Indigenous Communities*, Paper presented to the Australasian Institute of Judicial Administration Family Violence Conference, Brisbane, 2009, page 1.

⁵⁹⁶ L Mitchell, *op cit*, page 3.

⁵⁹⁷ L Mitchell, *op cit*. See also: Shackelford and Mouzos, cited in S Meyer, *Victims’ experiences of short- and long-term safety and wellbeing: Findings from an examination of an integrated response to domestic violence*, AIC, *Trends and issues in crime and criminal justice*, No. 478, June 2014, page 1.

⁵⁹⁸ Australia’s National Research Organisation for Women’s Safety to Reduce Violence Against Women & Children, *Violence against women: Key statistics*, July 2014, page 1; Australian Bureau of Statistics, *Experience of partner violence*, 4906.0 – Personal Safety Australia, 2012, 11 December 2013; Australian Bureau of Statistics, *‘Experience of emotional abuse by a partner’*, 4906.0 – Personal Safety Australia, 2012, 11 December 2013.

⁵⁹⁹ Australian Bureau of Statistics, *Table 22, Experience of partner violence, Frequency of Violence*, 4906.0 – Personal Safety Australia, 2012, 11 December 2013.

⁶⁰⁰ Australian Bureau of Statistics, *Consequences of Partner Violence*, 4906.0 – Personal Safety Australia, 2012, 11 December 2013.

⁶⁰¹ *Ibid.*

⁶⁰² Australian Bureau of Statistics, *Police involvement*, 4906.0 – Personal Safety Australia, 2012, 11 December 2013.

In Queensland, reports of DFV have been on the increase in recent years, with a more than 10% increase in incidence since 2010-11.⁶⁰³ While this might equally reflect an alarming trend towards the use of violence in the home or an increase in reporting due to improved societal awareness and perceived support; it is clear that DFV continues to be recorded across the State at a devastating and unacceptable rate.

In 2013 alone in Queensland, police statistics indicate there were:

- 64,246 occurrences of domestic violence (up from 57,963 in 2012);
- 14,659 domestic violence applications made by police (up from 12,845 in 2012);
- 8,241 domestic violence applications made privately (up from 7,444 in 2012);
- 12,828 breaches of domestic violence court orders (up from 10,997 in 2012); and
- 17 domestic and family violence related homicides (of the total 49 homicides).⁶⁰⁴

9.4 The costs of Domestic and Family Violence

The estimated annual cost to the Queensland Government of DFV initiatives is between \$2.7 billion and \$3.2 billion.⁶⁰⁵ However, this figure represents just a portion of the broad range of societal costs incurred as a result of domestic violence.

In its 2004 report on *The Cost of Domestic Violence to the Australian Economy: Part II*, Access Economics identified these costs can include:

- *Pain, suffering and premature mortality* – covering the years lost to victims of DFV and their families and friends as a result of the acts;
- *Health related costs* – including the private and public health costs associated with treating the effects of violence on the victim/survivor, perpetrator and children;
- *Production-related costs* – including costs associated with absenteeism; search, hiring and retraining costs; lost productivity of the victim, friends and family, and employer; and a permanent loss of labour capacity to society;
- *Consumption-related costs* – including costs associated with property replacement, relocation and temporary accommodation and storage, and settlement of bad debts;
- *Second generation costs* – usually borne by the immediate family and broader community and including childcare, school support services, therapy and counselling, remedial and special education, child protection services, and an increased future use of government services and increased incidence of juvenile and adult crime among children and women who have experienced domestic violence;
- *Administrative and other costs* – ostensibly, the response of the criminal justice system, support services and prevention programs, including: legal and forensic work funded by the State, temporary accommodation, paid care, counselling, perpetrator programs, interpreter services, and funerals; and

⁶⁰³ Queensland Government, [Premier's Special Taskforce on Domestic and Family Violence in Queensland](#), State of Queensland, 2014, page 1.

⁶⁰⁴ [Ibid.](#)

⁶⁰⁵ [Ibid.](#)

- *Transfer costs* – made up of the ‘deadweight loss’ to the economy associated with funds drawn from the State and broader community for government payments and services, victim/survivor compensation, and lost taxes.⁶⁰⁶

In terms of health impacts in particular, DFV has been identified as the single biggest risk factor contributing to death, disability and illness in Australian women aged 15 to 44 years.⁶⁰⁷

As well as playing a role in a significant proportion of homicides, DFV can impair wellbeing through physical injury, anxiety, depression, compromised social skills, and an increased likelihood that the individuals involved will engage in practices harmful to their health, including self-harm and substance abuse.⁶⁰⁸

These impacts can have devastating cumulative effects that endure long after the violence has stopped, with women who have experienced domestic violence rating their health as poorer and using health services more frequently than other women, even after they are no longer exposed to violence.⁶⁰⁹ Infants, children and adolescents living with the traumatic ongoing experiences of DFV also experience serious negative psychological, emotional, social and developmental impacts to their wellbeing.⁶¹⁰

Children may be exposed to violence not only as witnesses but also:

- as intended or accidental victims of violence in utero, or in attempting to intervene or defend a parent;
- in being forced to participate in assaults or spy on parents;
- in being used as a hostage or as a victim of threats or child abduction; and
- in being informed that they are to blame for the violence because of their behaviour.⁶¹¹

In addition, in the aftermath of an incident, children’s exposure can involve tending to their own or their parent’s injuries, having to telephone for emergency assistance, dealing with a parent who alternates between violence and a caring role, seeing parents arrested, and having to leave home with a parent and/or face dislocation from friends, family and school.⁶¹²

As a result of these complexities of experience, it can be difficult to distinguish between children who suffer abuse in the home and those who are ‘only’ exposed to DFV,⁶¹³ and rates of co-occurrence of DFV and child maltreatment and neglect are also significantly estimated at between 30% and 50%.⁶¹⁴ In any case, it is increasingly recognised that witnessing incidents itself constitutes a form of

⁶⁰⁶ Access Economics, *The Cost of Domestic Violence to the Australian Economy: Part II*, Australian Government, Office of the Status of Women, Commonwealth of Australia, 2004, page 5; Access Economics, cited in National Council to Reduce Violence Against Women and their Children, *The cost of violence against women and their children*, Commonwealth of Australia, March 2009, page 22.

⁶⁰⁷ Access Economics, cited in Morgan and H Chadwick, *Key issues in domestic violence*, AIC, Research in Practice, Summary Paper, No. 7, December 2009, page 3.

⁶⁰⁸ Morgan and H Chadwick, *op cit*, page 3; I Evans, *Battle-scars: Long-term effects of prior domestic violence*, Centre for Women’s Studies and Gender Research, Monash University, February 2007, page 5.

⁶⁰⁹ I Evans, *op cit*, page 5.

⁶¹⁰ M Sety, *The Impact of Domestic Violence on Children: A Literature Review*, Australian Domestic and Family Violence Clearinghouse, 2011, page 1.

⁶¹¹ K Richards, *Children’s exposure to domestic violence in Australia*, *Trends & issues in crime and criminal justice*, No. 419, June 2011, AIC, Australian Government, page 1; M Sety, *op cit*, page 2.

⁶¹² *Ibid*, pages 1-2.

⁶¹³ See: L Bromfield, A Lamont, R Parker and B Horsfall, *Issues for the safety and wellbeing of children in families with multiple and complex problems: The co-occurrence of domestic violence, parental substance misuse, and mental health problems*, Australian Institute of Family Studies, National Child Protection Clearinghouse, NCPC Issues No. 33, December 2010; K Richards, *op cit*, page 2.

⁶¹⁴ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 894; M Sety, *op cit*, pages 4-5.

emotional and psychological abuse.⁶¹⁵ Some studies have identified children who witness violence, experience the same level of negative psychosocial, behavioural and developmental outcomes as children who directly experience physical abuse.⁶¹⁶

Further, while research and theories vary regarding the intergenerational transmission of violence,⁶¹⁷ exposure to violence in the home can lead young people to develop inappropriate norms concerning violence and aggression, and *'to model the behaviour and attitudes to which they have been exposed, increasing the risk that the individual will enter into an abusive relationship in adulthood, either as the perpetrator or victim'*.⁶¹⁸

DFV also constitutes the leading factor contributing to homelessness among women and their children and a key factor precipitating youth homelessness.⁶¹⁹ In 2012-13, 32% of all clients receiving assistance from Australian specialist homelessness agencies were escaping DFV; and in 23% of all cases, DFV was cited as the main reason for seeking assistance. The majority of these were adult females (63%) and 19% were children under 10 years of age.⁶²⁰ Among unaccompanied young people aged 15 to 24 years, 16% identified DFV as the main reason for seeking assistance.⁶²¹

The disruptive costs associated with these temporary or permanent relocations often compound victims' already precarious financial positions, with many having faced restrictions on their access to finance and to their engagement in employment as a component of their abusive experience. Women affected by violence are more likely to have a disrupted work history and to occupy part-time and casual work than women with no experience of violence; and researchers have found that some women find it difficult to enter or re-enter the workforce post separation.⁶²² This can hamper recovery and constrain victims' capacity to regain control over their lives, and maintain financial security and independence from service agencies into the future. Regardless of their prior economic circumstances, the disruptive effects of DFV can compromise economic welfare and impose cost burdens across all areas of life: debts, bills, and banking; health; employment; transport and migration; accommodation; legal issues; and social security and child support.⁶²³

In its submission to the Inquiry, SupportLink National – an Australia wide referral service for police and emergency services to divert identified individuals to receive early intervention from the social support sector – reported that DFV is the number one issue referred to the service by police.⁶²⁴ Surveys of prison inmates also confirm that personal DFV histories are highly prevalent among prison populations⁶²⁵ and among female offenders in particular;⁶²⁶ and a 2007 report on victimisation

⁶¹⁵ K Richards, [op cit](#), pages 1-2.

⁶¹⁶ Kitzmann et al, cited in M Sety, [op cit](#), page 2; ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 89.

⁶¹⁷ See: Edelson; Elizabeth, cited in K Richards, [op cit](#), pages 1-2.

⁶¹⁸ Morgan and H Chadwick, [op cit](#), page 8; M Sety, [op cit](#), pages 3-4.

⁶¹⁹ National Youth Commission, [Australia's Homeless Youth: A Report of the National Youth Commission Inquiry into Youth Homelessness](#), National Youth Commission, Melbourne, 2008, pages 78-79.

⁶²⁰ Australian Institute of Health and Welfare, [Specialist homelessness services, 2012-13](#), Cat No. HOU 273, AIHW, Australian Government, Canberra, 2013, Summary.

⁶²¹ *Ibid*, page 70.

⁶²² L Mitchell, [op cit](#), pages 28-29; R Braaf and IB Meyering, [Seeking Security: promoting women's economic wellbeing following domestic violence](#), Australian Domestic & Family Violence Clearinghouse, Sydney March 2011, pages 10-11.

⁶²³ See: Department of Premier and Cabinet Tasmania, cited in ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 89.

⁶²⁴ SupportLink National Pty Ltd, Submission No. 75, page 3.

⁶²⁵ M Stathopolous, [Addressing women's victimisation histories in custodial settings](#), Australian Institute of Family Studies, Australian Centre for the Study of Sexual Assault, ACSSA Issues, No. 13, 2012, page 7; Queensland Corrective Services, [Pathways to Reduced Crime](#), Department of Community Safety, March 2013, page 9.

⁶²⁶ Morgan and Chadwick note that 'physical abuse also increases the risk of criminal offending and a significant proportion of women in prison have experienced some form of prior abuse, either as adults or children'. See: Morgan and H Chadwick, [op cit](#), page 3.

among non-custodial offenders identified that more than 30% of non-custodial male offenders and more than 60% of non-custodial female offenders were victims of DFV.⁶²⁷ When combined with child abuse and other physical and sexual assaults, rates of violence victimisation in corrections settings are prolific.

9.5 Victims of Domestic Violence

DFV can and does affect those of all ages, cultural, social and economic backgrounds and in all sorts of relationships. This includes instances of DFV perpetrated by females against their male partners, and in various other permutations and scenarios within lesbian, gay, bisexual and transgender relationships, and non-intimate family relationships. The Acting Assistant Commissioner (Northern Region), Paul Taylor identified an increase in the number of men coming forward to report violence, and a rise in female perpetration against other female victims, which have in the past been 'extremely rare'.⁶²⁸ Oftentimes, these less visible instances of victimisation may be less likely to be reported, and those affected, less able to access supports.⁶²⁹ In order to be effective, DFV frameworks and accompanying service response must be able to recognise and appropriately cater to all victims and perpetrators.

At the same time, while inclusive and flexible frameworks are crucial, the Committee also notes national and international data overwhelmingly supports the view that DFV is predominantly a gendered crime perpetrated by men against women;⁶³⁰ and that efforts to address this problem should be framed as such, in line with the *National Plan to Reduce Violence against Women and their Children 2010-2022*.

Despite some arguments about 'gender symmetry' in domestic violence, and assertions that men and women perpetrate DFV in equal measure or that it 'takes two to tango'; research generally suggests that instances of mutual or bidirectional violence are uncommon, and are typically underpinned by distinct motivations and power dynamics.⁶³¹ This is not to say that violence may be condoned in some circumstances and reviled in other – certainly, all violence in intimate and family relationships is unacceptable. However, while family and relationship scenarios are inevitably heterogeneous, women's use of violence is more likely to be 'expressive' rather than characterised by the 'instrumental' uses of dominance and control through fear; and the repetition, severity of physical injury and levels of coercion from all forms of violence (physical, social, emotional, etc.) appear to be greater for women than for men.⁶³²

It is also clear that some individuals may be significantly more vulnerable to becoming victims and less capable of exiting violent relationships or accessing services that meet their needs depending on their age, living arrangements, English language abilities, disability status, sexuality, location and service access, and other characteristics.⁶³³

⁶²⁷ CMC, [Breaking the cycle: A study of victimisation and violence in the lives of non-custodial offenders](#), State of Queensland, July 2007, pages 8, 51.

⁶²⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 7.

⁶²⁹ Morgan and H Chadwick, [op cit](#), page 5.

⁶³⁰ *Ibid*, page 2.

⁶³¹ J Brown, 'Therapeutic Response to Domestic Violence in Australia: A History of Controversies', *Australian and New Zealand Journal of Family Therapy*, Vol. 35, No. 2, pages 177-179.

⁶³² R Braaf, and I Barrett Meyering, [The Gender Debate in Domestic Violence: The Role of Data](#), Australian Domestic and Family Violence Clearinghouse, Issues paper 25, May 2013, pages 3, 9-19, 20; J Brown, 'Therapeutic Response to Domestic Violence in Australia: A History of Controversies', *Australian and New Zealand Journal of Family Therapy*, Vol. 35, No. 2, pages 177-179.

⁶³³ Morgan and H Chadwick, [op cit](#), page 1; National Council to Reduce Violence Against Women and their Children, [The cost of violence against women and their children](#), Commonwealth of Australia, March 2009, page 69.

Aboriginal and Torres Strait Islander women: Indigenous women are significantly over-represented as victims of DFV. Not only are their victimisation rates estimated to be much higher than those of non-Indigenous women, but they are also as much as 35 times as likely to sustain serious injury as a result of violence committed by a spouse or partner, and more likely to access emergency accommodation or refuge.⁶³⁴ Bryant and Willis identify this increased incidence of victimisation can be understood as *'resulting from a confluence of risk factors relating to alcohol and substance use, social stressors, living in a remote community, measures of individual, family and community functionality, and the resources available to the person'*.⁶³⁵

Indigenous women also face a range of barriers to reporting DFV and accessing counselling, legal and medical support services, including:

- fear of the consequences of reporting due to lack of anonymity and the closeness and breadth of kinship groups;
- fear of social and physical repercussions, alienation and upheaval within the family due to traditional cultural and structural notions of community solidarity, which override the interests of individuals (including concerns about shame, stigmatisation and potential ostracism from the community);⁶³⁶
- a lack of access to alternative accommodation or independent access to transport, such that the small percentage of victims who do report will generally need to leave their communities to access services and avoid cultural retribution (with risks of isolation and homelessness);
- financial dependence upon the perpetrator and family and lack of access to money or employment; and
- fear that reporting may result in child safety interventions to remove children.⁶³⁷

Women living in rural and remote areas: The spatial distribution of DFV does not reflect uniform levels of offending. Recorded rates of DFV related incidents and DVO breaches per 100,000 people are generally higher outside the State's metropolitan south east corner, and often significantly so. For the last five years, the Northern police region and the Mount Isa district in particular have recorded levels of DFV and DVO breaches far in excess of any other respective police regions or districts (Mount Isa's 2013-2014 offending rate is more than double that recorded in the second highest offending Far North district and approximately ten times the rate recorded in the North and South Brisbane districts);⁶³⁸ with high rates also reported in the Townsville, Capricornia and Southwest police districts.

Aside from these specific geographical trends, however, a range of studies have also indicated that women living in remote and rural areas experience higher rates of reported violence than those living in metropolitan areas. These women can be particularly vulnerable due to the compounding impact of the small nature of communities and their lack of anonymity, as well as the geographical isolation and limited availability of support services and resources in local areas.⁶³⁹ The rapid expansion of the mining sector and long commute practices such as fly in fly out (FIFO) and drive in drive out (DIDO)

⁶³⁴ Morgan and H Chadwick, [op cit](#), page 4.

⁶³⁵ Brant and Willis, cited in Morgan and H Chadwick, [op cit](#), page 4.

⁶³⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, page 6.

⁶³⁷ QIFVLS, Submission No. 19, page 8; M Willis, ['Non-disclosure of violence in Australian Indigenous communities'](#), *Trends & issues in crime and criminal justice*, No. 405, January 2011, AIC, Australian Government, pages 4-8.

⁶³⁸ QPS, [QPS Region and District Crime Statistics 2009-2014](#), Analytics, Information and Data Services, Public Safety Business Agency, SR 427/14, 3 July 2014.

⁶³⁹ Morgan and H Chadwick, [op cit](#), page 5.

workers has also been associated with increased rates of DFV; though this relationship has not been confirmed.⁶⁴⁰

Women from culturally and linguistically different backgrounds: While studies have produced mixed findings with respect to the nature and prevalence of physical violence against women from culturally and linguistically different (CALD) backgrounds, research has shown that CALD women are less likely to report DFV victimisation to police or access mainstream services because of a perception that these services would not understand their particular situation and or be able to cater to them appropriately, as well as a range of other factors.⁶⁴¹ In addition to language barriers and the limited availability of culturally sensitive translator and interpreter services, this includes: a lack of knowledge about rights and services; cultural stigmas and traditional ideas about women's roles and duties; high dependency on the perpetrator for financial, language and social support, and/or for residential or citizenship status; and fear of deportation or visa cancellation.⁶⁴²

Women living with a disability: While it is difficult to estimate the full extent of experiences of DFV among people with disabilities, women with disabilities are often particularly vulnerable because of restricted mobility or emotional, physical or financial dependency on the perpetrator.⁶⁴³ There are also particular forms of abuse that are unique to people with disabilities, such as removal of accessibility devices, withholding medication and threatening institutionalisation.⁶⁴⁴ In addition, adults with cognitive or psychiatric disabilities who may have spent long periods of time in oppressive or restrictive situations may have difficulties defining what is abusive and what is not, and may rely on a 'gatekeeper' to provide information. Such women also report being disbelieved and treated differentially if they do seek help.⁶⁴⁵

Young women: In recent years, the prevalence of violence in adolescent relationships has received increasing attention; with evidence indicating that young women are at increased risk of DFV compared to their older counterparts.⁶⁴⁶ Young people's vulnerability to intimate partner violence '*is increased by sexist and traditional gender role attitudes, peer culture, inexperience and attitudes supportive of violence that can be shaped by the media, pornography and early exposure to aggressive behaviour by parents or role models*'.⁶⁴⁷

People in same-sex relationships: While evidence seems to suggest that people in same-sex and intersex relationships experience DFV at similar rates as those who identify as heterosexual, this violence is often described as 'invisible' because of its omission from consideration in governmental, policy and criminological responses. Young people who are victimised often report that the violence was directed at them *because of* their sexuality and lifestyle choices. In addition, victims from the GLBTIQ community (gay, lesbian, bisexual, transgender, inter-sex, queer) may also be vulnerable to the use of 'outing' or disclosing their sexual identity (or HIV status), or threats to do so.⁶⁴⁸

Older People: As with other vulnerable groups, older Australians can also be at increased risk of exploitation and abuse due to the power imbalances and dependencies that can characterise their relationships with friends and family, as well as with carers. Abuse is accordingly often perpetrated by a partner or relative with whom the person has a duty of care relationship, with victimisation

⁶⁴⁰ S Tayton, R Kaspiew, S Moore and M Campo, [Groups and communities at risk of domestic and family violence: A review and evaluation of domestic and family violence prevention and early intervention services focusing on at-risk groups and communities](#), Australian Institute of Family Studies, page 32.

⁶⁴¹ Morgan and H Chadwick, [op cit](#), page 5.

⁶⁴² S Tayton, R Kaspiew, S Moore and M Campo, [op cit](#), pages 27-28.

⁶⁴³ S Tayton, R Kaspiew, S Moore and M Campo, [op cit](#), pages 27-28

⁶⁴⁴ M Sety, [op cit](#), page 15.

⁶⁴⁵ S Tayton, R Kaspiew, S Moore and M Campo, [op cit](#), page 28.

⁶⁴⁶ S Tayton, R Kaspiew, S Moore and M Campo, [op cit](#), page 30.

⁶⁴⁷ Morgan and H Chadwick, [op cit](#), page 6.

⁶⁴⁸ S Tayton, R Kaspiew, S Moore and M Campo, [op cit](#), page 30.

tending to occur over an extended period of time (Morgan and Chadwick report that most elder abuse victims are long-term victims); and with vulnerability particularly acute among those with decision-making impairments and physical disabilities.⁶⁴⁹ Submitters to the Inquiry have identified that the crime is also harder to detect within the community care settings because there is less accountability for home-based and family carers than in institutionalised care.⁶⁵⁰

One confidential submission to the Committee particularly highlighted that family and friends who are supported by the Government to care for an elder in their home are often without appropriate education as to the abuses that can occur and may fall short of care standards as a result of both intentional and unintentional neglect.⁶⁵¹

9.6 Risk factors

A number of factors have also been identified as increasing the risk that an individual will become a perpetrator of domestic violence. Understanding the complex interaction of attitudes, motives and situational factors underlying offender behaviour is important for developing effective preventative strategies.⁶⁵² Importantly, as is also the case for victims, the Committee heard in submissions that offenders come from a broad spectrum of personal and employment circumstances, including *'a fair amount of tradesmen'* but also *'everyone from psychiatrists, lawyers, policemen, doctors, teachers, pastors, professional men'*.⁶⁵³

Societal norms and attitudes to women

Research indicates that men are more likely to engage in domestic violence if they hold negative attitudes towards women, including ideas about traditional gender roles that legitimise violence as a method of resolving conflict or as a private matter.⁶⁵⁴ The most extensive national study on Australian attitudes to violence against women to date is the *National Community Attitudes to Violence Against Women Survey*.

The results of the 2013 survey suggest that while there have been improvements since the survey was first conducted in 1995, attitudes condoning or trivialising violence against women persist.⁶⁵⁵ That is, while only a small proportion of Australians endorse attitudes that justify violence, substantial minorities are willing to excuse violence or may even blame victims for incidents, including *'more than one in five agreeing that partner violence can be excused if the person is genuinely regretful afterward, or if they get so angry they lose control'*.⁶⁵⁶

Encouragingly, the overwhelming majority of Australians (98%) indicated they would intervene if they witnessed a woman being assaulted by her partner. However, the report also noted that *'since 2009 there has been a decrease in those who would know where to go to get help with a domestic*

⁶⁴⁹ Morgan and H Chadwick, [op cit](#), page 5.

⁶⁵⁰ Confidential Submission No. 63.

⁶⁵¹ *Ibid*, page 1.

⁶⁵² Day, Chung, O'Leary, Justo, Moore, Carson and Gerace, [Integrated responses to domestic violence: Legally mandated intervention programs for male perpetrators](#), 2010, page 1.

⁶⁵³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 38.

⁶⁵⁴ Morgan and H Chadwick, [op cit](#), page 6.

⁶⁵⁵ K Webster, P Pennay, R Bricknall, K Diemer, M Flood, A Powell, V Politoff and A Ward, [Australians' attitudes to violence against women: Full technical report, Findings from the 2013 National Community Attitudes towards Violence Against Women Survey](#), Victorian Health Promotion Foundation, Melbourne, Australia, 2014, pages 2, 12, 110.

⁶⁵⁶ *Ibid*, page 2.

violence problem’; and *‘a new challenge is to engage the community in responding to known risk factors for violence, such as controlling behaviours or disrespect towards women’*.⁶⁵⁷

A more recent 2014 Auspoll survey of 1,000 girls and women aged between 14 and 25, commissioned by child rights organisation Plan International Australia, found that more than three quarters of girls and young women have been subject to sexist comments – 12% regularly from strangers. In addition, almost half believed sexist attitudes in Australia are actually increasing.⁶⁵⁸ Significant questions have also been raised about the effect of media portrayals, pornography, peer culture and early exposure to aggressive behaviour on young people’s attitudes towards women and the acceptability of relationship violence.⁶⁵⁹

Situational/Environmental factors

Various situational factors, while not direct causes, may increase the risk of domestic violence or exacerbate the frequency or severity of its occurrence. Some of these factors include family or relationship problems and recent stressful events or circumstances, such as the death of a family member or unemployment and financial problems. Some submitters have also suggested a correlation between downturns in the mining industry and in the economy more broadly and increased incidence of domestic violence.⁶⁶⁰ In addition, alcohol and substance misuse has a high rate of co-occurrence with domestic violence,⁶⁶¹ and is particularly regarded as *‘one, if not the primary risk factor for violence in Indigenous communities’*.⁶⁶²

Typically, a range of situational and environmental factors may coalesce to heighten risks and tensions, as the Committee heard at the Inquiry’s public hearing in Mount Isa:

*...I am forever reading about incidents that are domestic violence related where one party is not able to communicate in a verbal way and they will pick up a knife, a stick, or whatever, and invariably it is a stabbing, a belting. Both parties are invariably affected heavily by alcohol or drugs. There is a small area where there is no alcohol involved and it is purely a breakdown—like I said, finance, relationship, mental health issues. It is a very complex area. But the problem is that, in the Indigenous communities, there is not a service on the ground that can get in and be effective.*⁶⁶³

Having regard to alcohol in particular, studies have identified over-intoxication influences perpetrators’ (mis)perceptions of provocation and also increases feelings of aggression, lowers inhibitions, and overrides the broad disposition to self-regulate aggressive behaviour,⁶⁶⁴ further:

...because of its impact on aggression, the consumption of alcohol, either by the offender or the victim, may increase the seriousness of a domestic incident, the severity of injuries

⁶⁵⁷ VicHealth, [Australians’ attitudes to violence against women: Summary Report, Findings from the 2013 National Community Attitudes towards Violence Against Women Survey](#), Victorian Health Promotion Foundation, Melbourne, Australia, 2014, page 6.

⁶⁵⁸ Media Release, [Growing sexism forcing girls, women away from life as leaders: new survey](#), PLAN International, 1 October 2014, accessed 1 October 2014.

⁶⁵⁹ Morgan and H Chadwick, [Key issues in domestic violence](#), AIC, Research in Practice, Summary Paper, No. 7, December 2009, page 6.

⁶⁶⁰ Central Highlands Regional Council, Submission No. 42, page 1.

⁶⁶¹ A Day, ‘Commentary on Stuart et al (2013): Domestic violence and interventions to reduce alcohol use’, *Addiction*, Vol. 108, No. 8, 2013, page 1385.

⁶⁶² J Wundersitz, [‘Indigenous perpetrators of violence: Prevalence and risk factors for offending’](#), AIC, Research and public policy series, No. 105, 2010, page ix.

⁶⁶³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, page 6.

⁶⁶⁴ A Day, ‘Commentary on Stuart et al. (2013): Domestic violence and interventions to reduce alcohol use’, *Addiction*, Vol. 108, No. 8, August 2013, page 1385; Morgan and H Chadwick, [Key issues in domestic violence](#), AIC, Research in Practice, Summary Paper, No. 7, December 2009, page 7.

*and risk of death, with almost half of all intimate partner homicides found to be alcohol-related.*⁶⁶⁵

A lack of access to support services or networks can also increase the risks that someone will become a victim of domestic violence, or continue to experience violence because of their inability to leave a violent relationship or family living scenario.⁶⁶⁶ Where communities are characterised by poverty and low social capital, including a lack of institutions, relationships and norms that shape community interactions and form the basis of social networks; levels of resilience to DFV are also fundamentally diminished.⁶⁶⁷

Individual factors

In addition to various societal and environmental risk factors, a range of different personal and individual characteristics can increase an individual's likelihood of perpetrating domestic violence, such as:

- low self-esteem, low income and low academic achievement;
- various psychological and emotional vulnerabilities, including depression, anger and hostility, aggressive or delinquent behaviour as a youth, social isolation, emotional dependence and insecurity, and antisocial personality and borderline personality traits;
- previous victimisation of physical and psychological abuse;
- a history of experiencing poor parenting and physical discipline as a child; and
- belief in strict gender roles and a desire for power and control in relationships.⁶⁶⁸

A number of these risk factors apply equally in terms of risks of perpetration or victimisation; and inevitably combine with various other relational, community and societal factors to enable DFV to occur. Understanding these multilevel variables can help identify opportunities for prevention and early intervention.⁶⁶⁹

Committee Comment

Ongoing best practice research and information in submissions and testimonies received by the Committee confirm there are a number of specific areas that must be considered to target and prevent DFV. This must be done through primary prevention, early intervention and enhanced longer-term service responses to improve detection and support opportunities and minimise revictimisation and further offending.

These include:

- Early education programs targeted at young people, including school-based and programs that aim to shape appropriate attitudes to women and violence and develop positive behavioural and relationship skills;
- A spectrum of multi-level community-wide and targeted awareness-raising, education and advocacy campaigns, to build community understanding, accountability and mobilisation against DFV;

⁶⁶⁵ Dearden & Paynce, cited in Morgan and H Chadwick, [Key issues in domestic violence](#), AIC, Research in Practice, Summary Paper, No. 7, December 2009, page 7

⁶⁶⁶ Morgan and H Chadwick, [op cit](#), page 8.

⁶⁶⁷ Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, [Intimate Partner Violence: Risk and Protective Factors](#), U.S. Government, webpage, 24 December 2013.

⁶⁶⁸ Ibid.

⁶⁶⁹ Ibid.

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- Increased involvement of men and boys in the development of programs to prevent violence against women by changing attitudes and behaviours;
 - Specific programs or strategies targeted towards and tailored to the needs of those at an increased risk of and higher vulnerability to domestic violence, or who may be less likely to access support services, including Indigenous women, women in rural or remote areas, women from CALD backgrounds, people with a disability, young women, and older people;
 - Coordination and collaboration across all service sectors and all levels of government and non-government, as a fundamental principle underpinning any effective, integrated approach to the prevention of and intervention in DFV;
 - Increased availability and awareness of services for victims and perpetrators and enhancement of referral mechanisms and inter-service collaboration (including communication between domestic violence, child protection, accommodation and other services), to ensure the complex needs of all parties can be met;
 - Improved training and information sharing capacity in support of shared risk assessment frameworks for early intervention and coordinated safety planning and service delivery, addressing both dynamic and static risk factors to improve adult and child safety;
 - Improved data collection and appropriate information sharing, with a view to improving the evidence base with respect to effective interventions and risk assessment and management;
 - Improving policing responsiveness, including comprehensive evidence gathering requirements; proactive, pro-arrest policies; and the development of clear guidelines or a code of practice to ensure greater consistency and compliance with identified service standards;
 - Improved training and expanded use of specialist and liaison officers across the police and courts;
 - Use of respondent court work, specialised DFV lists, or specialised courts;
 - Enhanced legal support and representation for victims, and various measures to address barriers preventing access to justice;
 - Greater scope for referral to and use of perpetrator behaviour programs as part of a broader family service offering to help address the attitudes and other issues underlying problem behaviour, and to build behavioural competency and relationship skills;
 - Addressing legislative barriers that inhibit efforts to support victims and manage offenders; and
 - Increased use of rehabilitative work and follow-up programs for imprisoned offenders and their families, as part of a continuum approach to service delivery for long-term support and prevention.⁶⁷⁰

While it has not been possible for the Committee to consider all these in detail, the Committee considers the Taskforce should consider implementing in its final report a multifaceted, coordinated strategy to address domestic violence, underpinned by:

1. Community education and services for early prevention and intervention;
2. Models of integrated service response and cross-referral, supported by the adoption of common risk assessment frameworks and languages; and

⁶⁷⁰ Morgan and H Chadwick, [op cit](#), pages 9-10;

3. A commitment to more informed and specialised, client-specific approaches to justice, including enhanced policing and legal responses to better safeguard victim safety and promote offender accountability, for reduced recidivism.

The Committee also supports the common sense conclusions of Morgan and Chadwick:

*In order for these strategies to be effective, it is important that lessons from past programs are heeded and the implementation problems described... are addressed. In addition, further in-depth research should be undertaken into the nature and extent of domestic violence, particularly in vulnerable communities, and programs should be subject to ongoing monitoring and evaluation to determine what is effective and in what circumstances.*⁶⁷¹

Recommendation 23

The Committee recommends that any new domestic and family violence strategy developed by the Government include as key constituent components:

- o broad and targeted multi-level community, school, and local awareness and education programs to encourage violence-free attitudes and healthy relationships;
- o improved information sharing and integrated service delivery options to facilitate early intervention and coordinated service responses that appropriately address clients' specific support needs and safety risk factors;
- o more informed and specialised approaches to justice to better support victim safety, promote accountability, and target underlying attitudes and behaviours and other recidivism risks; and
- o ongoing research into the nature, extent and determinants of domestic and family violence, and systematic monitoring and evaluation of programs and their implementation, to ensure the State is best positioned to promote safe and healthy homes and families in Queensland.

9.7 Domestic and Family Violence Reporting

The Committee considered underreporting of DFV continues to pose a significant obstacle to the determination of an accurate picture of the extent of the problem. Ms Rosemary O'Malley of the Domestic Violence Prevention Centre Gold Coast advised the Committee, while loss of income and financial strain can be one disincentive to reporting (especially where the offender is the primary income earner):

...a bigger aspect is fear of repercussions... The problem is that police will take a man away and maybe hold him for four hours or even 24 hours under the police protection notices under the new act, but he will be out and home. A bit of paper is not going to do much at 3 o'clock in the morning to keep her and the kids safe. The fear of reporting and the consequences of reporting are astoundingly high. That is one of the major aspects of underreporting.

⁶⁷¹ Morgan and H Chadwick, [op cit](#), page 10.

*...If the police attended that situation, they would normally make a child safety notification and Child Safety would become involved in that. There is a problem with that, in that currently throughout Australia the victim of domestic violence gets further punished by failing to protect her children and the children are removed. Quite often, women will not report it because they know that Child Safety may become involved and the kids will be removed. So you talk about underreporting—that is a major issue in the underreporting, the fear of having your children taken. You are held responsible for him using violence, so you as the victim of violence are responsible for keeping the kids safe from his violence. That is one of the major flaws in the system.*⁶⁷²

Reports suggest that a refusal to take out domestic violence order (DVO) applications on these grounds is particularly prevalent in Indigenous communities, where the history of child removal has exacerbated these fears.⁶⁷³ This is especially concerning given risks of domestic violence injury and/or homicide are significantly higher for Indigenous women, and that barriers to reporting are also amplified for a range of other reasons. The Queensland Indigenous Family Violence Legal Service (QIFVLS) identified:

*Victims do not have enough support in remote communities and victims of family violence often find it difficult to find support to leave a relationship. Remote communities have a lack of emergency assistance (such as police, women's accommodation and crisis shelters). Victims often fear contact with police based on past experiences and this is aggravated by a general distrust of police felt in many communities and the culturally insensitive ways police often respond to victims, if they respond at all. This is reflected in the Queensland victims of crime survey, where one of the top three reasons for dissatisfaction with police was that they appeared Not interested/didn't want to listen.*⁶⁷⁴

Crucially, when DFV goes undetected and/or unpunished, it robs the law of any deterrent effect it might have had, and can further reinforce power imbalances and prevent victims and perpetrators from receiving the mental and physical support they need or would benefit from receiving.⁶⁷⁵ In addition, inaccurate information on the actual number of incidents detracts from attempts to direct services and assistance to those in need, and may lead to the misallocation (and/or under-allocation) of funds for DFV management.⁶⁷⁶ In contrast, as QPS Acting Assistant Commissioner (Northern Region) Paul Taylor noted during the Inquiry's public hearing in Mount Isa:

*When there is affirmative action taken against the perpetrators of domestic violence we see that that empowers the victims... we know there are support services that, if given the opportunity, could support both those victims and could attempt to deal with the perpetrators so that they understand the consequences of their action, to try to prevent that from occurring.*⁶⁷⁷

The Committee is of the opinion that any effective service response must accordingly include a commitment to addressing barriers to reporting, which may include:

- a possibility that victims of physical or sexual violence committed by current partners may be less likely to perceive the incident as a crime than if it were committed by a stranger;

⁶⁷² Transcript of Proceedings (Hansard), Public Hearing, LACSC, Southport, 28 July 2014, page 44.

⁶⁷³ C Cunneen, [Alternative and Improved Response to Domestic and Family Violence in Queensland Indigenous Communities](#), Queensland Government, Department of Communities, 2010, page 28.

⁶⁷⁴ QIFVLS, Submission No. 19, page 9.

⁶⁷⁵ E Birdsey and L Snowball, 'Reporting Violence to Police: A survey of victims attending domestic violence services', *Crime and Justice Statistics Bureau Brief*, Issue paper No. 91, BOCSAR, October 2013, page 1.

⁶⁷⁶ Ibid.

⁶⁷⁷ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Mount Isa, 11 August 2014, page 6.

- a belief that the incident is too minor to report;
- shame or embarrassment;
- a desire to deal with the issues by themselves;
- fear of the perpetrator or of the consequences of reporting the incident, including concerns for personal or children's safety;
- deterrent effects of poor justice system interactions in the past, and/or expectations of unsatisfactory outcomes;
- concern about having to relive the event by re-telling the story to multiple parties;
- concerns about the implications of reporting for child custody and potential removal of children;
- cultural and communicative barriers;
- social isolation and a lack of social support, or fear of ostracism from social and family networks; or
- a lack (or perceived lack) of access to support, including alternative accommodation (fear of homelessness), legal assistance, financial assistance and counselling.⁶⁷⁸

9.8 Primary Prevention and Early Intervention

Domestic violence researchers and service deliverers have long recognised that the criminal justice system's response to DFV is limited by a fundamental paradox – that is, while the system is capable of delivering swift interventions that may be critical to preventing domestic homicide and repeat offending, it is ultimately limited in its ability to prevent the emergence of abuse and its far reaching and often cyclically expressed consequences.⁶⁷⁹

Achievement of any sustained, long-term reduction in the incidence of DFV requires a concerted commitment to complementary efforts to thwart DFV before it occurs, by addressing the underlying contributors and determinants of violence. As Queensland's most recent domestic violence strategy *For Our Sons and Daughters* acknowledged, this includes both:

- primary prevention efforts, which seek to prevent the emergence of enabling factors; and
- early identification and intervention (secondary prevention) efforts, which target vulnerabilities and behaviours among select high-risk individuals and groups to prevent their becoming entrenched; and/or which seek to build protective factors to increase resilience.⁶⁸⁰

Factors underlying and contributing to violence against women and the means of prevention lie in a range of settings (schools, sports settings, faith-based institutions) and at multiple levels of influence – individual (relationships and families), community and organisation levels, and society more broadly.⁶⁸¹ Accordingly, primary prevention efforts are most likely to be effective when they employ

⁶⁷⁸ S Meyer, [Responding to intimate partner violence victimisation: Effective options for help-seeking](#), *Trends & issues in crime and criminal justice*, No. 389, March 2010, AIC, Australian Government, page 3; *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, pages 40, 44; A Morgan and H Chadwick, [Key issues in domestic violence](#), AIC, Research in Practice, Summary paper, No. 7, December 2009, page 2.

⁶⁷⁹ J Ursel, [Specialised Justice Responses to Family Violence in Canada](#), Seminar Presentation, Queensland Centre for Domestic and Family Violence Research, 13-14 April 2014.

⁶⁸⁰ K Webster, [Preventing violence before it occurs: A framework and background paper to guide the primary prevention of violence against women in Victoria](#), Victorian Health Promotion Foundation, VicHealth and State Government of Victoria, 2008, pages 8-9.

⁶⁸¹ [Ibid](#), page 12.

a coordinated range of mutually reinforcing strategies across these levels of influence, including both universal campaigns and targeted initiatives that address the needs of specific vulnerable populations or groups in distinct relationship, life-cycle and developmental phases.⁶⁸²

In line with this, the Committee received evidence from a range of stakeholders advocating the need for the Government to commit to more systematic, integrated implementation of primary and secondary programs, and to support increased collaboration between and across various agencies, communities and individuals to boost collective knowledge, skills, and program and service delivery.

In addition, ongoing monitoring and evaluation of these programs and their impacts on key outcomes should also be carried out as a key component of ensuring effective and progressive early preventative actions.

Structural Reforms and Community Awareness and Education

It was regularly emphasised to the Committee in public hearings and submissions that '...the idea that domestic and family violence is a private matter between intimate couples can no longer be accepted by society'.⁶⁸³ Rather, it is generally recognised that the whole community has a responsibility to work towards the prevention of domestic violence and the promotion of shared understandings that all forms of violence are unacceptable. The message of condemnation of violence against women must be consistent so that it is reinforced to future generations that violence is not to be tolerated.

Institutional commitments to gender equality, together with legal reform and concrete social policy measures in the areas of education, employment and social protection are all recognised as critical to the elevation of women's status, rights, and access to and control over resources.⁶⁸⁴ In addition, despite their tertiary preventative focus, legal protections and sanctions against DFV can also serve a primary preventative role through their ability to reinforce non-violent norms by sending the message that such acts will not be tolerated.⁶⁸⁵ For the most part, however, primary prevention efforts have been anchored in broad-scale community education and awareness initiatives, as a valuable platform for subsequent targeted understanding and behaviour-based interventions.

Submitters to the Inquiry reported that community awareness and education activities have to date included a broad range of efforts to improve knowledge and understanding of DFV and shift the cultural endorsement of violence towards cultures of equality and respect.⁶⁸⁶ Among the activities cited were various national and local campaigns, White Ribbon Day events, domestic violence marches, breakfasts and sausage sizzles, local sports team campaigns, workplace initiatives, and certain social media marketing operations and events.

These activities were uniformly acknowledged as having encouraged the promotion of a zero-tolerance approach to domestic violence and emphasising notions of community accountability for the problem, as is crucial not only for confronting permissive attitudes and violent behaviours, but also in helping support victims and/or other community members to report offending behaviour.

⁶⁸² [Ibid](#), page 12.

⁶⁸³ Confidential Submission No. 20, page 3.

⁶⁸⁴ A Harvey, C Garcia-Moreno and A Butchart, [Primary prevention of intimate –partner violence and sexual violence: Background paper for WHO expert meeting](#), World Health Organization, 2-3 May 2007, page 22.

⁶⁸⁵ [Ibid](#), page 23.

⁶⁸⁶ VicHealth, [Australians' attitudes to violence against women: Summary Report, Findings from the 2013 National Community Attitudes towards Violence Against Women Survey \(NCAS\)](#), Victorian Health Promotion Foundation, Melbourne, Australia, 2014, page 1.

The Ipswich Women's Centre Against Domestic Violence (IWCADV) argued such an emphasis on shared community responsibility for addressing violence is particularly important as for too long there has been an emphasis on women being responsible for their own safety and that of their children, and a reliance on women managing their partner's exercise of violence; rather than holding the perpetrator fully responsible for his actions:

This underlying community premise is demonstrated every time that we ask 'Why does she stay?' or 'What did she do to provoke him?' rather than asking 'Why does he use violence against his partner and/or children? This attitude also fails to recognise that women are often actively protecting their children within the relationship, intervening in violence or removing their children to safety. Further, many women (correctly) perceive that to leave their violent partner could place children at greater risk, as it could escalate his use of violence towards her or the children; and that this would be compounded should he then have unsupervised contact with the children (frequently Family Court Ordered).⁶⁸⁷

Ms Rosemary O'Malley of the Domestic Violence Prevention Centre Gold Coast particularly encouraged the supporting of the mentors and violence program run in Queensland by Dr Shannon Sprigs from Griffith University:

It is mainly on bystander intervention and it is trying to get the community and neighbours involved in a really safe way. Those types of programs would be very beneficial in terms of crime prevention... It is actually intervening, just disrupting. It is not trying to stop it or have the best possible outcome; it is just disrupting what is going on in that moment. It is a very clever and well-researched program coming out of the United States with Jackson Katz, who is kind of a guru in domestic violence prevention. I would highly recommend that one.⁶⁸⁸

Services and Practitioners for the Elimination and Prevention of Abuse, Queensland (SPEAQ) affirmed this recommendation, suggesting that the program is suitable for a range of settings including high schools and sports clubs, and 'teaches young people not only about the basis of violence, including gender-based violence, but how to effectively respond as a bystander'.⁶⁸⁹

The Committee also notes the recommendation of Ms Angela Short, from the SCOPE Regional Domestic and Family Violence Service, Centacare, that community awareness and education initiatives seek to cultivate a more sophisticated understanding of the many ways in which domestic violence can manifest:

Community understanding of the dynamics of domestic violence – there is a huge need for that and I could not stress that more... Perhaps it is increasing and expanding on these media campaigns to understand what constitutes domestic and family violence and what does not and also the common links between those that are criminal acts, because a lot of acts of domestic violence fall into that criminal area and are not necessarily recognised that way.⁶⁹⁰

⁶⁸⁷ IWCADV, Submission No. 53, page 9.

⁶⁸⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 42.

⁶⁸⁹ SPEAQ, Submission No. 78, page 9.

⁶⁹⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 31.

While men may be more likely to hold violence supportive attitudes on the whole and even more so in particular settings;⁶⁹¹ it has also been identified that women's positive attitudes to male dominance are correlated with increased acceptance and frequency of partner violence.⁶⁹² Accordingly, efforts to educate the population about gender equality and healthy and unhealthy relationships and social interactions must also aim to raise women's educational levels and awareness of their rights.

Primary Prevention in Schools

The Committee received evidence from Inquiry submitters that while DFV primary prevention work in schools has been shown to be valuable, *'across the state, it is piecemeal and inconsistent'*.⁶⁹³

In some northern locations, police have taken a particularly active role in school education initiatives, making presentations and encouraging reporting through targeted campaigns, as befits the high incidence of DFV in these areas. This has helped to complement and reinforce messages delivered by specialist education services in some schools. However, programs are not available universally, nor implemented in any systematic manner State wide. In addition, submitters particularly identified that while effective programs such as the 'SUPA Kids' (Safety, Understanding of Self and Others, Positive and respectful relationships, Angry feelings) and 'Love Bites' education programs are in place at the primary school level, there is no continuity in the delivery of such messages and behavioural workshops through into the critical years of secondary schooling.⁶⁹⁴

With regards to the SUPA Kids program in particular, Ms Rosemary O'Malley of the Domestic Violence Prevention Centre Gold Coast stated:

*We have a program called SUPA Kids which is in three schools here on the Gold Coast and at Eagleby at Beenleigh. It has been operating for 10 years and it works with every child from prep all the way to grade 7. We work with about 8,000 children a year in that program, but there is nothing for them when they go on to high school. There are great results coming out of that program—a reduction in bullying and problematic behaviour, all of those things; it is a wonderful program—but when they get past year 7 and move onto high school and just as they are starting relationships, there is no follow through on that because we simply do not have the resources to be able to deliver that. So that would be something to look at if you are looking at primary prevention.*⁶⁹⁵

In respect of the Love Bites program, Ms Rebecca Shearman of the IWCADV (and the Domestic Violence Court Advocacy Network) testified at the Public Hearing in Ipswich:

...we have been in school communities for three or four years delivering that program. So it had a section in the morning on domestic violence and another section on sexual violence and then a creative activity to sort of consolidate the learning. What those schools found after we had been delivering the program for three or four years is not only has relationship violence reduced, but also bullying generally in those school communities has reduced. I think what that speaks to is the idea that we do need to be having conversations with young people about healthy relationships versus unhealthy relationships and also that idea that bystander intervention is really important. That is

⁶⁹¹ M Flood, [Where Men Stand: Men's roles in ending violence against women](#), White Ribbon prevention Research Series No. 2, Sydney, White Ribbon Foundation, 2010, page 19.

⁶⁹² M Faramarzi, S Esmailzadeh and S Mosavi, 'A comparison of abused and non-abused women's definitions of domestic violence and attitudes to acceptance of male dominance', *European Journal of Obstetrics & Gynaecology and Reproductive Biology*, Vol. 122, No. 2, October 2005, page 225.

⁶⁹³ SPEAQ, Submission No. 78, page 8.

⁶⁹⁴ Ibid, page 9; *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 42.

⁶⁹⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 42.

*one of the other platforms of that program, the idea that the person using violence is unlikely to stop their use of violence in the middle of it. The victim is not in a position to interrupt the violence either, but outsiders or people witnessing it before, during or after, are in a different position. They are in that position to address violence. I think having that conversation at a community level in a consistent and ongoing way about how we do have healthy relationships with each other, how we look after each other instead of hurt each other, is such a critical part of that conversation.*⁶⁹⁶

However, SPEAQ identified of the program's implementation that '...it is a short, one day program. At a minimum, similar programs should be run in all secondary schools, but further, they should operate over a longer period of time.'⁶⁹⁷

This suggestion is in keeping with research findings which emphasise that '*attitude and behaviour change does not result from brief information giving sessions*', but rather require implementation over an '*adequate time period*'; with best prospects for success evident in those programs that incorporate behavioural change skills components in addition to educative exercises.⁶⁹⁸

SPEAQ also particularly singled out emotional self-regulation practices, including breathing and mindfulness based interventions, as '*shown to be effective in assisting children and adults to manage intense emotions and thereby to control their behaviour*.'⁶⁹⁹ The organisation identified that there is great value in teaching these skills at an early age for broad primary prevention of violence in general.

Given the many demands on schools to address a wide range of issues beyond the standard classroom curriculum, the Committee acknowledges the suggestion of SPEAQ that such initiatives be implemented as part of a collaborative approach that sees schools work with local services with DFV expertise to identify and, where necessary, also further develop or adapt existing successful primary prevention programs.⁷⁰⁰ While maintaining that programs should be funded and implemented universally and in a systematic fashion as a baseline requirement, the Committee considers that such local engagement would offer a positive platform for both universal and specialised, targeted interventions.

Other Local Community Prevention

Inquiry participants also noted a range of programs delivered in other local settings that were considered to be successful in encouraging community accountability and zero tolerance attitudes to violence. Such community based approaches have been found to increase the effectiveness of universal campaigns through reinforcement at the local level; and may constitute a particularly helpful complement to broad-based campaigns in areas with higher incidence or levels of risk exposure for DFV.⁷⁰¹ In addition, they serve to engage local leadership and build and develop local resources and resolve to respond swiftly where violence does occur.

⁶⁹⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 20.

⁶⁹⁷ SPEAQ, Submission No. 78, page 9.

⁶⁹⁸ M Carmody, S Evans, C Krogh, G Ovenden, M Heenan and M Flood, [*Framing Best Practice: National standards for the primary prevention of sexual assault through education, National Sexual Assault Prevention Education Project for NASASV*](#), Social Justice and Social Change Research Centre, University of Western Sydney, 2009, page 11.

⁶⁹⁹ SPEAQ, Submission No. 78, page 9.

⁷⁰⁰ *Ibid*, pages 9-10.

⁷⁰¹ K Webster, [*Preventing violence before it occurs: A framework and background paper to guide the primary prevention of violence against women in Victoria*](#), Victorian Health Promotion Foundation, VicHealth and State Government of Victoria, 2008, page 20.

Other cited programs include workplace-based gender equality campaigns, and other initiatives to empower young people to conduct healthy relationships in changing environments (including with respectful use of communications technologies).

Committee Comment

As highlighted earlier in this report primary prevention and early intervention programs are essential in the prevention of crime. The Committee considers that in particular, more emphasis must be given to programs dealing with the prevention of domestic and family violence. The Committee considers that grants-based funding for such targeted programs and projects should be made available in a consistent fashion to bolster the efficacy of the preventative response and target emerging risks and issues.

The Committee notes the Taskforce will be looking at these matters in further detail and accordingly directs its recommendation to it.

Recommendation 24

The Committee recommends the Special Taskforce on Domestic and Family Violence in Queensland develop an agenda to support the ongoing implementation of primary prevention initiatives that engage a range of educative and behavioural skills approaches to reduce risk and increase protective factors at a number of levels, including schools, homes and the community.

9.9 Social Investment for Resilience

In addition to social education, advocacy and community mobilisation to change violence supportive attitudes and cultural norms, it is also increasingly recognised that other support service-based and organisational actions can significantly serve to address other contributing or risk factors for violence.

Many of the factors underlying or contributing to DFV are serious health and social issues in their own right (eg. alcohol and illicit drug use) or are common to other social problems, and governments are increasingly recognising that there are opportunities for preventing violence against women by identifying existing initiatives that address common risk factors and making ‘common cause’ with these programs; or seeking to enhance their violence-prevention focus.⁷⁰²

For example, Victoria’s framework to guide the primary prevention of violence has identified that this can include:

- interventions to support positive early parenting and family functioning (eg. home visitation services, casework support, group programs);
- counselling prior to cohabitation/marriage to support healthy communication and conflict resolution techniques;
- alcohol and drug prevention programs;
- mental health programs for young men, especially including early intervention programs for Post-Traumatic Stress Disorder, depression and personality disorder;

⁷⁰² [Ibid](#), page 18.

- interventions to increase young men’s school retention and achievement and to increase men’s participation in education employment and training; and
- other initiatives which increase supportive community infrastructure and seek to enhance social connections and social cohesion, reducing social isolation and improving access to systems of support and community efficacy.⁷⁰³

In addition to these targeted support and resilience-building primary prevention actions, service agency interactions with clients more broadly also offer invaluable opportunities for the identification and case management of high-risk family or relationship scenarios, providing a platform for secondary preventative action amid signs of precursor behaviours; and longer-term tertiary prevention following violence, to minimise risks of escalation and reoccurrence.

Information from domestic violence death review panels across multiple sites worldwide suggests that the risk of serious injury or death in many instances is largely predictable and that domestic violence homicides in particular are among *‘the most preventable in our community’*; characterised typically by a range of preceding service interactions and demonstrated warning signs that could have triggered invaluable pre-emptive actions.⁷⁰⁴

For example, Australian research confirms women who do not report to police or use specialist domestic violence services do seek help from housing services and a range of health services. In some cases this may include a direct disclosure of abuse, as a health professional may be the only person with whom the victim feels they can have a non-judgemental conversation and seek validation of their concerns.⁷⁰⁵ In many others, however, there may be only a display of certain signs, symptoms or risk indicators; and effective intervention depends crucially on agencies having both the necessary information and the understanding to accurately identify cues and assess risk – including routine screening activities for antenatal, maternal and child health services – and on the capacity to identify appropriate referral or other actions to manage that risk.⁷⁰⁶

The Committee notes the advice of the IWCADV that currently ‘many agencies, and the workers within them, often demonstrate both a lack of awareness of specific risk indicators and how to manage these risks safely’.⁷⁰⁷ The IWCADV submission noted this was evidenced by practices including a failure of generalist agencies to notice, acknowledge or address the most serious risk indicators or make plans with women to address them appropriately – including failures to refer women to appropriate specialist services, or recommending couples counselling instead.⁷⁰⁸ In addition, many women who leave a violent relationship are apparently treated as if they have achieved safety, when evidence indicates that the risk of homicide victimisation is significantly higher post-separation and for up to 18 months afterwards.⁷⁰⁹

These limited understandings and risk assessment capacities are compounded by the fact that individual agencies frequently only have part of the story, and as SPEAQ submitted, *‘it is in information sharing that significant understandings arise, allowing agencies to work proactively together to mitigate risk and create safety for victims’*.⁷¹⁰

⁷⁰³ [Ibid](#), pages 45-47.

⁷⁰⁴ IWCADV, Submission No. 53, page 5.

⁷⁰⁵ L Laing, [Routine screening for Domestic Violence in Health Services](#), Topic Paper, Australian Domestic & Family Violence Clearinghouse, 2003, pages 2-3.

⁷⁰⁶ SPEAQ, Submission No. 78, page 26.

⁷⁰⁷ IWCADV, Submission No. 53, page 5.

⁷⁰⁸ [Ibid](#), page 5.

⁷⁰⁹ [Ibid](#), page 5.

⁷¹⁰ SPEAQ, Submission No. 78, pages 26-27.

Accordingly, a number of submitters emphasised the importance of establishing new avenues for cross-agency referral and information-sharing and developing a common risk assessment tool and protocols among agencies, as part of a broader commitment to delivering integrated, collaborative service responses. For example, Ms Angela Short, from SCOPE Regional Domestic and Family Violence Service, testified that:

*SCOPE sees great opportunities in strengthening communications between service providers. Those providers would be services like our other DV services, refuges, other crisis services, police, health, department of child safety, courts – all of those points that a woman may travel through. The communication that we could see as being strengthened through those services is about communicating high-risk situations with the aim to prevent either injury or homicide... There is an opportunity to strengthen those [relationships] in a way of more case planning or case managing high-risk circumstances... having a common language around safety and risk assessment would probably be something that could be beneficial.*⁷¹¹

Importantly, such inter-service information sharing networks and frameworks should be supported by appropriate informational and privacy safeguards, as the IWCADV has noted that just as crucial risk information is often not shared between agencies, equally, *'the experience of our service as advocates for women is that information about women that is unrelated to risk is shared extensively, and often implies a judgement about the woman, and focuses on her perceived faults, and not the behaviour of the person using violence'*.⁷¹²

The WLS and SPEAQ both noted Victoria and Western Australia have developed a common DFV risk assessment framework which has been implemented across agencies on a state-wide basis and offers an illustrative example for consideration.⁷¹³ The WLS noted the framework comprises six key components to identify and respond to victims of DFV:

1. *a shared understanding of risk and family violence across all service providers;*
2. *a standardised approach to recognising and assessing risk;*
3. *appropriate referral pathways and information sharing;*
4. *risk management strategies that include ongoing assessment and case management;*
5. *consistent data collection and analysis to ensure the system is able to respond to changing priorities; and*
6. *quality assurance strategies and measures that underpin a philosophy of continuous improvement.*⁷¹⁴

Such frameworks should sit within a broader context of coordinated community responses (CCRs) to domestic violence, for just as the complex and interrelated nature of risks means that risk assessments are most effective where underpinned by a common assessment framework and appropriate mechanisms and processes for cross-agency information exchange; integrated system responses which support inter-service collaboration and cooperation in service delivery offer the best opportunities for appropriate client-focused interventions, and for the case management of often complex, high risk matters.⁷¹⁵

⁷¹¹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 29.

⁷¹² IWCADV, Submission No. 53, page 6.

⁷¹³ WLS, Submission No. 60, page 21; SPEAQ, Submission No. 78, page 27.

⁷¹⁴ WLS, Submission No. 60, page 21.

⁷¹⁵ WLS, Submission No. 60, page 20; IWCADV, Submission No. 53, page 7; SPEAQ, Submission No. 78, page 26.

CCRs are based on purposeful partnerships between key stakeholders that are typically justice-based, pitting police, courts and corrective services (especially probation and parole) together with domestic violence specialist services (including women's support and advocacy services and men's behaviour change programs); child protection services; and various other organisations depending on location, relevance and the project or target group in question (eg. welfare or support services, community legal services, drug and alcohol services, mental health or community health services, educational agencies, etc.).⁷¹⁶

Key features of integrated or CCR systems include:

- *a common philosophical approach which prioritises victim safety;*
- *development and ongoing refinement of evidence-based "best practice" policies and protocols for member agencies;*
- *enhanced networking among service providers to reduce fragmentation in the system's response;*
- *monitoring, assessment and tracking built into the system;*
- *operating in a way which sends consistent system messages of: accountability and change to the perpetrator; hope and built support for women and children experiencing the violence; and messages around change and breaking the cycle for the next generation;*
- *ensuring a supportive community infrastructure for women and children who have experienced DFV;*
- *system agencies holding those perpetrating the abuse accountable and deterring the future use of violence through sanctions and rehabilitation opportunities for abusers.*
- *a focus on the safety and well-being of victims - women and children - and minimising the harm that violence against women does to children; and*
- *hold the victim's experience central to all evaluations of the system's response.*⁷¹⁷

CCR frameworks and responses mean that risk and accountability can be shared between members along with shared workload, thereby streamlining client responses and reducing fragmentation or overlaps, and providing opportunities for new and creative proactive work, '*sometimes in cost-neutral or very cost-effective ways*'.⁷¹⁸ Importantly, the coordinated response efforts can operate at multiple levels, including:

- *higher level strategic engagement of managers and decision makers to modify policies and organisational structures, ensure agencies are philosophically aligned and make service agreements, and identify emerging issues and concordant joint service ventures;*
- *close liaison between team leaders and senior workers, including shared risk assessment activities and prioritisation of each others' clients, case conferencing on offender dangerousness and improvement of internal processes; and*

⁷¹⁶ IWCADV, Submission No. 53, page 7.

⁷¹⁷ SPEAQ, Submission No. 78, page 26.

⁷¹⁸ IWCADV, Submission No. 53, page 8.

- *on the ground service coordination, with reliance on shared risk information, prioritisation of each others' clients and sharing of resources to ensure smooth transition for clients from one service to another where referrals are necessary.*⁷¹⁹

Such integrated risk assessment and service frameworks can also support differentiated multi-level responses, including resource intensive high risk responses for identified high risk situations; and less intensive responses as per requirements in other cases.⁷²⁰ The WLS identified that a number of U.S. jurisdictions have formalised these high risk response mechanisms through the establishment of dedicated multidisciplinary high risk teams or units, which have been particularly successful in pooling knowledge, information and resources to support and strategize to avoid lethality in high risk DFV cases, leading to significant reductions in homicides in the service area.⁷²¹ Such case management models can, for example, ensure that when ouster conditions or 'no contact' conditions are imposed, practical arrangements are in place to facilitate the offender's move to another location, and/or safe, supervised changeovers within the context of contact with children; reducing the possibility of further harm and breaches of DVOs.⁷²² As SPEAQ noted:

*Given that separation can be a time of greatly increased risk for a significant group of respondents, close supervision and support for the respondent provides a way of assessing and managing this risk. A case management model involving regular contact and assistance with the provision of practical options, allows for monitoring of the respondent's risk of further violence and level of engagement in the change process, and initiating the appropriate safety responses as needed.*⁷²³

The WLS also highlighted the Victorian Government recently committed to adopting some of these strategies for high risk management; and recommended Queensland consider taking similar steps '*in light of there being 22 deaths so far in Queensland as a result of domestic violence*'.⁷²⁴

In a similar vein, Ms Diane Turner submitted:

It would be a step in the right direction if there could be a one stop shop. All services could be available under one roof, a crisis centre available in every region of Queensland.

*Nothing is more debilitating than having to go from place to place when in the middle of a major trauma and with little financial means... It is imperative to have services at hand and supports available to help women navigate these issues. Such crisis centres could have programs to help rebuild their lives by regaining their sense of self, their confidence and courses to get them back into the workforce in a safe environment.*⁷²⁵

The Committee also acknowledges previous findings of the Aboriginal and Torres Strait Islander's Women's Task Force on Violence in this regard:

Because of the multiplicity of service agencies, the Task Force identified a strong need for a single access point for women who have suffered or are suffering family violence. Governments could ensure better service delivery by establishing a multi-agency services centre to allow people affected by family violence to utilise other services they or their

⁷¹⁹ Ibid, page 8.

⁷²⁰ SPEAQ, Submission No. 78, page 27.

⁷²¹ WLS, Submission No. 60, page 20.

⁷²² SPEAQ, Submission No. 78, pages 23-24.

⁷²³ Ibid, pages 23-24.

⁷²⁴ WLS, Submission No. 60, page 21.

⁷²⁵ Diane Turner, Submission No. 20, page 2.

*family need. Such a move would enhance coordination of services and facilitate case management.*⁷²⁶

Integrated or coordinated service frameworks also provide increased avenues for training and information to assist non-specialist services to become more competent in their responses. For example, this might include information for Child Protection and Family Court staff and Magistrates around available services, key issues and best practice approaches for working at the interface of child protection, family law and DFV.⁷²⁷ The IWCADV has recommended that some specific frontline service roles should be supported to complete the 'Course in Responding to Domestic and Family Violence' (30949QLD) and attend regular domestic training provided by specialist DFV services, 'in order to maintain professional currency and relationships with the broader service sector'.⁷²⁸ Such training and broad recognition and understanding of DFV issues could help address some of the situations identified in the QIFVLS submission, including the experience of Client A, who was 'medically evacuated out of her community after being the victim of a domestic assault':

*As a result of being evacuated and hospitalised, Client A could not make her Centrelink appointment and her payments were cut off. The midwife that treated Client A provided her with a medical certificate but because it was not in the 'correct form' Centrelink would not accept it and discontinued her payments until a medical certificate in the correct form was provided.*⁷²⁹

The WLS noted that in Queensland there are a number of DFV networks and integrated response mechanisms including the Brisbane Integrated Response to Domestic Violence, Domestic Violence Court Assistance Network, Gold Coast Domestic Violence Integrated Response (GCDVIR), Domestic Violence Assistance and Support Service;⁷³⁰ and Caboolture's project PRADO (Partnership Response at Domestic Violence Occurrences) Project, which sees a domestic violence specialist worker from the Caboolture Domestic Violence Service located part-time at the Caboolture police station.⁷³¹

However, while these networks and services provide valuable opportunities to share information amongst stakeholders and case-manage high risk matters, the WLS identified 'many of these networks have limited or no funding'.⁷³² SPEAQ similarly noted in its submission:

The co-ordination of a well-functioning Integrated Response is a significant role that requires funding if the response is to progress beyond the level of an interagency group to a proactive collaborative effort that can respond effectively to minimise harm. The success of the Gold Coast Integrated Response, in terms of risk management and prioritisation of victim safety, has only been possible due to the funded Integrated Response manager role that is central to its operation.

*No other regional co-ordinated community response to DFV has such a funded position.*⁷³³

⁷²⁶ Queensland Department of Aboriginal and Torres Strait Islander Policy and Development, *The Aboriginal and Torres Strait Islander Women's Task Force on Violence Report*, The State of Queensland, Brisbane, 1999, page 114.

⁷²⁷ SPEAQ, Submission No. 78, page 27.

⁷²⁸ IWCADV, Submission No. 53, page 4.

⁷²⁹ QIFVLS, Submission No. 19, page 12.

⁷³⁰ WLS, Submission No. 60, page 20.

⁷³¹ WLS, Submission No. 60, page 20; Queensland Corrective Services, [Caboolture Probation and Parole recognised for its key contribution to domestic violence response partnership](#), *Corrections NEWS*, December 2010.

⁷³² WLS, Submission No. 60, page 20.

⁷³³ SPEAQ, Submission No. 78, page 27.

The Committee also acknowledges the observations of QPS Acting Assistant Commissioner (Northern Region) Paul Taylor that while opportunities to identify need and link people with support services can play an essential role in pre-empting or interrupting abuse cycles:

*...support is only as good as where it is able to be delivered. I think it is fair to say that the further you move away from Brisbane and certainly the major centres then those support services get less and less and, more importantly, less specific.*⁷³⁴

Notably, at a Brisbane public hearing for the Federal Senate Public Administration and Finance Committee's inquiry into domestic violence on 6 November 2014, DV Connect CEO, Ms Di Mangan revealed that the State's domestic violence hotline is increasingly being overwhelmed by calls, and calls of an increasingly serious nature at that; to the extent that she had recently been forced to tell workers that they may have to leave some calls unanswered:

Most of them are serious to the point now where you think if someone doesn't have fractures or serious injuries we're actually starting to see them as not so serious... We're beyond capacity in Queensland... I just had to send an email to the workers yesterday for the first time (saying) 'and I hate to have to say this to you as a work group but you have to leave calls'... I've been watching this trend going up over the year'.⁷³⁵

A number of other jurisdictions have established long-running CCR systems that are underpinned by a whole-of-system strategy and best practices for more consistent and better integrated delivery – including Tasmania's Safe at Home policy and systems, and the ACT's Family Violence Intervention Program (FVIP).

The Committee notes there is a clear need for similar coherence and commitment to identified best practice standards across Queensland's CCR efforts, including improved strategic coordination and consistency, stronger partnerships and communications, and greater DFV education and specialist training. Accordingly, the Committee makes the following recommendation.

Recommendation 25

The Committee recommends the priority development and funding of coordinated community responses to domestic and family violence at a local level within each region, including:

- o enhanced pathways and processes for information sharing, referrals, and service coordination;
- o the development and implementation of a shared risk assessment tool and best practice guidelines, in consultation with key domestic and family violence stakeholders;
- o the development of clear standards, requirements and protocols for information sharing subject to confidentiality, duty of care and risk reduction principles;
- o utilisation of high-risk assessment teams and mechanisms for case management approaches to high risk cases; and
- o the prioritisation of networking and professional development, including regular training for specific frontline roles, to support improved understanding and expanded capacity and domestic and family violence service performance across the criminal justice and community safety service sectors.

⁷³⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, Mount Isa, LACSC, 11 August 2014, page 11

⁷³⁵ [Putting a woman in a headlock sometimes justified, Cory Bernardi tells domestic violence inquiry](#), *The Courier Mail*, 7 November 2014.

9.10 Policing Domestic and Family Violence

Police work at the coalface of DFV incidents, and are in a unique position to not only obtain and provide information about DFV; but to have an impact on such violence through their response, intervention and prevention strategies.⁷³⁶ As submitted by the WLS:

*It is well recognised that initial positive police response is not only vital to victim safety, but to also whether victims report further victimisation or seek engagement with the legal system more generally.*⁷³⁷

For many women, involvement with the QPS will constitute their first interaction around seeking safety and support as a victim of domestic violence.⁷³⁸ Timely, effective and appropriate responses are crucial to ensuring that victims receive the care and support they need while minimising further harm and encouraging a willingness to cooperate and report with police.⁷³⁹ In addition, ensuring offenders are dealt with in a swift and suitable manner also stands to minimise their capacity to further reoffend and to deliver a clear message that such behaviour will not be tolerated, and police will intervene in any reoccurrence.⁷⁴⁰

Since domestic violence legislation was introduced in Queensland in 1989, the number of domestic violence matters which are dealt with by police and courts has substantially increased. In 2003, the categories of relationship were broadened to include family, intimate personal and informal care relationships (including caring for elders), as well as traditional spousal-type relationships.⁷⁴¹ New domestic violence legislation was subsequently enacted in 2012 by way of the *Domestic and Family Violence Protection Act 2012*, which broadened the definition of domestic violence to better recognise types of psychological and non-physical abuse, as well as expanding police powers and options, and lowering the test for establishing a protection order.⁷⁴²

While DFV is certainly more prevalent in some regions of the State than others, the consistent message received by the Committee in both submissions and in public hearings across the State is that domestic violence is not only on the increase state-wide, but now constitutes a major proportion of the QPS workload.⁷⁴³

The 2013 PACSR identified that the impost of domestic violence on the demand for services from the QPS is substantial and multifaceted, invariably involving a significant number of different actions, procedures, and administrative requirements.⁷⁴⁴ In any one case, the police interaction is thus likely to be complex, as the Australian and New South Wales Law Reform Commissions (ANSWLRC) have noted in their report *Family Violence – A National Legal Response*:

Police play a key role in responding to family violence. They may attend a scene of family violence and may issue or apply for a protection order for the victim; they may need to decide whether someone needs protection even though the person declines it; they may find two persons who both seem angry, injured, fearful and distraught and have to decide whether one was the aggressor and the other needs protection; and... police may discover potential criminal behaviour and have to decide whether to prosecute. In

⁷³⁶ K Rollings and N Taylor, '[Measuring police performance in domestic and family violence](#)', *Trends & issues in crime and criminal justice*, No. 367, December 2008, AIC, Australian Government, page 1.

⁷³⁷ WLS, Submission No. 60, page 9.

⁷³⁸ BDVS, Submission No. 56, page 1.

⁷³⁹ Rollings and Taylor, '[Measuring police performance in domestic and family violence](#)', 2008, page 1.

⁷⁴⁰ *Ibid*, page 1.

⁷⁴¹ CMC, '[Policing domestic violence in Queensland: Meeting the Challenges, Queensland](#)', 2005, page ix.

⁷⁴² Department of Communities, '[Key features of the Domestic and Family Violence Protection Act 2012](#)', Fact sheet, October 2012, Queensland Government, accessed 1 October 2014.

⁷⁴³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 18.

⁷⁴⁴ MJ Keelty, '[Sustaining the unsustainable: Police and Community Safety Review, final report](#)', August 2013, page 249.

*responding to family violence and in obtaining civil protection orders, police may use powers and procedures mainly designed to enforce criminal laws—powers of entry, search, seizure, arrest, direction and detention.*⁷⁴⁵

During the Inquiry's public hearings, QPS representatives on a number of occasions elaborated further on the complicated nature of DFV responses and their considerable time requirements. For example, the Committee heard from Superintendent Ron Van Saane in Rockhampton:

*Each job could take... about four hours per job. That is for a basic job. Two officers on that means eight hours in operational duties. They are not lost – I mean, they are doing a community job – but it is a long, drawn-out process for domestic violence. Everything has to be served and typed up and printed out and read at the time. We cannot leave it until later, and I do not want to leave it till later. What I am saying is that if you get two people fighting on the street arrested in the watch-house, let them cool down and the offender is either diverted away or given a notice to appear. With domestic violence, it is a whole different process; it is a lot more consultative. Even with the perpetrator, we have to ensure they are not at that place for the next 24, 48 or 72 hours. So that crew is off the road for those four hours. More often than not, there are children who cannot stay in the house. The kids do not want to stay at home: 'We're going.' We cannot make a call to a particular service and say 'we've got a DV. Can someone sort out some housing for everyone because we are busy?' We have it. If we get two of those per night, that is one shift gone for the vehicle. The rest of the world does not stop committing offences because these people are tied up with DV.*⁷⁴⁶

On the ground policing is also supplemented and guided by the QPS Domestic and Family Violence Unit, which aims to 'engender continuous improvement and strong leadership to develop, implement and coordinate a service-wide cohesive, informed and quality policing response to domestic violence'.⁷⁴⁷ Specialist domestic violence coordinator and liaison officers work to deliver education and training to operational police; engage in problem solving with other government and non-government agencies; and where possible, formulate and implement reactive, proactive and preventative strategies and provide advice to community members.⁷⁴⁸

In addition, officers are encouraged to work with community groups and agencies to develop programs to reduce the incidence of DFV, and to use referral mechanisms to help link families with support services to address vulnerabilities and underlying risks. As Queensland's 2005 CMC review of domestic violence policing confirmed, '*many officers believe that the complex social and health issues involved in domestic violence mean that police can only be effective in conjunction with assistance from other community agencies*'.⁷⁴⁹

Domestic and Family Violence Reporting Processes

A consistent theme in various reviews of policing and DFV in particular has been a need to simplify 'convoluted' and time-consuming administrative processes to support more timely and efficient – but no less comprehensive – responses to DFV. A 2005 CMC report, for example, notably identified that '*frustrating*' and '*excessive administrative requirements*' not only pose a specific barrier to police's delivery of effective responses, but also '*tend to make them less willing to take action*'.⁷⁵⁰

⁷⁴⁵ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 367.

⁷⁴⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Rockhampton, 14 August 2014, page 6.

⁷⁴⁷ QPS, *Queensland Police Service response to domestic violence*, webpage last updated 25 August 2014.

⁷⁴⁸ Ibid.

⁷⁴⁹ CMC, *Report Summary: Policing domestic violence in Queensland: Meeting the challenges*, March 2005, page 2.

⁷⁵⁰ Ibid, page 2.

While legislative amendments have apparently increased opportunities for addressing incidents and sharpened the police response,⁷⁵¹ and the current Queensland Government is apparently also working on new proposals to further streamline the DFV processes and procedures;⁷⁵² testimonies provided to this Committee suggest that there is still room for valuable improvements to QPS DFV systems and processes. Acting Assistant Commissioner Paul Taylor stated:

One of the things that is frustrating from a police perspective – I do not know if you have heard this in any of the other locations – is police responding to domestic violence. It is an extremely convoluted process that we go through. You can be a 19-year-old police officer, carry a weapon and make a choice as to whether you need to use lethal force and you can actually arrest someone for murder, but you have a very lengthy process to prosecute people with regard to domestic violence... It is a system that I am sure, with a little effort, could be simplified, with the balance being on the side of preventing domestic violence from occurring.⁷⁵³

Acting Assistant Commissioner Taylor went on to state:

I think the aim of the activity should be to segregate the perpetrator and bring the perpetrator as soon as practicable before the court to assess, on the balance of information available, what orders, if any, or what action, if any, needs to be taken there. So whether you spend half an hour to instigate that process or four hours, for me I do not see what the big gain is with the convoluted process we are going through at the moment. Quite frankly, police get extremely frustrated with it. Whilst we have that very rigorous oversight to make sure they are doing the right thing, these are resources that could be utilised to prevent further incidents, whether they be property or personal safety matters, from occurring. It has been talked about ever since domestic violence was acted upon in the way that it has been, but nothing has actually eventuated.⁷⁵⁴

A 2010 study of survivors' interactions with the Queensland justice system revealed similar perceptions of system inefficiency and outdated recording methods among aggrieved parties:

I've spoken [for] those little notebooks I don't know how many times. When you are stressed and everything like that, you can't say it in a story form, or... slow enough or detailed enough, and your mind's racing, whereas you can do it on tape and you can make [fathom] out of it later, or something, you know. (IV 10, 11)

I've got an iPhone, you plug it into the computer and it just sucks it all onto the computer instantly... So then it's all there. But no, it has to be typed in, and it has to be typed in the way that [officer] W writes. So when he writes U and it's just the letter U, it's the U. So it's very time-consuming, it's ridiculous. (IV 10, 36)

...there's so much paperwork, because it's so archaic. And who can blame the coppers for having to do it so archaically. (IV 10, 48)⁷⁵⁵

The Keelty Review team similarly identified:

The Review team takes the view that if data recording and processing was made easier for frontline police, then a proactive role in this area could be more effective. As with other crime types, the key opportunity to streamline processes without detracting from

⁷⁵¹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 32.

⁷⁵² MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 249.

⁷⁵³ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Mount Isa, 11 August 2014, page 16.

⁷⁵⁴ Ibid, page 17.

⁷⁵⁵ H Douglas and T Stark, [Stories from Survivors: Domestic Violence and Criminal Justice Interventions](#), T.C. Beirne School of Law, University of Queensland, 2010, page 61

*the outcomes (eg. safety of domestic violence victims) lies in the implementation of better information and systems. Maintaining an understanding of the size of the problem is important...*⁷⁵⁶

Effective Interventions

Submitters also widely acknowledged their appreciation of the considerable demands DFV places on QPS services and the complicated and high-expertise nature of the DFV response challenge. Submitters almost uniformly sought to highlight their respect for QPS officers' commitment and hard work in addressing the problem.⁷⁵⁷ However, they also raised a significant number of concerns regarding the nature of interactions with parties to DFV and the degree of procedural consistency and follow-through across the service.

For example, at the Inquiry's public hearing in Ipswich, Ms Rebecca Shearman submitted:

*...I do not think many people join the police force thinking that they are going to be dealing with DV offenders as core business, because it is really what it has become. We have some excellent responses, but unfortunately we also have poor responses from police as well.*⁷⁵⁸

The IWCADV similarly noted:

*In many cases, police do solid, and sometimes exceptional work in responding in a timely fashion, performing basic risk assessments in a volatile situation with many pressures on their time, making referrals via Supportlink, and in ensuring that DVOs are applied for or that criminal charges are sought. However, client issues with service responses from the QPS continue to be raised with our services (and those like us) and are of concern to the IWCADV. They are concerning because of the individual experiences that women have, and how poor policing impacts of on their current safety and their future willingness to report abuse again. They are also concerning because they speak to broader structural issues, such as a lack of consistency in the administration of the legislation and the understanding of individual officers' roles, and to a lack of recognition of the critical role that police have in working with the community to ensure offender accountability.*⁷⁵⁹

The BDVS also provided the following selection of testimonies from a range of victims that are representative of some of the key complaints and concerns voiced to them:

- *I called the Police a number of times and they would attend but leave without taking any action. Each time this happened, it handed more power to him.*
- *The police put responsibility on me to be safe, they told me that I should leave the house for the night to let him calm down.*
- *I have had to go to hospital twice as it is the only place while I am pregnant that I feel safe going as they won't take my partner away when he harasses me.*
- *I was told that unless it is physical, they (police) cannot do anything.*
- *The best response I had from Police was when he threatened the police.*

⁷⁵⁶ MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 248.

⁷⁵⁷ See: *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 18; *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 40.

⁷⁵⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 18.

⁷⁵⁹ IWCADV, Submission No. 53, page 12.

- *There is no continuity amongst Police. It depends on who you get, some can be great and some aren't. They should all be the same, you should get a good response no matter who you get and what station you go to.*
- *I felt I had to know my rights to get a good response.*
- *I felt very judged when I had protected myself (sometimes physically).*
- *The onus is on the victim to prove it happened instead of the perpetrator proving it didn't.*⁷⁶⁰

The Committee acknowledges the complexities of domestic violence, together with various environmental and situational considerations, mean that it is important that responses are tailored to the particular circumstances and identified needs of those involved in any individual case. However, it is clear that procedural consistency and service standards across the core elements of DFV policing are essential for instilling and maintaining confidence in the police response, and for communicating and cultivating appropriate expectations of behaviour and outcomes among victims and perpetrators.

Where responses have been identified as particularly lacking, submitters have testified the actions of officers involved are often characterised by a lack of sensitivity and underlying failure to appreciate the complex dynamics and implications of domestic violence incidents, leading to inappropriate or insufficient action on this serious matter.

As one victim of domestic violence reported in a confidential submission to the Inquiry:

I have found the attitudes of the QPS have, on the most part, been disrespectful and disinterested toward me as a victim of domestic violence. I do not believe I have been treated with dignity, nor have I been treated with empathy or with common decent manners. On two separate occasions QPS officers have informed me that they do not like to deal with domestic violence cases, as the woman often ends up dropping the charges and therefore it becomes a waste of their time... I perceived the attitude of the officer to be one of indifference. Making a broad generalisation, he stated that police couldn't be expected to 'fix the problems' that women have had in their relationships. He stated that he personally wouldn't arrest a perpetrator unless he had 'more evidence' of domestic violence (my injuries consisted of black eyes and bruising to the arms).

*The officer informed me that the outcome of the case would largely depend on 'how the magistrate was feeling on the day'. I left the meeting feeling disheartened and wondering whether to drop the charges against the perpetrator in order to save myself the stress and frustration associated with continuing the process.*⁷⁶¹

The Committee acknowledges police and other legal and primary care service practitioners do not exist in isolation, but invariably reflect the beliefs of many people throughout Australia; and that legislative and other educational and service strategies have gone some way towards addressing service attitudes of minimising or trivialising domestic violence incidents.⁷⁶²

Research has identified that those individuals with specialist training are more likely to understand the dynamics of family violence and its consequences for victims' self-esteem and to take a more active interventionist role.⁷⁶³ In contrast, younger people in earlier career phases have been found to

⁷⁶⁰ BDVS, Submission No. 56, page 2.

⁷⁶¹ Confidential Submission No. 25.

⁷⁶² P Easteal, '[Violence Against Women in the Home: How Far Have We Come? How Far to Go?](#)', *Family Matters*, Australian Institute of Family Studies, No. 37, April 1994, pages 86-93 (viewed online).

⁷⁶³ *Ibid* pages 86-93.

manifest more depersonalisation towards domestic violence victims, which typify their more negative, detached feelings about recipients of police service in general.⁷⁶⁴ Evidence suggests there is also a tendency for more negative, traditional or cynical attitudes to be more prevalent amongst older, longer serving police.⁷⁶⁵

Submitters have accordingly identified a need for further training and use of specialist officers, among other canvassed measures, to address a range of various shortcomings in the DFV policing response.

Investigations and Evidence Gathering

A number of submissions raised concerns that police fail to thoroughly investigate incidents and gather evidence to appropriately document abuse. The IWCADV identified this includes matters such as not taking photos or interviewing all witnesses and speaking to the alleged respondent but not the aggrieved, or not separating the parties to interview.⁷⁶⁶

A confidential submission to the Inquiry from a victim of domestic violence provided a more detailed example of such information-gathering shortfalls:

The witness to the incident contacted police later that week and asked to make a statement. She was told that someone would call her back, a task that, much to my frustration, was never actioned... The officer informed me he was going on holidays for five weeks and therefore would not be in touch. When I asked for a contact person he could not give me one. He informed me he had not yet contacted my witness and would not be doing so before he began leave. He commented that he would 'get someone else to do it'. No one did...

On the 1st July, nearly 4 weeks after the incident, I contacted my main witness who stated that she had still not been contacted by the QPS to give a statement. She herself contacted QPS the next day, insistent that her statement be taken. She was asked to email it. The police officer, in reference to myself stated to the witness that 'he didn't know why she is so stressed'. On being informed of his remark, I felt frustrated and belittled, as if I was not being taken seriously...

Nearly six weeks after the assault, the QPS have not yet attempted to contact other potential witnesses to the incident. I feel as if the 'trail will be going cold', with people inclined to forget details of what happened, or become increasingly reluctant to get involved.⁷⁶⁷

The WLS submitted that prosecution of offences related to DFV requires meticulous evidence gathering, often over a period of time to establish patterns of behaviour and before evidence is destroyed. It was submitted that police usually take a statement only and do not take further appropriate action. The WLS considered it was important for police to collate additional physical evidence in the form of photographs of injuries and scenes, damage to property, weapons, etc.⁷⁶⁸

This largely echoes the findings of the 2005 CMC report into policing domestic violence. That report noted:

...recent research conducted in Queensland found that... while witnesses were available in 40 percent of instances, statements were often not taken...

⁷⁶⁴ DA Alcorn, '[Police Burnout and Attitudes to Women and Domestic Violence](#)', AIC, 1999, pages 21-22.

⁷⁶⁵ DA Alcorn, '[Police Burnout and Attitudes to Women and Domestic Violence](#)', AIC, 1999, page 20.

⁷⁶⁶ IWCADV, Submission No. 53, page 12.

⁷⁶⁷ Confidential Submission No. 25.

⁷⁶⁸ WLS, Submission No. 60, page 16.

*There is strong evidence that officers' decisions to arrest and/or charge offenders are influenced by their reliance on victims' testimony as their primary (if not only) source of evidence. In placing the victim central to their decisions, officers are often failing to conduct thorough investigations in which other evidence is collected and substantiated. Evidence such as photographs of injury or property damage, statements from neighbours or other family members, medical reports and records of utterances by the offender at the scene **can and should be collected**. [emphasis added]*

An emphasis on investigating and collecting evidence with a view to charging offenders does not suggest that officers should ignore the wishes of victims. Rather, it is about ensuring that operational police undertake a comprehensive investigation; they will then have sufficient information to make better decisions, in cooperation with victims, about whether offenders should be charged and prosecuted for their actions.⁷⁶⁹

The Committee notes that a number of other Australian jurisdictions – including the Australian Capital Territory (ACT), Tasmania and Victoria – appear to have developed a more effective focus on systematic evidence-gathering in DFV investigations, as enshrined in various guidelines and codes of practice, and as would be expected with regards to any other crime. Under the ACT's FVIP, this also extends to an investment in training police in evidence collection methods particular to family violence, and equipping them with Family Violence Investigation Kits;⁷⁷⁰ and in NSW similarly '*all local area commands are equipped with domestic violence evidence kits to assist with evidence collection, the investigation process and the prosecution of domestic violence matters*'.⁷⁷¹ These and other measures were previously canvassed as options to strengthen police practice in the consultation paper for Queensland's 2009-2012 strategy to target DFV.⁷⁷²

However, it is clear that there has been little action in this regard in recent years,⁷⁷³ despite the critical importance of the investigation and evidence gathering process as the basis for informed decision making and appropriate and effective action and prosecution; and in communicating to victims and offenders alike that the perpetration of DFV is unacceptable and will not be tolerated.

Unfortunately, the Committee considers that this service shortfall is largely symptomatic of a broader cultural tendency by the QPS to treat DFV as less serious than other crimes, and a concordant failure to instil and enforce standards of investigation and evidence collection that in other criminal circumstances would be upheld as a matter-of-course. It is unacceptable that an inferior standard of investigation and evidence gathering might be allowed to persist for what is one of our most pervasive and impactful criminal activities.

⁷⁶⁹ CMC, [Policing Domestic violence in Queensland: Meeting the challenges](#), Queensland, March 2005, pages 78-79.

⁷⁷⁰ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 1353.

⁷⁷¹ Council of Australian Governments, [National plan to reduce violence against women and their children 2010-2022](#), May 2011, page 36.

⁷⁷² Department of Communities, [A Queensland Government strategy to target domestic and family violence 2009-13: Consultation Paper](#), Queensland Government, October 2008, page 21.

⁷⁷³ The Committee notes that the Queensland Government's submission to the ANSWLRC's 2010 Inquiry noted that 'requiring police to utilise evidence kits, take photographs and video recordings and obtain statements from independent witnesses would increase the time and cost associated with attending domestic violence incidents', and would need to be measured against other response priorities. (see: Queensland Government, cited in ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 409).

Domestic Violence Protection Order Applications

The Committee was also informed of concerns that insufficient investigations and a general under-appreciation of threats and situational hazards (including a failure to place incidents within the context of behavioural patterns) may be leading to a failure of police to make DVO applications for affected women; or to the inappropriate referral of some women to make private applications in the face of clear evidence and apparent risk. In particular, the WLS reported in their submission:

Often women describe situations where attendance by police has left them feeling more unsafe, and where the offender feels more justified in using violence... [including when police expect] women to take out their own application for a DVO, even after attending an incident because 'there is no evidence' (none has been collected).⁷⁷⁴

Testimony received during the Inquiry's public hearings suggested there is currently considerable variance in the extent to which police take an active role in the application process across the State. For example, in Mount Isa in 2013-14, approximately 93% of DVO applications were taken out by police as opposed to only 7% taken out as private applications, with Acting Assistant Commissioner Taylor identifying a 'constant improvement in the number of applications made by police' and a 'very high success rate', which 'is an indicator to me that people are confident going to the police as opposed to going it alone and not involving the police in the reporting of that matter'.⁷⁷⁵ In contrast, in Ipswich just 55% of applications were taken out by police and 45% privately;⁷⁷⁶ while in Townsville, approximately 67% of DVOs were taken out by police.⁷⁷⁷ The 2013 PACSR report identified that 'currently the Queensland Police Service completes 65 percent of the total domestic violence applications for protection orders'.⁷⁷⁸

This considerable variation in police proactivity in applying for protection orders merits further consideration.⁷⁷⁹ The IWCADV has suggested that 'higher rates of police applications for DVOs, in conjunction with a greater commitment to investigations' could serve to increase accountability within the current system, and reinforce the idea that 'the only person responsible for the choice to use violence in the relationship is the offender'.⁷⁸⁰

At the same time, the Committee notes that where police have lodged applications themselves, some service providers have also identified failures in 'not adding extra conditions to DVO applications, even where a clear need for further protection exists, or not acting adequately to enforce standard orders'.⁷⁸¹

For example, the WLS has noted that 'in our experience, women who have police initiated protection orders often only have the standard conditions' which require merely that the perpetrator 'be of good behaviour and not commit domestic violence' – a specification that is sufficiently vague that

⁷⁷⁴ WLS, Submission No. 60, page 16.

⁷⁷⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, page 7.

⁷⁷⁶ QPS Assistant Commissioner Tony Wright (Southern Region) reported that there had been 771 order applications made by police and 635 made privately in 2013-15. (*Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 4.)

⁷⁷⁷ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 3.

⁷⁷⁸ MJ Keelty, [Sustaining the unsustainable: Police and Community Safety Review, final report](#), August 2013, page 249.

⁷⁷⁹ The ANSWLRC report and other reviews have identified that some stakeholders have concluded that police applications do make victims safer at least in the short term or particularly dangerous situations; though others have equally identified that they could disempower victims by robbing them of their autonomy, among other concerns (See: ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 358.)

⁷⁸⁰ IWCADV, Submission No. 53, page 10.

⁷⁸¹ WLS, Submission No. 60, page 13.

perpetrators may try out a range of potentially dubious behaviours.⁷⁸² At the public hearing in Toowoomba, court support worker Tamara also identified:

*...insufficient consultation with the aggrieved party around the inclusion of additional conditions on protection orders, as appropriate to the level of risk, can result in victims having to re-attend court and make their own application for further conditions. This, in turn, can result in emotional and financial stress.*⁷⁸³

Studies have suggested the failure to incorporate additional conditions to best address victim safety risks is particularly acute for Indigenous victims. A 2009 review highlighted that only 30% of Indigenous cases in Queensland have additional conditions imposed, and 67% of non-Indigenous orders.⁷⁸⁴ A 2013 content analysis of victim safety provisions in domestic violence protection order legislation across the Australian states and territories also recently scored Queensland the lowest by far of any jurisdiction in terms of 'order options'.⁷⁸⁵ As the authors of another recent, 2013 study have emphasised:

*Conditions of orders can be tailored to the needs of the individual parties. Victims of DV can maintain their autonomy by helping to design the most appropriate conditions for their circumstances. As a result, conditions can be made flexible enough to allow the aggrieved to continue to live with the respondent. At the same time, breach of a DVPO condition can lead to criminal prosecution and some suggest that this mechanism discourages further violence.*⁷⁸⁶

The WLS has accordingly recommended 'the QPS explicitly consider extra conditions when applying for DVOs on behalf of victims which take into account [the] content and context of the violence'.⁷⁸⁷ In addition, the Committee notes the ANSWLRC report's recommendation that state and territory governments ensure support services are in place to assist persons in need of protection to apply for a DVO without involving police, including services specifically for Indigenous persons and persons from CALD backgrounds.⁷⁸⁸

Cross Applications

Diminished investigatory responses reported among law enforcement officers with a lack of experience and/or attitudinal detachment and burnout include cited research evidence 'that in policing domestic violence, police do not make clear-cut distinctions between perpetrators and victims, as reflected in the problem of high arrest rates of domestic violence victims'.⁷⁸⁹ At the public hearing in Toowoomba, court support worker Tamara confirmed that action against victims is one of the more common concerns raised within the Queensland service setting:

A significant issue that also currently exists is in relation to the issuing of cross domestic violence orders. The Domestic and Family Violence Protection Act directs that in circumstances in which there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing acts of violence, including

⁷⁸² Ibid, page 17.

⁷⁸³ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Toowoomba, 31 July 2014, page 21.

⁷⁸⁴ C Cunneen, [Alternative and Improved Response to Domestic and Family Violence in Queensland Indigenous Communities](#), Queensland Government, Department of Communities, 2010, page 86.

⁷⁸⁵ S Jeffries, CEW Bond, and R Field, 'Australian domestic violence protection order legislation: a comparative quantitative content analysis of victim safety provisions', *Current Issues in Criminal Justice*, Vol. 25, No. 2, page 638.

⁷⁸⁶ H Douglas and R Fitzgerald, [Legal Processes and Gendered Violence: Cross-Applications for Domestic Violence Protection Orders](#), *UNSW Law Journal*, Vol. 36, No. 1, 2013, page 60.

⁷⁸⁷ WLS, Submission No. 60, page 17.

⁷⁸⁸ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 21.

⁷⁸⁹ Saunders, cited in DA Alcorn, [Police Burnout and Attitudes to Women and Domestic Violence](#), AIC, 1999, page 23.

for their self-protection, the person who is most in need of protection should be identified. We consistently support clients who experience further trauma and hardship as a result of [cross] protection order applications lodged after the police or the individual takes action to request protection from violence.

...insufficient investigations that fail to identify the primary aggressor and ultimately lead to inappropriate applications for cross-domestic violence orders... result in further victimisation of the aggrieved party. A lack of appropriate ongoing training, particularly in relation to police officers at operational levels higher than first-year constables, contributes to a lack of understanding of the dynamics of domestic and family violence...⁷⁹⁰

At a 6 November 2014 Brisbane public hearing for a Federal Senate Committee inquiry into domestic violence in Australia, Ms Barbara Crossing from Women's House Shelta also particularly cited the example of a man having a protection order taken out against his partner using evidence she bit him under the arm – an injury that could only have been caused by the man having the woman in a headlock.⁷⁹¹

A number of recent reports have also identified that the volume of cross applications (made by both private parties and police) has been steadily increasing in recent years,⁷⁹² with the potential misuse of these applications and their consequences also documented in the ANSWLRC's 2010 report *Family Violence – A National Legal Response*.⁷⁹³ That report particularly highlighted the potential for cross-applications to be used as a tactic or bargaining tool in existing protection order proceedings and/or anticipated family law matters, including to coerce or pressure a victim of family violence into withdrawing their original application.

As well as ultimately failing to promote responsibility and accountability for those who use violence, the report noted that cross-orders present difficulties in terms of enforcement, putting both parties in danger of prosecution of a breach charge, and therefore increasing the risk of their becoming enmeshed in the criminal justice system. These risks may provide sufficient disincentive as to prevent a vulnerable party from alerting police of any future order-breaching conduct, reducing opportunities for intervention and increasing vulnerability to escalation and serious criminal assaults (and potentially, homicide).⁷⁹⁴

Unfortunately, research indicates that if police lack training in interviewing victims and are less comfortable speaking to them, they are more likely to simply accept the male partner's version of events even in the absence of supporting evidence, and are more likely to arrest women.⁷⁹⁵

⁷⁹⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 20.

⁷⁹¹ [Putting a woman in a headlock sometimes justified, Cory Bernardi tells domestic violence inquiry](#), *The Courier Mail*, 7 November 2014.

⁷⁹² Fitzpatrick cited in H Douglas and R Fitzgerald, [Legal Processes and Gendered Violence: Cross-Applications for Domestic Violence Protection Orders](#), *UNSW Law Journal*, Vol. 36, No. 1, 2013, pages 57-58.

⁷⁹³ H Douglas and R Fitzgerald, [Legal Processes and Gendered Violence: Cross-Applications for Domestic Violence Protection Orders](#), *UNSW Law Journal*, Vol. 36, No. 1, 2013, page 57.

⁷⁹⁴ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, pages 877-878; Fitzpatrick cited in H Douglas and R Fitzgerald, [Legal Processes and Gendered Violence: Cross-Applications for Domestic Violence Protection Orders](#), *UNSW Law Journal*, Vol. 36, No. 1, 2013, pages 61-62.

⁷⁹⁵ R Braaf, [Arresting policies: implications of pro and mandatory arrest policies for victims of domestic and family violence](#), *Families through life*, 10th Australian Institute of Family Studies Conference Proceedings, 9-11 July 2008, Melbourne, Stakeholder Paper 4, page 8.

The Committee notes that the ANSWLRC report recommended:

*Police should be trained to better identify persons who have used family violence and persons who need to be protected from family violence, and to distinguish one from the other. Guidance should also be included in police codes of practice and guidelines.*⁷⁹⁶

Breaches of Domestic Violence Protection Orders

Once orders are in place, submissions have identified a similarly concerning inadequacy and inconsistency in the service response to reported breaches of those orders. A reported 'high level of tolerance for breaches of domestic and family violence orders and general criminal breaches as well' stands to undermine confidence in the system, compromising victim safety and eroding offender accountability.⁷⁹⁷ The BDVS provided testimony from service clients as follows:

If I have gone to the trouble of applying for a DVPO and I'm fearful enough to apply for one, the police need to take the same perspective and back up breaches immediately...

To date I do not know what penalty has been issued to my ex-husband for breaching my protection order. I was informed by the police that he was charged and would be appearing in court. When I asked when this would be the police officer said that it was of "no concern to me as I did not have to appear in court". I think he totally missed the point. My children still see him so there is face to face contact every week and I need to know what and how he is going to behave towards me and in front of the children. I have to keep recording every changeover to ensure my own safety and that of the boys. The next time he breaches the protection order I will be going to another police station to report it. I don't feel comfortable or supported by the officer's at that Station...

*I had to stand my ground for 3 hours at the front counter of the Police Station before I finally convinced the constable on front desk duty that my protection order had been breached...*⁷⁹⁸

For those in Indigenous communities, effective enforcement of orders is also additionally complicated by the simple fact that police may be a number of hours away and may accordingly fail to respond promptly to incidents. The QIFVLS submitted:

In one recent case involving a QIFVLS client who was the victim of repeated assaults by her former partner, the offender repeatedly breached a protection order that was taken out against him, but the police consistently failed to respond. It was only when QIFVLS sought a variation to the protection order (as a strategy to address the repeated violations) that the Magistrate ordered the police to investigate the past violations.

*For some remote communities, it is not just the mistrust of the police or the lack of police response that is at issue but the fact that there is no adequate police service and judicial presence to support victims. For example, the remote community of Mapoon has no police station and the nearest police station, which is in Weipa, is not accessible by road during the wet season.*⁷⁹⁹

⁷⁹⁶ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 22.

⁷⁹⁷ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 17.

⁷⁹⁸ BDVS, Submission No. 56, page 2.

⁷⁹⁹ QIFVLS, Submission No. 19, pages 9-10.

Much of the strength of a protection order ultimately rests with the threat of consequences if the offender engages in behaviour that is prohibited under the order. Accordingly, when it is perceived that police are not utilising their powers to the fullest extent in these matters, this *'not only leaves victims disillusioned and frustrated, but also potentially keeps them in unsafe situations'*.⁸⁰⁰ In addition:

*Lack of police action also sends a message to offenders that they can get away with anything, and that the victim is still within their control. If this is the case, the ability of a protection order to deter future violent offending is diminished.*⁸⁰¹

QPS representatives have highlighted their own frustrations at a range of evidential difficulties that constrain service responses to such incidents. It is noted successful prosecution of breach offences requires police to meet a criminal standard of proof – that is, 'beyond reasonable doubt' – which is higher than the balance of probabilities test that applies when applying for a domestic violence protection order under civil legislation. As a result, there is often insufficient evidence to substantiate a criminal charge, *'or the victim does not want to proceed, and the prosecution will fail without her evidence'*.⁸⁰²

The 2005 CMC report on Policing Domestic Violence in Queensland also identified that police are often 'strongly influenced against laying criminal charges in cases where the victim has previously dropped charges', such that 'even if the victim requests that an arrest be made, the fact they have dropped charges on a previous occasion will have a greater impact on the officer's decision to charge or not'.⁸⁰³ It is also possible that general experiences with withdrawn charges can affect police diligence in enforcing breaches regardless of whether the victim has any reporting or prosecutorial history. Douglas and Stark have noted in some cases this reluctance to act might extend even to the basic investigation of the matter, relaying a particular incident in which officers had conveyed to the victim that they were not able to investigate the matter or collect any evidence without prior confirmation that charges would be pressed.⁸⁰⁴

Importantly, while the cyclical and complicated nature of domestic violence relationships often leads victims to withdraw charges, or to later understate the degree of harm incurred during periods of relative calm in the relationship,⁸⁰⁵ submitters have emphasised that it is imperative that police adopt a uniformly vigorous response when called to a breach matter. Research has shown the thoroughness of police investigation and evidence gathering have *'a significant impact on the likelihood of arrest and the retraction of witness statements'*, with victims understandably more likely to participate if they have received a supportive early response from police and know that solid evidence has already been collected.⁸⁰⁶ In addition, victims may decide to change their mind about prosecution once they have had time and other resources have been made available to support them in making a properly informed decision.⁸⁰⁷

⁸⁰⁰ CMC, [Policing Domestic violence in Queensland: Meeting the challenges](#), Queensland, March 2005, page 57.

⁸⁰¹ [Ibid](#), page 57.

⁸⁰² NSW Law Reform Commission, cited in the CMC [Policing Domestic violence in Queensland: Meeting the challenges](#), Queensland, March 2005, page 67.

⁸⁰³ CMC, [Policing Domestic violence in Queensland: Meeting the challenges](#), Queensland, March 2005, page 50.

⁸⁰⁴ H Douglas and T Stark, [Stories from Survivors: Domestic Violence and Criminal Justice Interventions](#), T.C. Beirne School of Law, University of Queensland, 2010, page 60.

⁸⁰⁵ H Douglas, [The Criminal Law's Response to Domestic Violence: What's Going On?](#), *Sydney Law Review*, Vol. 30, 2008, page 454.

⁸⁰⁶ Crown and Hodgson, cited in H Douglas and T Stark, [Stories from Survivors: Domestic Violence and Criminal Justice Interventions](#), T.C. Beirne School of Law, University of Queensland, 2010, pages 59-60.

⁸⁰⁷ [Ibid](#), page 60.

It is also important that officers understand that acts of arresting and charging the perpetrator and initiating prosecutions can have significant impacts in and of themselves, and may sufficiently meet the victim's needs or hopes in term of safety and offender accountability and deterrence. Again, studies have identified that arrest not only provides immediate protection for the victim and allows them time to consider their options and make alternative living arrangements; but also makes perpetrators more accountable for their behaviour and has been linked to reduced recidivism.⁸⁰⁸

While a victim may choose not to pursue charges in one instance, demonstration of a consistent police response to breaches regardless of any reporting history provides reassurance and establishes behavioural and outcome expectations which can only support the prospect of cooperation in the future.

To improve consistency and responsiveness to domestic violence callouts, a number of jurisdictions have introduced policies that reduce or remove discretion to arrest or prosecute from victims, police and prosecutors.⁸⁰⁹ For example, a large proportion of U.S. states have mandatory arrest policies that require police to arrest at the scene when there is evidence that domestic violence has occurred. The ACT and various Canadian jurisdictions have also introduced pro-charge policies which presume police will charge an offender in cases where there is evidence that domestic violence has occurred;⁸¹⁰ and in other Canadian and U.S. jurisdictions and in the Northern Territory, stronger 'no-drop' policies require that prosecutions for domestic and family violence offences are continued regardless of victims' wishes.⁸¹¹

Criminal justice responses that destabilise women's agency are problematic, but there is arguably a protective role for police and prosecutors in certain matters, and various approaches to improving outcomes for victims of domestic violence merit consideration.⁸¹² A number of studies have shown a higher rate of successful prosecution when police are mandated to arrest, charge and prosecute domestic violence matters and where service providers are subject to mandatory reporting provisions; though preferred arrest policies may rather be favoured due to the risk of dual arrests and retaliatory arrests (when the perpetrator has their partner wrongfully arrested),⁸¹³ given that victim satisfaction with the police response is highly correlated with whether officers abide by the victim's wishes to arrest or not.⁸¹⁴

In light of such conclusions, the 2005 CMC report opted to recommend mandatory investigation and evidence collection to boost system responsiveness and prosecution outcomes, rather than reducing officers' discretion to arrest and charge.⁸¹⁵ However, while the State subsequently established a statutory duty for a police officer to investigate or cause to investigate any reasonable suspicion of domestic violence in section 67(1) of the Act; it is clear that DFV investigations and evidence

⁸⁰⁸ R Braaf, [Arresting policies: implications of pro and mandatory arrest policies for victims of domestic and family violence](#), *Families through life*, 10th Australian Institute of Family Studies Conference Proceedings, 9-11 July 2008, Melbourne, Stakeholder Paper 4, page 2.

⁸⁰⁹ Ibid.

⁸¹⁰ R Braaf, [Arresting policies: implications of pro and mandatory arrest policies for victims of domestic and family violence](#), *Families through life*, 10th Australian Institute of Family Studies Conference Proceedings, 9-11 July 2008, Melbourne, Stakeholder Paper 4, pages 2-3; H Douglas, [The Criminal Law's Response to Domestic Violence: What's Going On?](#), *Sydney Law Review*, Vol. 30, 2008, page 454.

⁸¹¹ R Braaf, [Arresting policies: implications of pro and mandatory arrest policies for victims of domestic and family violence](#), *Families through life*, 10th Australian Institute of Family Studies Conference Proceedings, 9-11 July 2008, Melbourne, Stakeholder Paper 4, pages 2-3.

⁸¹² H Douglas, [The Criminal Law's Response to Domestic Violence: What's Going On?](#), *Sydney Law Review*, Vol. 30, 2008, pages 455-456.

⁸¹³ [Ibid](#), page 445.

⁸¹⁴ CMC, [Policing Domestic violence in Queensland: Meeting the challenges](#), Queensland, March 2005, page 16.

⁸¹⁵ H Douglas, [The Criminal Law's Response to Domestic Violence: What's Going On?](#), *Sydney Law Review*, Vol. 30, 2008, page 453.

gathering often continue to be carried out in a uniquely superficial manner; and that a stronger commitment to informed action is required to improve offender accountability. Notably, a 2010 study examining the experiences of survivors of domestic violence confirmed that *'while the CMC (2005) has claimed that a pro-evidence gathering approach should be taken, none of the women in this study thought this was the approach taken by the police they had contact with'*.⁸¹⁶

Aid to compliance

A simple aid to achieve compliance, by offenders, with the terms of a domestic violence protection order, has been identified as producing information about the consequences of a breach on the back of the domestic violence protection order itself.⁸¹⁷ The Committee notes a form of words was developed by the NSW Legal Assistance Forum Domestic Violence Working Group and agreed to by key stakeholders including the (NSW) Law Society, the Chief Magistrate of NSW and Legal Aid, for this purpose. A notice to the protected person was proposed to also appear providing them with instructions on what to do should a breach occur.⁸¹⁸

The form of words developed appear (with amendment) as follows:

Breach of the order

It is an offence for the defendant to disobey the order on purpose. The defendant could go to prison for up to [period of imprisonment] or be fined up to [amount of fine] or both.

Notice to the defendant

You must obey this order for the period stated in it, unless a court revokes the order or makes another order.

You can get more information about this document from:

[local Magistrates court registry]

A legal practitioner

[phone number and webpage of government service]

Notice to the protected person(s)

If the defendant disobeys (breaches) the order, contact the Police at your nearest police station, or in an emergency ring 000 for help.

You can get more information about this document from:

[local Magistrates court registry]

[Queensland] Police Service

A legal practitioner

[phone number and webpage of government service]

This simple addition of a warning to the offender and instructions to the recipient of the back of the notice may be of valuable assistance with compliance of orders and reduce the incidences of breaches.

⁸¹⁶ H Douglas and T Stark, *Stories from Survivors: Domestic Violence and Criminal Justice Interventions*, T.C. Beirne School of Law, University of Queensland, 2010, page 63.

⁸¹⁷ New South Wales Parliament, Legislative Council, Standing Committee on Social Issues, *Domestic violence trends and issues in NSW*, Report 46, Standing Committee on Social Issues, Sydney, NSW, August 2012, pages 267-268.

⁸¹⁸ Ibid.

Technical Breaches and Minimisations

In addition to issues relating to the limitations and difficulties of evidence, a failure to actively or adequately pursue breaches may also reflect a lack of understanding of the dynamics of domestic violence, and a tendency to minimise non-violent breaches as minor matters. Court support worker Tamara reported during the public hearing in Toowoomba:

...what generally happens is that breaches are about communication, so if there is a no-contact order in place and he has contacted her those breaches are not held to be as bad as, say, violent offences, assaults and those sorts of things. However, for many victims that is part of that power and control cycle and it is very important that they are addressed.⁸¹⁹

The challenges of policing such contact-related technical breaches has been acknowledged as an increasing area of focus for the QPS, highlighted by Superintendent Mark Kelly during the public hearing in Ipswich,⁸²⁰ and by QPS Acting Assistant Commissioner (Northern Region) Paul Taylor during the public hearing in Townsville:

...some of the problems that we are having stem from no contact conditions where those people who perpetuate domestic violence continue to use social media, texting, or phone contact as a medium to facilitate ongoing domestic violence. These can be quite complex, where there are multiple calls or multiple instances. It is an area that we continue to be challenged by given the volume of work.⁸²¹

The WLS has called for the QPS to 'act on all incidents of breaches of domestic violence orders including small technical breaches of that order'.⁸²² Other jurisdictions have also considered suggestions including:

- encouraging victims to keep a 'breach diary' to contemporaneously record details of breaches and serve as a memory aid to assist in the provision of future statements and in police investigations;
- the provision of information about the consequences of a breach on the back of the domestic violence protection order itself, along with what the person in need of protection should do if this occurs; and
- a specific state-wide 24 hour free-call 'breach line' which would have response, liaison and intelligence gathering functions, and be staffed by officers trained in domestic violence and sexual assault.⁸²³

Issues of minimisation also occur when police prosecutors negotiate with the defendant to accept a plea to one breach charge in exchange for the withdrawal of a number of breach and/or related criminal charges, or where police charge one breach offence when a number of consecutive breach offences have been committed:

For example in one matter serious assault was charged along with breach. Ultimately the police proceeded with the breach matter and offered no evidence on the serious assault charge. A conviction was recorded for the breach with no other penalty... In other matters, where the police submitted photographs of the bruised and cut legs of the

⁸¹⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 22.

⁸²⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 6.

⁸²¹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, page 3.

⁸²² WLS, Submission No. 60, page 17.

⁸²³ Standing Committee on Social Issues, Report No. 46, [Domestic violence trends and issues in NSW](#), Legislative Council, New South Wales Parliament, August 2012, page 267.

victim to the court or photographs of the bite marks perpetrated by the defendant, the police ultimately proceeded only with breach charges.

*In other examples the defendant was found guilty of one count of breach and was fined, despite six separate charges of breach being noted on the court file.*⁸²⁴

Charge negotiation is recognised as a standard practice in relation to criminal matters, and negotiation to secure a guilty plea may be positive where ‘it spares the victim the ordeal or a trial and where the prosecution evidence is deficient in some way’.⁸²⁵ However, it may also result in the perpetrator having a misleading criminal record which does not adequately reflect the gravity of the offences and may constitute an abuse of process.

As Douglas notes:

*Criminal records are important at the sentencing stage and also for magistrates to gauge the level of danger to victims. One breach charge looks very different to ten on a criminal record, even though they may simply relate to standing outside the victim’s house on a number of occasions.*⁸²⁶

Civil and Criminal Responses

Submissions to the Inquiry raised concerns that the overwhelming response to DFV is civil rather than criminal; and that the degree to which criminal matters are pursued may vary across different areas of the State, potentially undermining offender accountability. Inevitably there will be cases in which a person breaches a protection order and the only criminal charge available to police is breach of that order, because no underlying offence has been committed – for example, if a person breaches a condition of an order not to contact the victim within a certain period of time.

However, where the incident amounts to a criminal offence, it is evident that in many cases the offending behaviour is being addressed with a domestic violence protection order application only, or the limited charge of a breach of a protection order; with no action to pursue underlying assaults or other relevant criminal charges.⁸²⁷ This is contrary to the stated intention of the *Domestic and Family Violence Protection Act 2012*, which specifies that ‘...a civil response under this Act should operate in conjunction with, not instead of, the criminal law’.⁸²⁸

QPS representatives at regional public hearings made it clear that police are committed to taking criminal action to address underlying offences where possible, but that issues surrounding complainant participation and follow-through continue to limit the extent to which these responses may be carried out. At the public hearing in Rockhampton, Superintendent Ron Van Saane stated:

It frustrates police across the state and here as well. We go to an incident, the victim has a black eye and has obviously been assaulted, the victim wants to make a complaint, a complaint is taken – statements are always taken there and then – and the perpetrator is arrested and charged, if we can, with a criminal offence or provided with all the notifications if it is just DV. But if the offence is there, it will be dealt with. The problem... [is] he comes around and then there is forgiveness, and then there is regret and then there is, 'we'll move on'. Most of those assaults are withdrawn or even not complained upon at the first instance.

⁸²⁴ H Douglas, ‘[The Criminal Law’s Response to Domestic Violence: What’s Going On?](#)’, *Sydney Law Review*, Vol. 30, 2008, page 451.

⁸²⁵ *Ibid*, page 452.

⁸²⁶ H Douglas and T Stark, [Stories from Survivors: Domestic Violence and Criminal Justice Interventions](#), T.C. Beirne School of Law, University of Queensland, 2010, page 63.

⁸²⁷ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, pages 533-534, 535.

⁸²⁸ WLS, Submission No. 60, page 14.

*Where it is obvious that there has been a significant assault – you know, if it is beyond assault bodily harm as in wounding - then they do not have to be complainants and the police can take action. But below that, a common assault or bodily harm, many do not make the complaint. Police are not to be seen to be pleading to please make the complaint that then ends up in a very sticky trial later down the track if it is contested. But we provide them with all the support and advice we can, and unfortunately many of these people have been together for a long time.*⁸²⁹

Similarly, at the hearing in Mount Isa, QPS Acting Assistant Commissioner (Northern Region) Paul Taylor stated:

*If there is evidence there that supports an offence - assault occasioning bodily harm - the police act on that and take that matter on... They pursue the criminal charges... We always prosecute for the substantive offence. The issue around that is there is a reluctance on occasions for people to provide statements or further down the track to actually stand by the statements and give evidence. So there are issues where victims of domestic violence over time re-form the relationship and that can create an issue for us because these people are reconstituted in a relationship.*⁸³⁰

The submissions of a number of Inquiry participants have raised questions about this commitment, or the consistency of its application in reality, with the Gold Coast Centre Against Sexual Violence, for example, indicating that when women disclose acts of sexual violence when they are seeking a protection order ‘most often criminal action is not taken’.⁸³¹ The WLS further submitted that ‘the QPS practice is one of simply charging for the breach only, even when there have been severe assaults and other criminal offences committed’:⁸³²

WLS sees clients who have been raped, stalked, assaulted, strangled, threatened to be killed (including their children), deprived of their liberty, had petrol poured over them, been held in siege situations and more by the perpetrator of FDV. Although these clients may have protection orders, it is a rare case where the perpetrator is also charged for their crimes.

In our experience, most women do not even know that there is an option of criminal proceedings, the only option provided to them by the police and others is a protection order. In instances where women are given the option of criminal charges, it is not uncommon for this to occur at the time of the FDV incident within ‘earshot’ of the perpetrator. They are often traumatised, concerned about their children’s safety, and scared about future consequences to them if they agree to charge. Unsurprisingly, many are unwilling to proceed.

*The end result is that protection orders have sometimes become the only legal response to FDV in Queensland.*⁸³³

⁸²⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Rockhampton, 14 August 2014, page 5.

⁸³⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, page 7.

⁸³¹ Gold Coast Centre Against Sexual Violence, Submission No. 54, page 13.

⁸³² WLS, Submission No. 60, page 18.

⁸³³ *Ibid*, page 14.

The WLS identified that ‘this inaction sends a strong message to the community that domestic violence crimes are viewed as less important than other crimes and less worthy of a State response or community resourcing’;⁸³⁴ and at the public hearing in Southport, Ms Rosemary O’Malley from the Domestic Violence Prevention Centre Gold Coast shared an example of this effect and its consequences in practice:

A man came on to the program a few years ago and he came to the program session and he was very upset when he came in the room. He said, ‘She’s on the other side of that wall and she’s making me breach my domestic violence order.’ He was very irate, so I went outside to talk to his partner. She said, ‘Why is he so upset? He asked me to come down tonight.’ I said, ‘Why did he ask you to come down?’ She said, ‘He wants me to drop the charges. He wants me to go across to the Southport Police Station and get the charges dropped.’ I said, ‘What charges?’ She said, ‘Assault charges.’ She had a massive bruise on her face and she clearly had a split lip. I said, ‘What’s happened to your face?’ She said, ‘He thumped me on Sunday night.’ I said, ‘Well, maybe that’s the basis for the assault charge.’ She said, ‘But he’s never been charged with assault. He’s done that lots of times. He just gets charged with breach of domestic violence order.’

So the system had communicated to her that when he hits her it is breach of domestic violence order; it is not assault. Anyone else can hit her and it is assault, but when he hits her it is not. We have got to fundamentally change what we are communicating to victims and what we are communicating to him. At the end of the day, if we can put our hands over our hearts and say that we have communicated messages of help to her and messages of accountability to him—and messages of help including ‘It’s not your fault because you chose to be in a relationship with him’—I think then you will start doing some serious crime prevention and see some serious reduction in those numbers.⁸³⁵

In response to these issues, a number of submitters called on the QPS to provide civil *and* criminal responses both at the initial time of attending a DFV incident and for any subsequent incident;⁸³⁶ and the WLS suggested also that the QPS monitor and consider charging practices in instances of breaches of DVOs where other criminal offences may have been committed.⁸³⁷ The ANSWLRC report noted a similar recommendation that ‘one of the ways that the issue of police preferring to lay charges for breach of a protection order as opposed to any applicable underlying criminal offences can be remedied is through the use of accurate record keeping’.⁸³⁸

This includes ensuring that a distinction is made as to:

- whether alleged or proven criminal offences occurred in the context of a breach of an existing protection order,
- for breach offences, the criminal or non-criminal nature of the underlying breach behaviours, gender, race, and other demographic and situational factors for any domestic violence related offences.⁸³⁹

Prospects for successful criminal prosecution additionally stand to be significantly bolstered by more comprehensive evidence gathering, including enhanced collation of physical evidence and witness statements, so as to not place excessive emphasis on victim testimony and participation.

⁸³⁴ Ibid, page 14.

⁸³⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 43.

⁸³⁶ WLS, Submission No. 60, page 15.

⁸³⁷ Ibid, pages 3, 18.

⁸³⁸ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 538.

⁸³⁹ Ibid, page 538.

Specialised Police

The ANSWLRC in their 2010 report *Family Violence – A National Legal Response* identified that there is ‘substantial merit’ in the use of specialised police in DFV (and also sexual assault and child protection), given the complex dynamics and intricacies of DFV behaviours and risks:

*Specialised police at all levels provide contact points for inter-agency collaboration and may form a key element of integrated responses. Further, monitoring and supervision by specialised police is likely to improve consistency in the application of laws in the context of family violence.*⁸⁴⁰

Queensland currently has 25 full-time and six part-time District Domestic and Family Violence Coordinator positions across the State which fulfil such a specialist policing role.⁸⁴¹ Submitters to the Inquiry universally commended the work of these specialist 'liaison' officers, with the BDVS noting that positive and effective responses from police are 'often the result of interactions with Domestic and Family Violence Coordinators'.⁸⁴²

However, while equipped to enact responses and oversee actions by other officers, as well as liaising with service agencies to ensure clients are provided necessary assistance; each liaison officer ultimately has to cover significant geographical areas across a number of police stations. This, coupled with the sheer scale and volume of incidents, means 'they are often not in the field attending FDV incidents at the point where specialised policing is most critical',⁸⁴³ and are also 'limited in their ability to engage in the proactive and preventative aspects of the work'.⁸⁴⁴

Just five officers operate in the Brisbane region and in regional areas, operations are even more constrained. As court support worker Tamara testified during the Toowoomba public hearing:

*Obviously the police liaison officer is an effective resource for us because when we have clients who come to us and say, 'Here is what has happened', we can actually follow up directly with her and find out what has happened and actually put some strategies in place to address what has happened and get some further support. In the regional areas that support is not as accessible. They do have some officers who do the same role to some extent. However, they are usually shiftworkers. Being able to get them can be the difficult.*⁸⁴⁵

Submitters widely recommended increased resourcing and numbers of domestic violence coordinators and liaison officers in all stages of the policing process (and in legal processes), including 'attending DFV incidences in the field'.⁸⁴⁶

Integrated Responses and Referrals

Given that dealings with the QPS may often constitute the first formal help-seeking or reactive service interaction for many victims, initial incident responses provide a valuable opportunity for early referral to support services, to help divert parties from a pathway of further cyclical abuse, while also helping to address the significant impacts of DFV and ensure access to necessary legal and other support during engagement in criminal proceedings and with the justice system more broadly. At the Inquiry's public hearing in Mount Isa, QPS Acting Assistant Commissioner Paul Taylor (Northern Region) informed the Committee that the QPS is increasingly acting on this opportunity

⁸⁴⁰ [Ibid](#), page 1520.

⁸⁴¹ QPS, [Queensland Police Service response to domestic violence](#), webpage last updated 25 August 2014.

⁸⁴² BDVS, Submission No. 56, page 3.

⁸⁴³ WLS, Submission No. 60, page 15.

⁸⁴⁴ CMC, [Policing domestic violence in Queensland: Meeting the Challenges](#), Queensland, 2005, page 3.

⁸⁴⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 24.

⁸⁴⁶ WLS, Submission No. 60, page 16.

with its engagement of SupportLink referral services across the State, to facilitate connections with a range of support options:

SupportLink is available throughout the state... [and] we have just looked at broadening SupportLink as a trial so that referrals can be made to a broader range of agencies and, more importantly, by people other than police. One of the frustrating things for police is some of the underlying causes to the problems that they interact with every day of the week. They do not have the answers or the solutions to them, but other agencies do. So we are I think moving more and more towards understanding opportunities from a one government philosophy, and there is certainly huge scope for agencies to collectively work on problematic environments.

You will have five or six kids from the same family and you can almost guarantee they will travel the same course as the eldest sibling if there is no intervention. SupportLink is an opportunity for a referral where support services can be linked around those people.

SupportLink National submitted that the service referral model 'is successfully reducing and preventing crime, through early intervention and enhancing the service system to address the social and economic contributors of crime'.⁸⁴⁷ Importantly, because it proactively sources and delivers services to the person at their point of need once a referral is made; the service identified that it is 'more effective' than other more passive models that require people to self-navigate the fragmented service sector, and therefore lessen the likelihood of clients sourcing necessary assistance.⁸⁴⁸

Analysis of data comparing the number of repeat calls pre and post SupportLink referral has identified that there has been a 39% reduction in repeat calls to domestic violence incidents since the service's deployment.⁸⁴⁹ In addition, SPEAQ identified that:

...the experience of regional DFV services is that the Police Supportlink referral system is working very effectively to provide victims with timely contact with support and assistance services. While the number of perpetrators consenting to Supportlink referrals and then engaging with services is much smaller, this channel does provide another opportunity for addressing the perpetration of violence.⁸⁵⁰

Both the QPS and SupportLink have, however, suggested that the service could be significantly enhanced if referrals were not strictly contingent on the consent of the at-risk parties. As QPS Acting Assistant Commissioner (Northern Region) Paul Taylor stated:

Some of the issues that we face at the moment are that we know there are support services that, if given the opportunity, could support both those victims and could attempt to deal with the perpetrators so that they understand the consequences of their action, to try to prevent that from occurring... It is great having services, but one of the things I pointed out earlier is that we have to have people concede to the referral. One of the things we would love to do—because some of them are in a position, in my view, to make that type of decision, given the situation they are in—is generally refer so that there is every opportunity to assist those people.⁸⁵¹

⁸⁴⁷ SupportLink National Pty Ltd, Submission No. 75, page 1.

⁸⁴⁸ Ibid, page 1.

⁸⁴⁹ Ibid, page 2.

⁸⁵⁰ SPEAQ, Submission No. 78, page 22.

⁸⁵¹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Mount Isa, 11 August 2014, page 7.

SupportLink similarly encouraged consideration of a 'court ordered or police diverted (formal) process that orders perpetrators of domestic violence to undertake counselling sessions on anger and violence management':

*This could be achieved via the existing SupportLink model and the utilisation of Men's Line Queensland to deliver these services by phone. The benefit is that there could be a consistent, proactive and affordable model across the state. Whilst the process is embedded within police, this could be further improved with standard KPI's being introduced that would see all officers utilising referral making as a tool within their daily engagement with the community.*⁸⁵²

Notably, Western Australia provides one example of a jurisdiction which has established powers enabling police making an order to refer a person to such counselling.⁸⁵³

Submitters also noted that referral mechanisms are only effective so long as there are sufficient services to act on referrals. For example, QPS Acting Assistant Commissioner Paul Taylor noted:

*...in a lot of Indigenous communities a lot of the referral agencies are not locally based. Some of them rely on phone contact and, worst-case scenario, via correspondence. Really there needs to be a practical solution where some of those services can be embedded in a local area where local people, who might be trained in a range of activities, can actually provide that support.*⁸⁵⁴

In addition, Acting Assistant Commissioner Taylor stated:

*Secondly, in terms of the feedback we get, we would be able to over time trace whether people who have gone through program A, program B, program C or whatever have reoffended or continued to perpetrate or not. So I think at the end of the day there needs to be some sort of qualifying assessment as to whether this program works and, if so, how we can assist it further, develop it further, take it elsewhere or localise it elsewhere. So I think there would be a good body of work. I note in the paper today some action that the Government is doing. Perhaps that is an opportunity to be more focused on what is success in that area and how we measure it, because I think that is very important.*⁸⁵⁵

SupportLink further identified that providing the same framework to other frontline staff across the State, as a whole-of government referral mechanism, would:

...provide consistency, the ability to data match to identify high risk families, share appropriate information between agencies, provide greater accountability for funded services, and provide consistent meaningful data to government funders to better inform future funding decisions.

...There seems a strong appetite for further integration between each [criminal justice] department and with non-government agencies and toward replication of the QPS/SupportLink model. We would suggest to the Committee that this whole of government/community service integration is achievable and if fully realised would substantially improve the existing service system and crime prevention outcomes.

⁸⁵² SupportLink National Pty Ltd, Submission No. 75, page 3.

⁸⁵³ Restraining Orders Act 1997 (WA), section 30(E).

⁸⁵⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, page 6.

⁸⁵⁵ Ibid.

Committee Comment

The evidence received by the Committee through public hearings, submissions and other analyses and reports has revealed some significant challenges in the policing of domestic and family violence, and with them, significant opportunities for enhanced police responses and pre-emptive work to help prevent DFV, and support effective early interventions and improved access to justice.

While standards are high among many commands and individual officers, it is clear that the QPS continues to face significant challenges in overcoming a differential organisational mindset and incongruous response standards where DFV is concerned, as embodied in views that domestic violence is '*not real police work*' – an especially concerning scenario given it is one of the most pervasive and impactful criminal activities confronted by society today.

Current service training levels, systems and processes and performance standards do not appear to be providing the necessary strategic or operational direction either to address these issues, or to support sufficiently consistent and effectual service responses; with reports of police trivialisation of some offending and a failure to understand the dynamics of DFV apparently contributing to inaction or inappropriate action in some instances. The Committee considers this is not acceptable and must be addressed.

With the conclusion of the current QPS *Domestic and Family Violence Strategy 2009-2013* – a document developed to ensure consistency with the Queensland Government's 2009-2014 strategy, *For Our Sons and Daughters* – the Committee considers that the QPS now confronts a timely opportunity to fundamentally reframe its approach to DFV and implement enhanced service models to improve victim safety and offender accountability.

There has been longstanding recognition of the need and considerable benefits to be gained from streamlining the perceived 'convoluted' administrative processes for DFV incidents. However, it appears that action in this regard has been limited and based on police testimonies and reports, there remains clear scope to improve data recording and reporting systems without compromising the integrity of informational and response outcomes, freeing up resources for greater engagement in proactive work and other policing.

Any enhanced service model should also include greater systemic support and emphasis on comprehensive early collation of physical evidence (including digital photographing) and witness testimony, including the content and context of the evidence, '*given that charging is related to police perception of strength of evidence*', and as necessary to validate victims' concerns and support them to make statements; or to otherwise permit victim-free prosecutions.⁸⁵⁶

In this respect, the Committee supports the recommendation of the WLS that best practice policing models, and particularly the use of system supports for evidence collection – including specialist training in DFV investigation and evidence collection, evidence kits, and the concept of victim-free prosecution – be researched and considered by the State's Taskforce. With regard to the latter suggestion in particular, the WLS noted that this may include police officers being fitted with cameras and video equipment to record evidence of the crime, among other strategies – approaches that '*have been in place in some jurisdictions in the United States for approximately 15 years*'.⁸⁵⁷ Such an emphasis is in line with the pro-investigative framework that is set out in the *Domestic and Family Violence Protection Act 2012*.

⁸⁵⁶ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 358.

⁸⁵⁷ WLS, Submission No. 60, page 16.

There is also evidently a need for a strengthened commitment to enforcing orders and responding to all breaches of DVOs in a consistent fashion, whether physical or 'technical' in nature; and to pursuing both civil and criminal responses to violence as a matter of course. In this respect, submissions particularly highlighted the work and policies of the Tasmanian Police since their introduction of the *Safe at Home Policy* in 2004; the ACT with its integrated FVIP model; and other pro-arrest, pro-charge and case fast-tracking policies implemented in the Northern Territory and other jurisdictions, which have led to an increase in successful convictions, and accordingly merit consideration.⁸⁵⁸ The Committee also considers the insertion of the simple warning on the back of the DVO and instructions to the victim could be of valuable assistance in reducing the incidences of breaches.

While the Taskforce may be better placed to examine the relative merits of 'pro-protection' policing approaches and legislative directions that could be employed to support improved QPS action in these matters; at the very least the Committee considers as sensible, the ANSWLRC's conclusions that police should be required to record their reasons for both action and inaction (including decisions not to issue or apply for a protection order or not to prosecute a criminal offence); and that senior police should monitor and review practices in this regard.⁸⁵⁹

As well as increasing police accountability, records could be used in future investigations or applications for orders, and could also provide useful data for reporting and trend analysis.⁸⁶⁰ In this regard the Committee notes the WLS' advice to the ANSWLRC inquiry that one of the ways that compliance with overarching commitments, directives and guidelines can be monitored and ensured is *'through the use of accurate record keeping'*, including collation of desegregated data as to the trends regarding the context of breach of protection orders, and prosecution or otherwise of breach or other applicable criminal offences; together with *'a system for obtaining desegregated data on domestic violence offences on the basis of gender, race, etc.'*⁸⁶¹

While current responses are guided by the QPS' operational guidelines, the Committee notes Victoria and New South Wales both have stand-alone codes of practice for DFV which outline clear processes and requirements for the handling of matters,⁸⁶² and their focus on improved collection of evidence, investigation and laying charges where appropriate has increased both the number of charges laid and the proportion of incidents in which charges were laid.⁸⁶³ A more explicit codification or other expression of minimum requirements, together with more robust quality assurance standards, could stand to improve consistency of responses; and could also support the implementation of connected performance measures to monitor compliance and response quality and client satisfaction in this area.

However, in addition to clear protocols and procedures for action, effective responses and implementation of service models and directives will equally depend crucially on education and training to: 1) reinforce these guidelines and ensure the operational actions of frontline police are in fact in keeping with service commitments and directives; and 2) improve understanding of the dynamics of DFV, for more informed and higher quality execution of response processes and actions. In this regard the Committee highlights the submission of the IWCADV that many of the identified police response issues *'could be at least partially addressed through more consistent and regular training for police officers at all levels of operations (not just first year Constables)'*⁸⁶⁴, as is a priority

⁸⁵⁸ Rollings and Taylor, [Measuring police performance in domestic and family violence](#), 2008, page 2.

⁸⁵⁹ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 359.

⁸⁶⁰ [Ibid](#), page 383.

⁸⁶¹ [Ibid](#), page 538.

⁸⁶² Victoria Police, [Code of Practice for the Investigation of Family Violence](#), Edition 3, Vol. 2, 2014.

⁸⁶³ Rollings and Taylor, [Measuring police performance in domestic and family violence](#), 2008, page 2.

⁸⁶⁴ IWCADV, Submission No. 53, page 13.

requirement of the Australasian Policing Strategy on the Prevention and Reduction of Family Violence.

It is also recognised that specialist DVO officers have a crucial role to play in supporting these educational requirements and providing operational mentoring and oversight to enhance the service response to DFV; as well as in ensuring that victims are linked with appropriate contacts and support services to meet their safety and other needs.⁸⁶⁵ While currently specialist officers do appear to be significantly enhancing QPS handling of DFV matters, the sheer scale of the problem and of the geographical areas for which officers are responsible means that they are currently limited in their capacity to oversee responses in more than an ad hoc fashion, or to play a more active role in the field and in addressing matters in a proactive way. Increased resourcing of specialist DVO officers could serve not only to improve response consistency and quality, but also to increase engagement with specialist domestic violence and other support service providers, including facilitating opportunities for training and placement of specialist workers on site/in teams with police officers,⁸⁶⁶ or other new collaborative efforts. Some submitters suggested the employment of civilian officers at police stations (including training and employing domestic violence survivors) to help support this liaison and service improvement role, and free up police for frontline operations.⁸⁶⁷

Such efforts, and a broader police commitment to integrated response efforts and frameworks offer promising opportunities to improve the police response, reporting experience, and service support, including providing greater support and avenues for active case management and preventative risk assessment and safety planning. Queensland currently has a range of promising CCRs in operation, but the Committee also notes the submission of the IWCADV that the Family Violence Intervention Program employed in the ACT is a frontrunner in CCR best practice that has particularly lead to *'improved services for our client group'*, and provided for both services (police and domestic violence specialists) to learn from each other about the nature of each other's work, build strong partnerships and improve service integration'.⁸⁶⁸

The Committee accordingly considers that opportunities to draw from these models and expand the State's existing programs, with accompanying monitoring and evaluative mechanisms, must be pursued to support continuous development and service improvements within this field. Importantly, the identification and monitoring of key performance indicators, as employed in CCRs in other jurisdictions⁸⁶⁹; together with increased use of client satisfaction surveys, stand to strengthen quality assurance and accountability for QPS and other partner agencies alike.

⁸⁶⁵ The Committee reaffirms the ANSWLRC report's recommendation that:

...state and territory police should ensure, at a minimum, that:

(a) specialised family violence and sexual assault police units are fostered and structured to ensure appropriate career progression for officers and the retention of experienced personnel;

(b) all police—including specialised police units—receive regular education and training consistent with the Australasian Policing Strategy on the Prevention and Reduction of Family Violence;

(c) specially trained police have responsibility for supervising, monitoring or assuring the quality of police responses to family violence incidents, and providing advice and guidance in this regard; and

(d) victims have access to a primary contact person within the police, who specialises, and is trained, in family violence, including sexual assault issues.

See: ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, pages 74-75.

⁸⁶⁶ IWCADV, Submission No. 53, page 14.

⁸⁶⁷ Confidential Submission No. 25.

⁸⁶⁸ IWCADV, Submission No. 53, page 13.

⁸⁶⁹ See for example: The performance monitoring measures employed in the ACT's FVIP (See: Rollings and Taylor, [Measuring police performance in domestic and family violence](#), 2008, pages 3-5); and in the Family and Domestic Violence Response Team Monitoring and Evaluation Framework used in Western Australia (See: [Family and Domestic Violence Response Team Monitoring and Evaluation Framework](#), Department for Child Protection and Family Support, Government of Western Australia, July 2013).

In support of these integrated responses, stakeholders also particularly highlighted the potential for the expanded use and resourcing of SupportLink referral sources to ensure victims and perpetrators are connected with necessary legal information, representation and support services to improve their justice system interactions and make the most of early intervention opportunities. A confidential submission to the Inquiry also proposed the ancillary, intermediary option of providing *'an information card that provides referral information to support services to both victims and perpetrators, when police attend domestic violence incidents'* (potentially including to those who initially fail to consent to formal referral).⁸⁷⁰

Recommendation 26

The Committee recommends increased resourcing and engagement of specialist domestic violence coordinators and liaison officers across the State, and throughout all stages of the policing and legal process.

Recommendation 27

The Committee recommends the provision of comprehensive and regular training regarding the complex nature and dynamics of domestic violence to all members of the Queensland Police Service and to other frontline service agencies, working with local specialist domestic violence services.

Recommendation 28

The Committee recommends consideration is given to the inclusion of the warning to the offender and instructions to the victim on the back of all domestic violence orders, similar to the wording proposed by the NSW Legal Assistance Forum Domestic Violence Working Group.

⁸⁷⁰ Confidential Submission No. 25.

Recommendation 29

The Committee recommends the Special Taskforce on Domestic and Family Violence in Queensland consider appropriate actions for improved Queensland Police Service systems, guidelines and compliance, including:

- o options to streamline and enhance data recording and administrative processes to reduce duplication and support more informed, efficient and effective domestic and family violence responses;
- o mechanisms for improved evidence gathering and investigations, including emphasis on comprehensive collection of physical evidence and witness testimony, and use of evidence kits and options to support 'victim-free' prosecution;
- o improved client focus and consideration of extra domestic violence order conditions where appropriate;
- o a commitment to action on all incidents of breaches of domestic violence orders, including technical breaches;
- o a commitment to pursuing civil *and* criminal responses to domestic violence, including recording of reasons for action and inaction;
- o mechanisms to support improved communications and provision of information to clients, including performance standards and client surveys;
- o increased use of SupportLink and other referral mechanisms, including routine provision of information packs;
- o greater commitment to and employment of integrated and collaborative responses and approaches, including cross-agency placements; and
- o ongoing monitoring of application and charging practices, and service referrals, to support analysis of policy implementation and continuous improvement in service delivery.

9.11 Domestic Violence Perpetrator Programs

In recent years there has been growing recognition of the need to engage both victims and perpetrators of domestic violence if there is to be an effective shift from largely reactive work to more proactive interventions which go to the source of the problem and thereby promise a more sustained, longer-term approach to securing the safety of women and children. Ursel stated:

*A single police response, court appearance or stay in a women's shelter does not miraculously change the complex web of love, fear, dependency and intimidation woven into the fabric of an abused woman's life... If we change the goals of intervention from conviction (a one-dimensional outcome) to redressing dangerous power imbalances (a complex process of empowerment), then possibly the criminal justice system could offer women at risk meaningful interventions.*⁸⁷¹

⁸⁷¹ J Ursel, [Specialised Justice Responses to Family Violence in Canada](#), Seminar Presentation, Queensland Centre for Domestic and Family Violence Research, 13-14 April 2014.

As SPEAQ submitted to the Inquiry, 'effective work with the person who is perpetrating violence is more cost effective, more just and has less disruptive impact on the community than assisting only those experiencing the violence'.⁸⁷² Accordingly, whilst emphasising its strong support for the continuation and increase of services to victims of DFV, the organisation also noted that 'demand for these services can ultimately be reduced only if those persons causing the violence, predominantly men, are directly and effectively dealt with and assisted to end their violence'.⁸⁷³

Also known as men's behaviour change programs and as 'intervention programs', perpetrator programs aim to prevent violence by changing attitudes and behaviour through a range of approaches and methodologies, including goal setting, solution-focussed approaches, counselling, behaviour change, narrative therapy and anger management.⁸⁷⁴

Many perpetrators of DFV deny, rationalise or minimise responsibility for their violence, and programs are accordingly underpinned by an emphasis on the perpetrator facing up to their actions and the consequences, and shifting their view of themselves as objects acted upon by external forces, to that of agents who control the decisions they make about how they will respond (eg. ending victim blaming, or attribution to alcohol use etc.).⁸⁷⁵ This is typically complemented by gender role socialisation and work to facilitate the development of empathy for the victim, helping men to recognise that they engage in behaviours to maintain power and control over their partners and that this has significant impacts. Efforts to build behavioural competency can include identifying and working through common trigger issues such as sexual jealousy and disputes over the distribution of household resources, and helping perpetrators to develop new skills to manage such conflicts in ways that do not involve aggression.⁸⁷⁶

In Queensland, programs are primarily delivered in group settings, which have been identified as preferable because '*it is better to have men's violent behaviour critiqued by other men*' and because group work scenarios also allow for greater political and psychological education about the structural nature of men's violence against women – issues which '*typically would not be covered in a one-on-one session*'.⁸⁷⁷ These group sessions can, however, be complemented with individual counselling and one-on-one sessions or family sessions to support short-term and long-term goal-based work, increasing offenders' awareness about their choices and offering them the opportunity to play an active role in their treatment.

The effectiveness of perpetrator programs on the whole has been the subject of much controversy. This is due partly to inconsistencies in research methodologies, study sites, sample sizes, and testimonies used; and issues assessing efficacy amid program attrition, differential motivation (including whether mandated or voluntary), implementation challenges (including coherence between stated aims and principles and actual practice), and too-brief analysis periods.

While some studies measure success on recidivism alone, the number of new charges generally is not a strong indicator of program efficacy as it may fail to capture scenarios where offenders have greatly reduced the frequency and severity of their offending behaviour; where others may simply

⁸⁷² SPEAQ, Submission No. 78, page 10.

⁸⁷³ Ibid, page 11.

⁸⁷⁴ AVERT Family Violence: Collaborative Response in the Family Law System, [Prevention Strategies: Involving and Engaging Perpetrators](#), Australian Government, Attorney-General's Department, Australian Institute of Social Relations, 2010, page 9.

⁸⁷⁵ Domestic Violence Prevention Unit, [Best Practice Model For the Provision of Programs for Perpetrators of Domestic Violence in Western Australia \[Domestic Violence Prevention Unit\]](#), Department for Child Protection, Family and Domestic Violence Unit, Government of Western Australia, revised version, July 2000, page 8.

⁸⁷⁶ Day, Chung, O'Leary, Justo, Moore, Carson and Gerace, [Integrated responses to domestic violence: Legally mandated intervention programs for male perpetrators](#), 2010, page 2.

⁸⁷⁷ Sentencing Advisory Council, [Sentencing Practices for Breach of Family Violence Intervention Orders: Final Report](#), June 2009, page 269.

have changed the nature of their offending to more sophisticated types of emotional and psychological abuse; and instances where new incidents may not be reported or the perpetrator may be living alone and thus have fewer opportunities for reoffending.⁸⁷⁸ There are also issues with self-reported studies, as offenders commonly minimise their level of violence and responsibility for its use; and may also show improvements on certain measures because they have a greater understanding of the issues or what is expected of them, rather than exhibiting actual attitudinal and/or behavioural change.⁸⁷⁹

Within the context of these empirical challenges, results have been mixed. A range of evaluations and studies have found limited or no improvement in the behaviour of men who complete them, while others have equally indicated positive results.⁸⁸⁰ With regard to local programs in particular, in 2010 the AIC published a review of the 24-week perpetrator program administered by the GCDVIR. This review identified:

*Many of the men... reported leaving the program with a greater awareness of the problematic nature of their behaviour; they appeared to hold less supportive attitudes towards domestic violence; appeared to understand the key concepts in the program; and also expressed confidence in their ability not to act violently again in the future... [R]elatively few of those who completed the program had further charges laid against them in the 12 month follow-up period.*⁸⁸¹

At the public hearing in Southport, Ms Rosemary O'Malley further revealed that results of a review of the GCDVIR program carried out over a three-year period were consistent with global research indicating that between 29% and 33% of men reoffend with physical violence, and for around 70%, the physical violence stops while they are in the program and for some time afterwards.⁸⁸² A recent, 2009 evaluation of a Melbourne-based men's behaviour change program similarly identified:

*Looking at the results of the surveys that the men completed before and after the group program, it can be seen that for 69 percent of the men the program was successful in overcoming their domestic violence, mostly physical violence inflicted directly on their partners. In addition, for a further 22 percent of men, the program had reduced their violence. Only 7 percent of men reported no improvement at all. Importantly, that change was not accompanied by a displacement of the physical violence to another kind such as emotional violence. Moreover, the men's violence was severe and life-threatening, and yet the program did allow them to change.*⁸⁸³

SPEAQ submitted to the Inquiry that 'from the perspective of practitioners who work directly with those perpetrating the violence, and with their partners, there is no question that these programs are worthwhile'.⁸⁸⁴ The organisation identified that its members are encouraged by their witnessing of a range of positive program outcomes including:

- hearing a man admit for the first time how atrocious his behaviour has been, and acknowledge that "it's me, it's not her";

⁸⁷⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 39.

⁸⁷⁹ Day, Chung, O'Leary, Justo, Moore, Carson and Gerace, [Integrated responses to domestic violence: Legally mandated intervention programs for male perpetrators](#), 2010, pages 6-7.

⁸⁸⁰ [Ibid](#), page 6.

⁸⁸¹ [Ibid](#), page 5.

⁸⁸² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 39.

⁸⁸³ T Brown and R Hampson, [An Evaluation of Interventions with Domestic Violence Perpetrators](#), Monash University Department of Social Work, Monash University and The Family Violence Prevention Association of Australia, 2009, page 46.

⁸⁸⁴ SPEAQ, Submission No. 78, page 15.

- hearing a man report his use of new behaviours, avoiding violence and creating a better atmosphere at home, and hearing from his partner that this is in fact happening;
- a partner talking and being really heard for the first time about their experience of abuse over many years, feeling supported and being assisted to create a safety plan for herself and her children;
- seeing system's agencies work together to prevent another serious assault in response to a program worker providing information about the development of a high risk situation; and
- seeing a man's demeanour change over time from the hard, angry man to someone more open, more accepting, with some humility.⁸⁸⁵

Further, even if program effects are limited, SPEAQ notes that an argument for the cost effectiveness of program options is not difficult to make: '*considering the costs of incarceration alone, if program participation led to only between 1 and 4 out of 100 participants not needing to serve a prison term of 12 months, the program will have covered its costs*'.⁸⁸⁶ When avoided ambulance and hospital costs, victim and child protection services and other state government-funded costs are added to the picture, the potential preventative cost savings are even greater.

Importantly, researchers and stakeholders alike have also identified that program referral serves a number of other positive functions in addition to promoting behavioural change in offenders. In Queensland, professional practice standards require that if the perpetrator is in a program, their partner is also offered or invited into support or counselling; and with parental consent, children may also receive specialised counselling.⁸⁸⁷ Researchers have identified that program referrals can therefore positively influence the opportunity for women and children to access support resources, while also providing a formal way of monitoring the behaviour of men and the potential risks of further violence; and facilitating appropriate arrangements and plans for safety.⁸⁸⁸ SPEAQ similarly summarised these safety outcomes in its submission, as:

- supporting the safety and wellbeing of women and children directly through partner contact, referral to counselling or other services for her and her children;
- supporting women's agency, decision making, safe resistance and her own informal processes to hold him accountable (when safe), and to make decisions for her family; and
- risk assessment and risk management work through a coordinated approach involving the man, his (ex)partner and children, and involving information sharing and multi-agency work with other systems agencies where appropriate.⁸⁸⁹

Importantly, not all men will make significant changes, and research and clinical evidence particularly suggests that programs may not be beneficial for those who score especially highly on certain psychopathy traits, such as narcissism or borderline personality disorders; and for those who exhibit a long history of generalised violent behaviour (not just in relation to DFV).⁸⁹⁰

However, given the range of direct and ancillary positive outcomes programs can support, the Australian Institute of Social Relations has concluded that '*all opportunities for engaging with perpetrators must be pursued in the hope that high rates of re-offending may be potentially*

⁸⁸⁵ Ibid, page 11-12

⁸⁸⁶ Ibid, page 17.

⁸⁸⁷ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 39.

⁸⁸⁸ Day, Chung, O'Leary, Justo, Moore, Carson and Gerace, [Integrated responses to domestic violence: Legally mandated intervention programs for male perpetrators](#), 2010, page 2.

⁸⁸⁹ SPEAQ, Submission No. 78, page 11.

⁸⁹⁰ No To Violence Male Family Violence Prevention Association, [What can be done to strengthen accountability for men who perpetrate family and domestic violence?](#), September 2013, page 10.

reduced';⁸⁹¹ and the *National Plan to Reduce Violence against Women and their Children 2010-2022*, to which Queensland is a signatory, also identifies perpetrator programs as an 'essential part' of any comprehensive DFV prevention plan and integrated response framework.⁸⁹²

In the first place, the ability for programs to prevent or reduce offending and create safety is fundamentally constrained by program attendance and participant motivation. Rates of attrition are high in many cases, limiting any program effects; and participants can demonstrate both low levels of motivation or readiness and highly entrenched gender attitudes. Although it is frequently assumed that prospects may be better where men attend programs voluntarily, as they may be more motivated to change; numerous studies have identified that voluntary participants are up to twice as likely to drop out, and also re-assault at a significantly higher rate than mandated program attendees; with accompanying impacts on women and children's engagement with partnered services.⁸⁹³

A number of submitters accordingly suggested the need for increased measures to encourage attendance, including mandatory referral and/or sanctions for non-compliance, together with efforts to address any issues regarding service accessibility (including physical location and culturally and linguistically appropriate delivery), among other measures.⁸⁹⁴

Improving program engagement can also boost attendance and prospects for change, as influenced by factors including:

- the therapeutic alliance – that is, an affective bond between the client and therapist and a functioning, collaborative relationship, helping to support a caring environment and active client participation in goal-setting;
- a non-judgemental setting – programs must often be careful not to be too direct or challenging in naming violent or abusive behaviours, and establishing trust and confidentiality is also recognised as '*a critical factor when predicting the likelihood of perpetrators seeking of receiving help*'; and
- staff resources and expertise – that is, necessary specialist training and proficiency, and support resources to facilitate effective program implementation and issue management.⁸⁹⁵

Longer programs also tend to achieve better outcomes in respect of reoffending rates for those who stay the distance (as well as providing more stable partner support and safety mechanisms),⁸⁹⁶ and the WLS identified that international best standards of practice suggests programs should be a minimum of 40 to 50 weeks in length.⁸⁹⁷ In Queensland, current perpetrator programs are of 15 to 25 weeks' in length, and a minimum of 32 hours duration (compared to a minimum standard

⁸⁹¹ AVERT Family Violence: Collaborative Response in the Family Law System, *Prevention Strategies: Involving and Engaging Perpetrators*, Australian Government, Attorney-General's Department, Australian Institute of Social Relations, 2010, page 8.

⁸⁹² Council of Australian Governments, *National plan to reduce violence against women and their children 2010-2022*, May 2011, page 29.

⁸⁹³ L Laing, *What is the Evidence for the Effectiveness of Perpetrator Programs?*, Australian Domestic and Family Violence Clearinghouse, 2003, pages 12-13.

⁸⁹⁴ *Ibid*, pages 4, 13

⁸⁹⁵ AVERT Family Violence: Collaborative Response in the Family Law System, *Prevention Strategies: Involving and Engaging Perpetrators*, Australian Government, Attorney-General's Department, Australian Institute of Social Relations, 2010, page 11; SPEAQ, Submission No. 78, page 18.

⁸⁹⁶ T Brown and R Hampson, *An Evaluation of Interventions with Domestic Violence Perpetrators*, Monash University Department of Social Work, Monash University and The Family Violence Prevention Association of Australia, 2009, page 8.

⁸⁹⁷ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 6 August 2014, pages 20-22; WLS, Submission No. 60, page 19.

60 hours duration in the UK, and common durations of 50 hours or more in the U.S.).⁸⁹⁸ SPEAQ pointed out that the State's professional practice standards for programs are now seven years old.⁸⁹⁹

Stakeholders also reported the positioning of the programs within a broader interagency framework or integrated CCR has been widely acknowledged as a crucial element of success, and supportive of critical high level monitoring, risk assessment and risk management opportunities. For example, at the public hearing in Brisbane, Ms Angela Lynch of the WLS identified that where coordinated approaches are in place:

*There would be communication and information flow between the person who is supporting the victim and the person who is supporting the perpetrator. If that person who is running those groups feels that there is a concern about that perpetrator, they would have an obligation to tell the victim support person, 'I have concerns. He was very angry when he left.' There is cross-referencing in relation to things like he might say he is getting better but she might say things have not changed. So there is a kind of cross-referencing in relation to information that is being provided in those groups.*⁹⁰⁰

According to SPEAQ, there are approximately 17 group programs and several other counselling services across Queensland for men who use DFV; while representatives from the Domestic Violence Prevention Centre Gold Coast more conservatively estimated program numbers at 14.⁹⁰¹ Programs discussed during public hearings include:

- the 24-week GCDVIR program;
- a voluntary program run by SCOPE Regional Domestic and Family Violence Service, Centacare;⁹⁰²
- the Toowoomba Domestic and Family Violence Prevention Service's Alternatives to Aggression program;⁹⁰³
- a Mount Isa men's action group run by the Catholic church and Father Mick Lowcock, which 'is about teaching the perpetrators of domestic violence responsibilities and making them responsible – trying to encourage them to become more responsible citizens';⁹⁰⁴ and
- a UnitingCare Community program run in collaboration with local probation and parole in Ipswich, on a similar basis to the GCDVIR program.⁹⁰⁵

These various intervention programs are of use across the spectrum from early intervention to tertiary intervention, and SPEAQ has identified that '*currently there are so few programs operating that each program must work with the full range of participants from many backgrounds, circumstances and stages of readiness for change*'.⁹⁰⁶ While this diversity can add to the learning environment in group programs, there is also evidence that allocating participants to different programs according to their level of motivation and/or the stage of intervention can lead to better outcomes.⁹⁰⁷ SPEAQ's submission also highlighted potential benefits to be gained from intervention readiness programs which specifically target motivation for change prior to program

⁸⁹⁸ WLS, Submission No. 60, page 19.

⁸⁹⁹ SPEAQ, Submission No. 78, page 15.

⁹⁰⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 6 August 2014, pages 20-22.

⁹⁰¹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 37.

⁹⁰² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 32.

⁹⁰³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 20.

⁹⁰⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, page 16.

⁹⁰⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 18.

⁹⁰⁶ SPEAQ, Submission No. 78, page 14.

⁹⁰⁷ *Ibid*, page 14.

commencement, or use of staged-approaches with identified requirements for program progression.⁹⁰⁸

This reflects broader wisdom of the need to move beyond a 'one-size fits all' approach, to '*tailoring interventions to individual perpetrators, informed by risk-need-responsivity principles*', through inclusion of:

- individual counselling sessions alongside the group program as needed;
- integration of counselling for alcohol or other drug use (as the ability of men to engage in programs may be fundamentally constrained by these and other issues, such that they may require addressing prior to or at least simultaneous with program participation);
- integration of therapeutic responses to the man's experience of trauma (particularly given many perpetrators are vulnerable persons themselves, and may have impaired social, emotional and cognitive development due to certain personal characteristics and/or experiences);⁹⁰⁹ and
- assessment tools and service linking to address other complex needs.⁹¹⁰

It is also important that programs are delivered in a culturally appropriate fashion, and that programs for Indigenous perpetrators particularly reflect differing issues and risk factors within Aboriginal and Torres Strait Islander Communities. Blagg, for example, suggests that Indigenous views of DFV differ from non-Indigenous views in the following areas:

- male violence is seen as less an expression of patriarchal power than as a compensation for lack of status, esteem and value;
- there is greater stress on the impacts of colonialism, trauma, family dysfunction and alcoholism and their expression in violence;
- there is greater emphasis on the impact of family violence on the family as a whole;
- there is greater emphasis on a range of potential perpetrators, including husbands, sons and grandsons and other make kin; and
- there is a rejection of criminalisation as the main strategy to deal with family violence, and greater emphasis on healing and re-integrating the offender.⁹¹¹

With regard to funding and program availability more broadly, submitters widely highlighted that there is currently a significant gap between the need of the sector and the capacity of these programs to service that need.⁹¹² For example, at the public hearing in Southport, Ms Rosemary O'Malley identified:

...there are only 14 programs approved in Queensland to deliver to male domestic violence offenders. So 50,000 call-outs; 14 programs. If you look at 10 men in each of those programs, that is the 140 men a week...

⁹⁰⁸ Ibid, page 14.

⁹⁰⁹ Standing Committee on Social Issues, Report No. 46, [Domestic violence trends and issues in NSW](#), Legislative Council, New South Wales Parliament, August 2012, page 398.

⁹¹⁰ SPEAQ, Submission No. 78, page 15.

⁹¹¹ C Cunneen, [Alternative and Improved Response to Domestic and Family Violence in Queensland Indigenous Communities](#), Queensland Government, Department of Communities, 2010, page 32.

⁹¹² See: SPEAQ, Submission No. 78, page 12; also: *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 6 August 2014, pages 20-22.

On average, there are 50,000 police call-outs in Queensland every year to domestic violence incidents... Where that becomes important is when you look at one of your terms of reference, which is unreported crime. There are figures put out that between one and 10 women do not report. Even if you are somewhat sceptical of the one in 10, even if you say that one in six do not report—and that is just a random number; that is not another proposed number—that is 300,000 incidents of domestic violence in Queensland annually.⁹¹³

This overall capacity shortfall of existing program offerings is further compounded by the fact there are apparently 'significant areas of the state where no programs exist at all', including 'the Mackay region, Emerald to Longreach, and the Redlands district near Brisbane'.⁹¹⁴ These gaps in service coverage could also be set to increase, according to SPEAQ:

Currently, group based Intervention Programs in Gympie, Maryborough, Hervey Bay and Bundaberg operate on federal government funding. Imminent changes to the federal government's funding due to policy changes, mean that all of these programs will cease to operate after December 2014. This will leave a huge service gap across this part of Qld where the prevalence of DFV is high. The use of federal government funding for this purpose has occurred because of the absence of state funding in those areas. The federal government has made clear that service responses to domestic violence are state responsibility. The Qld Government must address this gap.⁹¹⁵

Professional practice standards require each program to have at least one 'Level 3 facilitator', who must have 'the equivalent of a Graduate Certificate of Social Science (Male Family Violence Group Facilitation) for example, as developed by the Swinburne Institute of TAFE in Victoria'. SPEAQ has identified:

As this qualification is not available in Qld, there is currently only one group facilitator in Qld who holds this qualification with one of these no longer based in Queensland, so this part of the standards cannot be complied with. Both the Department of Communities and the service providers they fund would view the availability of such a qualification as an obvious and essential requirement for sector development. SPEAQ has been working on developing such a qualification for Qld at postgraduate diploma level, in conjunction with Dr Deborah Walsh of the University of Qld.⁹¹⁶

SPEAQ also highlighted the partner advocacy component is unfunded, with the expectation that existing support services will pick up the work as part of their client load – an expectation that will become increasingly unreasonable and unfeasible without additional funding as the number of intervention programs increase.⁹¹⁷

Committee Comment

As highlighted above, perpetrator programs are an essential component of any strategy to effectively address domestic and family violence. Programs must be appropriately developed and supported by Government to ensure they reach areas where there is need. Unfortunately, at the moment such a need appears to exist across the State.

⁹¹³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 37.

⁹¹⁴ SPEAQ, Submission No. 78, page 13.

⁹¹⁵ *Ibid*, page 13.

⁹¹⁶ *Ibid*, pages 18-19.

⁹¹⁷ *Ibid*, page 17.

The Committee considers this is a matter that will be looked at further by the Taskforce, however it is clear from the evidence received by this Committee that further work must be undertaken to improve the delivery and availability of these programs. This includes providing appropriate funding.

Recommendation 30

The Committee recommends the Government develop and fund a comprehensive sector development strategy for intervention programs (men's behaviour change programs), to support a staged increase in the number and availability of programs and their enhanced delivery within coordinated community response frameworks across the State; including the necessary development of education, training and professional development and other support mechanisms, and accompanying monitoring and evaluation systems for continuous improvement.

Particular attention must be paid to gaps in existing programs and funding, including for Indigenous Australians, remote and regional locations, high risk offenders and primary intervention candidates, and to accompanying services for partners and children.

Recommendation 31

The Committee recommends the Government review current professional practice standards in light of international best practice experience to ensure that programs are of an appropriate duration and form to best support behaviour change and family safety.

Recommendation 32

The Committee recommends the Special Taskforce on Domestic and Family Violence in Queensland review and recommend options for increased and early referral and uptake of intervention programs and improved program completion, including involuntary referral and program compliance mechanisms.

9.12 Legislative Provisions

Submitters to the Inquiry identified that recent legislative changes have bolstered their ability to address the complicated issues of DFV.⁹¹⁸ However, they also called for consideration of new provisions or amendments, including creating a criminal offence of domestic violence, and establishing domestic and family relationships as an aggravating factor in offending.

For example, the WLS noted that in 2000, the *Women and the Criminal Code Taskforce* recommended the Queensland Government investigate the creation of a specific offence of domestic or family violence, potentially framed as a course-of-conduct offence '*in similar terms to the offence of torture in s.320A of the Criminal Code (Qld)*'.⁹¹⁹ The WLS identified that the creation of a specific or 'umbrella' offence was also considered by the ANSWLRC in their 2010 report on the *National Legal Response* to family violence, which noted that specific offences of DFV had been established in a number of European jurisdictions.⁹²⁰

The Commission ultimately concluded that while an 'umbrella offence may potentially recognise and facilitate understanding of the dynamics of family violence in the criminal justice system' and

⁹¹⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 32.

⁹¹⁹ WLS, Submission No. 60, page 11.

⁹²⁰ *Ibid.*

academic support for the idea was 'considerable'; they could not support the creation of an offence at that time, due largely to difficulties conceptualising and particularising the form and content of any provisions, among other issues.⁹²¹ Acknowledging the suggestion of the QLS that the 'real issue' was perhaps not the insufficiency of existing laws but rather, shortcomings in the practical application of these laws in policing and sentencing responses; the Commission preferred an approach that focused on 'improving existing frameworks' by way of judicial education on recognising courses of conduct in sentencing, integrated responses, specialised policing and prosecution measures, and broader education and training about the dynamics of domestic violence.⁹²²

The Committee notes the WLS's recommendation that if a new taskforce for domestic violence and sexual violence is established, that it '*consider the previous recommendations by the Women and the Criminal Code Taskforce and investigate the European experience*'.⁹²³

In addition, Ms Rosemary O'Malley of the Domestic Violence Prevention Centre Gold Coast raised the prospect of establishing domestic and family relationships as an aggravating factor, as a means of working to address the attitudinal minimisation of conduct which would likely prompt a more serious response where committed by a stranger:

...One of the things that really stands out for me that needs to change is that in lots of other offences like stealing, if it is stealing as a servant it carries a more serious penalty than just stealing. If it is an aggravated sexual offence against a child, if you have a relationship with that child, it is aggravated sexual offence. So in lots of other types of offending, being in a relationship with someone is actually an aggravating factor except for domestic violence where it seems to be a mitigating factor—somehow she has chosen to be in the relationship so it is not as serious as public violence. I think that is one of the things that has to change if we really think about that.

*You asked that great question before about whether somebody who is experiencing sexual assault within a domestic violence situation would be as seriously affected as a public rape... The relationship of trust that is breached with a sexual assault within a relationship—or any type of violence within a relationship—is so much more serious than doing it to a stranger... I think though that the attitude...that violence that has happened in a relationship is less serious than public or street violence is one of the things that keeps it underreported, and it is such huge numbers.*⁹²⁴

Similarly, SPEAQ noted in their submission:

In offences other than Domestic Violence, eg. assault, rape, if the offence occurs within the context of a relationship of trust, this is treated as an aggravating factor, and the severity of the penalty is increased. If assault or rape occurs within a domestic relationship, which is a relationship of trust, it is considered as Domestic Violence and penalties are lighter.

*This distinction leads to the inconsistent application of justice, and must be addressed if the justice system is to send strong messages of deterrence to those perpetrating the violence.*⁹²⁵

⁹²¹ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 170.

⁹²² *Ibid*, pages 170-171.

⁹²³ WLS, Submission No. 60, page 12.

⁹²⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, pages 42-43.

⁹²⁵ SPEAQ, Submission No. 78, page 25.

The Committee acknowledges the Legislative Assembly is currently considering legislation which seeks to change sentencing guidelines in the *Penalties and Sentences Act 1992* to provide where offences involve domestic or family violence, that is to be considered an aggravating factor at sentencing:

*Offenders will not be able to successfully argue the fact that the act of violence was committed in a domestic or family relationship as a mitigating factor in any sentence of the court. If the offender can satisfy the court that they were previously the victim of the offender in an abusive domestic relationship, the court will not be required to apply the circumstance of aggravation when sentencing the offender.*⁹²⁶

The Domestic and Family Violence Protection and Other Legislation Amendment Bill 2014 also contains a range of other various amendments to increase penalties for offenders who commit breaches of domestic and family violence orders, and to provide financial and practical support for victims by amendment to the *Victims of Crime Assistance Act 2009*.⁹²⁷

9.13 Court Specialisation

During the Inquiry a number of stakeholders commended the use of specialised courts and called for an expansion of their use in Queensland in various forms. The WLS submitted that there is compelling local and international evidence that specialised court responses result in more efficient finalisation of matters, and increased successful prosecutions. In particular, it highlighted a 2012 interview with the Director of the U.S. Department of Justice's Office on Violence Against Women, who stated:

Jurisdictions with specialized domestic violence prosecution programs generally have the highest rates of successful prosecution. From July to December 2010, 81 Arrest Program and Rural Program grantees reported that they developed or supported a specialized prosecution unit. In two years, a specialized domestic violence prosecution unit in Chicago convicted 71% of defendants compared to 50% of domestic violence defendants convicted by the rest of the Cook County office. Four years after Milwaukee implemented a specialized prosecution unit, felony convictions had increased five-fold. Significantly, VAWA Grants to Encourage Arrest Program-funded prosecutors' offices had a 76% conviction rate for sexual assault cases in the second half of 2010.

*There is also a body of research indicating that the increased availability of legal services has significantly contributed to a decline in domestic violence in the United States. Obtaining a protection order has been shown in multiple studies to reduce future assault and improve quality of life. Even when orders were violated, there was a significant reduction in subsequent abuse. A recent study showed that the state of Kentucky averted \$85 million in costs by reducing violence and improving victims' quality of life through protection orders.*⁹²⁸

In Queensland, specialised DFV respondent court work is carried out in 19 Magistrates Courts across the State, with approximately 6,500 men being seen each year. SPEAQ identified that these respondent court workers are providing information about the court process, discussing options, facilitating referrals to services such as intervention programs, 'and may, within an accountability framework, support the man in the courtroom'.⁹²⁹ Feedback from these specialised legal operations apparently shows consistently that respondent court work reduces the number of contested

⁹²⁶ Explanatory Notes, Domestic and Family Violence and Other Legislation Amendment Bill 2014, page 1.

⁹²⁷ Ibid.

⁹²⁸ R Kanani, [DOJ Director on Violence Against Women in the United States](#), *Forbes.com*, 3 August 2012.

⁹²⁹ SPEAQ, Submission No. 78, page 22.

applications and facilitates a smoother court process, reducing court costs. Improved information and support means respondents' anxiety and confusion is reduced, and increased engagement and cooperation between Magistrates and court support workers has been identified as having facilitated greater referral to and reduced contravention of intervention programs.⁹³⁰

SPEAQ has identified, however, that funding for this specialist court work is currently 'piecemeal across the state', administered through a variety of funding sources and at different funding levels, and with varying levels of expertise in DFV matters.⁹³¹ The organisation suggested outcomes could be improved with a more consistent approach, recommending that specialist court work be maintained and expanded into all Magistrates Courts in Queensland and appropriately, also augmented with the necessary provision of specialist court support workers for the aggrieved parties.⁹³²

The latter component of this recommendation seems particularly prudent, particularly given the considerable identified imbalances in the State's system at present, and the considerable benefits to be gained from more victim-centric and inclusive justice responses, including:

*...better outcomes in terms of victim satisfaction, improvement in the response of the legal system (for example, better rates of reporting, prosecution, convictions and sentencing in the criminal context), better victim safety, and—potentially—changes in offender behaviour.*⁹³³

9.14 Inter-jurisdictional Orders

Submitters also identified problems relating to the inter-jurisdictional management and transferability of DVOs and service support. This included a concern that some women may choose not to transfer their DVOs because it will alert offenders to their location, potentially jeopardising their safety (as offenders need to be served and aware with regards to areas from which they must refrain from entering).⁹³⁴ In addition, the general administrative hassle associated with manually registering an interstate order, on application, may also prevent some victims from doing so. This can potentially leave women vulnerable to further victimisation with diminished legal recourse to address the offending behaviour.

The National Council to Reduce Violence Against Women and their Children in its 2009 review of domestic violence laws in Australia concluded such 'difficulty in enforcing protection orders granted in another state has, historically, been a key defect in the protection offered to victims by Australia's fragmented system of domestic violence laws'.⁹³⁵ Further, these issues persist despite the fact that as early as 1999, the domestic violence Model Legislation Report identified that a national registration scheme, supported by a single database, could streamline and simplify inter-jurisdictional registration, and would enable protection orders:

*...[to] attain immediate and true nationwide portability and provide needed protection to the victims of domestic violence, no matter where they live in Australia.*⁹³⁶

The Model Legislation made provision for such a national scheme premised on the use of the CrimTrac database as the repository of relevant information, with the relevant provision envisaging that as soon as possible after the making of a domestic violence protection order by a court, the

⁹³⁰ SPEAQ, Submission No. 78, page 22.

⁹³¹ SPEAQ, Submission No. 78, page 22.

⁹³² SPEAQ, Submission No. 78, page 23.

⁹³³ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 1489.

⁹³⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 30.

⁹³⁵ National Council to Reduce Violence Against Women and their Children, *Domestic Violence Laws in Australia*, Commonwealth of Australia, June 2009, page 165.

⁹³⁶ *Ibid*, page 166.

court clerk would be required to give notice of the order for entry of the system. Notice was also to be given of any extension, variation, revocation or setting aside on appeal of a DVO. In effect, the Model State/Territory legislation specified that upon the entry of an order made in one jurisdiction into the CrimTrac database, the order would be deemed to have been registered and to be enforceable in each other jurisdiction as if it had been made in that jurisdiction.⁹³⁷

Despite this acknowledged need and model drafting efforts, such a scheme - that is one that would achieve automatic national enforceability of orders as soon as they are made - has not been implemented by the states or territories, nor do the needs and merits of such a scheme appear to have been seriously considered in the years since.⁹³⁸

The Committee is of the opinion that such issues require timely attention, and would accordingly encourage efforts to drive a national agenda and commitment to the establishment of a national registration scheme.

Committee Comment

As the enforcement end of the domestic violence system, decisions made in courts and the interactions that surround them crucially impact on the State's response to DFV as a whole. Legal processes are essential to safeguarding victim safety, to deterring further violence and holding offenders to account, to facilitating diversionary interventions to support behaviour change, and to providing the necessary frameworks for practical support and implementation to facilitate these things. Assuring these objectives as effectively as possible, and in such a way as to maximise access to justice and ensure interactions and decision making are informed and supported, stands to minimise scope for revictimisation and attrition and fundamentally enhance the victim experience and tertiary prevention.

Various submissions to this Inquiry and other reports and research have identified both a range of shortcomings in DFV victims' encounters with the legal system and prosecutorial, judicial, and compensatory outcomes, and a variety of suggestions or recommendations to address them. The Committee commends the following actions to enhance understanding and conduct among sector agents and bolster environmental and practical supports, to elicit more consistent, appropriate and responsive actions within court jurisdictions; and ensure the law is better in keeping with the principles of the *Domestic and Family Violence Protection Act 2012*.

Recommendation 33

The Committee recommends the application process for access to victim compensation be reviewed, simplified and streamlined to support more accessible and timely processing of applications in accordance with the requirements *and* principles of the *Victims of Crime Assistance Act 2009*.

Recommendation 34

The Committee recommends the Special Taskforce on Domestic and Family Violence in Queensland review the need for amendments to the *Victims of Crime Assistance Act 2009* to ensure all victims of domestic violence are appropriately supported to access necessary assistance and compensation to support their participation in legal processes and ongoing safety needs.

⁹³⁷ [Ibid](#), page 166.

⁹³⁸ [Ibid](#), page 167.

Recommendation 35

The Committee recommends that the Special Taskforce on Domestic and Family Violence in Queensland review consider possible legal amendments to strengthen the operation and application of the *Domestic and Family Violence Protection Act 2012* and associated legislation, including:

- o stand-alone domestic and family violence offences;
- o aggravated offences of penalties for violence committed in the context of domestic and family relationships;
- o alternative options for standards employed in legal tests for domestic violence orders; and
- o statutory conditions for domestic violence orders.

Recommendation 36

The Committee recommends that the Government take an active leadership role in encouraging inter-jurisdictional efforts to establish a national registration scheme for domestic and family violence orders.

10. Sexual Violence

Sexual violence is a complex, pervasive and insidious crime that is often hidden by the secrecy, silence, shame and stigma surrounding its perpetration, and by the private contexts within which it is committed.⁹³⁹

Contrary to public perceptions, most sexual violence is committed not by unknown predators, but by individuals who are known to the victim, including family members, friends or acquaintances.⁹⁴⁰ Offending can be expressed as any of a broad continuum of uninvited, unwanted or imposed sexual behaviours, acts or conducts, including: rape; indecent assault; sexual abuse; sexual acts with a child; exposure offences; and an attempt or threat to do any of the former.⁹⁴¹

Following on from the Committee's consideration of domestic and family violence this chapter sets out the issues brought to the attention of the Committee in relation to sexual violence. Although these two matters are very different in their nature, there are a number of similarities in how these crimes can be prevented.

10.1 The Prevalence of Sexual Violence

In 2013, there was a 7.6% increase in the number of sexual assault victims in Australia, from 18,494 in 2012 to a four year high of 19,907 in 2013.⁹⁴² The 2012 ABS Personal Safety Survey identified an estimated 17% of all women aged 18 years and over and 4% of all men aged 18 years and over had experienced sexual assault (excluding unwanted sexual touching) since the age of 15. For approximately 88% of affected women and 75% of male victims, the perpetrator was known to the victim (and most typically male).⁹⁴³

Levels of victimisation experienced prior to reaching the age of 15 years have been estimated by other studies at approximately 12% for women and 5% for men.⁹⁴⁴ Further, the 2012 Personal Safety Survey also identified that approximately 48% of women and 18% of men aged 18 years and over had also experienced one or more types of sexual harassment behaviours during their lifetime, including: indecent phone calls; indecent text, email or post; indecent exposure; inappropriate comments; and unwanted sexual touching.⁹⁴⁵

In Queensland, the ABS' 2013 *Recorded Crime – Victims* publication identified there was a 2.6% annual increase in the number of sexual assault victims in Queensland, from 3,914 in 2012 to 4,017 in 2013. In line with national results, the majority of 2013 victims were female (82%, or 3,310 victims), with assaults most commonly occurring at a residential location (68%, or 2,737 victims); and perpetrated by a known offender (2,756, or 69% of all victims, including 1,235 victims or 31% for whom the perpetrator was a family member).⁹⁴⁶

⁹³⁹ Centre for Innovative Justice, *Innovative justice responses to sexual offending – pathways for better outcomes for victims, offenders and the community*, Centre for Innovative Justice, RMIT University, Melbourne, May 2014, page 10 (Submission No. 64); Brisbane Rape & Incest Survivors Support Centre, Submission No. 50, page 3

⁹⁴⁰ Ibid; Rodney Crisp, Submission No. 9, page 1.

⁹⁴¹ Ibid, page 10 (Submission No. 64).

⁹⁴² Australian Bureau of Statistics, 'Sexual Assault,' *Recorded Crime – Victims, Australia, 2013*, 26 June 2014.

⁹⁴³ Australian Bureau of Statistics, 'Demographics of those who have experienced sexual assault,' *4906.0 – Personal Safety, Australia, 2012*, 11 December 2013.

⁹⁴⁴ C Tarczon and A Quadara, 'The nature and extent of sexual assault and abuse in Australia,' Australian Centre for the Study of Sexual Assault (ACSSA), ACSSA resource sheet, December 2012, page 8.

⁹⁴⁵ Australian Bureau of Statistics, 'Experiences of Selected Types of Sexual Harassment,' *4906.0 – Personal Safety, Australia, 2012*, 1 August 2014.

⁹⁴⁶ Australian Bureau of Statistics, *4510.0 – Recorded Crime – Victims, Australia, 2013*, 26 June 2014.

QPS statistics indicate the incidence of reported rape and attempted rate increased slightly in 2012-13 and 2013-14, from 1,301 offences in 2011-12 (28 per 100,000 persons), to 1,330 offences in 2012-13 (29 per 100,000 persons) and 1,436 offences in 2013-14 (30 per 100,000). The number of 'other sexual offences' reported also rose during this period, taking the number of all sexual offences up from 4,780 in 2011-12 to 5,104 in 2012-13 and 5,224 in 2013-14; or from a rate of 105 offences per 100,000 persons in 2011-12 to 110 offences per 100,000 persons in 2012-13 and 2013-14.⁹⁴⁷

10.2 Costs of Sexual Violence

The impacts of sexual violence are profound, and experienced in diverse ways encompassing a myriad variations of different psychological and emotional reactions.⁹⁴⁸ Documented psychological and emotional effects include: intense fear of death and disassociation during the assault; anxiety and ongoing fears; feelings of low self-esteem; self-blame and guilt; shock, confusion and denial; self-harm, suicidal ideation and attempted suicide; and post-traumatic stress disorder (PTSD). Identified physical effects of sexual violence include assault-related internal and external injuries, sexually transmitted and chronic diseases, headaches, eating disorders, and other conditions.⁹⁴⁹

Approximately 55% of victims experience symptoms across their whole lifespan, and non-perpetrator family members, partners, friends and children of victims and survivors are sometimes referred to as 'secondary victims' because of the way in which they can often exhibit similar symptoms to those of primary victims, due to the traumatising effects of their insight into the assault/s and the effects on their significant other.⁹⁵⁰

Financial imposts associated with sexual violence include increased health costs for treatment of physical and medical conditions associated with the trauma; production costs associated with absenteeism; a wide range of second generation costs associated with the family services support sector; and broader social costs associated with altered community engagement.⁹⁵¹ A UK Home Office report published in 2005 identified that sexual violence was the second most expensive interpersonal crime behind only homicide.⁹⁵² In a confidential submission to the inquiry, one regional sexual assault service worker submitted:

The cost to our healthcare (both mental and physical) systems is huge. Not to mention corrections, probation and parole for incarcerating the offenders (those who do get convicted) who are often also victims themselves. Families are torn apart by incest, the removal of children, children disclosing and then not being believed, the horrific legal system that is put in place to support them...Children taken from their families and placed in foster care or residential facilities in the hope of keeping them safe, where they are often subjected to further abuse. This is often an intergenerational crime which is perpetuated and at the heart of much other crime committed in society.

⁹⁴⁷ Queensland Police Service, *QPS Region and District Crime Statistics 2009-2014*, Analytics, Information and Data Services, Public Safety Business Agency, SR 427/14, 3 July 2014, page 1.

⁹⁴⁸ C Boyd, 'The impacts of sexual assault on women,' ACSSA Resource Sheet, Australian Institute of Family Studies, April 2011, pages 1, 7.

⁹⁴⁹ Z Morrison, A Quadara and C Boyd, "'Ripple effects" of sexual assault,' *Issues*, No. 7, Australian Institute of Family Studies, June 2007, page 2.

⁹⁵⁰ C Boyd, op cit, page 6.

⁹⁵¹ KPMG, Review of Queensland Health responses to adult victims of sexual assault, Queensland Health, March 2009, pages 16-18.

⁹⁵² Z Morrison, A Quadara and C Boyd, op cit, page 23.

*The cost to... our communities Australia-wide supporting both victims and perpetrators has risen steeply. Revenue saved by irradiating sexual abuse would be well spent on healthcare, the elderly, the disabled and infirmed.*⁹⁵³

10.3 Victims of Sexual Violence

Much as is the case with domestic and family violence, there are a range of different characteristics that are associated with an increased risk of sexual violence victimisation. Those cohorts that are most at risk are often the most vulnerable and socially disadvantaged members of our community, and include:

- **Aboriginal and Torres Strait Islander women:** Indigenous women are approximately three times more likely to be victims of sexual assault than non-Indigenous women.⁹⁵⁴ Sexual abuse notifications against Indigenous children are also substantiated at a rate of five times that of non-Indigenous children.⁹⁵⁵
- **Children and Adolescents:** Increases in recorded sexual assault of young people have been a major contributor to rises in recorded sexual assault since the mid-1990s.⁹⁵⁶ According to the 2013 ABS Recorded Crime – Victims survey, in 2013 approximately 38% of sexual assault victims were aged 14 years and under, and approximately 63% of all victims were aged 19 years and under.⁹⁵⁷ Experiences of abuse can include perpetration by those in positions of authority (eg. clergy), guardianship (including family members) and care (eg. sports coaches, foster parents), as well as in relationship contexts and peer-to-peer social contexts.⁹⁵⁸
- **Homeless people:** Not only is sexual violence within the home a major cause of homelessness for young women; but homelessness in turn also places young women at a far greater risk of subsequent and repeated sexual assault. The Zig Zag Young Women’s Resource Centre Inc. (Zig Zag) submitted that ‘50 to 90% of young women who are homeless are homeless due to sexual abuse’; and ‘a survey of homeless young people in Sydney found that 76% of females reported having been sexually assaulted since becoming homeless’.⁹⁵⁹ Earlier Human Rights Commission research has pointed to 97% of homeless young women having been sexually assaulted.⁹⁶⁰
- **Women with a Disability:** Statistics indicate that 50 to 90% of women with a disability will be sexually assaulted in their lifetime.⁹⁶¹ Among the identified reasons for their high rates of victimisation are: limited life experience and dependency on others; a lack of personal safety training (eg. sex education), including an assumption that the person would not understand such training; little understanding of human rights and what constitutes a crime; suggestibility and difficulty understanding motives of others; low self-esteem, leading to a desire to please others; restricted living arrangements or accommodation settings; upbringings and subsequent

⁹⁵³ Confidential Submission No. 13.

⁹⁵⁴ The 2013 ABS Recorded Crime – Victimisation Survey identified that in 2013, Aboriginal and Torres Strait Islander persons had a rate of sexual assault victimisation around 3.5 times that of non-Indigenous Australians (214.4 victims per 100,000 compared to 65.3 victims per 100,000 for non-Indigenous persons). See: Australian Bureau of Statistics, ‘Queensland’, 4510.0 – Recorded Crime – Victims, Australia, 2013, 26 June 2014.

⁹⁵⁵ C Tarczon and A Quadara, op cit, page 12.

⁹⁵⁶ Ibid, pages 8, 11.

⁹⁵⁷ Australian Bureau of Statistics, ‘Sexual Assault,’ 4510/0 – Recorded Crime – Victims, Australia, 2013, 26 June 2014.

⁹⁵⁸ C Tarczon and A Quadara, op cit, page 11.

⁹⁵⁹ Zig Zag Young Women’s Resource Centre Inc., Submission No. 24, page 1.

⁹⁶⁰ Human Rights Commission cited in Queensland sexual assault services, The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland, 2012, page 15.

⁹⁶¹ C Tarczon and A Quadara, op cit, page 13.

exposure to settings of social disadvantage; specific targeting by predators; and a decreased likelihood of being believed if disclosed.⁹⁶²

- During a Brisbane public hearing, the Committee received testimony from Zig Zag that there has been a concerning increase in the number of reported incidents of sexual violence experienced by young women receiving care in mental health facilities in Queensland in the past 12 to 18 months.⁹⁶³ Previous research has also estimated that up to 80% of women in the mental health system have experienced sexual violence at some time in their past.⁹⁶⁴
- **Culturally and linguistically diverse (CALD) women:** Surveys have identified respondents from CALD groups are less likely than the community at large to regard violence against women as serious and to consider a range of behaviours as constituting physical or sexual violence.⁹⁶⁵ Some studies have estimated that the majority of refugee women and children have suffered repeated rape and sexual assault; and once in Australia, a convergence of other factors serves to perpetuate the risks of victimisation, including a lack of support networks, socioeconomic disadvantage, income or visa dependency and other challenges.⁹⁶⁶ Limited English language skills and certain cultural obstacles can also make it difficult for victims to interact with police and authorities.
- **Sex workers:** Sex industry workers can be at high risk of sexual and physical violence, though risk profiles are highly influenced by their working conditions.⁹⁶⁷ Those operating in illegal circumstances and particularly engaged in street based work can be especially vulnerable due to a range of factors that can legitimise and foster opportunities for violence, including: geographical and social isolation, misunderstandings about what payment for sex entitles clients to; devaluing anti-sex worker sentiments promulgated throughout the communities; and circumstances of disadvantage generally.⁹⁶⁸ Importantly, a number of studies have emphasised that victimisation more often occurs outside of work contexts in private scenarios with known perpetrators.⁹⁶⁹ Perkins particularly identified that they were *'very likely most often attacked by men who knew that they worked as prostitutes, and the men assumed they had sexual access to them at any time,'* based on the dangerous perception that sex workers have forfeited their rights to sexual autonomy.⁹⁷⁰
- However, participation in the industry can also be the source of victimisation for some; with women from socially disadvantaged or CALD backgrounds particularly vulnerable to sexual violation by means of sexual servitude and trafficking for forced or illegally exploitative prostitution. Issues of illegal prostitution and human trafficking are examined in further detail in Chapter 12.

⁹⁶² Confidential, Submission No. 82.

⁹⁶³ Zig Zag Young Women's Resource Centre, Submission No. 24, page 3.

⁹⁶⁴ Queensland sexual assault services, *The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland*, 2012, page 15.

⁹⁶⁵ M Willis, 'Non-disclosure of violence in Australian Indigenous communities, *Trends & issues in crime and criminal justice*, Australian Institute of Criminology, No. 405, January 2011, page 3.

⁹⁶⁶ A Allimant and B Ostapiej-Piatowski, 'Supporting women from CALD backgrounds who are victims/survivors of sexual violence: Challenges and opportunities for practitioners,' *ACSSA wrap*, Australian Centre for the Study of Sexual Assault, No. 9, 2011, page 5; *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

⁹⁶⁷ World Health Organisation, 'Sexual Violence,' *World Report on Violence and Health*, Chapter 6, page 155.

⁹⁶⁸ A Quadara, 'Sex workers and sexual assault in Australia: Prevalence, risk and safety,' *ACSSA Issues*, No. 8, 2008, page 11.

⁹⁶⁹ A Quadara, *op cit*, page 5.

⁹⁷⁰ Perkins, cited in A Quadara, 'Sex workers and sexual assault in Australia: Prevalence, risk and safety,' *ACSSA Issues*, No. 8, 2008, page 5.

- **Women in corrective settings:** Although prisoners are generally excluded from most population surveys, research suggests that men and women in corrective settings have significant histories of sexual victimisation, and may also be vulnerable to assaults occurring within these institutions.⁹⁷¹ Women's prisoner advocacy group Sisters Inside have previously reported on longitudinal data indicating that approximately 89% of women in prison are victims or survivors of sexual assault.⁹⁷² An earlier (2002) Queensland Department of Corrections survey reported 42.5% of women in Queensland prisons as having experienced child abuse, with 36.5% of prisoners having been sexually assaulted before age 10.⁹⁷³ These findings are apparently consistent with those from other states internationally, and Queensland sexual assault services have identified that *'it appears likely that sexual violence plays a significant part in a woman's journey toward imprisonment'*.⁹⁷⁴

10.4 Risk factors

Many of the variables associated with increased risk that individuals will engage in sexual violence are similar to those identified with domestic violence.

At a societal level, the extent to which beliefs in male superiority and male entitlement to sex are entrenched will greatly affect the likelihood of sexual violence taking place, as will the general tolerance in the community of sexual assault and the strength of sanctions against perpetrators.⁹⁷⁵ This can be reflected in and reinforced by weak laws, policies and institutional settings related to gender equity; societal norms which maintain women's inferiority and sexual submissiveness, including views regarding women's roles and rights within relationships; and a variety of media and products which can objectify and sexualise women and girls, and can channel and facilitate social tolerance of sexist attitudes and behaviours.⁹⁷⁶

At a community level, poverty and lack of employment, mediated through individual forms of crisis of male identity, can act to increase risks of sexual violence.⁹⁷⁷ That is, authors have identified disadvantage may increase the risk of abuse because of other variables that accompany this, *'such as crowding, hopelessness, conflict, stress, or a sense of inadequacy in some men'*.⁹⁷⁸ Additionally, where particular areas or communities have higher levels and tolerance of crime (including sexual and other forms of violence), together with a lack of institutional support from police and the judiciary, this can have the effect of desensitising citizens and weakening levels of disapprobation, with dangerous normalising consequences.⁹⁷⁹ Some communities or cultural groups are also characterised by more patriarchal community structures and environments which may be more facilitative of narrow gender role interpretations, emphasising male dominance in families and male honour, with correlated higher rates of violence against women.⁹⁸⁰

⁹⁷¹ C Tarczon and A Quadara, op cit, page 13.

⁹⁷² S Quixley (ESSQ Community Services Consultancy), *The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland*, Queensland sexual assault services, 2010, page 38.

⁹⁷³ Hockings, cited in S Quixley (ESSQ Community Services Consultancy), *The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland*, Queensland sexual assault services, 2010, page 38.

⁹⁷⁴ S Quixley, op cit.

⁹⁷⁵ World Health Organisation, 'Sexual Violence,' *World Report on Violence and Health*, Chapter 6, page 161.

⁹⁷⁶ B Clark, Te Toiora Mata Tauherenga: Report of the Taskforce for Action on Sexual Violence, New Zealand Ministry of Justice, July 2009, page 20.

⁹⁷⁷ World Health Organisation, 'Sexual Violence,' *World Report on Violence and Health*, Chapter 6, page 159.

⁹⁷⁸ M Flood, 'Preventing Violence Against Women and Girls,' *Men in Organisations: Allies or adversaries to women's career advancement*, ed. R Burke and D Major, Edward Elgar Publishers, 2013, page 3.

⁹⁷⁹ Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, *Sexual Violence: Risk and Protective Factors*, United States Government, webpage, 24 December 2013.

⁹⁸⁰ M Flood, op cit, page 2.

These community-level factors can in turn be mediated by more localised environmental influences, including associations with sexually aggressive and delinquent peers; family environments characterised by physical violence, few resources and a lack of emotional support; and exposure to highly patriarchal relationships.⁹⁸¹ With regards to peer and friendship groups and organisational and workplace cultures particularly, Flood notes that some men have '*rape-supporting social relationships*', '*whether in sport, on campus, or in the military*', and this feeds into their use of violence against women:

*For example, there are higher rates of sexual violence against young women in contexts characterised by gender segregation, a belief in male sexual conquest, strong male bonding, high alcohol consumption, use of pornography, and sexist social norms.*⁹⁸²

Alcohol and drug use also have a complicated role in sexual assault. Drinking is often used as an excuse for socially unacceptable behaviour and heavy drinking cultures can be associated with notions of male displays of dominance, aggression and disinhibition, and also with harmful stereotypes about drinking women being sexually available and appropriate targets.⁹⁸³

On the perpetrator's side, alcohol consumption may both increase confidence and lead to misperceptions about corresponding sexual interest from their victim by allowing them to focus on their immediate feelings of sexual desire and entitlement rather than on more distal cues, such as the victim's suffering or their own sense of morality.⁹⁸⁴ Additionally, it can also facilitate an aggressive response if the man feels he has been 'led on'.⁹⁸⁵ For women, equally, their vulnerability may be increased by alcohol's diminishing cognitive effects on their ability to evaluate risk and, through reduced motor skills, their ability to resist effectively.⁹⁸⁶ In some cases the alcohol or drug-facilitated assault may be opportunistic, and in others, it may involve the deliberate, '*covert or forcible administration to a victim*' of drugs or alcohol by an assailant for the purposes of sexual assault.⁹⁸⁷

Unfortunately, while perpetrators are often predatory and do target vulnerabilities, dominant narratives persist which question the role of the woman's alcohol consumption, dress, or other behavioural choices, and are often exploited by perpetrators for the purposes of reinterpreting the assault or women's memories of it.⁹⁸⁸ Such victim-blaming notions that paint offenders as less culpable and victims more blameworthy fundamentally undermine no tolerance messages and minimise offender accountability, thereby contributing to and subtly reinforcing the matrix of attitudes that inform enabling behavioural norms.⁹⁸⁹

⁹⁸¹ Centers for Disease Control and Prevention, op cit.

⁹⁸² M Flood, op cit, page 2.

⁹⁸³ A Abbey, T Zawacku and P McAuslan, 'Alcohol and Sexual Assault,' *Alcohol and Violence*, Vol. 25, No. 1, 2001, page 46.

⁹⁸⁴ A Abbey, AM Clinton-Sherrod, P McAuslan, T Zawacki and PO Buck, 'The Relationship Between the Quantity of Alcohol Consumed and the Severity of Sexual Assaults Committed by College Men,' *Journal of Interpersonal Violence*, No. 18, 2003, page 814.

⁹⁸⁵ L Wall and A Quadara, 'Under the influence? Considering the role of alcohol and sexual assault in social contexts,' *ACSSA Issues*, No. 18, 2014, page 3.

⁹⁸⁶ World Health Organisation, 'Sexual Violence,' *World Report on Violence and Health*, Chapter 6, page 159.

⁹⁸⁷ L Wall and A Quadara, op cit, page 3.

⁹⁸⁸ B Clark, *Te Toiora Mata Tauherenga: Report of the Taskforce for Action on Sexual Violence*, New Zealand Ministry of Justice, July 2009, page 21; L Wall and A Quadara, 'Under the influence? Considering the role of alcohol and sexual assault in social contexts,' *ACSSA Issues*, No. 18, 2014, page 1.

⁹⁸⁹ KM Edwards, JA Turchik, CM Dardis and N Reynolds, 'Rape Myths: History, Individual and Institutional-Level Presence, and Implications for Change,' *Sex Roles*, Vol. 65, 2011, page 761.

Various individual or personal characteristics can also make an individual more likely to engage in sexual violence. In addition to a childhood history of sexual and physical abuse and witnessing of family violence as a child, this can include impulsive and antisocial tendencies, hostility towards women, hyper-masculinity, a preference for impersonal sex and coercive sexual fantasies.⁹⁹⁰

Importantly, research suggests that these various factors have an additive effect, so that the more factors are present the greater the likelihood of sexual violence; and these different factors may vary in importance accordingly to the life stage of those involved.⁹⁹¹

10.5 Sexual Violence Reporting

Despite the prevalence and wide range of debilitating impacts of sexual violence, it remains the most underreported form of personal violence, with its true incidence ultimately unknown.⁹⁹² The 2012 Personal Safety Survey identified that approximately 40% of women who were victims of a male sexual assault and 39% of women who were victims of a male sexual threat did not seek any advice or support about the most recent incident from any source – including informal sources such as a family member or friend.⁹⁹³ Further, where help seeking behaviours are expressed, this often will not extend to the formal reporting of incidents to police, and/or may not occur until weeks or even years after the offence/s take place.⁹⁹⁴

There are many factors contributing to this underreporting including fear of backlash from the offender or that police will not do anything. Further, feelings of shame or embarrassment, fear of not being listened to or that children will be taken away also contribute to the poor levels of reporting.⁹⁹⁵ Many women may not immediately recognise or name their experience of sexual violence as a crime due to the prevalent myths and misconceptions surrounding sexual violence within society, including false and dangerous messages about the nature of consent and rights within marriage or relationships; and other frames of thought which shift responsibility for the crime from the perpetrator/s to the victim/survivors of the violence.

The BRISSC's submission identified these myths and understandings exert profound impacts 'through silencing, isolating and shaming women who have experienced sexual violence and placing them at risk of further violence'.⁹⁹⁶

Rates of reporting are also significantly lower where the perpetrator is known to the victim, due to often complex relationship considerations and anticipated life disruptions associated with disclosure. Some victims may be highly emotionally and financially dependent on the perpetrator and may accept their apologies or excuses, or view the offending as a private matter; or may not wish to disrupt their relationships with children or other family members.⁹⁹⁷ Others may fear a lack of support, or potential reprisal from any of the perpetrator, friends or family; and a lack of awareness or access to available health, housing and welfare services may serve to reinforce feelings of

⁹⁹⁰ Centers for Disease Control and Prevention, op cit.

⁹⁹¹ World Health Organisation, op cit, page 157.

⁹⁹² Centre for Innovative Justice, *Innovative justice responses to sexual offending – pathways for better outcomes for victims, offenders and the community*, Centre for Innovative Justice, RMIT University, Melbourne, May 2014, page 14 (Submission No. 64).

⁹⁹³ Australian Bureau of Statistics, 'Table 16 – Experience of Violence since the age of 15, Whether sought advice or support (a) about most recent incident of violence by type of violence and sex or perpetrator,' *4906.0 – Personal Safety, Australia, 2012*, 11 December 2013.

⁹⁹⁴ Brisbane Rape & Incest Survivors Support Centre, Submission No. 50, page 3

⁹⁹⁵ Centre for Innovative Justice, op cit, page 16 (Submission No. 64).

⁹⁹⁶ Ibid, page 4.

⁹⁹⁷ M Willis, 'Non-disclosure of violence in Australian Indigenous communities, *Trends & issues in crime and criminal justice*, Australian Institute of Criminology, No. 405, January 2011, page 3.

isolation, such that the victim may not consider that disclosure is a realistic option for them.⁹⁹⁸ Submissions to the 2000 Aboriginal and Torres Strait Islander Taskforce on Violence Against Women identified that in some cases:

*Women are so fearful of the consequences of reporting an assault, have no alternative accommodation, or must stay to protect their children; that choice is simply not an issue.*⁹⁹⁹

Many victim/survivors also are not believed when they disclose their experience to others, and therefore fear they will not be believed when reporting to police, and during criminal proceedings.¹⁰⁰⁰ This can particularly be the case for marginalised groups or those from communities that have had negative experiences with police or authority figures in the past, and are apprehensive about the ability of justice systems to deliver an appropriate and positive response – including victims who fear being judged or treated differentially for their personal characteristics and/or backgrounds; and women who have difficulties expressing themselves or communicating due to mental impairment, language and other communicative barriers.¹⁰⁰¹

In any case, participation in legal processes is a traumatic experience in itself that can cause the victim to have to relive the incident in the course of undergoing medical examination, providing a statement and enduring police corroboration processes, and giving evidence in court, often in largely adversarial and unsupportive settings.¹⁰⁰² In addition, as the BRISSC noted, the same prejudicial stereotypes, false ideas and attitudes about sexual violence that permeate our communities can also serve to undermine justice system interactions, shaping treatment by police and court workers and also the outcomes of final jury determinations and sentencing.¹⁰⁰³ More specifically, it has long been recognised that where the attitudes of those receiving and responding to assault reports are victim-blaming, insensitive and dismissive of victims' needs (both in their actions and in inactions), this can so closely mimic victims' experiences at the hands of their assailants as to affect a secondary victimisation that is sometimes called 'the second assault'.¹⁰⁰⁴

Prospects of achieving a positive legal outcome are also limited, as for the estimated 17% of victims who do report the crime to police, very few cases proceed to prosecution and fewer still result in a conviction.¹⁰⁰⁵ Many statistical sources estimate the chance of conviction in sexual assault cases to be '*as low as, and potentially lower than, a one in a hundred chance*'.¹⁰⁰⁶ Given this, Willis has identified that decision not to formally report may well be 'a rational decision'.¹⁰⁰⁷

In Queensland, notably, while ABS and QPS reports suggest the incidence of sexual violence has increased in recent years, in 2012-13 the Office of the Director of Public Prosecutions (ODPP) observed a 23.2% decrease in adult sexual offences committed for trial, and a 44.3% reduction in

⁹⁹⁸ Ibid, page 8; Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 2.

⁹⁹⁹ B Robertson, *Aboriginal and Torres Strait Islander Women's Taskforce on Violence Report*, Queensland Department of Aboriginal and Torres Strait Islander Policy and Development, Brisbane, 2000, Appendix 2, page 39.

¹⁰⁰⁰ Brisbane Rape & Incest Survivors Support Centre, Submission No. 50, page 3

¹⁰⁰¹ M Willis, 'Non-disclosure of violence in Australian Indigenous communities, *Trends & issues in crime and criminal justice*, Australian Institute of Criminology, No. 405, January 2011, page 3.

¹⁰⁰² Ibid.

¹⁰⁰³ Brisbane Rape & Incest Survivors Support Centre, Submission No. 50, page 3

¹⁰⁰⁴ Campbell and Raja, 'Secondary Victimisation of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors of Violence,' *Violence and Victims*, Vol. 14, No. 3, 1999, pages 261-263.

¹⁰⁰⁵ Centre for Innovative Justice, *Innovative justice responses to sexual offending – pathways for better outcomes for victims, offenders and the community*, Centre for Innovative Justice, RMIT University, Melbourne, May 2014, page 15 (Submission No. 64).

¹⁰⁰⁶ Ibid, page 16 (Submission No. 64).

¹⁰⁰⁷ M Willis, op cit, page 2.

child sexual offences being committed for trial across the state.¹⁰⁰⁸ While some of this reduction may have reflected a system-wide decrease in charges at the Magistrates Court level, a 2013 evaluation report identified that even in the District and Supreme Courts, adult sex offence charges and child sex offence charges had declined by 25% and 50% respectively for ‘no apparent reason’ – a trend which ‘*must be urgently explored to understand what is happening and why*’.¹⁰⁰⁹ As identified by the Gold Coast Centre Against Sexual Violence:

*Queensland’s current criminal justice system response to sexual crimes is typified by low reporting rates, high attrition rates, experience of secondary trauma and low conviction rates. Despite legislative change over the past two decades, the process and outcomes for victims/survivors have not dramatically improved. The lack of information, lack of control, lack of support and lack of choice encountered through the system reinforces the victim’s/survivor’s powerlessness.*¹⁰¹⁰

10.6 Preventing and Reducing Sexual Violence

The National Association of Services Against Sexual Violence (NASASV) has produced two sets of National Standards which identify best practices in sexual assault service delivery in Australia – the *National Standards of Practice for Services Against Sexual Assault* and *National Standards for the Primary Prevention of Sexual Assault Through Education*.¹⁰¹¹ These principles have been distilled into an overarching *National Framework for Sexual Assault Prevention*, which is underpinned by a series of principles which ‘*should inform all implementation activity*’:

1. *Responsibility for the eradication of sexual assault rests with the whole Australian community.*
2. *Prevention begins with addressing the cultural values and norms that support and tolerate sexual assault. This is a long-term undertaking requiring sustained leadership and effort.*
3. *The ongoing development of an evidence base anchored in the Australian context is fundamental to sexual assault prevention.*
4. *No single agency of government can address sexual assault prevention alone. Portfolios across all levels of government, including education, health, justice, and crime prevention, as well as the non-government sector and community stakeholders each have a significant contribution to make.*
5. *The generation and dissemination of research, practice and policy information to all stakeholders is central to sexual assault prevention.*¹⁰¹²

Importantly, the *National Framework* emphasises information sharing, evaluation, coordination and service integration across stakeholder groups is necessary to maximise the impact of preventative efforts; and that only a comprehensive, whole-of-government approach to prevention would provide the necessary structural support and approaches to facilitate this, and to ensure that efforts strike the appropriate overall balance in the different types of intervention efforts employed. That is: ‘*an*

¹⁰⁰⁸ B Stewart, *Review of the Resourcing of the Office of the Director of Public Prosecutions*, Stewart Consulting Services Pty Ltd, June 2013, page 22; Zig Zag Young Women’s Resource Centre Inc., Submission No. 24, page 2.

¹⁰⁰⁹ B Stewart, *Review of the Resourcing of the Office of the Director of Public Prosecutions*, Stewart Consulting Services Pty Ltd, June 2013, page 24.

¹⁰¹⁰ Gold Coast Centre Against Sexual Violence Inc., Submission No. 54, page 3.

¹⁰¹¹ S Quixley (ESSQ Community Services Consultancy), *The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland*, Queensland sexual assault services, 2010, page 8.

¹⁰¹² Urbis Keys Young, *A National Framework for Sexual Assault Prevention*, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, page 1.

emphasis on primary and secondary strategies, supported by a well-positioned tertiary service sector'.¹⁰¹³

This is also largely consistent with the focus of Australia's *National Plan for the Reduction of Violence Against Women and Children, 2010-2022*, as developed to explicitly target both DFV and sexual violence through a series of four three-year action plans. The first action plan, which focussed on building a solid evidence base and establishing the necessary frameworks and approaches to achieve attitudinal and behavioural change, sought to particularly create '*momentum in primary prevention*'.¹⁰¹⁴ The second and current action plan, launched by Prime Minister Tony Abbott on 27 June 2014, positions states and territories to '*take stock of what has worked well in the first three years and consolidate the evidence base for the effectiveness of the strategies and actions implemented to date*'.¹⁰¹⁵

Unfortunately the actions of Queensland Governments across the sector to date have not readily adhered to these best practices elements, and have been underwhelming in their articulation of key commitments. The State currently lacks any overarching sexual violence prevention strategy or plan, which has ultimately limited opportunities for more proactive preventative efforts and improvement in early intervention and tertiary responses alike. Queensland sexual assault services groups collectively identified this for the Committee:

None of the Government's key policy documents in recent years have made mention of sexual assault, sexual abuse, sexual violence or rape:

- *Towards Q2: Tomorrow's Queensland (statewide long term targets to 2020).*
- *Strategic Policy for Children and Families 2007-2011 (Department of Communities).*
- *The Office for Women Strategic Directions 2009-2010.*
- *The Queensland Health Strategic Plan 2007-2012.*

*Further, the Queensland Government Strategy to Reduce Domestic & Family Violence 2009 – 2014 does not mention the phrase sexual violence once, nor do its strategies reflect the undeniably gendered nature of sexual violence. This leaves Queensland without any clear direction in its response to this insidious issue.*¹⁰¹⁶

The Gold Coast Centre Against Sexual Violence identified 'there are many aspects of good practice operating in other jurisdictions that could be adapted to suit the Queensland situation... and it is possible to make changes that better support victims, increase satisfaction and confidence in the process as well as increase convictions'.¹⁰¹⁷ It accordingly called for the establishment of a multidisciplinary working party or other mechanism to 'explore, advise and lead positive change for victims/survivors of sexual crimes in Queensland'.¹⁰¹⁸

Queensland sexual assault services, further, argued:

The Queensland Government has a unique opportunity to lead the way nationally, in developing an evidence-based sexual assault service delivery system driven by best

¹⁰¹³ Urbis Keys Young, *A National Framework for Sexual Assault Prevention*, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, page 1.

¹⁰¹⁴ Council of Australian Governments (COAG), *National plan to reduce violence against women and their children 2010-2022*, Including the first three-year Action Plan, May 2011, page 12.

¹⁰¹⁵ *Ibid*, page 13.

¹⁰¹⁶ S Quixley (ESSQ Community Services Consultancy), *The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland*, Queensland sexual assault services, 2010, page 49.

¹⁰¹⁷ Gold Coast Centre Against Sexual Violence Inc., Submission No. 54, page 14.

¹⁰¹⁸ *Ibid*.

*practice. Women who have been sexually assaulted should feel that the Queensland Government is committed to supporting them to regain control of their lives. They should feel secure in the knowledge that they will be supported, in the ways they choose, until they have addressed the needs that have arisen from their sexual assault. All Queenslanders should have a sound understanding of sexual violence, and know that their Government has zero tolerance of sexual violence.*¹⁰¹⁹

Committee Comment

The Committee considers this scenario must be urgently addressed, particularly considering there is evidently a strong knowledge base, relationships and networks between many service groups and agencies across the sector, and no shortage of political will and enthusiasm to effect the development and implementation of a more coherent preventative approach.¹⁰²⁰

Notably, after a 2008 KPMG review of Queensland Health responses to adult victims of sexual assault led to a new proposal for a single service delivery model for the sector; all 20 non-government sexual assault services in Queensland subsequently collaborated to develop a detailed 2010 report outlining an evidence-based, holistic response to sexual assault in Queensland, and promoting 'a system designed to move towards the reduction, and ultimate elimination of sexual violence'.¹⁰²¹

Neither of these reviews appear to have manifested in any material action as yet. However, with states now poised to 'take stock' of their efforts in this area ahead of a significant 'improvement' action plan phase to come; these efforts and the considerable knowledge, evidence base and expertise inherent in them, should now be translated into a concrete agenda for action and change.

Recommendation 37

The Committee recommends the Queensland Government adopt a state-wide framework, policies and a whole-of-government approach to sexual violence that is consistent with the *National Plan to Reduce Violence Against Women and their Children, 2010-2022*.

10.7 Primary Prevention and Early Intervention

Given the dangerously silent nature of much sexual violence victimisation and the therefore greatly reduced scope for even the most effective tertiary (post-offending) responses to affect any change in incidence (as most crimes go unreported); primary prevention and early intervention efforts are of particular significance for this most personal and impactful of crimes.

Much as they have for DFV and other highly prevalent or 'epidemic' social problems, sexual violence researchers and policymakers have drawn from public health and ecological approaches which seek to understand the circumstances and factors that influence its occurrence, and work to reshape these sexual violence 'determinants' by inhibiting the development of risk factors and/or enhancing resilience or protective factors.¹⁰²² Effective, evidence-based approaches are accordingly guided by four key actions: 1) defining and monitoring the breadth and nature of the problem through

¹⁰¹⁹ S Quixley (ESSQ Community Services Consultancy), op cit, page 51.

¹⁰²⁰ Ibid, page 51.

¹⁰²¹ Ibid, page 3.

¹⁰²² Chamberlain, cited in M Carmody, S Evans, C Krogh, M Flood, M Heenan and G Ovenden, Framing Best Practice: National standards for the primary prevention of sexual assault through education, National Sexual Assault Prevention Education Project for NASAV, Social Justice and Social Change Research Centre, University of Western Sydney, Page 14.

surveillance; 2) identifying risk and protective factors; 3) developing and concurrently evaluating prevention strategies; and 4) ensuring widespread adoption of effective responses.¹⁰²³

Importantly, because it is clear that no single factor causes sexual violence and many variables are significantly interrelated and co-occurring,¹⁰²⁴ it is unlikely that individual-level interventions when implemented alone will have a broad public health impact (and it is also difficult to maintain individual change without environmental change to support individual efforts).¹⁰²⁵ Rather, the principles of prevention call for a comprehensive, integrated approach that targets factors and incorporates strategies across multiple levels and contexts, in recognition that individuals, peers, communities and societies all exhibit modifiable variables that cumulatively influence the incidence of sexual violence.¹⁰²⁶ Strategies implemented to bring about social change need to include: *'legislative and policy change, an effective criminal justice system, social marketing innovations, community mobilization, coordination of national and/or state based alliances with local domestic violence and women's organisations; training, advocacy and on-going monitoring and evaluation'*.¹⁰²⁷

In the first place, at a societal level, national and international best practice dictate that primary prevention efforts must begin with a recognition that sexual violence is a fundamentally gendered crime that is facilitated by and reinforces unequal power relations between men and women, sex discrimination, and narrow gender roles and stereotyping.¹⁰²⁸ A gender analysis which seeks to understand and address the fundamental beliefs about gender equity inherent in our social institutions and structures, and various cultural norms and values, must accordingly be 'foundational' to preventative efforts if there is to be any effective long-term transformation to a culture of equity and respect.¹⁰²⁹ In school education programs particularly, researchers have emphasised:

...recognising that sexual identity and practice, understandings of what is sex and what is sexy are discursively produced takes the issue of violence deeper and allows the sexual violence to be challenged as it functions at the level of ostensibly "natural" gendered behaviour, pleasure and desire. It challenges the scripts at work in heterosexual

¹⁰²³ S DeGue, TR Simon, KC Basile, SL Yee, K Lang and H Spivak, 'Moving Forward By Looking Back: Reflection on a Decade of CDC's Work in Sexual Violence Prevention, 2000-2010,' *Journal of Women's Health*, Vol. 21, No. 12, 2012, page 1212.

¹⁰²⁴ A Quadara & Liz Wall, 'What is effective primary prevention in sexual assault? Translating the evidence for action,' *ACCSA wrap*, Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies, No. 11, 2012, page 6.

¹⁰²⁵ AT Tharp, S DeGue, LA Valle, KA Brookmeyer, GM Massetti and JL Matjasko, 'A Systematic Quantitative Review of Risk and Protective Factors for Sexual Violence Perpetration,' *Trauma, Violence & Abuse*, Vol. 14, No. 2, page 133; A Quadara & Liz Wall, 'What is effective primary prevention in sexual assault? Translating the evidence for action,' *ACCSA wrap*, Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies, No. 11, 2012, page 6.

¹⁰²⁶ AT Tharp, S DeGue, LA Valle, KA Brookmeyer, GM Massetti and JL Matjasko, op cit, page 133; AM Vivolo, KM Holland, AL Teten, MK Holt, and the Sexual Violence Review Team, 'Developing Sexual Violence Prevention Strategies by Bridging Spheres of Public Health,' *Journal of Women's Health*, Vol. 19, No. 10, 2010, page 1812.

¹⁰²⁷ T Castelino, M Colla and J Boulet, *'Social Marketing for Preventing Violence Against Women: Making every action matter'*, Literature Review for the Challenge Family Violence Project, Victorian Department of Justice, June 2013, page 4.

¹⁰²⁸ Council of Australian Governments (COAG), *National plan to reduce violence against women and their children 2010-2022*, May 2011, page 12. Victorian Government, Office of Women's Policy, Department of Community Planning and Development, *A Right to Respect: Victoria's Plan to Prevent Violence Against Women 2010-2020*, Victorian Government, page 14.

¹⁰²⁹ Moira Carmody, Susan Evans, Chris Krogh, Georgia Ovenden, Melanie Heenan and Michael Flood, Framing Best Practice: National standards for the primary prevention of sexual assault through education, National Sexual Assault Prevention Education Project for NASASV, Social Justice and Social Change Research Centre, University of Western Sydney, 2009, page 5; Urbis Keys Young, A National Framework for Sexual Assault Prevention, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, page 1.

*engagements. This is how the behaviour supporting or enacting sexual violence can be addressed.*¹⁰³⁰

Many of the institutional reforms and public education and awareness efforts developed to support gender equity and address DFV can serve equally to help prevent sexual violence, by influencing gender perceptions and attitudes; promoting values, cultures and thinking processes that are incompatible with violence; and encouraging healthy, non-violent interactions. However, submitters to the Inquiry noted it is crucial that such activities are effectively supplemented by specific educative efforts which directly address the significant myths and misperceptions surrounding the nature of sexual violence offending and issues of consent. Notably, at a private Brisbane hearing, a representative from the Zig Zag and the Queensland Sexual Assault Network (QSAN) stated:

*I perceive that we have had significant success with domestic violence, in raising the profile and understanding of domestic violence. We have not had the same level of resourcing or attention to issues of sexual assault and how we can all actively take steps to recognise sexual assault.*¹⁰³¹

Similarly, Ms Di Macleod from the Gold Coast Centre Against Sexual Violence stated:

*I think the campaigns around sexual violence are probably 10 to 20 years behind domestic violence and we haven't got there yet for domestic violence, as a number of the people in this room can attest. We need to think about it. We need to think about how we are responding currently...and think about how we will be able to respond to it and work towards prevention.*¹⁰³²

Shortcomings in understandings of sexual assault and accompanying myth acceptance are significantly fostered by or connected to issues surrounding the historical application of the law, and accompanying value judgements and beliefs about degrees of liability.¹⁰³³ Unfortunately, public understanding continues to lag behind reforms to law and procedure, and remains grounded in antiquated and defunct interpretations of certain evidence and offender culpability.¹⁰³⁴ As commentators have identified:

*The general public, or at least those called for jury service, continue to apply a definition of what constitutes rape that is "much narrower than that decreed by law".*¹⁰³⁵

Such misunderstandings foster more permissive and accepting attitudes towards some sexual violence as non-criminal or lesser; and are also supported by related, misrepresentative constructs of the archetypal sexual assault or 'real rape'.¹⁰³⁶ In addition to their subtle contributions to the matrix of attitudes supporting behavioural norms; they also have the corollary, reinforcing impact of undermining tertiary preventative actions by reducing women's likelihood of reporting, and weakening social service and legal responses (which in turn has repercussions for community standard-setting).

¹⁰³⁰ K Duncanson, 'Sex, Violence and Crime: Foucault and the "Man" Question,' Review, Australian Centre for the Study of Sexual Assault, *ACSSA Aware*, No. 23, 2009, page 24.

¹⁰³¹ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁰³² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 29.

¹⁰³³ Australian and New South Wales Law Reform Commissions (ANSWLRC), *Family Violence – A National Legal Response: Final Report*, Vol. 1, ALRC report 114, NSWLRC report 128, October 2010, page 1125.

¹⁰³⁴ M Heath, 'The law and sexual offences against adult in Australia, Australian Centre for the Study of Sexual Assault, *Issues*, No. 4, 2005, pages 3-4.

¹⁰³⁵ Z Simic, 'Why 'legitimate' rape and other myths are alive and dangerous,' *TheConversation.com*, 22 August 2012.

¹⁰³⁶ L Wall and C Tarczon, 'True or false? The contested terrain of false allegations,' *ACSSA research summary*, Australian Centre for the Study of Sexual Assault, Australian Government, Institute of Family Studies, November 2013, page 2.

As one victim/survivor testified in a private statement to the Inquiry:

*Until the myths and stereotypes of women are challenged by society, I believe that criminals involved in rape and sexual assault cases where a jury determines the verdict will almost always be acquitted. The statistics already tell the story, and my experience is yet another example... Even now, though I try to fight it, the thought that is running through my head as I type these words is, 'Will they believe me? Will they understand that I am telling the truth?'*¹⁰³⁷

Among the myths that must be directly targeted are:

Women and children are inherently unreliable and lie about sexual assault. Speculation about the prevalence of false allegations of sexual assault is ongoing, with some portions of the community subscribing to the inaccurate view that wrongful accusations are 'common'.¹⁰³⁸

Sexual assault is more likely to be committed by a stranger. An abundance of Australian and international research has established that the majority of sexual assaults are committed by marital partners, dates, family members or acquaintances. This conflicts with popular ideas of who is a rapist and who is a 'real victim', which can minimise offending where it does not confirm to these preconceived scenarios.¹⁰³⁹ The construction of the stereotypical 'monster rapist' that paints men who rape as mentally ill or exhibiting psychopathic or other pathological tendencies, or as having lower class, educational or occupational backgrounds, is also not supported by data.¹⁰⁴⁰ However, the effect of this misperception is that condemnation can be weakened when the 'ordinariness' and potential relatability of the offender is revealed.

In this regard, one submitter to the inquiry revealed:

Recently Sophie Collombet, a young French business student studying at Griffith University, was raped and murdered. Sophie's rape and murder is another painful reminder of the archetypal monster rapist that many women fear.

*However, I can now attest to how scary and deep the betrayal is of a rape committed by someone you believed you could trust. My entire world view shifted the moment someone I perceived to be 'just a normal guy' did something to me that I subconsciously believed only a real monster could do. There is a great betrayal when someone you know—whether it is a friend, co-worker, date or acquaintance—violates both your body and your trust in a way that can never be underestimated... [However], the decision was made not based on evidence but based on some sort of sympathy for the accused ...on the fact that he was probably a clean cut guy with a girlfriend, baby and all this kind of thing.*¹⁰⁴¹

A woman cannot be sexually assaulted by their spouse. Although previously the case under common law (even if not the reality for many women); legislative reform in the 1980s ensured that a woman was no longer supposed to have abdicated her sexual rights in marriage, and a wife's consent no longer considered to be implied.

¹⁰³⁷ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁰³⁸ L Wall and C Tarczon, op cit, page 2.

¹⁰³⁹ M Heath, 'The law and sexual offences against adult in Australia', Australian Centre for the Study of Sexual Assault, *Issues*, No. 4, 2005, page 4.

¹⁰⁴⁰ P Easteal, 'Rape Prevention: Combatting the Myths,' *Without Consent: Confronting Adult Sexual Violence*, Proceedings of a conference, 27-29 October 1992, 1993, page 318.

¹⁰⁴¹ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

Despite this, the notion of men's right to sex as a condition of marriage continues to hold some sway in community understandings about what constitutes sexual assault, influencing the likelihood that such cases will be reported, prosecuted, or result in conviction.¹⁰⁴²

Similar notions or expectations are also projected into other intimate relationships and dating scenarios, with teens especially at risk of dating violence due to pressure to conform to masculine or feminine gender roles and normalisation of unhealthy dating behaviours such as extreme jealousy or possessiveness; often amid increased exposure to sexualised and explicit material in media.¹⁰⁴³

Some sexual assaults are more serious and damaging than others. Earlier studies have revealed disparities in sentencing assault offenders depending on their relationship to the victim or other factors (with spousal assaults traditionally seen as less serious than stranger sexual assault); and on the characteristics of the victims (eg. with assaults of sex workers, for example, either seen as being '*not possible or less serious*', given that the provision of sex is part of her occupation).¹⁰⁴⁴

Sexual assault is somehow invited or precipitated by the choices or actions of the victim. This erroneous belief has a serious impact on how people view the crime, the rapist and the victim, and also affects the survivor's view of themselves. Easteal notes that victims often accept self-blame because they did not succeed in controlling the male's behaviour and subsequently wonder if they have somehow provoked it.¹⁰⁴⁵

Implied in this myth acceptance is a value judgement that women have a responsibility to monitor and curtail their own behaviour (dress, intoxication, flirtation) in order to avoid sexual assault.¹⁰⁴⁶ Such attitudes of victim blaming and/or disbelief towards the victim further reinforce the power inequities at the heart of the incident and provide tacit legitimacy for rape-supportive beliefs, all while fundamentally shifting the responsibility for the choice to commit sexual violence away from the party who made it.

Rape is usually spontaneous, and a result of men's inability to suppress sexual desires. Sexual assaults are usually not spontaneous or impulsive acts. Rather, studies have indicated that in most instances, rape is pre-meditated and often involves a pre-rape time period of interaction with the victim.¹⁰⁴⁷

Non-consent is verbally articulated, evidenced by struggle and results in physical injuries. Many people still believe that a 'true' sexual assault involves the use of physical violence and that there will be physical injuries that provide independent verification of the complainant's story.¹⁰⁴⁸ Research indicates very few cases of sexual assault have such physical evidence, or witnesses to corroborate the story.¹⁰⁴⁹ Assaultants can use any range of coercive tactics, manipulation and threats to control their victims, and submission does not indicate consent – in fact, the heightened threat of physical violence may make it safer for the victim not to fight back.

A 'true' or 'genuine' victim of sexual assault does not delay in reporting. Past research has found that the significant majority of victims who delay reporting are viewed suspiciously. However, the

¹⁰⁴² Australian and New South Wales Law Reform Commissions (ANSWLRC), *Family Violence – A National Legal Response: Final Report*, Vol. 1, ALRC Report No. 114, NSWLRC Report No. 128, October 2010, page 1112.

¹⁰⁴³ M Flood and L Fergus, *An Assault on Our Future: The impact of violence on young people and their relationships*, A White Ribbon Foundation Report, White Ribbon Foundation, 2008, pages 3-5.

¹⁰⁴⁴ Australian and New South Wales Law Reform Commissions (ANSWLRC), *Family Violence – A National Legal Response: Final Report*, Vol. 1, ALRC report 114, NSWLRC report 128, October 2010, page 1112.

¹⁰⁴⁵ P Easteal, *op cit*, page 315.

¹⁰⁴⁶ Australian and New South Wales Law Reform Commissions (ANSWLRC), *op cit*, page 1114.

¹⁰⁴⁷ P Easteal, *op cit*, page 313.

¹⁰⁴⁸ Australian and New South Wales Law Reform Commissions (ANSWLRC), *op cit*, page 1113.

¹⁰⁴⁹ N Taylor, 'Juror attitudes and biases in sexual assault cases,' *Trends & issues in crime and criminal justice*, Australian Institute of Criminology, No. 34, August 2007, page 1.

reality is there are often delays in reporting sexual assault for many reasons, including the trauma of reliving the event, shame and embarrassment, fear of retribution, fear of social consequences, and a delay in mentally processing the event, or being certain that what has happened to them in the process of social and sexual interactions actually constitutes criminality. Delays in reporting, even of several years, are not unusual in the context of sexual assaults.¹⁰⁵⁰

10.8 Structural Reforms and Community Education and Awareness

As previously noted, legislative, policy and educative efforts to address the dimensions of gender inequality which constrain or influence women's and men's equal participation and experiences in organisational environments, and society more broadly, are important measures to help support the elimination of all types of violence against women.¹⁰⁵¹ However, the interconnected nature of sexual assault laws and community understandings about rights and entitlements means that any such broad-based actions must necessarily also incorporate specific measures to raise awareness and understandings of legal definitions, and debunk myths commonly associated with them.¹⁰⁵²

Such public education and awareness raising activities provide a springboard for more targeted (secondary) prevention, as is also recognised in other public health work – including, for example, drink driving campaigns which are most effective when general awareness activities are supported by targeted deterrence such as random breath testing. Broad public information campaigns can reach large numbers of people and have an important role to play in raising the profile of key issues.¹⁰⁵³

However, best practice in communications change suggests these awareness activities should be complemented with use of social marketing frameworks based on commercial marketing strategies, which aim to engage the audience in program development rather than primarily disseminating information; and which are likely to be significantly more successful in effecting changes in understandings and/or behaviours over a sustained period.¹⁰⁵⁴

Submitters identified a range of community awareness and education initiatives which they commended to the Committee. One submitter particularly suggested modelling efforts on leading campaigns in other national and international jurisdictions, including the 'No Means No' program implemented in Vancouver and across Canada,¹⁰⁵⁵ and in some variation, previously also in Australia.

A number of national and international jurisdictions have now transitioned from this to an affirmative consent or 'Yes Means Yes' campaign model, which seeks to further clarify consent issues through normalisation of active consent-seeking and ongoing communications within sexual relationships; reinforced with sub-messages of '*no is not yes, drunk is not yes, not sure is not yes, silence is not yes*'.¹⁰⁵⁶

Recent legislative moves in Victoria, New South Wales, Tasmania and a number of international jurisdictions have also sought to enshrine these principles in legislation, adopting a model of consent based on mutual and free agreement, such that '*if a sexual assault matter is taken to court, the*

¹⁰⁵⁰ L Wall and C Tarczon, 'True or false? The contested terrain of false allegations,' *ACSSA research summary*, Australian Centre for the Study of Sexual Assault, Australian Government, Institute of Family Studies, November 2013, page 5.

¹⁰⁵¹ M Flood, 'Preventing Violence Against Women and Girls,' *Men in Organisations: Allies or adversaries to women's career advancement*, ed. R Burke and D Major, Edward Elgar Publishers, 2013, page 13.

¹⁰⁵² M Flood, L Fergus and M Heenan, *Respectful Relationships Education: Violence prevention and respectful relationships education in Victorian secondary schools*, State of Victoria (Department of Education and Early Childhood Development) Melbourne, November 2009, page 78.

¹⁰⁵³ A Harvey, C Garcia-Moreno and A Butchart, 'Primary prevention of intimate –partner violence and sexual violence: Background paper for WHO expert meeting,' World Health Organisation, May 2-3, 2007, page 16.

¹⁰⁵⁴ *Ibid*, page 15.

¹⁰⁵⁵ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁰⁵⁶ J New, 'More college campuses swap 'No means no' for 'Yes means yes', *PBS Newshour: The Rundown*, 17 October 2014.

accused person will now have to demonstrate how they actively and consistently obtained consent throughout the sexual encounter.¹⁰⁵⁷ In addition, White Ribbon's four-year social marketing campaign 'The Line' has provided a platform for young people to discuss these issues, targeting 14 to 20 year olds and their influencers using innovative multimedia content provided in non-traditional and non-authoritarian contexts and languages (particularly social media platforms); and supporting their engagement with peers to define what behaviours are and are not ok – that is, to define 'The Line' in respectful relationships.¹⁰⁵⁸

There has also been a shift away from individualised safety management and risk avoidance messages which inappropriately continue to put the emphasis on women to be responsible for their own safety, and exclude any sense of responsibility from men who perpetrate violence, or from the broader community; and which also fail to accommodate the crucial fact that in most cases women are in a relationship with or an acquaintance of the person who assaults them.¹⁰⁵⁹

Well known US and UK campaigns have directly turned these female risk avoidance principles on their head and encouraged people to question the notion that women can ever provoke rape, including the Scottish campaign 'This is Not An Invitation to Rape Me' and accompanying 'Not Ever' television broadcast campaign, and Britain's 'This is Not An Excuse to Rape Me' initiative; all of which produced images of any one of a number of stereotypical 'risk' behaviours with an unequivocal statement of non-excusability.¹⁰⁶⁰

Rape Crisis Scotland has also directly reversed a traditional rape prevention poster with 'Ten Top Tips to End Rape' to put the impetus for situational prevention firmly on 'more appropriate recipients – potential perpetrators', with tips including: 'When you see a woman walking by herself, leave her alone'; 'Carry a whistle: If you are worried you might assault someone 'by accident', you can hand it to the person you are with, so they can call for help'; and:

*Don't forget: Honesty is the best policy. If you have every intention of having sex later on with the woman you're dating regardless of how she feels about it, tell her directly that there is every chance you will rape her. If you don't communicate your intentions, she may take it as a sign that you do not plan to rape her and inadvertently feel safe.*¹⁰⁶¹

Educative programs that emphasise men's agency and role in bystander prevention have also emerged as crucial avenues for affecting behavioural norms. For example, national and international organisations like *Men Can Stop Rape*, *Mentors in Violence Prevention* and the *White Ribbon Campaign* enlist boys and men to take a leadership stance against violence and to challenge narrow views of masculinity that promote violence and aggression, including intervening directly to hold fellow men accountable or support women in vulnerable circumstances.¹⁰⁶²

¹⁰⁵⁷ M Carmody, 'Conceptualising the prevention of sexual assault and the role of education,' *ACCSA issues*, Australian Centre for the Study of Sexual Assault, Australian Government, Australian Institute of Family Studies, No. 10, 2009, page 12.

¹⁰⁵⁸ Australian Government, Department of Families, Housing and Community Services and Indigenous Affairs, *The line campaign: Engaging with young people and their community to discuss respectful relationships in a positive, engaging and appropriate way*, Presentation, White Ribbon International Conference, Sydney, 13-15 May 2013.

¹⁰⁵⁹ M Carmody, S Evans, C Krogh, M Flood, M Heenan and G Oviden, *Framing Best Practice: National standards for the primary prevention of sexual assault through education*, National Sexual Assault Prevention Education Project for NASAV, Social Justice and Social Change Research Centre, University of Western Sydney, page 14.

¹⁰⁶⁰ Rape Crisis Scotland, *Not Ever*, Campaigns and Projects, 2010. Rape Crisis Scotland, *This is Not an Invitation to Rape Me*, Campaigns and Projects, 2008.

¹⁰⁶¹ Rape Crisis Scotland, *10 Top Tips to End Rape*, Campaigns and Projects, 2011.

¹⁰⁶² T Castelino, M Colla and J Boulet, *'Social Marketing for Preventing Violence Against Women: Making every action matter*, Literature Review for the Challenge Family Violence Project, Victorian Department of Justice, June 2013, page 18.

These programs employ a 'social norms approach' which seeks to highlight the gap between men's perception of other men's agreement with violence supportive and sexist norms; and the actual extent of this agreement. For example, men commonly believe that other men do not value intervention, will not physically intervene, are comfortable hearing comments or seeing actions that demean women, are comfortable displaying stereotypically masculine behaviours, do not value or discuss consent with potential sexual partners, and are more sexually active than is accurate; and studies have found that men's intention to intervene to challenge such norms is easily predicted by their views of the extent to which others held them.¹⁰⁶³ Correcting these misperceptions can liberate men to behave in ways that are healthier and more aligned with personal values.¹⁰⁶⁴

Scholars within the field have also particularly identified that these more positive approaches, which often make use of popular figures and ambassadors or emphasise respectful interactions and ethical sexual relationships, may find more receptive audiences, given marketing research indicates the possibility for social change is greater if the individual or group strongly relates to the message or product and is able to see themselves and a familiar context within the social marketer's message.¹⁰⁶⁵

Importantly, the National Framework for Sexual Assault Prevention notes that effective prevention campaigns '*combine a subtle collusion with the target group, with the intent of shifting closely held beliefs and values*'.¹⁰⁶⁶ A good example, according to the Framework, was the NSW '*Violence Against Women: It's Against All the Rules*' campaign which ran in 2002-2003:

*This campaign used sporting analogies to convey the message that violence against women is 'against the rules'. The use of sporting 'heroes' with implied virtues of 'maleness' was designed to challenge notions of masculinity that value the use of violence off the sporting field, and position the use of violence against women as 'unmanly'. This approach utilises male investment in traditional forms of masculinity to achieve a cultural shift in definitions of manhood. The strategy also recognises the power of men voicing anti-violence messages to men, and positions the male 'speaker' as a positive agent for change.*¹⁰⁶⁷

The *Framework* also identified, however, that evaluation literature currently reveals a general lack of clarity in the design of key messages, target audience, desired impact, indicators and method for determining impact; and that campaign design 'is rarely' market tested' with the proposed audience prior to being launched, and rarely resourced to include comprehensive evaluation'.¹⁰⁶⁸ Given that primary prevention efforts operate on the basis that information will influence attitudes and as a consequence, impact on behaviour; it is crucial that research investment is made to test these links, and inform improvements in communications for behaviour change into the future.

Recommendation 38

The Committee recommends as part of any Queensland Government framework adopted for addressing sexual violence, consideration is given to appropriate levels of research and funding for the development of education campaigns.

¹⁰⁶³ Ibid, page 16.

¹⁰⁶⁴ Ibid.

¹⁰⁶⁵ T Castelino, M Colla and J Boulet, op cit, page 12.

¹⁰⁶⁶ Urbis Keys Young, *A National Framework for Sexual Assault Prevention*, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, page 20.

¹⁰⁶⁷ Ibid, page 9.

¹⁰⁶⁸ Ibid, page 10.

10.9 Primary Prevention in Schools

The National Standards for the primary prevention of sexual assault through education identify organised violence prevention education programs in schools are now recognised as *'the most prevalent form of doing sexual and domestic violence prevention in Australia'*.¹⁰⁶⁹ Given the success of early intervention type programs discussed earlier in this Report, it was not surprising to the Committee targeting school age children would also have an impact in relation to addressing sexual violence. As discussed earlier, not only are young women a high risk group for sexual violence and young men among the most likely perpetrators; but young people are also at a critical point in their personal and social development, where their attitudes and behaviours are being shaped and are more easily influenced than in adulthood.¹⁰⁷⁰

Young men with 'rape supporting social relationships' – that is, male friends who give advice, for example that girls owe them sex and who approve of or use violence against girls and women – are more likely to use sexual and physical abuse themselves; and having friends or knowing other young people who are experiencing violence in their romantic relationships can also serve to normalise violence.¹⁰⁷¹ Conversely, cultivating respectful relationship norms can build early resilience and assist young people in developing relationships built on equality and the valuing of difference; and there is significant evidence that peers can be an important source of support for children living with domestic violence.¹⁰⁷² Wolfe and Jaffe accordingly argue:

*Changing the norms and climate about relationships and providing students and teachers with the skills needed to foster healthy relationships is the only viable way to shift from a crisis orientation to one of prevention in response to these related forms of violence.*¹⁰⁷³

Building from these arguments is the belief that schools are also the most appropriate setting in which to deliver sexual assault and other types of violence prevention education, given their unmatched provision of a young, 'mass and captive' audience,¹⁰⁷⁴ and the fact they also have scheduled sessions, ready-made groups and *'in relation to evaluation, they allow the repeated collection of data over event-bounded time frames'*.¹⁰⁷⁵

Typically, school based programs involve curricula which includes debunking rape myths, teaching consent (including providing information about legal statutes regarding sexual consent), teaching young women how to keep safe, and providing information about services for victims.¹⁰⁷⁶ Increasingly, however, some programs are looking to link sexuality and sexual assault prevention

¹⁰⁶⁹ Mulroney, cited in M Carmody, S Evans, C Krogh, M Flood, M Heenan and G Ovenden, Framing Best Practice: National standards for the primary prevention of sexual assault through education, National Sexual Assault Prevention Education Project for NASAV, Social Justice and Social Change Research Centre, University of Western Sydney, pages 14-15.

¹⁰⁷⁰ M Carmody, 'Conceptualising the prevention of sexual assault and the role of education,' *ACCSA issues*, Australian Centre for the Study of Sexual Assault, Australian Government, Australian Institute of Family Studies, No. 10, 2009, page 12.

¹⁰⁷¹ M Flood, L Fergus and M Heenan, *Respectful Relationships Education: Violence prevention and respectful relationships education in Victorian secondary schools*, State of Victoria (Department of Education and Early Childhood Development) Melbourne, November 2009, page 12.

¹⁰⁷² Ibid, pages 12, 70.

¹⁰⁷³ DA Wolfe and PG Jaffe, 'Prevention of Domestic Violence and Sexual Assault,' National Online Resource Centre on Violence Against Women, VAWnet.org, January 2003.

¹⁰⁷⁴ Ellis cited in M Flood, L Fergus and M Heenan, *Respectful Relationships Education: Violence prevention and respectful relationships education in Victorian secondary schools*, State of Victoria (Department of Education and Early Childhood Development) Melbourne, November 2009, page 10.

¹⁰⁷⁵ M Carmody, op cit, page 13.

¹⁰⁷⁶ M Carmody, S Evans, C Krogh, M Flood, M Heenan and G Ovenden, Framing Best Practice: National standards for the primary prevention of sexual assault through education, National Sexual Assault Prevention Education Project for NASAV, Social Justice and Social Change Research Centre, University of Western Sydney, pages 14-15.

education within wider 'healthy relationships' frameworks. Researchers have identified tendencies towards highly gendered expectations about sexuality intimacy among young people that make them to pressured or coerced sexual activity;¹⁰⁷⁷ and Carmody particularly notes that many young people have traditionally not been well prepared by existing personality development programs to deal with relationship issues around their developing sexuality, issues of consent, conflict, and negotiation of their own and partner's needs and desires; with sexuality education limited to biological facts and safe sex, or abstinence in some school contexts.¹⁰⁷⁸ Emerging international research suggests there is much to be gained by embracing a comprehensive approach to relationships and sexual intimacy, which can help enable young people to question social constructions and find ways to express themselves emotionally and make considered decisions about what they want in personal and sexual interactions; supporting their negotiation of more respectful and equitable intimate relationships.¹⁰⁷⁹

Despite a general commitment to evidence-based practice, current evaluations of programs are often shallow and insufficiently rigorous, lacking sufficient pre-implementation evaluations to effectively track change; involving a focus on image and message retention rather than personal views; and lacking sufficient longitudinal follow-up to determine long-term impacts on either attitudes or overall incidence of sexual assault and coercive behaviours in intimate relationships more generally (including only a relatively immediate post-program evaluation).¹⁰⁸⁰ Where comprehensive longitudinal evaluation has been employed, results have been mixed. However, systematic reviews or meta-analyses of evaluation studies has revealed that the programs best placed to produce positive and lasting attitudinal and behavioural change are relatively intensive and lengthy and use a variety of pedagogical approaches.¹⁰⁸¹ More specifically, common elements among leading programs internationally include: the use of multiple sessions, including both informational and skills building components in the areas of conflict management and help seeking; community and student ownership of the program; student-driven content, including the form of delivery of workshop outcomes (eg. songs, art works, theatrical productions, building safety initiatives); and inbuilt links to secondary intervention services.

Queensland's *Love Bites* education program includes similar student-driven components to actively involve students '*in creating their own learning experiences*', with morning informational sessions followed by youth-led small group activities, peer-to-peer learning, and afternoon arts-based creative activities engaging the themes of the program; and with students subsequently involved in an ongoing community campaign.¹⁰⁸² However, as this report has previously noted, neither *Love Bites* nor other equivalent programs are employed in any systematic manner across the state; and often programs involve only single-day workshops, or limited sessions, which may not be enough to significantly affect lasting change.

The evaluation literature has also concluded that the long-term impact of programs on violence prevention '*is likely to depend on the extent to which the issues are embedded within the curriculum*

¹⁰⁷⁷ For example, a 2003 national survey of secondary school students found that large numbers of girls and young women are forced, coerced or pressured into unwanted sexual activity, with 30.2% of sexually active Year 10 girls and 26.6% of sexually active Year 12 girls having experienced unwanted sex. See: M Flood, L Fergus and M Heenan, op cit, page 9.

¹⁰⁷⁸ M Carmody, 'Conceptualising the prevention of sexual assault and the role of education,' *ACCSA issues*, Australian Centre for the Study of Sexual Assault, Australian Government, Australian Institute of Family Studies, No. 10, 2009, page 12.

¹⁰⁷⁹ M Flood, L Fergus and M Heenan, op cit, page 28.

¹⁰⁸⁰ Urbis Keys Young, *A National Framework for Sexual Assault Prevention*, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, page 10.

¹⁰⁸¹ M Flood, L Fergus and M Heenan, op cit, page 20.

¹⁰⁸² M Flood, L Fergus and M Heenan, op cit, page 77.

and wider school activities'.¹⁰⁸³ In acknowledgement of this, Victoria's CASA House (Centre for Sexual Assault) devised a whole-of-school sexual assault prevention model – the Sexual Assault Prevention Program for Secondary Schools (SAPPSS) – which includes *'staff professional development, respectful relationships curriculum for junior and middle school, Train the Trainer, Peer Educator Programs and ongoing evaluation'*.¹⁰⁸⁴ Evaluation of the program confirmed it was most effective when:

- all teaching and support staff receive specialised training and resources;
- school structures support reinforcement of student program learnings and encourage peer-based learning; and
- respectful relationships and open communication are visibly modelled and rewarded throughout the school community.¹⁰⁸⁵

Many of these evaluative findings have been reaffirmed by local community surveys, the results of which have also emphasised that embedding programs within the local culture as part of a whole-of-school or whole-of-community approach, together with use of peer-directed creative learning elements; also better supports program transferability and adaptability to community diversity and cultural needs.¹⁰⁸⁶ For example, in Indigenous communities, framing of sexual assault campaigns within a broader context of 'family violence' and/or 'community violence' is considered more useful as single-issue efforts can grate with more holistic views of wellbeing and a broader framework may better encapsulate the broader context of cultural and family breakdown affecting many Indigenous people; and use of creative programs such as 'play back theatre' and other self-directed activities means values can be promoted in local languages and in keeping with local customs and practices regarding who speaks to whom about what issues.¹⁰⁸⁷

Importantly, some groups will also require more specifically tailored interventions, including, for example, young people with intellectual and learning disabilities, who require alternative modes and of program delivery and more proximal and enduring associated environmental supports. As a representative from the WWILD (Working with People with Intellectual and Learning Disabilities) – Sexual Violence Prevention Association emphasised:

*The reality is that if the person does not have a lot of positive, safe supports around them, they are at high risk. Our group of people, people with intellectual cognitive learning disabilities, are incredibly vulnerable in our community and that vulnerability is never really talked about... It is education for young people with disabilities in schools. It is work that Zig Zag does with young women around not only their rights but that sexual assault is a crime, because a lot of our people do not actually know that. It also about what is okay and what is not for them and having a say and having choice... We really do a lot of early intervention work with young people particularly who are engaging in unsafe behaviours as you might call them and help them learn more about their own sexuality and things like that so they are not actually at risk of harm.*¹⁰⁸⁸

¹⁰⁸³ Hester and Westmarland, cited in M Flood, L Fergus and M Heenan, *Respectful Relationships Education: Violence prevention and respectful relationships education in Victorian secondary schools*, State of Victoria (Department of Education and Early Childhood Development) Melbourne, November 2009, page 29.

¹⁰⁸⁴ CASA house, Centre Against Sexual Assault, 'Sexual Assault Prevention Program for Secondary Schools (SAPPSS),' Schools Program (SAPPSS), webpage, 2010.

¹⁰⁸⁵ M Flood, L Fergus and M Heenan, op cit, page 29.

¹⁰⁸⁶ M Flood, L Fergus and M Heenan, op cit, page 29.

¹⁰⁸⁷ Urbis Keys Young, *A National Framework for Sexual Assault Prevention*, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, page 15.

¹⁰⁸⁸ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

Further, programs must also address those young people who do not attend school, and address young people through other means and contexts associated with increased risks of victimisation, including:

*...homeless young people, children living in poverty, or in families receiving welfare or whose parents are incarcerated, children leaving juvenile detention or foster care, young parents, and girls and young women under protective services care.*¹⁰⁸⁹

It is also vitally important that prevention plans consider the view that targeting high school students may be 'too late' and that '*the issues of power misuse and the development of healthy relationships must begin in the early primary school years*'.¹⁰⁹⁰ As the National Framework for Sexual Assault Prevention identifies:

*The points at which boys are developing their gender identity are key windows of opportunity for the promotion of positive role models, moral codes, and understandings of power use and mis-use. Targeting this developmental stage indicates prevention should begin in primary rather than high school.*¹⁰⁹¹

That being said, the Committee considers any early years prevention plan must be supplemented by a comprehensive plan that continues into later school years and reinforces the message as actual relationships start to develop.

Reinforcement and development of these lessons from best practice, further, must be supported by a greater commitment to more rigorous, inbuilt systems of evaluation and longitudinal assessment. Such systemic improvements, will only be able to deliver either sustained change or an effective evidence base with an ongoing and concerted commitment to prevention. As the *National Framework for Sexual Assault Prevention* identifies:

*The stop-start nature of prevention efforts over recent years is identified as reducing the effectiveness of campaigns, and reduces the interest of stakeholders in engaging in short-term strategies. Addressing the cultural norms and values that support sexual assault is a long-term undertaking, at odds with short-term, non-recurrent, or pilot investment by governments.*¹⁰⁹²

10.10 Other Local Community Prevention

Schools-based sexual assault prevention efforts should be complemented by strategies of community engagement and community mobilisation in other settings of influence. As previously noted, workplaces, sporting groups and other organisations represent ideal sites for the introduction of prevention of all violence against women – including domestic and family violence, sexual violence, and other related assaults. By changing policies, practices and culture, an organisation can not only effect behavioural shifts within its ranks, but can also have an impact in surrounding communities, influencing wider policy and community norms.¹⁰⁹³ Sexual harassment, anti-discrimination and other conduct-related policies are now recognised as key organisational requirements in Australian workplaces which can deliver significant benefits in terms of employee productivity and reduced

¹⁰⁸⁹ M Flood, L Fergus and M Heenan, op cit, page 12.

¹⁰⁹⁰ Urbis Keys Young, *A National Framework for Sexual Assault Prevention*, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, page 9.

¹⁰⁹¹ Ibid.

¹⁰⁹² Ibid.

¹⁰⁹³ M Flood, 'Preventing Violence Against Women and Girls,' *Men in Organisations: Allies or adversaries to women's career advancement*, ed. R Burke and D Major, Edward Elgar Publishers, 2013, page 8.

costs related to staff leave and replacement, as well as identifying workplaces as employers of choice who demonstrate social responsibility and provide community leadership.¹⁰⁹⁴

Two of Australia's most popular sporting codes – Australian Rules Football (AFL) and Rugby League – have also developed violence prevention programs for their athletes and the wider communities associated with the sports, in recognition of their need to address inbuilt cultural challenges and provide more safe and inclusive environments for women. Such efforts have been complemented with specific activities by local teams and group – including, for example, the recently publicised efforts of Brisbane AFL club the Morningside Panthers and associated teams, who walked a mile in high-heeled shoes to raise awareness for White Ribbon's No to Violence Against Women campaign.¹⁰⁹⁵

During the inquiry a representative from the Brisbane Rape and Incest Survivors Support Centre (BRISSC) and Queensland Sexual Assault also particularly highlighted a range of community based initiatives conducted by Queensland Sexual Assault Network as part of its sexual violence awareness month, held every October.¹⁰⁹⁶

Committee Comment

The Committee considers such targeted efforts and programs should be funded in a consistent fashion as part of a broader sexual assault prevention plan. Accordingly, recommendations regarding the need for an agenda to support a comprehensive, coordinated, multi-level primary prevention plan for DFV apply equally to sexual assault. The Committee recognises there may also be benefits to be gained by adopting a common-purpose approach to preventing Violence Against Women, supplemented by specific initiatives to address issues unique to both serious and overlapping forms of gender violence.

Recommendation 39

The Committee recommends development of coordinated agenda to support the ongoing implementation of broad and targeted initiatives for the primary prevention of sexual assault across a number of settings and at various organisational levels, in line with best practice principles for behavioural change and key national frameworks and plans.

10.11 Specific Priority Issues

Mental Health Settings and Sexual Violence Risks

Studies in Australia on women in psychiatric inpatient units have revealed female patients regularly report experiencing and witnessing sexual assault and harassment by other inpatients and staff; they often feel unsafe and vulnerable to sexual exploitation while in care; and their allegations have often been silenced, disbelieved and trivialised.¹⁰⁹⁷

In 2013, the Victorian Mental Illness Awareness Council reported on data gathered during a 2011 survey of nine mental health services across that state, which revealed 85% of females felt unsafe

¹⁰⁹⁴ Ibid.

¹⁰⁹⁵ J Jaynes, 'The Morningside Panthers AFL Club will wear high heels to raise funds and awareness for White Ribbon Australia,' *Brisbane East News* (Quest Community Newspapers), 6 November 2014.

¹⁰⁹⁶ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁰⁹⁷ H Clark and B Fileborn, 'Responding to women's experiences of sexual assault in institutional and care settings,' *ACSSA wrap*, Australian Centre for the Study of Sexual Assault, Australian Government, Australian Institute of Family Studies, No. 10, 2011, page 6.

during hospitalisation; 67% reported experiencing sexual or other forms of harassment during hospitalisation; and almost half (45%) had experienced sexual assault during an in-patient admission – 61% reported the assault to nurses and indicated that nurses were 'slightly helpful' (18%) or 'not at all helpful' (82%).¹⁰⁹⁸

Accounts of the historical prevalence of sexual assaults in Queensland facilities were also raised during the recent 2013 Queensland Child Protection Commission of Inquiry (Carmody Inquiry);¹⁰⁹⁹ and testimony received by submitters to this inquiry confirmed the sexual abuse of women in psychiatric care not only persists, but there has been '*an increase in the number of reported incidents of sexual violence experienced by young women whilst receiving care in mental health facilities in Queensland in the past 12 to 18 months*'.¹¹⁰⁰

This is especially alarming given the safe haven such facilities are intended to provide for our most vulnerable people ('admissions [to psychiatric wards] are reserved to treat acutely and severely unwell people who cannot be managed in the community');¹¹⁰¹ and the fact many young women with complex and severe mental health issues have pre-existing histories of childhood sexual abuse or adult sexual assault which can amplify the severity of trauma and fundamentally undermine hopes of recovery:

*For all of us in the community, it should be of grave concern that female patients are sexually assaulted whilst in hospital, within a mental health system that is meant to care for them.*¹¹⁰²

Submitters to the inquiry were in agreement these assaults could be largely prevented through gender segregation of psychiatric wards.¹¹⁰³ A representative from the Zig Zag Young Women's Resource Centre (Zig Zag) and the Queensland Sexual Assault Network (QSAN) identified '*different facilities around the state, but unfortunately most hospital bed services, even those newer facilities that have been built, unfortunately have maintained a mixed-gender establishment rather than segregation*'; and these '*mixed gender wards pose an unacceptable risk of sexual violence towards young women*'.¹¹⁰⁴

The Gold Coast Centre Against Sexual Violence further suggested the Government had missed an opportunity to address this issue with the new Gold Coast University Hospital, noting other jurisdictions had already moved on the longstanding evidence of the benefits of operating segregated wards:

*The UK has a strict gender segregation policy and Victoria is allocating women's only safe space in their current psychiatric wards. It is time that Queensland looked at increasing the physical and sexual safety of female inpatients by modifying existing units and designing safe, segregated new units.*¹¹⁰⁵

Notably, after the Victorian Government provided a \$320,000 funding boost to the Alfred Hospital to reconfigure one of its wards with a women-only wing; a survey conducted by the Monash Alfred Psychiatry Research Centre determined that female patients in the gender segregated units were six

¹⁰⁹⁸ Victorian Mental Illness Awareness Council, *Zero Tolerance for Sexual Assault: A safe admission for women*, VMIAC, Melbourne, April 2013, page 4.

¹⁰⁹⁹ A Remeikis, '[Come clean on chambers of horrors, sufferers plead](#),' *The Sydney Morning Herald* (online), 19 August 2012.

¹¹⁰⁰ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹⁰¹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 25.

¹¹⁰² Ibid.

¹¹⁰³ Ibid; *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹⁰⁴ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹⁰⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 26.

times less likely to be assaulted than women in the hospital's mixed sex units.¹¹⁰⁶ Funding has subsequently been provided to more than 15 health services across the state to establish women-only wards and also implement a range of other safety measures including courtyards, swipe-key access and designated family areas; as well as ensuring new facilities will incorporate gender separation.¹¹⁰⁷

BRISSC called for this example to be followed in Queensland, recommending:

*...that Queensland Health undertake some safety audits, particularly of all inpatient mental health facilities in Queensland, and move towards gender segregation to provide enhanced safety for particularly young women in mental health care.*¹¹⁰⁸

Both BRISSC and the Gold Coast Centre Against Sexual Violence also emphasised the importance of women who disclose being sexually assaulted in a psychiatric ward being responded to appropriately and assisted to report the incident to police if they choose to do so, and expressed concern about the extent to which current response guidelines would effectively support adequate and consistent responses in this regard.¹¹⁰⁹ Representatives from the two centres highlighted the comprehensive set of guidelines for Responding to Sexual Assault and Promoting Sexual Safety within Queensland Health Inpatient Mental Health which have been in place since 2004, and were based on extended consultation with key stakeholder groups and reinforced through extensive training; are no longer in operation, with 'no immediate plans for their review'.¹¹¹⁰ The two submitters respectively said of the previous guidelines:

*We believe that these guidelines are essential, particularly in reducing the incidence of sexual violence within mental health facilities, ensuring appropriate risk assessments and safety planning for young women and also assisting staff to respond appropriately when reports of sexual violence occur.*¹¹¹¹

*This document has been useful to hold the system accountable, to have transparent and consistent action and to respond to disclosures of sexual assault in psychiatric wards.*¹¹¹²

BRISSC acknowledged in June this year, the Queensland Government launched a revised interagency protocol or guidelines. However, with regard to the new document, it submitted:

*...these are very broad guidelines. They do not specifically nor adequately address the incidence of sexual violence in mental health facilities. So our first recommendation would be for Queensland Health to conduct an immediate review of the previous guidelines in consultation with specialist sexual assault services, mental health and disability services and consumer groups.*¹¹¹³

The Committee notes in January 2015 the Queensland Government is scheduled to commence work on a new *Mental Health, Drug and Alcohol Services Plan* which will govern service planning and delivery of the state-funded mental health, drug and alcohol system, 'in accordance with the principles and directions of this plan [*Improving mental health and wellbeing: Queensland Mental*

¹¹⁰⁶ F Tomazin, 'High risk in mixed wards,' *The Age* (online), 28 April 2013.

¹¹⁰⁷ Ibid.

¹¹⁰⁸ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹⁰⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 25; *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹¹⁰ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹¹¹ Ibid.

¹¹¹² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 26.

¹¹¹³ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

Health, Drug and Alcohol Strategic Plan, 2014-2019], the Blueprint for better healthcare in Queensland, and relevant quality and safety standards'.¹¹¹⁴

The Committee considers the Government needs to work closely with key stakeholders in the development of this document to ensure these particularly safety concerns are addressed as key measures to preventing victimisation and ensuring vulnerable persons are provided an appropriately safe and secure environment to support their personal treatment and recovery.

Recommendation 40

The Committee recommends the Queensland Government explore options for gender segregation and other safety measures in psychiatric wards.

Recommendation 41

The Committee recommends the Queensland Government revise its guidelines for responding to sexual assaults within Queensland Health Inpatient Mental Health in consultation with key stakeholders, to ensure patients are provided with an appropriately safe and secure environment to support their recovery.

Sexual Violence and Technology

Submitters to the Inquiry also sought to highlight the added complexities of sexual assault prevention relating to the use of new and emerging technologies in commissioning violence. Particularly, representatives from the Gold Coast Centre Against Sexual Assault and Zig Zag noted a significant increase in the use of new and emerging technologies as tools of sexual violence, including in acts involving the transmission of sexually explicit images to others without consent; the uploading of sexual images to social media without consent; and the making of threats to distribute sexually explicit images without consent. Once uploaded, it was noted, *'it is near impossible for young women particularly to have those images removed'*, and these acts *'have resulted in significant harm to young women including exposure to further sexual harassment and assault, loss of employment, relationship breakdown and ongoing cyber bullying'*.¹¹¹⁵

In some instances the offending behaviour has also extended to the direct recording of sexual assaults and the distribution of images depicting victimisations; with social media also used as a means of contacting, threatening or abusing victims in the aftermath;¹¹¹⁶ while in others, social media platforms have apparently been used to meet someone or procure a victim online with a view to a face-to-face meeting, and *'When they meet in real time the woman is raped'*.¹¹¹⁷ Concerningly, technology can also particularly facilitate increased scope for victimisation by serving to increase access to young people and facilitate linkages that might not ordinarily be made, as well as hastening the relationship and trust building process.¹¹¹⁸

¹¹¹⁴ Queensland Government, *Improving mental health and wellbeing: The Queensland Mental Health, Drug and Alcohol Strategic Plan 2014-2019*, Queensland Mental Health Commission, September 2014, page 24.

¹¹¹⁵ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹¹⁶ N Bluett-Boyd, B Fileborn, A Quadara and S Moore, 'The role of emerging communication technologies in experiences of sexual violence: A new legal frontier?', *Research Report*, No. 23, Australian Centre for the Study of Sexual Assault, Australian Government, Australian Institute of Family Studies, February 2013.

¹¹¹⁷ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 27.

¹¹¹⁸ N Bluett-Boyd, B Fileborn, A Quadara and S Moore, op cit.

Current legal frameworks are considered to be adequate for addressing most forms of sexual assault in which technology is a factor, particularly including those involving child exploitation. However, in relation to the non-consensual distribution of sexual images of adults, recent reports have identified that the application of legal responses could stand to be enhanced.¹¹¹⁹ In this regard, the Gold Coast Centre Against Sexual Violence submitted:

We do have legislation that prohibits the transmission of pornographic images where the content of the image and transmission are considered. However, these cases are different as the images were never intended to be shared with others for sexual gratification. The motivation is different. The sharing or threat to share these images, usually by a spurned partner, is to psychologically abuse, humiliate, threaten and control the person depicted in the image.

Rackley and McGlynn advise that the term 'revenge porn' is often used where intimate pictures, originally taken with the expectation of privacy, are later disseminated in the form of revenge. These images may be shared via mobile phone, uploaded to general social media websites such as Facebook or, increasingly, submitted to websites specifically set up for this purpose: myex.com, which is currently being sued, and posedex.com which describes itself as 'a website where you can experience a short amount of joy by getting revenge on that bitch that broke your heart. Upload a nude photo of your ex for the world to see and judge her.'¹¹²⁰

A number of jurisdictions, including Victoria domestically, and various US states, the UK, Canada, Israel and Japan have introduced or are currently considering introducing a specific offence to prohibit the distribution of sexual images without consent. Victoria's law, which came into force from 2 November 2014, carries maximum penalties of two years jail and one year in jail respectively for sending a 'sext' message of an adult without consent, or threatening to send an intimate image or video of a person to others without consent, if the person believes that you will carry out that threat.¹¹²¹ A representative from Zig Zag and QSAN submitted on behalf of the stakeholder groups:

...our recommendation would be to develop legislation to specifically recognise the distribution of sexual images without consent as an offence.¹¹²²

Similarly, Director of the Gold Coast Centre Against Domestic Violence, Ms Di Macleod submitted:

...addressing this issue requires legislative reform, police enforcement of the law and education in schools about consent and privacy.

I want to recommend that a specific offence prohibiting the distribution of sexual images without consent be drafted and that this legislation apply to both images taken without consent and images taken consensually with the expectation of privacy. The second recommendation would be again education in schools on respectful relationships, focusing on the meaning of consent and privacy, both in real time and in the virtual world.¹¹²³

¹¹¹⁹ N Bluett-Boyd, B Fileborn, A Quadara and S Moore, op cit.

¹¹²⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 27.

¹¹²¹ Legal Aid Victoria, *Sexting and child pornography*, webpage, last updated 7 November 2014.

¹¹²² *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹²³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 27.

Recommendation 42

The Committee recommends the Queensland Government consider the introduction of legislation to create an offence for any person to intentionally distribute an intimate image or video of a person without consent.

Housing Pressures in Mining Towns

Research indicates that mining and other significant development projects involving significant localised population increases can lead to a range of social impacts. Impact studies conducted in Queensland have particularly reported rates of sexual assault in some mining towns are significantly higher than in the state as a whole, and have sometimes increased by up to eight-fold since the commencement of large-scale exploration and extraction activities.¹¹²⁴ The Committee notes that 2013-14 QPS crime statistics reveal that Mount Isa's rate of sexual offences, at 374 per 100,000 persons, was more than three times the 110 offences per 100,000 recorded state-wide; with rates of rape and other sexual offences respectively at 58 and 316 per 100,000 persons, compared to 30 and 80 per 100,000 persons for Queensland as a whole.¹¹²⁵

During the Inquiry the Committee heard from a representative of the Gladstone Women's Health Centre and Sexual Assault Service that the huge industry-related increase in population had particularly increased vulnerability to sexual assault due to the significant overcrowding in relation to accommodation.

Huge increases in the cost of housing have meant an increasing number of people in the town have apparently been forced to take up shared accommodation arrangements. Further, some landlords have exploited a loophole that allows them to evict for the purpose of conducting renovations, and following only minor amendments, have remarketed properties at more than double the previous rental rate; leaving evictees homeless, or with highly limited accommodation options. Testimony received by the Committee suggested these are just two of any of a range of precipitous scenarios that put residents at increased risk or vulnerability to sexual assault:

Just as an example of the kinds of things that can happen, in one case a woman managed to find accommodation by renting a room of a caravan park owner in exchange for cooking and cleaning. There were no motels available, there were no caravan parks—everything was very expensive. That arrangement worked quite well until the landlord decided he wanted sex as part of the deal as well. She was under extreme pressure to have sex and declined. When she responded by putting a barrel bolt on her bedroom door he responded by occupying the bathroom every morning so that she could not have a shower before she went to work. In another case a young girl—a teenage girl—was living in a house with a few men because they all had to share and woke up to find a man on top of her and fled into the middle of the night without even taking her phone, or wallet, or anything.¹¹²⁶

¹¹²⁴ V Petkova, S Lockie, J Rolfe and G Ivanova, 'Mining developments and social impacts on communities: bowen basin case studies,' *Rural Society*, Vol. 19, No. 3, 2009, page 222.

¹¹²⁵ Queensland Police Service, *QPS Region and District Crime Statistics 2009-2014*, Analytics, Information and Data Services, Public Safety Business Agency, SR 427/14, 3 July 2014, pages 1,12.

¹¹²⁶ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

Submitters noted the local women's shelter has some capacity to take women in. However, the extent of the demand for housing assistance from the service apparently means that many women, and victims of sexual assault particularly, are going unassisted:

*They take only people who are experiencing domestic violence, but that leaves out women who have been sexually assaulted. There are no options for emergency accommodation. Even DVConnect had extreme difficulty here, because the price of motel rooms was very high and generally there were not any available. We had to try to organise special assistance for them so that they could have a motel room available. I am not sure what can be done.*¹¹²⁷

While the situation is apparently easing slightly in Gladstone, such testimony highlights a clear need for governments to take greater care in ensure housing and other various social impacts associated with significant mining and other infrastructure projects are more appropriately addressed both now and into the future; including more comprehensive impact forecasting, planning, monitoring, and adaptive responses.

The Committee notes these and other related issues were considered in detail in the House of Representatives Standing Committee on Regional Australia's inquiry into the use of fly-in, fly-out (FIFO) and drive-in, drive-out workforce practices in regional Australia, completed in February 2013. That report noted insufficient data had obscured accurate quantification of the FIFO population and other key variables informing planning for the provision of government services and infrastructure, and also highlighted an apparent degree of unwillingness of the Queensland Government to consult and work together with local government, and to invest in developing its regional towns.¹¹²⁸

The report identified the appropriate release of land for housing development as a key area for state and territory government action to address housing affordability, as supported by robust and reliable research and forecasts of workforce intentions.¹¹²⁹

Media Guidelines

Media play a critical role in shaping and constructing societal assumptions of reality, and in informing and transmitting social norms and beliefs.¹¹³⁰ The National Framework for the Prevention of Sexual Assault accordingly identified media as a 'crucial ally' which has to date been an '*under-utilised vehicle for prevention of sexual assault*'.¹¹³¹

The framing of a news report can serve to either confirm the acceptance of violence and misconceptions; or foster supportive attitudes towards victims/survivors.¹¹³² Choices of language, the extent and nature of disclosure of detail, and the extent to which the reporter places the story in the context of the broader range of sexual assault experiences (and not just atypical stranger rape cases involving extreme violence), can all have subtle effects. The provision of support service

¹¹²⁷ Ibid.

¹¹²⁸ House of Representatives, Standing Committee on Regional Australia, *Cancer of the bush or salvation for our cities? Fly-in, fly-out and drive in, drive-out workforce practices in Regional Australia*, Parliament of Australia, Canberra, February 2013, pages 30, 86.

¹¹²⁹ Ibid, page 85.

¹¹³⁰ J Morgan and V Politoff, VicHealth, *Victorian print media coverage of violence against women: Summary report*, VicHealth, Victorian Health Promotion Foundation, Melbourne, June 2012, page 2.

¹¹³¹ Urbis Keys Young, *A National Framework for Sexual Assault Prevention*, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, page 11.

¹¹³² Australian Centre for the Study of Sexual Assault, *Reporting on sexual assault: Media backgrounder*, Australian Government, Australian Institute of Family Studies, last modified 16 October 2014. Urbis Keys Young, *A National Framework for Sexual Assault Prevention*, Australian Government, Department of the Prime Minister and Cabinet, Office of the Status of Women, 2004, pages 9-11; Council of Australian Governments (COAG), *National plan to reduce violence against women and their children 2010-2022, Including the first three-year Action Plan*, May 2011, page 16.

contact details can also offer a vital opportunity to reaffirm to readers who may have been victimised themselves that assistance is available if they should choose to seek help.¹¹³³ Notably, despite efforts to promote telephone helplines and other service access points, a considerable proportion of the population report in surveys that they would not know where to go for outside help to support someone faced with gender based violence.¹¹³⁴

As part of its first action plan (2010-2013), the *National Plan to Reduce Violence Against Women and their Children, 2010-22* committed state and territory governments to examining and developing media codes of practice for reporting sexual assault and domestic violence.¹¹³⁵ Both the ACT and Victoria have accordingly produced their own guides or codes for reporting on violence against women.¹¹³⁶ However, this priority was not acknowledged in Queensland's previous domestic violence strategy *For Our Sons and Daughters*, nor does the state appear to have otherwise taken any action in this regard.

It has also been suggested building capacity by training, resourcing and supporting experts and leaders in violence against women to act as spokespeople could also provide opportunities for these individuals to drive media conversations, and move coverage beyond lone incident-focussed to a broader dialogue about gendered violence and its impacts.¹¹³⁷ In addition, initiatives such as the Eliminating Violence Against Women in Media Awards (EVAs), instituted in Victoria and soon to be operated nationally, serve to encourage ethical reporting by recognising and rewarding media that demonstrate accurate and insightful reporting on violence against women.¹¹³⁸ The Committee considers that such efforts to engage media in promoting accurate and ethical reporting of violence and women more positive media representations of women generally merit consideration by the *Domestic Violence Taskforce*, and in any specific policy framework or plan to address sexual assault.

10.12 Support Services

Given the co-occurrence of many risk factors with other serious health and social issues, any number of social service interventions may serve to support early identification of high vulnerability scenarios, or to ensure that victims can be provided crucial early support to help assist them in their recovery and prevent re-victimisation.

While research has identified women primarily disclose to family and friends,¹¹³⁹ a 2009 study by BRISSC found that sexual assault impacted negatively on these relationships, with almost half indicating that it created conflict with family and friends, more than two thirds reporting that it led to isolation, and approximately 25% deciding to have no ongoing contact with their family and

¹¹³³ Australian Centre for the Study of Sexual Assault, 'Support services: Consider your readers,' *Reporting on sexual assault: Media backgrounder*, Australian Government, Australian Institute of Family Studies, last modified 16 October 2014.

¹¹³⁴ J Morgan and V Politoff, op cit, page 4.

¹¹³⁵ I Walden and L Wall, 'Reflecting on primary prevention of violence against women, Australian Centre for the Study of Sexual Assault, *ACSSA issues*, Australian Government, Australian Institute of Family Studies, No. 19, 2014, page 9.; Council of Australian Governments (COAG), *National plan to reduce violence against women and their children 2010-2022, Including the first three-year Action Plan*, May 2011, page 16.

¹¹³⁶ Hon. Joy Burch MLA, 'New Guides for reporting on domestic violence,' Media Release, ACT Government, 4 September 2014.

¹¹³⁷ J Morgan and V Politoff, VicHealth, *Victorian print media coverage of violence against women: Summary report*, VicHealth, Victorian Health Promotion Foundation, Melbourne, June 2012, page 4.

¹¹³⁸ Ibid, page 10;

¹¹³⁹ J Mouzos and T Makkai, *Women's Experiences of Male Violence: Findings from the Australian Component of the International Violence Against Women Survey (IVAWS)*, Australian Institute of Criminology, Research and Public Policy Series, No. 56, 2004, pages 99-101.

friends.¹¹⁴⁰ Given most women are unlikely to report formally to police, interactions with service agencies can accordingly offer crucial sources of support to assist victims in addressing unmet safety needs and risks, and facilitating their transition to healing and recovery.

For example, women who disclose to health professionals – including general practitioners, nurses, mental health practitioners and others – can be supported through an appropriately informed response and referral that is cognisant of trauma and safety risks, but also respectful of victims' particular wishes and circumstances. Homelessness services can provide women with secure accommodation to allow them to escape abusive home environments, and provide referrals to appropriate counselling and other support services.¹¹⁴¹ Further, women may present directly to specialist agencies, and thereby gain access to services that specifically address the particular issues and impacts of their sexual victimisation, and aid their physical and emotional recovery.

Many of these specialist agencies have developed 'sophisticated information, counselling, therapeutic and group work approaches which integrate an educational component into direct support work with women who have been sexually assaulted'.¹¹⁴² For example, as a representative of the WWILD noted:

*We really do a lot of early intervention work with young people particularly who are engaging in unsafe behaviours as you might call them and help them learn more about their own sexuality and things like that so they are not actually at risk of harm. I guess that is part of what all of us do. We respond to the incident. We support them in their recovery. We try to prevent re-victimisation, because it is likely to happen again. The reality is that if the person does not have a lot of positive, safe supports around them, they are at high risk.*¹¹⁴³

Importantly, they are also equipped with the necessary specialist understanding and expertise to appropriately respond to the complex individual needs of women who have experienced sexual assault trauma, including violence that is complex or extreme and ongoing in nature.

Queensland currently has 19 specialist sexual assault services funded by the Department of Communities, Child Safety and Disability Services, and submitters identified 'we are also the only state that currently provides funding for five specially focused sexual assault services to respond to significantly disadvantaged groups who are disproportionately affected by sexual assault'.¹¹⁴⁴ These include:

*...Zig Zag, working specifically for young women; IWSS, working with women from non-English-speaking backgrounds; WWILD, working with women with intellectual and learning disabilities; Murrigunyah, working with Aboriginal and Torres Strait Islander women; and Sisters Inside, working with women in custodial settings.*¹¹⁴⁵

Submitters noted the women who report to specialist sexual assault services and particularly to the special-focus services that provide support to disadvantaged groups, often have difficulty accessing mainstream services and have often accessed multiple services before finally being provided the informed specialist care required to unpack and address the complex contributors and impacts of

¹¹⁴⁰ BRISSC, cited in S Quixley (ESSQ Community Services Consultancy), *The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland*, Queensland sexual assault services, 2010, pages 43, 66.

¹¹⁴¹ Z Morrison, 'Homelessness and sexual assault,' *ACCSA Wrap*, Australian Centre for the Study of Sexual Assault, Australian Government, Australian Institute of Family Studies, No. 7, 2009, pages 5-7.

¹¹⁴² S Quixley (ESSQ Community Services Consultancy), *The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland*, Queensland sexual assault services, 2010, page 43.

¹¹⁴³ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹⁴⁴ Ibid.

¹¹⁴⁵ Ibid.

their victimisation.¹¹⁴⁶ Effective agency training and referral mechanisms are accordingly crucial to ensuring that women are promptly and sensitively directed into appropriate service pathways; with key agency links and coordination also crucial in supporting collaboration to address complex treatment needs. For example, as a representative from Zig Zag noted:

*Survivors of sexual assault often present with quite high and complex needs, for example issues of self-harm and suicidality, drug and alcohol abuse, mental health issues, ongoing chronic health issues, increased vulnerability to further abuse including domestic violence, homelessness, social isolation, and difficulties participating in education and work.*¹¹⁴⁷

Queensland has recently launched new interagency guidelines which identify principles and service standards that Queensland Health and criminal justice agencies must meet in responding to reports of sexual assault. However, as previously suggested, these guidelines largely offer only a broad statement of values and expectations rather than providing any detailed direction or guidance as to how agencies should respond; and were developed with the engagement only of health and justice bodies only, without any consultation of the specialist agencies who are experts in the area of sexual assault and best practice responses to the trauma it entails.

This stands in stark contrast to the guidelines that preceded them, which came on the back of extensive consultation across the sector and, at almost double the length of the current document, provided significantly more information and direction to agency staff, reducing uncertainty and scope for considerable service variability within the bounds of compliance. Given significant concerns about the ability of the current guidelines to adequately address safety concerns and/or support appropriate service actions and referrals, the Committee considers these guidelines should be subject to review; with any future guideline documents necessarily informed by consultation with the specialist support agencies who are experts in responding to sexual assault.

Notably, specialist agencies continue to report agency failures to provide victims with information as to their options for specialist sexual assault counselling and support, delaying their access to these important services. Zig Zag noted that minimising the delay between the assault and the provision of specialist counselling *'is known to decrease the long term impacts and also the likelihood of young women re-entering health care services for mental health related issues'*.¹¹⁴⁸ Zig Zag acknowledged, however, that there have been improvements in this area since the introduction of SupportLink in Queensland.¹¹⁴⁹

Agencies also called for consideration of improved models of collaborative service by the Committee. One submitter noted that some interagency agreements are already in place, but are yet to run smoothly due largely to continual change in police and health staff and challenges associated with attempts to continually educate those involved.¹¹⁵⁰ The Gold Coast Centre Against Sexual Violence similarly identified:

Currently in Queensland there is a lack of formal collaboration between victim/survivors, support agencies, forensic medical officers, police and ODPP. Improved cohesion and communication between various participants in the CJS can improve service quality and better support complainants.

¹¹⁴⁶ Ibid.

¹¹⁴⁷ Ibid.

¹¹⁴⁸ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 6.

¹¹⁴⁹ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 6.

¹¹⁵⁰ Confidential Submission No. 13.

In the USA, collaborative initiatives aimed at better supporting victims and increasing arrest and conviction rates are being funded. The Department of Justice has funded multidisciplinary sexual assault teams to support victim/survivors (The White House Council on Women and Girls: 2014).¹¹⁵¹

Collaborative service models employed in Victoria and the ACT have also been particularly highlighted as models that could improve service coordination and address the ‘silos’ and lack of dialogue and individual relationships across services:

The more we understand each service, our roles, and familiar faces the more likely we are to work together both determining ways to prevent these forms of crimes and discussing ways to streamline the system while hopefully providing better outcomes for the victims of crime.¹¹⁵²

The 24-hour availability of the State-wide Sexual Assault Helpline 1800 number has also been identified as a ‘particularly important entry point’, which can provide ‘timely information about sexual assault and the full range of service options available to meet the varying needs of people who have been sexually assaulted’.¹¹⁵³

10.13 Policing Sexual Violence

For the small proportion of victims that choose to enter the criminal justice system, their journey begins with reporting to police:

Police are central to the detection and successful prosecution of sexual assault crimes. Culturally, symbolically, and professionally, police represent the public face of the criminal justice system and are the primary, and crucial, entry point into the criminal justice system. So it is imperative that the police response is effective.¹¹⁵⁴

This initial encounter can critically set the tone for their ensuing legal experience and ultimate access to justice, with reports suggesting that between half and three quarters of reported cases are lost during the police investigation stage, including the initial response, forensic examination, statement taking, evidence gathering and arrest and/or interviewing of suspects.¹¹⁵⁵ How police are perceived by people who report an assault, and the quality and consistency of their investigative and decision-making practices will have a major impact on these outcomes, and the degree to which further trauma associated with criminal justice processes can be minimised.

Over the last two decades the QPS has implemented education and training to programs to improve its response to sexual violence, including introducing specialist units to deal with sexual offences and child sex offences and establishing protocols and procedures for responding to reports.¹¹⁵⁶ Submitters to the Inquiry reported witnessing some important improvements in police handling of matters during this time.¹¹⁵⁷ However, it was also widely emphasised that a range of systemic issues

¹¹⁵¹ Gold Coast Centre Against Sexual Violence Inc., Submission No. 54, page 11.

¹¹⁵² Confidential Submission No. 13.

¹¹⁵³ S Quixley (ESSQ Community Services Consultancy), *The Right to Choose: Enhancing best practice in responding to sexual assault in Queensland*, Queensland sexual assault services, 2010, page 20.

¹¹⁵⁴ SC Taylor, SD Muldoon, C Norma and D Bradley, *Policing Just Outcomes: Improving the Police Response to Adults Reporting Sexual Assault: Final Project Report*, Australian Research Council Large Linkage Project, Edith Cowan University, Perth, October 2012, page 27.

¹¹⁵⁵ Kelly et al cited in SC Taylor, SD Muldoon, C Norma and D Bradley, *Policing Just Outcomes: Improving the Police Response to Adults Reporting Sexual Assault: Final Project Report*, Australian Research Council Large Linkage Project, Edith Cowan University, Perth, October 2012, page 29.

¹¹⁵⁶ B Cook, F David and A Grant, *Sexual Violence*, Australian Institute of Criminology, Research and Public Policy Series, No. 36, Canberra, 2001, page 62.

¹¹⁵⁷ Zig Zag Young Women’s Resource Centre, Submission No. 54, page 5.

within the QPS serve to actively discourage victim/survivors from continuing with a formal complaint.¹¹⁵⁸

Zig Zag's submission noted in the last 12 months particularly, workers have observed a significant increase in reports from young women who have had inappropriate responses from the QPS when they sought to make a complaint regarding their experiences of sexual assault or abuse.¹¹⁵⁹ Both Zig Zag and BRISCC identified it is clear in some instances officers are not meeting the standards set out in the QPS Operational Procedures Manual (OPM), or the fundamental principles of the *Criminal Offences Victims Act 1995*.¹¹⁶⁰

It is crucial police respond in an appropriate and sensitive manner and in accordance with the OPM and *Interagency Guidelines for Responding to People Who Have Experienced Sexual Assault in Queensland*, so as to minimise the extent of the re-victimisation inscribed by these processes. As a representative from Zig Zag and QSAN identified, 'trauma informed practice' is crucial to ensuring appropriate and responsive service and system practices:¹¹⁶¹

*When police do have an understanding of the complex nature of sexual violence and do respond appropriately – it really does change the outcomes for those women and they are so much more likely to continue with court proceedings down the track. It is just really simple things like being believed, being understanding of the nature of sexual violence – having an understanding of the impacts of trauma and how that makes it difficult when women are trying to recall a particularly traumatic memory and these sorts of things.*¹¹⁶²

Unfortunately, submitters expressed concerns that police responses 'oftentimes are not favourable',¹¹⁶³ and women continue to report confronting unsympathetic and disbelieving attitudes, insensitive treatment, and a lack of police action, all with highly damaging effects.

For example, BRISCC submitted its workers continue 'to observe that many who have experienced sexual violence are not believed, their credibility is questioned, they are blamed or held responsible for the offences committed against them, or the offences are trivialised or minimised'.¹¹⁶⁴ Zig Zag similarly noted, contrary to the OPM's advice that police should treat every complaint as genuine and ensure the provision of adequate information to the complainant about procedures in how to make a formal complaint, women are experiencing 'negative attitudinal responses by police officers that minimise the crime and/or hold the victim at fault in some way contributing to the offence being committed'.¹¹⁶⁵ Of concern, this disbelieving/attitudinal minimisation appears to be extending to victims being 'actively discouraged by Police officers from proceeding with a formal complaint'.¹¹⁶⁶ This suggestion was affirmed by a Cairns-based sexual support service worker:

The uniform officers and those on the front desk are not well trained in the area of sexual assault and I believe complaints are dismissed before they are even handed over to

¹¹⁵⁸ Ibid; The Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, pages 3-4; Gold Coast Centre Against Sexual Violence Inc., Submission No. 54, pages 6-8.

¹¹⁵⁹ Zig Zag Young Women's Resource Centre, Submission No. 54, page 5; The Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, pages 3-4;

¹¹⁶⁰ Zig Zag Young Women's Resource Centre, Inc., Submission No. 24, page 4.

¹¹⁶¹ Ibid, page 3.

¹¹⁶² *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹⁶³ Ibid.

¹¹⁶⁴ Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 4.

¹¹⁶⁵ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, pages 5-6.

¹¹⁶⁶ Ibid.

*detectives due to ignorance and lack of understanding how these offences occur and how victims of trauma present.*¹¹⁶⁷

Further, Mr Rodney Crisp called for 'necessary steps' to be taken 'to seriously reduce, if not eliminate, abusive vetting by police of sex incidents which victims have the courage to report'.¹¹⁶⁸ Common misperceptions underlying potentially inappropriate responses, according to Zig Zag, include those related to 'instances where the victim was out at night, had been drinking alcohol prior to the offence, and/or where the offender was known to the victim, when there were no physical injuries sustained during the sexual assault, or no evidence of use of a weapon'.¹¹⁶⁹

BRISSC similarly noted '*there is less police stigma when reporting a rape committed by a stranger than in reporting sexual offences that have been committed by a family member, intimate partner, or other known person*'.¹¹⁷⁰

Submitters also noted a general lack of empathy or sensitivity among responding police officers, which can also have significantly harmful effects and discourage victim participation. The OPM highlights the first of the additional procedural responsibilities of first response officers for sexual offences, is to ensure the safety and welfare of the complainant.¹¹⁷¹ Previous taskforce findings have particularly emphasised this extends to being attuned to victims' physical and emotional condition and needs during the investigatory process.¹¹⁷² Attitude, language and body language can have a critical impact, particularly given victims are likely to be in a hypersensitive state, and can easily become disengaged and withdraw the complaint where police behaviour is not informed by an understanding of the precariousness of the situation.¹¹⁷³ The Committee received a number of responses setting out unsatisfactory dealings with police officers:

*...Inappropriate comments, remarks and responses from the Police. For example, one young woman reported being referred to by a Police officer, as "that's the rape girl". The language used by Officers can often be seen as accusatory and/or imply that the woman is not telling the truth and/or is somehow responsible for the offences being committed against her.*¹¹⁷⁴

*...I believe that this officer is very good at his job otherwise. I just think that there needs to be far more sensitivity training for how officers interact with victims or survivors.*¹¹⁷⁵

*...Lack of time and due care and attention, and clear communication to women who have experienced sexual violence. Women have reported that they were rushed and/or not provided appropriate information by Police and/or ODPP, giving evidence, etc.*¹¹⁷⁶

Submitters widely identified that response shortcomings were likely to be particularly acute for highly vulnerable and marginalised women, who face '*significant challenges in navigating the criminal justice system*'.¹¹⁷⁷

¹¹⁶⁷ Confidential Submission No. 13.

¹¹⁶⁸ Rodney Crisp, Submission No. 9, page 4.

¹¹⁶⁹ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, pages 5-6.

¹¹⁷⁰ Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 4.

¹¹⁷¹ QPS, Chapter 2, 'Investigative Process,' *Operational Procedures Manual*, issue 45, July 2014, page 67.

¹¹⁷² B Clark, Te Toiora Mata Tauherenga: Report of the Taskforce for Action on Sexual Violence, Incorporating Views of Te Ohaakii a Hine – National Network Ending Sexual Violence Together, New Zealand Government, Ministry of Justice, Wellington 2009, page 52..

¹¹⁷³ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 6.

¹¹⁷⁴ Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 4.

¹¹⁷⁵ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹⁷⁶ Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 4.

¹¹⁷⁷ Ibid, page 5.

The Gold Coast Centre Against Sexual Violence, for example noted:

*Typically women who are marginalised by race, culture, disability, mental illness, and addiction, or those who have been assaulted by an intimate partner, or been drinking prior to the sexual violence, will find that their cases do not proceed.*¹¹⁷⁸

One confidential submission by a woman affected by mental illness provided a particularly distressing account of such inferior police consideration:

Once I arrived at the Mackay Police station I was questioned for about an hour, in which time I was repeatedly told I was making it up. I requested that I wanted to go to the hospital numerous times during the interview. I was told by detectives that if I wanted attention they would spend the day with me. Eventually I was taken to Mackay Base Hospital to undergo a rape kit. The rape kit was taken and the Social Worker was called to speak to me... I was again told I was making it up and it was consensual now, as the Doctor had confirmed sexual intercourse had occurred... I was taken back to Mackay Police Station for further questioning. By this stage I was quite upset and was still being called a liar. I decided to drop the charges as no one believed me and asked to make a complaint. I was told by the detective that if it ever happened again that I should ask not to have the brown headed (expletive) detective. I walked home to my house alone, to where I found it unsecured and one of the perpetrators waiting for me.

*During this experience, I felt uncomfortable talking to the police. This has happened again since this time and I am unable to go to the police as I feel I will still not be believed, due to having a mental illness.*¹¹⁷⁹

The Gold Coast Centre Against Sexual Violence also identified that a lack of access to interpreters is unfairly disadvantaging CALD women, and ultimately minimising their chances of justice:

*In cases where English is not the complainant's first language, she will need to request an interpreter as access to an interpreter is not an automatic right for a complainant whereas it is for the accused. Most complainants from culturally and linguistically diverse (CALD) backgrounds are not afforded an interpreter when reporting to the police. Sometimes a sworn police officer with a basic knowledge of the language is used. Sometimes the Telephone Interpreter service is used.¹¹⁸⁰ Over the course of time the complainant may have numerous people translate for her. This becomes problematic as the chances of different English words being used by the different interpreter's increases and this can be perceived as inconsistencies in the victim's account.*¹¹⁸¹

Submitters also discussed the dynamics of staff gender and their impact on processes for victims. Research indicates that victims – and particularly recent victims – generally feel more comfortable describing the crime with someone of a different gender than the offender.¹¹⁸² In recognition of this, the OPM identifies additional investigative responsibilities for sexual offences include:

(i) asking the complainant if they have any preference in relation to the gender of any officer to be present during the course of the investigation. Preferences should be complied with where possible.

¹¹⁷⁸ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 8.

¹¹⁷⁹ Confidential, Submission No. 11.

¹¹⁸⁰ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 8.

¹¹⁸¹ Ibid, page 9.

¹¹⁸² Rich & Selfrin; Temkin & Krahe, cited in Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 6.

However, despite this recognition of the importance of offering women a choice to engage with female staff wherever possible; a number of submitters emphasised this is difficult in practice due to the ‘dominant appointment of male staff within the police’.¹¹⁸³

*...rostering limitations and lack of police resources mean there is no guarantee that an officer of the preferred gender will be available making the process difficult from the outset for some victims.*¹¹⁸⁴

These limitations were accepted by Acting Assistant Commissioner Paul Taylor during the Inquiry’s public hearing in Townsville:

...it is about the location, the time, having the expertise. In a perfect world, policewomen should be the people who are the responders in that situation so that they can first and foremost create a connection to the victim. It is fair to say that female victims of sexual offences would invariably have difficulty trying to outline their allegations, I would imagine, to a male.

*We recognise that and so it should be a female. Having said that, our ratio of male to female is not what it could or should be. The service has been working on that for years. What you are saying is 100 percent right. In those situations we should be responding with someone who has a capacity to be empathetic towards the individual but also able to communicate with them in a way that they feel that they are supported.*¹¹⁸⁵

However the Committee also noted the Gold Coast Centre Against Sexual Violence’s acknowledgement that ‘gender is not the most important factor’, and it is the ‘empathy, attitude, language and body language’ of the officer that is most important.¹¹⁸⁶ Similarly, one confidential submitter to the inquiry and survivor of sexual violence stated:

*I think that both men and women have the potential to be empathetic with special training... I would feel comfortable knowing that they had had accurate training and went through all of those different things that I said. That is me personally. Maybe other women might feel differently. But I would not have had a problem if there had been appropriate training.*¹¹⁸⁷

The Committee acknowledges, as submitters identified ‘because these myths and messages are so entrenched within our communities, members of the Queensland Police service and Judiciary are not exempt from both internalising and institutionalising these negative beliefs’;¹¹⁸⁸ and ‘there are always a few who are burnt out and discouraged by the lack of successful prosecutions’.¹¹⁸⁹ Acting Assistant Commissioner Paul Taylor further stated:

We say to people, ‘When you are dealing with a member of the community, pretend that it was your mother, your father, your brother, your sister, your next-door neighbour, your son, your daughter so that you understand that these people have been through a traumatic set of circumstances.

¹¹⁸³ Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 5.

¹¹⁸⁴ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 6.

¹¹⁸⁵ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 7.

¹¹⁸⁶ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 6.

¹¹⁸⁷ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹¹⁸⁸ Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 3-4.

¹¹⁸⁹ Confidential Submission No. 13.

...In regard to the sexual offences, there are processes in place, but then you go to isolated areas where there is no access to the specialist person. The smaller the location, the more multi-skilled people have to be. There are only so many skills that they can get. So it is a problem for us and we are working to resolve it.

*But what underpins it is the communication skills. We need to do a lot more effort around our capacity to engage with people under their circumstances and be empathetic to their situation.*¹¹⁹⁰

10.14 Interviewing Techniques

Given the typical scarcity of independent evidence corroborating a complaint, the likelihood of a successful prosecution in sexual assault cases generally hinges crucially on the degree to which the complainant interview is carried out successfully.¹¹⁹¹

Submitters testified that training officers in human responses to trauma and use of innovative interviewing techniques could significantly improve these outcomes. Zig Zag noted women recount people within the criminal justice system expressing distrust and/or frustration when women are experiencing effects of trauma such as *'significant difficulties concentrating, dissociation, memory loss and difficulties remembering details or timelines, frequent reminders of the trauma and flashbacks, high levels of anxiety, and considerable emotional distress'*. While these are normal reactions to traumatic events, they *'understandably disadvantage women survivors of sexual violence engaging in a legal system where 'facts' and evidence must be recounted in a rational, linear or logical fashion'*.¹¹⁹² The Gold Coast Centre for Violence Against Women identified:

*Police interviews in Queensland have followed the same format for many years. Police have been trained to obtain who, what, where, why, when and how from the victim. However, collecting information in this manner actually inhibits memory and accuracy of the details provided. This is because trauma victims do not experience trauma in the in the same way most of us experience a non-traumatic event (Strand: 2012).*¹¹⁹³

A Cairns-based sexual assault service worker similarly noted:

*Being that CIB detectives must manage most crimes in Cairns (except drugs I think) they are used to dealing with criminals and offenders so some are not so skilled at the delicate work of interviewing victims of sexual assault as they see everyone as a baddy or a liar. This doesn't work well. There are a few women detectives, some of which came across from CPIU (Child Protection Investigation Unit) who are much better at this role, however they feel burdened by always being called upon for sexual assault matters.*¹¹⁹⁴

These testimonies contrast with recommended police best practice, which identifies that since victims of sexual assault experience a profound loss of control, interview approaches which encourage the complainant to control the interview and provide an account in their own words, time and order promote more complete memory recall.¹¹⁹⁵ Experts suggest reassurance that the complainant will not be judged is also crucial, as it is not uncommon for victims to initially withhold information because they blame themselves for their assault because of risky behaviour, or may

¹¹⁹⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 9.

¹¹⁹¹ N Westera, M Kebell and R Milne, *Using video recorded police interviews to get the full story from complainants in rape trials*, Briefing Paper, Australian Research Council Centre of Excellence in Policing and Security (CEPS), No. 17, September 2012, page 1.

¹¹⁹² Zig Zag Young Women's Resource Centre Inc., Submission No. 54, page 5.

¹¹⁹³ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 6.

¹¹⁹⁴ Confidential, Submission No. 13.

¹¹⁹⁵ N Westera, M Kebell and R Milne, op cit, page 1.

otherwise feel embarrassed about the circumstances of the assault; investigators should be sensitive about asking direct questions such as ‘Did you scream for help?’, or ‘Was there a weapon?’, because it may communicate to the victim that the assault was not serious if they did not resist or if there was no weapon.¹¹⁹⁶

In addition, the use of open questions that facilitate more elaborate recall can generate narrative responses that provide more detailed information about the context of the offence and/or the relationship with the offender, which can improve the probative value of the complainant’s evidence.¹¹⁹⁷ Further, emotional details that might otherwise be lost, ‘*such as the complainant’s distress or fear and her perceptions of the defendant’s anger or other emotions, could also make the evidence more convincing*’.¹¹⁹⁸ As Director of the Gold Coast Centre Against Sexual Violence Ms Macleod identified, in sum:

*...if you have trained police who understand the nature and impact of sexual violence, if they are trained in particular interviewing techniques to elicit as much information as they can, I would suggest we have a better case scenario of that progressing through the system.*¹¹⁹⁹

Submitters noted there are a range of interviewing techniques used in other jurisdictions which allow the respondent more latitude to tell their story as they recall it, allowing police to elicit more evidence and develop a broader contextual picture of the incident or incidents, building a stronger case. The Committee understands the QPS currently engages forensic interviewing extensively in instances of child abuse; but that these techniques may not be as readily engaged in response to adult sexual assault, or employed in an ad hoc fashion only.

The 2003 CMC report, *Seeking Justice: An inquiry into how sexual offences are handled by the Queensland criminal justice system*, found that I.¹²⁰⁰ In contrast, the Victorian Police systematically engage a ‘Whole Story’ forensic interviewing framework, in recognition of the fact that courts have generally focused too much on the victim, their credibility and believability and what they did or didn’t do; whereas sexual offending primarily a crime of relationship, and if you don’t explore the relationship ‘*you won’t understand why, when the offences came about, people did or didn’t do what they did and didn’t do*’.¹²⁰¹

The improved contextual understanding that results, according to Victorian Police Forensic Interview Advisor Patrick Tidmarsh, is not only useful in the interviewing of the suspect, ‘*to be able to put a thorough and comprehensive story of the relationship in the interview to get him to respond*’; but can also ‘*absolutely*’ translate into a more accurate and nuanced picture in the courtroom.¹²⁰²

The Gold Coast Centre Against Sexual Violence’s written submission similarly noted:

Overseas jurisdictions are having success with new ways of interviewing traumatised victims to assist them to recall accurate information. The Forensic Experiential Trauma Interview has already been proven to be invaluable in the investigation and prosecution of many forms of violence including child and adult sexual assault (Strand: 2012).

¹¹⁹⁶ Human Rights Watch, *Improving Police Response to Sexual Assault*, Human Rights Watch, 2013, pages 8-9.

¹¹⁹⁷ N Westera, M Kebbell and R Milne, op cit, pages 1-2.

¹¹⁹⁸ N Westera, M Kebbell and R Milne, op cit, page 3.

¹¹⁹⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 30.

¹²⁰⁰ CMC, *Seeking Justice: An Inquiry into how sexual offences are handled by the Queensland criminal justice system*, Crime and Misconduct Commission, Brisbane, 2003, page 80.

¹²⁰¹ M Stathopoulos, *Working with sexual assault investigations (Sexual Offences Child Abuse Investigation Team)*, Interview with Patrick Tidmarsh, Forensic Interview Advisor, Sexual Offences Child Abuse Investigation Team (SOCIT), Victoria Police, *ACCSA Working With series*, Australian Institute of Family Studies, July 2012.

¹²⁰² Ibid.

In USA, the Office on Violence Against Women is partnering with the International Association of Chiefs of Police to provide training for police on how to conduct trauma informed sexual assault interviews (The White House Council on Women and Girls: 2014).¹²⁰³

The Centre accordingly recommended that the QPS explore the possibility of also instituting training in these techniques.¹²⁰⁴ A representative from WWILD also noted that improved training and use of victim-led interviewing techniques could be significantly beneficial for victims with cognitive disability or impairment, whose experiences are often devalued or dismissed due to a perception that they are unreliable witnesses and unable to articulate their experience:

That is one of the perception issues that we come across a lot. They can articulate that. It is how their statement is taken and how they are given the space to tell their story. One of the issues with all victims of trauma sexual assault is issues with memory and also just sequencing of events. When you are dealing with someone with a cognitive intellectual learning disability that is already a challenge. It is about helping them put their story together without leading them in that process. That is why it is a fairly specialised support process.¹²⁰⁵

10.15 Investigations and Evidence Gathering

Given that exclusive reliance on victim testimony is considered one of the primary obstacles to successful prosecutorial outcomes; it is important police thoroughly investigate all sources of potential evidence in sexual assault cases to ensure that any possible sources of material information are uncovered, and all appropriate measures are taken to support victim participation.

This can crucially impact the prospects for justice not only by standing to directly improve the evidence base; but also by communicating to victims that their case is being taken seriously and therefore helping to ensure their ongoing and active engagement in the case, and support their recovery (conversely, when agencies fail to intervene or respond in the ways victims or communities anticipate, it can undermine confidence and lead to perceptions that the agency is disbelieving or inactive, all of which can exacerbate trauma, and perpetuate the victim's sense of betrayal and persecution).¹²⁰⁶ Concerningly, Zig Zag's written submission to the inquiry noted its officers had observed various inadequacies in the initial stages of investigations including:

...where victims/survivors have not been advised by Police officers of the option to undertake a forensic examination, nor has other forensic evidence been collected at the scene of the crime. Insufficient gathering of supporting evidence such as the refusal to contact potential witnesses has also been observed. Zig Zag is aware of one recent incident whereby QPS Detectives informed a young woman (victim of a very recent assault), they had spoken to potential witnesses when they clearly had not done so.¹²⁰⁷

The Committee notes these concerns echo those previously raised in the CMC's 2003 inquiry into the handling of sexual assault cases in Queensland, which noted a possible 'temptation for police to take shortcuts' and 'the quality of the briefs prepared by the police is unacceptable for the successful progression of cases further through the system', with some submissions identifying an unwillingness

¹²⁰³ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 6.

¹²⁰⁴ Ibid.

¹²⁰⁵ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²⁰⁶ M Willis, 'Non-disclosure of violence in Australian Indigenous communities, *Trends & issues in crime and criminal justice*, Australian Institute of Criminology, No. 405, January 2011, page 6.

¹²⁰⁷ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 6.

to contact potential witnesses or take contradictory evidence, and the ODPP noting a possible failure to appreciate the degree of particularisation required for such matters.¹²⁰⁸

A sexual assault service worker suggested inadequacies in investigations may rather reflect that ‘many detectives are discouraged by the lack of staff and number of complaints’:

*They have a huge area to cover and cannot follow up many of their current cases as they are on to the next job. I believe they do their utmost to investigate these crimes, then they hand over to police prosecutions who work hard to get cases to committal... they can't possibly keep up with all the matters in this area nor they become experts in a given area as they are so understaffed.*¹²⁰⁹

Others have similarly highlighted the undermining impact of resource constraints. For example, Willis identified in remote communities particularly, forensic and other facilities can be limited, and a lack of female forensic officers particularly can stand to all but remove the possibility of a forensic exam for some Indigenous women, or prevent their reporting in the first place.¹²¹⁰

Delayed and Alternative Recording of Evidence

Best practice principles dictate ‘all components of the response must be victim centred and allow victims to control the pace, nature and direction of the response’; and that ‘responses will be available that respond to the needs of victims who have experienced both recent and historical assault’.¹²¹¹

In recognition of these principles and the often complicated and difficult nature of the decision to report to police – prompting many women to abstain from or significantly delay their participating in the criminal justice system – Queensland was a national leader in the adoption of an Alternative Reporting Options system. Also known as a ‘blind reporting system’, this system affords victims the option of reporting sexual assault to police without making a formal complaint, and allowing them to remain anonymous if they wish.¹²¹² This can allow victims to ensure that their account is promptly registered while fresh in their mind, whilst giving them time to seek advice and decide about whether they wish to proceed with an official complaint. The QPS identifies this can be an ‘*extremely useful healing strategy for the survivor and an effective investigative strategy for law enforcement agencies*’:

Survivors can feel empowered by knowing that the information they possess and provide could be used to solve reported offences of a similar nature.

Police can use this information to:

- *assist other prosecutions against an offender; and*
- *protect the community by enabling police to devise intelligence driven strategies designed to target an offender and reduce repeat offending.*¹²¹³

¹²⁰⁸ CMC, Seeking Justice: An Inquiry into how sexual offences are handled by the Queensland criminal justice system, Crime and Misconduct Commission, Brisbane, 2003, pages 84-85.

¹²⁰⁹ Confidential, Submission No. 13.

¹²¹⁰ M Willis, op cit, page 8.

¹²¹¹ KPMG, Review of Queensland Health responses to adult victims of sexual assault, Qld Health, March 2009, page 4.

¹²¹² K Daly and B Bouhours, Appendix A: Inventory of responses to sexual violence, ‘Conventional and innovative justice responses to sexual violence,’ *ACSSA issues*, Australian Centre for the Study of Sexual Assault, Australian Government, Australian Institute of Family Studies, No. 21, 2011, page 1.

¹²¹³ QPS, ‘Alternative Reporting Options’, *Adult Sexual Assault*, webpage, updated 16 October 2014.

These views were affirmed during the Committee's hearings by a representative from the Immigrant Women's Support Service, who noted:

*...what we find for our target group is that for women who don't want to report straightaway because of whatever fears they might have, the alternative reporting system is a great system that is available to the women because they can go online, they can put in information about what happened and they know that that information is going to be stored and if they want to use it in the future they can use it. It is information that they can provide as soon as the incident happens but they don't need to proceed if they don't feel that they can do it at this point in time.*¹²¹⁴

A corollary measure to the ARO, and a key element of optimising victims' control in the decision making process, according to submitters, has been the availability of a just-in-case forensic examination, with delayed release to the police. This had previously enabled victims of sexual assault to have a forensic examination conducted in the immediate aftermath of an incident, and stored for a period of time while they decided whether or not to proceed with a formal report. According to a representative from BRISSC:

*...they could have forensic examinations and that evidence would be stored for three months. Women could continue to call up to ask for that evidence to continue to be stored as long as they were thinking to make that report, and if it took a year or two years, as long as they kept calling then that evidence would continue to be stored as long as they were thinking to make that report, and if it took a year or two years, as long as they kept calling that evidence would continue to be kept for them.*¹²¹⁵

However, a number of agencies noted their concern this option is no longer available to women in Queensland, apparently due to concerns that '*hospitals were not able to maintain a correct chain of evidence around storing forensics*'.¹²¹⁶ This is in contrast to other jurisdictions which continue to provide this option, and despite the fact that protocols to support the system '*have been in place for many years*' (as a representative from Zig Zag noted, the option '*was certainly outlined in the previous interagency guidelines for responding to sexual assault in 2002*', however, '*in the most recent revised interagency guidelines that has not been made available*').¹²¹⁷

Zig Zag emphasised it is 'best practice, internationally and nationally, to allow women an opportunity to access support, information and resources before making decisions as to whether to proceed, particularly when they might be presenting to hospital following a recent assault at a time of crisis'; and it is accordingly 'important to have that opportunity where they can have forensic examination and materials collected and make that decision as to whether they would proceed in the weeks to come'.¹²¹⁸

The Gold Coast Centre Against Sexual Violence similarly highlighted its importance as a tool of informed choice, and called for its reinstatement across the state. As things stand now, they argued '*they are not in the position of being able to make such an informed choice at this time*' and '*if they decide to report later the police will be concerned there is no forensics and the case may not progress*'.¹²¹⁹

¹²¹⁴ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²¹⁵ *Ibid.*

¹²¹⁶ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²¹⁷ *Ibid.*

¹²¹⁸ *Ibid.*

¹²¹⁹ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 7.

*There should be an option of having a forensic medical and delaying the decision to formally report to police until they are physically and emotionally ready. This is routine in other jurisdictions in Australia.*¹²²⁰

The Committee notes it has also been argued that recognition of the effects of trauma and the importance of victim agency need to be better incorporated into the formal police reporting system, and police more patient and cognisant of their impact. American experts have elsewhere noted:

*When sexual assault victims are traumatized so severely, often they just shut down. She doesn't even want to be alive and face the world, much less go talk to a detective. But the common response from a detective is to call up the victim, and if they don't want to talk, the detective closes the case. They'll make some efforts, but they shut it down because they think you are an uncooperative victim. They're thinking, "I don't know what's wrong with her; she doesn't want to prosecute."*¹²²¹

While 'the truth of the matter is, just as the trauma has affected the victim's memory, it's also affecting her willingness to speak out',¹²²² the Committee heard police can be less understanding or receptive to vulnerable victims because of an awareness that where women have made a report then stopped that process and then come back, this can sometimes be used against them in court. A representative from WWILD also noted:

*We have had recent cases where people have decided 10 years down the track to go back to the police and follow up with a report they made and those statements have gone missing, apparently. We are following up with that at the moment. Those situations are happening at the moment. Whether that is just a paper to the digital age or there was that attitude of nothing is going to happen anyway. I mean, there are lots of reasons for that, I imagine.*¹²²³

A representative from WWILD noted having a victim advocate can be crucial in ensuring women are supported in such situations: '...having someone who can help you work out what to do and also negotiate with the police in some senses because they are going, 'Well, we can't do anything anyway,' sometimes and you have to say, 'Well, we want to report him in case he does this to someone else'.¹²²⁴

10.16 Communications and Transparency

During the course of the Inquiry, submitters identified a lack of access to accurate or fulsome information about victim's rights, case progression and legal proceedings as significant barriers to victims' effective engagement and participation in the criminal justice system.¹²²⁵ Many women appear to be experiencing unnecessary and heightened distress, confusion and frustration in the lead up to and during legal proceedings, which BRISSC described as '*critically*' also resulting in '*poorer evidence being available to the Court*'.¹²²⁶

¹²²⁰ Ibid.

¹²²¹ Police Executive Research Forum, *Improving the Police Response to Sexual Assault*, Critical issues in policing series, Police Executive Research Forum, Washington, D.C., 2012, page 37.

¹²²² Ibid.

¹²²³ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²²⁴ Ibid.

¹²²⁵ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, pages 5-6; Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 4; Gold Coast Centre Against Sexual Violence, Submission No. 54, page 3.

¹²²⁶ Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 4.

One survivor particular detailed these deficiencies in illuminating detail, noting her experience of the criminal justice system was fundamentally characterised by misinformation, delayed information, and inconsistencies in what police communicated to her would happen and when; and what actually occurred. Of the many miscommunications she encountered, she noted:

- *being misdirected by Policelink where and how to report the crime - causing delays in the actual reporting process.*
- *after making the initial report and being told she would hear back from another officer in a week to 10 days to make the official report. Nothing was heard until 45 days later.*
- *being told it would take up to four hours to make the official report. It took almost double that time and she was incredibly shaken up by the end of the session.*
- *not hearing back from officers on the day that advised. 'The officer informed me that I would receive information on specific days. When you hear these specific days, you really count on them.'*
- *receiving vague information about whether the matter was proceeding to trial. 'I became really upset. My mum had to calm me down. I sent another email back. I then received a more detailed email basically saying that there was going to be another mention'*
- *not being provided with full information. 'Whenever I talked to the officer, I would want to get information and I was consistently told, 'Just be patient. Let us do our job,' and that kind of thing, so I became very uneasy about phoning in and getting extra information based on that.'*
- *one of the witnesses from overseas but living in Australia at the time being told she would not have to come back to Australia for the trial. 'So when she did go to Vienna for a job, she did not inform her employer that there might be a possibility of her coming back to give evidence, which did become a problem later on because she did end up having to come back.'*
- *being told the final verdict was not guilty and dealing with that call to only be told in a further call from the police the next morning the jury was out making their decision. 'I was wondering if I was living in a parallel universe at the time and said, no, I had already been informed of the decision. He continued to talk and I had to interrupt him to say that I had already found out it was not guilty. He said he would phone me right back. I did not receive a call from him at all that day.'¹²²⁷*

Alarming, while this particular individual experience was evidently marred by a fundamental inattentiveness and lack of sensitivity that was by no means in keeping with the principles of the interagency guidelines that *'comprehensive information about all processes and options will be offered'*, *'the victim's sense of personal control will be supported and encouraged'* and *'the victim's informed decision will be respected at every stage of the process'*;¹²²⁸ it is not hugely inconsistent with the experiences of women generally. As one Cairns-based sexual assault worker identified:

Police detectives do not have the time to manage this as they are always onto the next job. Once it hits ODDP there is a victim liaison officer who keeps victims informed as to the state of their case but this doesn't happen at the police investigative and

¹²²⁷ Transcript of Proceedings (Hansard), Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²²⁸ Queensland Government, Response to sexual assault: Queensland Government Interagency Guidelines for Responding to People who have Experienced Sexual Assault, Queensland Government, 2014, page 7.

*prosecutions level. Clients are constantly asking me 'where's it at, what's happening?' I do my best to liaise with police for clients however with detectives and prosecutors so busy it is very hard to get the information victims require. Victims feel so helpless in this.*¹²²⁹

In addition to receiving inconsistent information about the progress of investigative efforts and legal proceedings from police, submitters also raised concerns about police giving inaccurate advice about the strength of cases; the likelihood of their going to trial; and the prospects of a successful conviction. This initial misinformation, accompanied by a lack of transparency in subsequent decision-making, can have leave victims feeling angry, disheartened, and betrayed and *'re-abused by the system that is supposedly in place to support them'*.¹²³⁰

As one submitter noted, it is very hard to explain to a victim *'the only convictions we ever get are those who plead guilty'* or a rare occasion where *'there will be a minor sentence, often as time served'*; especially when they have expected or been advised otherwise, and their decisions during the course of the legal process were fundamentally constrained and informed by the limited information (or misinformation) they received.¹²³¹ Zig Zag particularly submitted that the oft-reported *'lack of transparency of decision making within the QPS in relation to sexual assault complaints that do not proceed through to the taking of a formal statement from the victim, or to the undertaking of any initial investigation into the complaint, or to eventual prosecution'*.¹²³²

*...unfortunately reinforces a common belief held by young women victim/survivors of sexual violence that "no-one believes them" [in relation to the offences] and /or "it is not worth reporting as nothing happens to the offender anyway" [no justice or perpetrator accountability and continuing sense of perpetrator impunity].*¹²³³

The Committee notes similar concerns were identified by submitters to the CMC's 2003 Inquiry into police handling of sexual assault cases:

*Police are poor communicators and don't provide information — police should give feedback to the complainant if their evidence is not strong — it would be more appropriate if expectations are dealt with sooner rather than later and the process need not be so drawn out. (Consultation with Townsville Victims of Crime and Sexual Assault Service Counsellors 29.10.02)*¹²³⁴

In the face of this evidence, and her own experience, the witness whose singularly misinformed experience was earlier recounted submitted to the police:

Given the conviction rates for rape and other forms of sexual assault are so low in Queensland, I think officers should be very cautious around how optimistic they are about positive outcomes. I also believe officers should take every precaution necessary to ensure information is accurate prior to passing it along to victims. If they do not know something or are uncertain about something, they should say so and then come back only after having received more appropriate or more accurate information.

¹²²⁹ Confidential Submission No. 13.

¹²³⁰ Ibid, page 6.

¹²³¹ Ibid, page 6.

¹²³² Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 6.

¹²³³ Ibid, page 4.

¹²³⁴ CMC, Seeking Justice: An Inquiry into how sexual offences are handled by the Queensland criminal justice system, Crime and Misconduct Commission, Brisbane, 2003, page 80.

*In terms of follow-through, while I understand officers are busy, I do feel that when they inform a victim that they will get back to them on a certain day or time with relevant information I think they should do their very best to honour this commitment and if they are unable to do so provide a reason for that delay.*¹²³⁵

In addition, the Committee notes it is important that police recognise their job does not finish with the delivery of a judgement in court; and service continuum should also include follow-up communication with victims to ensure they are fully aware of the outcome and have some resolution in regards to their police interaction at the very least. In this regard, the aforementioned witness submitted:

*I believe that, regardless of outcome, trained officers should inform special victims of the outcome in person to ensure that they have appropriate support and guidance for recovery. I think that trained officers need to be responsible for informing all of the witnesses of the outcome in order to answer any questions that witnesses may have. It should not be the responsibility of the special witness to inform all other witnesses, particularly if the verdict is not guilty, as this is traumatic in itself.*¹²³⁶

Support service agencies have also noted a need to address failures to provide information to victims/survivors in relation to options for 'specialist sexual assault support services, financial assistance/Victims Assist Queensland, Court support services, and the Victims Register'.¹²³⁷

Committee Comment

Research into criminal justice responses to sexual violence confirms that case attrition is highest at the police investigations stage,¹²³⁸ and that a number of educational, skills and process shortcomings contribute to often disappointing and traumatic experiences for victims. Experts routinely stress the importance of a victim-centred approach to justice, noting that police actions that are sensitive to victims' needs and informed by an understanding of trauma can increase cooperation and engagement of the victim.¹²³⁹

Further, while informed and comprehensive investigations can stand to improve the evidence base for prosecution (and thus, increase the likelihood of a conviction), it has been noted that they may also provide a sense of validation from authorities, which may be an even more critical element of a successful response and investigation for victims particularly in this area of law; such that understandings of service effectiveness must be informed not only by a focus on 'clearance rates', but also on how thoroughly officers investigate reported responses and interact with victims.¹²⁴⁰

Research into police attitudes and testimony received by this Committee suggest that some officers remain highly sceptical of victims and, like many members of society, entertain false assumptions and biases that are reflected in inappropriate language and body language and in insufficient responses more broadly. Routine training of officers in the dynamics of sexual assault and enduring impacts of trauma is crucial to counteracting these inherent assumptions about sexual assault and how 'real' sexual assault victims behave, and to attuning police to the critical need to exercise sensitivity and empathy in assisting those who are prepared to undergo what is likely to be a

¹²³⁵ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²³⁶ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²³⁷ Brisbane Rape and Incest Survivors Support Centre, Submission No. 50, page 4.

¹²³⁸ Australian and New South Wales Law Reform Commissions (ANSWLRC), *Family Violence – A National Legal Response: Final Report*, Vol. 1, ALRC Report No. 114, NSWLRC Report No. 128, October 2010, page 1188; D Patterson, 'The impact of detectives' manner of questioning on rape victims' disclosure,' *Violence Against Women*, Vol. 17, No. 11, November 2011, page 1349.

¹²³⁹ Human Rights Watch, *Improving Police Response to Sexual Assault*, Human Rights Watch, 2013, page 3.

¹²⁴⁰ *Ibid*, page 4.

particularly trying experience in the interests of securing justice and preventing further offending. Additionally, specific training in responding to sexual assault is evidently also required, given that the training police normally receive with respect to investigation of other crimes (including interrogative approaches) can be highly inappropriate and counterproductive when applied to sexual assault survivors; and that victims continue to encounter uninformed and unspecialised responses which are fundamentally at odds with the OPM and *Interagency guidelines*.

Further, while an improper response by first response or front desk officers may set the tone for the investigation and may sabotage or potentially stand to 'filter out' the incident before an investigation can commence; detectives' interview techniques and approach to evidence gathering may equally crucially shape the extent to which victims are able to comprehensively communicate their story and the full context of the offending able to be identified and later conveyed. Traditional linear, interrogation-style approaches to offending that engage direct questions about particular details are generally understood to be ineffective for trauma affected victims; with can also appear to incorporate value judgements that can undermine victim responses.

Experts have identified a failure to use methods that allow victims to tell the story on their own terms can lead to confusion in victims due to the effects of trauma on memory; and where police lack a sufficient understanding of trauma impacts, they may view victims as suspicious due to the disorganised or incomplete nature of their recall.¹²⁴¹ Where this is the case, or victims do not communicate the whole story upfront for any number of reasons, cases are less likely to progress.¹²⁴² Further, some detectives may switch to an interrogative mode questioning in response, or because they believe they should test victims to see how they would hold up on cross-examination, but research confirms that this is likely to prompt the victim to 'shut down'.¹²⁴³ Qualitative case analysis has identified that women with prosecuted cases tend to describe detectives' pacing of questions substantially differently than women with non-prosecuted cases

A failure to thoroughly investigate and collect all sources of potential evidence because of a pre-emptive judgement of strength of the case may in itself be a *fait accompli*, and can reinforce victims' concerns that they are not being taken seriously or really believed. Notably, the OPM offers any number of directions in this regard (in addition to specific directions regarding the taking of statements, interviews, and forensic medical examinations), including:

(f) where possible, obtain photographs of the complainant which illustrate any injuries or other evidence;

(iii) ensuring the complainant's clothing and underclothing which may assist in the investigation (eg. bodily fluids such as saliva, semen or blood) are collected as per s. 2.25.20: 'Procedure for items of clothing worn by a complainant' of this chapter;

(iv) arrange for the examination of the crime scene by forensic personnel as soon as possible, ensuring that the scene is not otherwise disturbed until the examination is completed. Items such as discarded clothing, bed linen etc. which may provide forensic evidence to support the investigation are collected in accordance with s. 2.25.19: 'Procedure for items left at scenes of crime' of this chapter;

(v) considering making a detailed plan of the scene. Officers trained in accident investigation procedures may be in a position to assist...

¹²⁴¹ Ibid, page 20.

¹²⁴² D Patterson, op cit, page 1364.

¹²⁴³ Human Rights Watch, op cit, page 20.

...(ix) if necessary, arranging for photographs to be taken of the crime scene, any exhibits, and photographs of any injuries received by the complainant...

...(xi) maintaining a log of events to assist in the management of the investigation;

(xii) obtaining statements from any possible witnesses;

(xiii) obtaining a statement of fresh complaint without asking leading questions;

(xiv) if the identity of the suspect is not known, arranging a Comfit and ensure the completed Comfit is attached to the relevant QPRIME occurrence (see s. 2.11.8: 'Comfit identification – Computer Generated Images' of this chapter);

(xv) if the identity of the suspect is known, locating and interviewing as necessary;

(xvi) conducting any necessary searches to obtain any evidence from the suspect or from any other place; and

(xvii) once a statement has been taken from the complainant, forwarding a notification task within the relevant QPRIME occurrence to the Child and Sexual Crime Group, State Crime Command for intelligence purposes.¹²⁴⁴

The Committee notes the QPS has expertise in interviewing techniques for trauma victims, particularly including its iCARE course (Interviewing Children and Recording Evidence), and through experiential development and training of specialist domestic violence and Child Protection and Investigation Unit officers. However, testimonies provided during the course of the Inquiry suggest that best practice forensic interview techniques employed in other jurisdictions do not appear to be employed in any systematic manner in Queensland – a scenario that should be immediately reviewed.

In addition, issues in resourcing also appear to mean that specialist officers are often unavailable particularly in regional and remote locations, such that the overall quality of responses for sexual assault victims is diminished. Further, despite the OPM requirements that officers '(d) ensure, where the complainant is not conversant with the English language that, where available, an appropriate interpreter is present';¹²⁴⁵ officers are fundamentally limited by a lack of appropriate arrangements to promptly secure an adequate reporter, leaving women in high-risk population groups at a fundamental disadvantage when it comes to receiving justice.

Consistent reports of a lack of clear communication with victims as to how their case is progressing, the reasons for certain decisions, and the requirements and timetable of legal proceedings – not only for sexual assault victims but also in instances of broader domestic violence and other offences¹²⁴⁶ – are also inconsistent with the OPM requirement of '(vii) keeping the complainant fully informed on what is happening throughout the investigation'.¹²⁴⁷ The Committee considers that additional compliance measures and improved quality assurance may serve to further reinforce training, and that the QPS should consider reviewing existing performance monitoring requirements and standards. While the Committee was not appraised as to the extent to which such measures are currently employed, this might include, for example, standard procedures such as:

- Requiring that all sexual assault incidents are put in writing and assigned a number for tracking purposes and secondary review;

¹²⁴⁴ Queensland Police Service, Chapter 2, 'Investigative Process,' *Operational Procedures Manual*, Issue 45, July 2014, paged 68-69.

¹²⁴⁵ Ibid, page 68.

¹²⁴⁶ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Ipswich, 29 July 2014, page 34.

¹²⁴⁷ Queensland Police Service, op cit, page 68.

- *Clearly instructing all officers to assume that all sexual assault cases are valid unless established otherwise by investigative findings;*
- *Reviewing call logs to ensure cases are not slipping through the cracks;*
- *Checking each case to see that the investigation is handled appropriately;*
- *Reviewing investigators' caseloads to ensure there is not a disproportionate number of unfounded cases or cases in which the victim no longer cooperates;*
- *Seriously and promptly responding to complaints by victims about improper treatment; and*
- *Removing from the units detectives who do not meet the unit's expectations.*¹²⁴⁸

Submitters to the inquiry also suggested the introduction of specialist liaison officers for sexual assault – much like the domestic violence liaison officers that have been identified as having significantly improving police handling of domestic violence cases – could serve to greatly enhance responses and minimise additional trauma and re-victimisation for those who report. As a representative from the Gold Coast Centre Against Sexual Violence identified:

*Specialised training is necessary to improve the quality of police interviewing and the taking of statements. The evidence collected by trained specialist police is more likely to be useful for prosecution, leading to higher rates of prosecution and conviction...Research shows that rape myth acceptance is a significant predictor of interviewing skill. Specialist officers recruited to work in this area should have low rape myth acceptance and superior interviewing skills (Rich and Seffrin: 2012).*¹²⁴⁹

While the Committee understands the QPS is limited by resource constraints, it supports the view that the intricacies of sexual assault and impacts necessitate a specialist response; and that the use of specialist liaison officers could help to foster service-wide improvements in understanding through effective *'mentoring, and training with other police'* (as suggested by Zig Zag);¹²⁵⁰ improved victim communication (as one submitter noted *'we definitely need intermediaries to keep victims informed of where their case is at'*)¹²⁵¹; review of case management; and improved liaison and links with sexual assault support services. As the BRISSC noted, *'sexual violence liaison officers could offer support to women directly, education to other police officers, clear communication between all relevant parties, and could ensure that legal processes were undertaken within a physically and emotionally safe and timely manner'*.¹²⁵²

With regard to informational and communication deficiencies in particular, the Committee also acknowledges Zig Zag's call for the development of an information package that *'can be routinely provided to all victims of crime that includes information about essential support services available such as specialist sexual assault services, financial assistance/Victims Assist Queensland, Court support services, and the Victims Register'*.¹²⁵³ BRISSC, similar called for development of *'a comprehensive information booklet and/or web site that can provide victim-survivors with accurate information about their rights within the criminal justice system, including Queensland-based support options'*.¹²⁵⁴

¹²⁴⁸ Human Rights Watch, *Improving Police Response to Sexual Assault*, Human Rights Watch, 2013, page 23.

¹²⁴⁹ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 6.

¹²⁵⁰ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²⁵¹ Confidential Submission No. 13.

¹²⁵² Brisbane Rape and Incest Survivors Support Centre, Submission No. 24, page 6.

¹²⁵³ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 4.

¹²⁵⁴ Brisbane Rape and Incest Survivors Support Centre, Submission No. 24, page 6.

Lastly, the Committee notes a number of submitters suggested current service shortfalls might be better addressed by a comprehensive system approach to sexual violence, rather than any ad hoc measures of improvement. Collaborative service models which engage trained specialist police units within multidisciplinary sexual assault teams have been identified as having sexual offence conviction rates up to 60 to 80% higher than those recorded for conventional units.¹²⁵⁵ The Gold Coast Centre Against Sexual Violence particularly identified:

Currently in Queensland there is a lack of formal collaboration between victim/survivors, support agencies, forensic medical officers, police and ODPP. Improved cohesion and communication between various participants in the CJS can improve service quality and better support complainants.

In the USA, collaborative initiatives aimed at better supporting victims and increasing arrest and conviction rates are being funded. The Department of Justice has funded multidisciplinary sexual assault teams to support victim/survivors (The White House Council on Women and Girls: 2014).¹²⁵⁶

A representative from Zig Zag also submitted:

I certainly also think that we have observed really innovative developments in the areas of justice in other jurisdictions, particularly in setting up specialist sexual assault courts and also having external legal advice and advocacy that is separate to the DPP and being provided to victims of sexual offences. I think there could be certainly scope to do some research and review as to how these innovative approaches are working in other jurisdictions.¹²⁵⁷

The Committee notes the comprehensive collaborative approach introduced and operating in Victoria since 2007 offers one potential model for consideration (along with a similar integrated approach employed in the ACT), with evaluations identifying that the best practice system has '*improved responses and outcomes for victims/ survivors before and during court proceedings*'.¹²⁵⁸ Such approaches accordingly merit further consideration.

Accordingly, the Committee makes the following series of recommendations to improve the processes around dealing with survivors/victims of sexual violence.

¹²⁵⁵ White House Council on Women and Girls, cited in Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 9.

¹²⁵⁶ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 11.

¹²⁵⁷ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹²⁵⁸ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 3. See also MB Powell and R Wright, 'Professionals' Perceptions of a New Model of Sexual Assault Investigation Adopted by Victoria Police,' *Current issues in criminal justice*, Vol. 23, No. 3, March 2012, pages 333-352; MB Powell and R Cauchi, 'Victims' perceptions of a new model of sexual assault investigation adopted by Victoria police,' *Police practice and research*, Vol. 14, No. 3, 2013, pages 228-241.

Recommendation 43

The Committee recommends all Queensland Police Service officers be required to routinely undergo competency based training in understanding and responding to sexual violence that, including education in trauma and a strong attitudinal component.

Recommendation 44

The Committee recommends the Queensland Police Service explore options for the systematic training and use of forensic experiential trauma techniques by specialist officers.

Recommendation 45

The Committee recommends options to allow victims of sexual crimes to undergo an immediate forensic examination with forensic material stored for delayed release to police be reviewed, to support improved victim agency and evidential options.

Recommendation 46

The Committee recommends the Queensland Police Service consider the introduction of trained, specialist sexual violence officers and units with a view to implementation.

Recommendation 47

The Committee recommends the Queensland Police Service consider options to improve communication of information and feedback to victims, including quality assurance systems and communication-based performance standards and measures.

Recommendation 48

The Committee recommends the Queensland Government coordinate with stakeholders on the development of a comprehensive information pack and web resources that can provide victims with accurate information about their rights within the criminal justice system, legal process, and Queensland-based support options.

Recommendation 49

The Committee recommends the Queensland Police be required to record and communicate the reasons for discontinuance at each stage of the criminal justice program, to support research into the factors influencing case attrition, and particularly the significant reduction in sexual offences committed to the higher Courts in Queensland.

Recommendation 50

The Committee recommends the Government establish a multi-disciplinary working party of stakeholders including representatives drawn from police, ODPP, sexual violence services, forensic medical officers and victims/survivors to review and improve the criminal justice system response to sexual violence, including consideration of collaborative criminal justice models.

11. Operations of the Courts and Sentencing

11.1 Public confidence in the courts

Public confidence in the judiciary and the courts is fundamental to the operation of the criminal justice system. While many Queenslanders understand the importance of the courts, generally there are relatively few people that have first-hand experience of the operation of the courts. Much information is obtained through what is reported in the media - in print, television and now more than ever through social media.

More than any other component of the criminal justice system, the work of judges and sentencing continues to draw criticisms in the media, with a steady rate of 'dissatisfaction' reported as emanating from the general public. Reports that the general public consider judges are out of touch and are soft on crime continue to appear at a greater frequency. The former NSW Chief Justice, James Spigelman AC QC, stated:

*Sentencing engages the interest, and sometimes the passion, of the public at large more than anything else judges do.*¹²⁵⁹

The discrepancies between sentences the criminal justice system is delivering and what the public expects from it is known as the punitiveness gap and this gap widens as the public confidence in the judiciary or the courts wanes. While there have not been many studies completed on public confidence in the courts and satisfaction with sentencing, an understanding of the level of public confidence is essential for governments and policy makers for a number of reasons. One of Queensland's leading academics in this area, Professor Geraldine McKenzie set out a number of reasons in a recent study:

The first reason is that many stages of the criminal justice process are reliant on the support and confidence of the public. The police are typically reliant on reports by victims and witnesses, and the court process itself requires co-operation from various participants including complainants, witnesses and jurors.

A second reason is that public opinion can be influential in relation to actual sentencing decisions.

A third reason is that public opinion has emerged as a strong driver of sentencing policy in many jurisdictions. In fact, a number of countries have devised strategies to incorporate public opinion in sentencing policy.

*A further reason is that research has indicated that attitudes relating to punishment and the criminal justice system have a strong bearing on the willingness of citizens to obey the law. Clearly then, public opinion has far reaching consequences for not only the criminal justice system but also for society as a whole.*¹²⁶⁰

In that study, over 6,000 random respondents were asked a series of questions relating to:

- public confidence in the courts and sentencing;
- the way courts carry out their functions;

¹²⁵⁹ Hon. J Spigelman AC, A New Way to Sentence for Serious Crime, Address for the annual opening of Law Term Dinner of the Law Society of NSW, Sydney, 31 January 2005.

¹²⁶⁰ G Mackenzie et al, 'Sentencing and public confidence: Results from a national Australian survey on public opinions towards sentencing' (2012) 45(1) *Australian and New Zealand Journal of Criminology*, page 45.

- their level of punitiveness; and
- their views on alternatives to prison sentences.

The results varied due to the nuances between the various questions that were (deliberately) asked:

The present findings confirm that the Australian public lacks confidence in sentencing, is dissatisfied with the quantum of penalties and believes that harsher sentencing is needed.

However, the present findings also suggest that public opinion is extremely nuanced. Alongside the expressed desire for harsher penalties, there was widespread support for the use of alternatives to imprisonment for young, mentally ill and non-violent offenders.¹²⁶¹

It was found that public opinion was more diverse and complex than standard opinion polls might ordinarily suggest and that the variances in responses across the large cross section of the public indicated that ‘opinions expressed by so many Australians in the present study highlights the problematic nature of gauging public opinion using top-of-the-head style opinion polls.’¹²⁶²

Accordingly, it was considered the results of efforts to gauge the public opinion on criminal justice matters are likely to vary depending on the type and depth of information provided by the survey.¹²⁶³ This is consistent with other international studies. In relation to punitive public attitudes, Keijser and Elfers found:

The specific method of inquiry, on the one hand, and the type of degree of information that is provided to respondents on the other hand, are two of the crucial factors that determine what exactly is being measured in terms of punitiveness.

Public opinion is what is measured off the top of people’s heads without prior deliberation or opportunity to evaluate concrete information... Global questions used in surveys tap into superficial attitude primarily based on biased, stereotypical and readily available media reporting on crime.¹²⁶⁴

In response to research indicating the judiciary was ‘out of touch’ with public opinion, the then Chief Justice Gleeson of the High Court of Australia suggested instead of surveying uninformed members of the public, it might be more useful if jurors—as more informed representatives of the public—were asked about the sentences in the particular cases they have deliberated on. This inspired a study of 638 Tasmanian jurors from 138 trials between September 2007 and October 2009.¹²⁶⁵

The results of that study using a more informed sample audience found:

A substantial majority of jurors with firsthand experience of judges consider that sentences are appropriate and that judges are in touch with public opinion. By surveying members of the public who have engaged directly with the criminal justice system in a much more meaningful way than those who form their perceptions second hand via the mass media, the study has shown that the jury survey methodology provides a better approach to finding a reliable source of informed public judgment of judicial sentencing.

¹²⁶¹ G Mackenzie et al, op cit, page 60.

¹²⁶² Ibid.

¹²⁶³ Ibid.

¹²⁶⁴ J Keijser & H Elfers, Punitive public attitudes: a threat to the legitimacy of the criminal justice system?, *Social Psychology of Punishment of Crime*, 2009, page 57.

¹²⁶⁵ K Warner, J Davis, M Walter, R Bradfield and R Vermeij, [Public judgement on sentencing: Final results from the Tasmanian Jury Sentencing Study](#), *Trends & Issues in crime and criminal justice*, No. 407, February 2011, AIC, Australian Government.

*The study has also shown that there is value in engaging jury members by giving them more information about sentencing patterns and crime trends and by informing them of the judges' reasons for the sentences that they have imposed. The method has the potential to further explore differences in informed public opinion about the seriousness of different offence types and to investigate the contrast between punitiveness as measured by sentence choice in an individual case with the responses to an abstract question on general sentencing levels.*¹²⁶⁶

The Honourable Justice McMurdo, President of the Court of Appeal also referred to the findings of the above Tasmanian study in her submission to the Committee:

*Informed members of the public overwhelmingly approve of the sentences given by our judges. Based on the findings from 138 trials, jurors who have judged the defendant guilty are more likely to select a more lenient sentence than a harsher sentence than the judge. Moreover, when they are informed of the sentence they are highly likely to endorse it. The fact that this is the judgment of jurors makes it a strong endorsement of judicial sentencing. It is an important finding which should be heeded by politicians and policy makers.*¹²⁶⁷

Helpfully, Her Honour also related the conclusions from the Tasmanian study to the statistics in recent annual reports of the Queensland District and Supreme Courts citing the number of criminal lodgements in both the District and Supreme Courts in the previous three years. In 2011-2012, the amount of new criminal matters coming before the District Court was reduced from 5,609 the year before to 5,120. The numbers reduced again in 2012-2013 down to 4,703.¹²⁶⁸ There was a greater reduction in matters in the Supreme Court over the same timeframe with lodgements reducing from 1,529 in 2010-2011 to 1,068 matters in 2011-2012 to 839 in 2012-2013.¹²⁶⁹

While the figures shown do not record the number of sentences imposed, Justice McMurdo went on to highlight only a small number of appeals are made each year from these matters inferring that:

...the vast majority of sentences in the District Court and in the Trial Division of the Supreme Court are accepted by both the offender and the community and do not result in the exercise of appellate rights.

*The bulk of those who wish to appeal against sentence are offenders who contend the sentence is too heavy. In very few cases does the Queensland Attorney-General or the CDPP contend, on behalf of the community, that the sentence was inadequate.*¹²⁷⁰

Similar themes to that outlined above were contained in submissions from professional bodies or those who have intimate knowledge of the operation of the courts - submitting that public opinion must be separated from empirical research:

The first is this issue of the importance of information about the system and its assessment by the community. The [Queensland Law] society has long championed the view that changes to criminal law really need to be based on empirical evidence, on data and on research rather than on any notions of public opinion or what the public might want. That is difficult, we appreciate, in the sense that research takes time, effort and concentration. Conversely, getting a sense of public opinion can be done in a very lazy way. It can be done by propping up the bar and hearing what people think, but the

¹²⁶⁶ Warner, Davis, Walter, Bradfield and Vermey, [op cit.](#)

¹²⁶⁷ Warner, Davis, Walter, Bradfield and Vermey, [op cit.](#)

¹²⁶⁸ The Honourable Margaret McMurdo AC, Submission No. 22, page 2.

¹²⁶⁹ Ibid, page 2.

¹²⁷⁰ Ibid, page 3.

*concern always is that unless you have a representative sample of people who are well informed then the policy initiatives which arise out of any such feedback is of limited value.*¹²⁷¹

The QLS advocated for the reinstatement of the now defunct Sentencing Advisory Council to provide the public with additional knowledge on the operation of courts and sentencing:

QLS supports increased research and education to ensure public awareness and understanding of sentencing decision processes. Current research suggests the following:

The public at large is often misinformed about trends in crime and criminal justice and this lack of accurate knowledge is associated with lack of confidence in sentencing.

Increasing criminal penalties is unlikely to result in a change to public perception.

International and Australian research consistently shows that the public considers the sentences imposed in criminal matters to be too lenient...

The community has limited or no access to comprehensive evidence on criminal justice sentencing and trends. Public education on these matters is paramount when seeking to enhance community confidence in the criminal justice system.

The Queensland Sentencing Advisory Council, prior to its dissolution, was charged with functions that included:

- *To provide information to the community to enhance knowledge and understanding of matters relating to sentencing;*
- *To publish information relating to sentencing; and*
- *To research matters relating to sentencing and publish the results of the research.*

*Government support for these educative functions is essential in order to promote public awareness and community understanding of sentencing processes.*¹²⁷²

Similarly, the Honourable Justice McMurdo submitted:

*I encourage you to consider whether the public should be better informed about crime and sentencing and how best to do this. By way of example, I refer you to the Sentencing Information Package prepared jointly by the Victims Services and Criminal Law Review, the New South Wales Department of Attorney-General and Justice and the New South Wales Sentencing Council.*¹²⁷³

The Sentencing Information Package available in NSW and referred to above is a simple, yet comprehensive information booklet designed to assist victims of crime understand the court processes. The introduction to the booklet states:

*This booklet aims to help victims of crime understand the sentencing process. It explains the purposes of sentencing, the basic elements of sentencing procedure and the terminology used by a sentencing court and is largely based on sentencing legislation in New South Wales. Victims of crime and other interested parties are encouraged to contact Victims Services or the prosecuting authority to discuss the information or to ask any questions.*¹²⁷⁴

¹²⁷¹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Brisbane, 8 August 2014, page 20.

¹²⁷² QLS, Submission No. 51, Attachment, *Mandatory sentencing laws policy position*, page 2.

¹²⁷³ The Honourable Justice Margaret McMurdo AC, Submission No. 22 pages 1-3.

¹²⁷⁴ Jointly produced by Victims Services and Criminal Law Review, NSW Department of Justice and NSW Sentencing Council, [Sentencing Information Package](#), page 4.

Committee Comment

The Committee agrees further education of the public as to sentencing procedures of the courts must take place to increase the public's knowledge and also the public's confidence in the justice system. A comprehensive information package, similar to that used in NSW and made available in courts, and on-line, would be a relatively simple and inexpensive initiative to implement and would be a good start in educating the public on sentencing matters.

Recommendation 51

The Committee recommends the Department of Justice and Attorney-General consider developing a comprehensive sentencing information package, similar to that available in New South Wales, to enhance the public's knowledge on sentencing procedures and terminology.

With respect to the Sentencing Advisory Council, the Committee has previously considered this matter when the council ceased operations as a result of the Criminal Law Amendment Bill 2012. The Committee notes the arguments put forward at the time by stakeholders who were against the dissolution of the council and notes those arguments have not significantly changed. The Committee also notes the Department's advice to the Committee at that time:

*To date, the main focus of the Council's work has been to provide advice to the Attorney-General on sentencing matters. This function effectively duplicates the law review functions of the Queensland Law Reform Commission. The Bill dissolves the Council to enable a more efficient use of public resources by the rationalisation of law review functions across government.*¹²⁷⁵

Further, the Committee notes the submission from the Supreme Court of Queensland:

*I should record my appreciation of the research undertaken by the Sentencing Council in relation to sentencing for serious violent offences, and standard non-parole periods for such offences. Such research benefits the community in providing an informed basis to review current laws and practices. I trust that the Law Reform Commission and any other agency which undertakes research in this area will be adequately resourced to provide your Committee, the courts and the community with information that will enhance our collective understanding of how sentencing laws operate in practice, and how they might be improved.*¹²⁷⁶

The Committee's position has similarly not changed. The Queensland Law Reform Commission (QLRC) has capacity to undertake the functions previously carried out by the Sentencing Advisory Council and is able to conduct inquiries into sentencing related matters, if required. The Committee notes the QLRC has not conducted any criminal law related matters since the cessation of the Sentencing Advisory Council and notes there may be scope for the QLRC to advance a number of matters which the Committee considers worthy of further investigation, arising out of this report.

11.2 Televising court proceedings

A further avenue for education of the public in relation to the operation of courts and sentencing is that of televising court proceedings. While this is not a new idea, the televising of court proceedings has received renewed attention in Queensland due to a number of high-profile local trials being

¹²⁷⁵ LACSC, Report No. 3, *Criminal Law Amendment Bill 2012*, page 18.

¹²⁷⁶ *Ibid*, page 18.

heard, and not televised – in contrast to the widespread coverage of high-profile trials in other jurisdictions, such as the Oscar Pistorius trial in South Africa.

Current position

Currently in Queensland, there is no legislation which provides for televising court proceedings. The use of electronic devices in courtrooms is dealt with under Supreme Court Practice Directions¹²⁷⁷ which have been progressively updated over time. The current practice direction prohibits the use of electronic devices as follows:

Prohibition

Electronic devices may not be used in any courtroom unless permitted:

- (a) by this practice direction, or*
- (b) by the [presiding] judicial officer.¹²⁷⁸*

The practice direction states an electronic device may not be used in a courtroom to take photographs of video images, or to digitally transcribe the proceedings except as permitted by the direction.¹²⁷⁹ The presiding judge therefore has discretion to allow the use of devices – or in absence of any ruling they may be used in accordance with the written direction. Accredited media representatives may use electronic real-time text-based communications and social media to report proceedings, so long as it does not interrupt the proceedings, subject to the presiding judicial officer to prohibit such reporting.¹²⁸⁰

Further, accredited members of the media may make a private audio recording of the proceedings (under condition that again, the proceedings are not interrupted) for the purpose of assisting the media to compile accurate reports of the proceedings. Again, the recording is subject to the presiding judicial officer not prohibiting such reporting and also carries the proviso that the recording must not be broadcast or otherwise published to maintain accuracy in the courts' official record of proceedings.¹²⁸¹

Recent developments

In 2007, the media was first allowed to make private audio recordings of court proceedings. The then Chief Justice of the Supreme Court, the Honourable Paul de Jersey AC, QC, stated in an interview with ABC National Radio:

After the trial of Chris Hurley, the Palm Island case in relation to manslaughter, one of the journalists who'd covered the proceedings in the court room made contact with me and pointed out that he was the only reporter in the court room with shorthand skills. All of the others didn't have that skill and had to rely on memory and longhand transcription of the evidence. A couple of times, the other reporters came to this particular older reporter, I have to say, to compare notes as to what in fact Chris Hurley had said in his evidence, and they'd got it terribly wrong. And he was concerned in the end, obviously enough to enhance the accuracy of court reporting and he suggested to me that allowing

¹²⁷⁷ The current practice direction is: Practice Direction No. 8 of 2014, *Electronic Devices in Courtrooms*, made 17 February 2014, which replaced Practice Direction No. 1 of 2009.

¹²⁷⁸ Practice Direction No. 8 of 2014, *Electronic Devices in Courtrooms*, 17 February 2014, paragraph 4.

¹²⁷⁹ *Ibid*, paragraphs 5 (d) and (e).

¹²⁸⁰ *Ibid*, paragraphs 8–11.

¹²⁸¹ *Ibid*, paragraphs 12-15.

*journalists in particular to take hand-held recorders into court, would be a way of addressing the problem.*¹²⁸²

His Honour was quoted as saying, the move was not ‘an especially progressive move, but one that was warranted’.¹²⁸³ In relation to the role of the media in accurately reporting court proceedings, His Honour stated:

*The media has an indispensable role in publicising the judicial process. The media can play a very constructive part in informing the public of what the courts of law do, and in achieving some of the goals of the judicial process, for example, deterrence in the criminal justice system. We are obliged in sentencing offenders to have regard to the prospect of deterrence both with the individual offender, and generally, with other people in the community. But how can that be achieved if the public doesn't come to learn reliably of the sentences the court has imposed. So the media plays a terribly important role in ensuring the effectiveness in the end of the criminal justice process.*¹²⁸⁴

Great care was taken however to ensure that strict parameters were set in the recording of proceedings by the media:

*At this stage we've stipulated that they can be used only for the purpose of checking the accuracy of the reporting. We've expressly prohibited the rebroadcasting of the content of the tape. This was really motivated by a concern that witnesses for example, might be discomfited if they were to hear their own voice over the radio on the 6 o'clock news or whatever... But we think that's a reasonable limitation at this stage, but it may be if this system works well, that we will in due course consider broadening the licence.*¹²⁸⁵

In relation to televising court proceedings, the Committee understands the Supreme Court investigated the matter approximately 10 years ago, however it determined at that time, broadcasting of proceedings would not go ahead.¹²⁸⁶ In 2009, the then Chief Justice de Jersey cautioned against the introduction of televised court cases, questioning whether broadcasting verdicts and sentencing would bring transparency to the legal system.¹²⁸⁷ His Honour stated in response to the assertion that courts were perceived as ‘closed shops’:

On one view, televising court proceedings is a natural expression of their transparency...

But there are risks, for example that witnesses and others may 'play to the camera', and of sensationalising proceedings by clips taken out of context...

*I do not consider there is any perception... that Queensland courts are 'closed shops which apply suppression orders too readily'. All Queensland courts are open, and non-statutory suppression orders are a rarity in this state.*¹²⁸⁸

The current Chief Justice of the Supreme Court, the Honourable Tim Carmody QC, revisited the matter of televising court proceedings shortly after his appointment. His Honour confirmed his interest in examining this matter on a number of occasions stating that a range of issues would need to be considered, including what type of court proceedings could be broadcast, the public interest

¹²⁸² Transcript, [Court reporting](#), Radio Interview with Damien Carrick, ABC Radio National, 2 October 2007.

¹²⁸³ [Ibid.](#)

¹²⁸⁴ [Ibid.](#)

¹²⁸⁵ [Ibid.](#)

¹²⁸⁶ M Killoran, [Supreme Court Justice McMurdo says there is no committee looking at court broadcasts](#), *The Courier Mail*, 16 August 2014.

¹²⁸⁷ C Barrett, [Keep cameras out of court, implores chief justice](#), *Brisbanetimes.com.au*, 18 August 2009.

¹²⁸⁸ [Ibid.](#)

and the cost of the exercise.¹²⁸⁹ His Honour stated he wanted more people to participate in the court process rather than spectating and reiterated his desire to allow the broadcasting of certain sentence hearings and urged people to sit in on court proceedings.¹²⁹⁰

As alluded to earlier in relation to sentencing processes used by the Courts, His Honour publicly acknowledged frustration over juvenile crime and perceived ‘soft sentencing’, and recognised that rehabilitation was better than jail.¹²⁹¹ His Honour also stated jailing someone was for punishment and community protection, not for preventing crime:

When I hear calls for tougher penalties, that concerns me because it shows the misunderstanding of what the object of the process [of sentencing] is...

*The object of the process is to find a just penalty, not the toughest.*¹²⁹²

While there has been some conjecture in the media as to the status of the current review by the Courts, the Committee understands the matter is currently being investigated by the Supreme Court.

Moves in other jurisdictions

The competing views for and against televising court processes have been played out in many other jurisdictions around the world, including Australia and there have been many studies into the merits of televising courts.

Those in the ‘for’ camp argue ‘*there is a clear public interest in letting people see the workings of courts: they can educate the public and enhance transparency*’.¹²⁹³ Further, that the ability of television to educate the public, by its easily accessible nature, will assist demystifying the court processes and ‘*increase the transparency of the decision-making of judges*’.¹²⁹⁴ Those ‘against’ the move to televise argue the introduction of cameras could sensationalise the proceedings and there would be a loss of control of what is portrayed: ‘*it is what the television does with the trial footage that is potentially so damaging*’.¹²⁹⁵

United States of America

There is no standardised regulatory regime for televised courts in the U.S.A., as like many matters it depends on the jurisdiction in which the court is sitting. As of 2003, all 50 US states allow some type of television coverage, be it on a trial or permanent basis.¹²⁹⁶

In civil cases, each of the US courts of appeal may determine whether to allow broadcasting of appellate arguments;¹²⁹⁷ similarly in state superior courts the presiding judge is able to determine on a case-by-case basis whether to allow the proceedings to be televised.¹²⁹⁸

¹²⁸⁹ M Killoran, [Chief Justice Tim Carmody says a subcommittee has been set up to look at the possibility of televised trials](#), *The Courier Mail*, 15 August 2014.

¹²⁹⁰ [Carmody’s for just penalties](#), *Townsville Bulletin*, 16 September 2014.

¹²⁹¹ [Ibid.](#)

¹²⁹² [Ibid.](#)

¹²⁹³ J Johnston, [Morcombe, Pistorius and the public interest in court broadcasts](#), *The Conversation*, 19 March 2014.

¹²⁹⁴ NSW Supreme Court: L Hall, [TV cameras to be allowed in NSW Supreme Court verdicts](#), *Sydney Morning Herald*, 25 March 2014..

¹²⁹⁵ P Mason, *Court on Camera: Electronic Broadcast Coverage of the Legal Proceedings*, (2001) Picturing Justice: The Online Journal of Law and Popular Culture, <http://usf.usfca.edu/pj/camera-mason.htm>.

¹²⁹⁶ SL Alexander, *Media and American Courts: A Reference Handbook*, ABC-CLIO, page 50.

¹²⁹⁷ [Ibid](#), page 50.

¹²⁹⁸ [Ibid](#), page 50.

In the Federal arena, on the recommendation of the American Bar Association, Congress enacted the Federal Rule of Criminal Procedure Rule 53 which prohibits the taking of photographs in the courtroom during the process of judicial proceedings, effectively prohibiting the use of all audio or visual recording of federal criminal cases. Federal District Courts generally prohibit broadcasting of proceedings while Federal appellate court judges may determine matters on a case-by-case basis.¹²⁹⁹

Notably, the U.S. Supreme Court has consistently ruled that there is to be no televising of its proceedings. Despite a number of attempts to introduce a Bill to allow the televising of the proceedings of the Supreme Court, none have successfully passed.¹³⁰⁰

United Kingdom

The United Kingdom (UK) commenced televising courtroom proceedings at the appeal court level in late 2013. While the Supreme Court allowed filming of its proceedings from its establishment in 2009, filming in all other courts was prohibited in the UK under the *Criminal Justice Act 1925* (UK). The legislative amendments in 2013 overturned the ban and allowed cameras to broadcast in any one courtroom of the Court of Appeal on one particular day. It is understood that the broadcast goes out with a 70 second delay to prevent the release of any sensitive material.¹³⁰¹

The move was welcomed by judicial figures in the UK with the most senior judicial officer in England and Wales, The Right Honourable The Lord Chief Justice Thomas stating:

My fellow judges and I welcome the start of broadcasting from the Court of Appeal.

The Court of Appeal has, of course, been open to the public and to journalists for a long time.

*The change in the law... will help a wider audience to understand and see for themselves how the Court of Appeal goes about its work.*¹³⁰²

Other Australian States

Although there have been moves in other states to broadcast court proceedings,¹³⁰³ New South Wales appears to be the first state to legislate a presumption in favour of broadcasting court proceedings.¹³⁰⁴ Amendments to the *District Court Act 1973* (NSW) and *Supreme Court Act 1970* (NSW) were introduced in September 2014 to create a presumption in favour of allowing filming and broadcasting of final proceedings in criminal cases and judgments in civil cases in both the NSW Supreme and District Courts, with limited exceptions.

According to the NSW Department of Justice media release:

Proceedings will not be broadcast where:

- *It would reveal the identity of jurors, protected witnesses or victims;*

¹²⁹⁹ S Rosenfeld, [Will Cameras in the Courtroom Lead to More Law and Order? A Case for Broadcast Access to Judicial Proceedings](#), American University Criminal Law Brief, Volume 6, Issue 1 (2010), page 13.

¹³⁰⁰ Sunshine in the Courtroom Act – the Bill was introduced in 2005, 2007, 2008, 2009 and 2011, <http://federalevidence.com/node/1098>.

¹³⁰¹ Ministry of Justice, Live TV broadcasting available for the first time, Tweet, 31 October 2013.

¹³⁰² [TV Cameras allowed in Court of Appeal](#), BBC News UK, 31 October 2013.

¹³⁰³ Western Australian Chief Justice Wayne Martin had planned to video stream court proceedings in 2011, however the proposal did not receive the support the State's Attorney-General; R Spooner, [Do we want court TV?](#), Sydney Morning Herald, 10 May 2013; Victoria.

¹³⁰⁴ *Courts Legislation Amendment (Broadcasting Judgments) Act 2014* (NSW).

- *Proceedings contain significant material subject to suppression orders or material that would prejudice other trials or police investigations;*
- *It would put the safety or security of someone at risk;*
- *The Chief Judge of the District Court or the Chief Justice has directed the proceedings cannot be broadcast because it would be detrimental to the orderly administration of the court.*¹³⁰⁵

Children's Court cases and matters that relate to the care and protection of children cannot be filmed.¹³⁰⁶

Committee Comment

The Committee accepts that while the televising of court proceedings may not directly contribute to a reduction in crime, there is clearly potential for such a move to increase the general public's understanding of court processes and educate the community on the principles which are followed by judges when arriving at an appropriate sentence.

Concerns that televising proceedings may sensationalise the matters which are being shown can be mitigated, as is the case in the UK and in NSW, by limiting the broadcast to only certain aspects of a trial such as the judgment and sentencing remarks of the presiding judge.

Throughout the Inquiry, the Chair asked a number of witnesses to give their views on televising court proceedings. The QLS had no agreed position on the issue, however Mr Glen Cranny advised the Committee:

There is I think a general view held both personally and by the society that anything that can properly be done to educate the public about the nuances of the system, how the system works and the sorts of things it takes into account can only be a good thing. That obviously has to be balanced in terms of personal privacy and so on...

*The society is supportive of looking at ways to better educate the community. There are a range of those, and the option of televised proceedings or online proceedings or the like is certainly one of those where we would be happy to be engaged in that debate.*¹³⁰⁷

Other views expressed did not include objections to televising court procedures, however it was considered there would likely be little deterrent effect on potential offenders.¹³⁰⁸ The need for privacy of witnesses and defendants and more importantly, victims of crime was also recognised.¹³⁰⁹

The Committee shares these views and considers it should not be too difficult a task to strike an appropriate balance between providing a system for broadcasting proceedings that has positive educational outcomes, yet protects the privacy of individuals. The broadcasting of judges' sentencing in real scenarios, dealing with real facts could go a long way in addressing community concerns regarding 'soft sentences' and improve the public's confidence in the courts.

The Committee supports the actions taken by the current Chief Justice in investigating options for televising proceedings in Queensland Courts and considers the Government should provide sufficient resources to the Courts to allow a full review of broadcasting options with the possibility of a pilot program.

¹³⁰⁵ Media Release, [NSW Broadcasting Law – An Australian First](#), NSW Government, Department of Justice, 10 September 2014.

¹³⁰⁶ [Ibid.](#)

¹³⁰⁷ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 8 August 2014, page 22.

¹³⁰⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 35.

¹³⁰⁹ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

Subject to the successful operation of the pilot program, the Government should give consideration to supporting the ongoing broadcast of court proceedings by way of legislative amendment.

Recommendation 52

The Committee recommends the Government provide sufficient resources to the Queensland Courts to enable a full review of options for the broadcasting of court proceedings.

11.3 Court Operations and Sentencing

In relation to stakeholders specific experiences with the operation of the courts and sentencing, the majority of submissions received by the Committee have focused on victims of domestic and sexual violence. Accordingly, the Committee has focused on the consideration of these issues rather than the operations of the court and sentencing options more broadly.

Domestic Violence

Court actions are a critical component of the overall response to DFV, providing a clear opportunity to hold perpetrators of violence accountable for their actions and to reaffirm community standards in relation to domestic violence. The IWCADV submitted magistrates' courts have been '*very responsive over the years to the continuous challenges and changes to legislation, funding, service delivery models, and policy direction*'.¹³¹⁰

Douglas and Stark noted highly positive perceptions of magistrates among some women, as particularly characterised by interactions in which the victims felt the magistrates listened and seemed to have time to properly deal with the case; where they 'believed the victims' – a crucially important affirmation; and where they took what the victim thought were appropriate actions.¹³¹¹ Submitters also particularly highlighted the work of individual magistrates, including court support worker Tamara's comment:

*We are very lucky to have a magistrate sitting in Toowoomba who is very supportive of our service and regularly attends our events and has a very good understanding of the nature of domestic violence. It is very powerful knowing when he is going to be sitting and for clients you are taking there that he is going to be compassionate and fair and has the understanding to be able to make risk assessments.*¹³¹²

However, it has also been noted that there are also considerable inconsistencies among magistrates, legal professionals and other court staff alike.¹³¹³ Despite the best intentions, many professionals across the system '*are acting without a clear understanding of the risk factors present, nor how to respond effectively and safely to domestic violence risks*', leading to inappropriate actions such as:

- Lawyers encouraging aggrieved women to agree to an "undertaking" that the respondent not commit domestic violence and withdraw their private domestic violence protection order application;
- Magistrates not adding specific requested conditions, even in the presence of a great deal of risk;

¹³¹⁰ IWCADV, Submission No. 53, page 14.

¹³¹¹ H Douglas and T Stark, *Stories from Survivors: Domestic Violence and Criminal Justice Interventions*, University of Queensland, T.C. Beirne School of Law, 2010, page 80.

¹³¹² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 24.

¹³¹³ *Ibid*, page 24.

- Within the court room, both police prosecutors and magistrates failing to respond to clear threats of future violence with an immediate breach of the order just made. This would send a clear message of both offender and systems accountability.¹³¹⁴

Analysis of the prosecution of breach cases in Queensland has confirmed victims can often be drawn into the prosecution process to assist in withdrawing charges or to support mitigation of penalty; and that the approaches of respondents, police, lawyers and magistrates also often involve collusion in the minimisation and trivialisation of violence, and the shifting of blame to the victims in the course of the justice response.¹³¹⁵

For example, Hunter has identified tendencies among magistrates to deal with matters in an 'impersonal' and 'bureaucratic' manner such that women's stories are 'heard, filtered and interpreted' through narratives that are discordant with women's reality of DFV. Further, by focussing on incidents that are seen as a one-off, judicial officers are sometimes failing to appreciate the victim's reality of 'intimidation, a pattern of coercive behaviour, or behaviour producing fear or emotional distress'.¹³¹⁶

For the most part, the penalties imposed are also relatively low, usually resulting in fines; and the escalation of fines for repeat offences appears also to be fairly minimal. This does not necessarily reflect insufficient legislative provision for penalties, but rather a tendency towards leniency and the sometimes inconsistent application of these available penalties in practice. Douglas has identified that sentencing justices often 'fail to tailor an appropriate sentencing response that takes into account the particular background of the offence and the relationship between the perpetrator and the victim'.¹³¹⁷ In line with this, at the public hearing in Toowoomba, court support worker Tamara noted:

*...if there is a no-contact order in place and he has contacted her those breaches are not held to be as bad as, say, violent offences, assaults and those sorts of things. However, for many victims that is part of that power and control cycle and it is very important that they are addressed. If that is coming back for the sixth or seventh time to court and again we are still seeing \$300 or \$400 fines, it does not encourage reporting of those breaches and it tends to make that process ineffective.*¹³¹⁸

A number of submitters have also identified that fines may not be the most appropriate penalty in many instances, as not only do they send fairly weak and unhelpful messages to all parties involved regarding the significance of the offence; but their punitive impacts may also be borne largely by the victims, contributing to a sense of revictimisation and discouraging reporting of future violence. For example, as court support worker Tamara identified at the public hearing in Toowoomba:

*When victims report breaches to the police and the respondent goes to court and gets a \$150 fine... it does not encourage further reporting of that breach because they may be the one who is ultimately paying that \$150... that is where the financial abuse continues.*¹³¹⁹

¹³¹⁴ IWCADV, Submission No. 53, page 15.

¹³¹⁵ H Douglas, [The Criminal Law's Response to Domestic Violence: What's Going On?](#), *Sydney Law Review*, Vol. 30, 2008, page 440.

¹³¹⁶ Hunter, cited in A Carline and P Easteal, *Shades of Grey - Domestic and Sexual Violence Against Women: Law Reform and Society*, Routledge, New York, 2014, page 71.

¹³¹⁷ H Douglas, [op cit](#), page 440.

¹³¹⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 22.

¹³¹⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 22.

Similarly, as QIFVLS noted:

*If the perpetrator is sentenced to a pecuniary penalty, the victim also often suffers financially as the fine imposed impacts the entire household, which can be a disincentive to report domestic violence incidents.*¹³²⁰

The Committee notes such issues were considered by the Victorian Sentencing Advisory Council in its 2009 report:

*The purpose of a fine is generally said to be to punish the offender and act as a deterrent to future offending by the offender and others. However, the dynamics of family violence mean that fines can punish the victim as much or more than the offender. Payment of the fine may affect the offender's ability to provide financial support to the victim. The offender may even coerce the victim into paying the fine. Therefore, sentences with more flexibility in terms of punishment (such as conditional orders that can incorporate community work and/or a financial condition), which are structured to ensure that it is the offender that must serve the punishment, may be more effective in achieving this sentencing purpose.*¹³²¹

Submitters were also widely of the view that a more appropriate sentence in many instances may be to try to address the problem behaviour directly through one-on-one program work with the offender. Most other sentence options are limited not only in the extent to which they are able to ensure that people who commit domestic violence are held accountable for their actions; but also in terms of their ability to maximise safety and prevent or reduce domestic violence and children's exposure to it – the main, statutorily identified aims of the State's DFV legislation.¹³²² As Ms Rebecca Shearman identified at the public hearing in Ipswich:

*...one of the issues with focussing on victims and the source of safety for them is that we are not really addressing the cause of the behaviour. What we do see at our service and many other services is that even if we get a woman and her children to safety, he just moves on to the next victim, so we have not really resolved anything at that point in time.*¹³²³

The 'perpetrator programs' or men's behaviour change intervention programs discussed earlier in this report are recognised as an option that may '*more effectively manage the risks of known perpetrators committing further offences*'.¹³²⁴ Notably, the National Plan to Reduce Violence Against Women and their Children explicitly identifies that '*focusing just on punishing perpetrators will not bring about behaviour change. Perpetrators need assistance to end their violence*'.¹³²⁵

¹³²⁰ QIFVLS, Submission No. 19, page 6.

¹³²¹ Sentencing Advisory Council, [Sentencing Practices for Breach of Family Violence Intervention Orders: Final Report](#), June 2009, page ix.

¹³²² Section 3(1) of the *Domestic and Family Violence Protection Act 2012* (Qld) states that:

(1) *The main objects of this Act are—*

(a) *to maximise the safety, protection and wellbeing of people who fear or experience domestic violence, and to minimise disruption to their lives; and*

(b) *to prevent or reduce domestic violence and the exposure of children to domestic violence; and*

(c) *to ensure that people who commit domestic violence are held accountable for their actions.*

¹³²³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 18.

¹³²⁴ Day, Chung, O'Leary, Justo, Moore, Carson and Gerace, [Integrated responses to domestic violence: Legally mandated intervention programs for male perpetrators](#), 2010, page 2.

¹³²⁵ Council of Australian Governments, [National plan to reduce violence against women and their children 2010-2022](#), May 2011, page 29.

Participation in an intervention program may be imposed in sentencing for a breach of domestic violence or associated criminal offence (eg. assault, etc.), as a condition of a community service order. However, the ANSWLRC report identified that more commonly magistrates in Queensland generally suggest rather than impose participation in a program or counselling on a respondent, with the exception of the Gold Coast, where participation is established as a mandatory condition *'from time to time'*.¹³²⁶

Voluntary Intervention Orders (VIOs) also offer a mechanism for getting men who perpetrate abuse into programs at an early stage – that is, during establishment of a DVO, prior to breach. Such voluntary options require the respondent to attend either or both of an approved intervention program, or counselling provided by an approved provider, subject to the respondent:

- a) *being present in court; and*
- b) *agreeing to the order being made or amended; and*
- c) *agreeing to comply with the order as made or amended.*¹³²⁷

Submissions identified the number of early referrals through VIOs is highly dependent on the local magistrate. Some magistrates have apparently largely eschewed the use of VIO provisions.¹³²⁸ Others, who have made more active use of VIOs, are in the unfortunate position of having to manage waiting lists and potentially limit the number of VIO referrals they make.

Where voluntary referrals have been employed, contravention rates have to date been high in some jurisdictions. SPEAQ identified in its submission to the Inquiry that *'the way in which VIOs are used, and the processes in court that support the respondents' referrals, have considerable bearing on this'*.¹³²⁹ This includes the way magistrates talk to respondents about the VIOs, and the involvement of respondent court workers. For example, in the Brisbane Magistrates Court, it was reported:

*...close cooperation between the Magistrate and the respondent court worker has been responsible for higher rate of take-up and much reduced contravention rate for VIOs.*¹³³⁰

SPEAQ also identified that in one jurisdiction the magistrate prefers to use the mechanism of including program attendance as a DVO condition, *'which is a much stronger mandate with possible criminal sanctions'*.¹³³¹

A considerable number of submitters suggested the use of mandatory early referral on establishment of a DVO rather than the existing VIO mechanism, as perhaps better placed to more consistently hold perpetrators to account and specifically and immediately confront the underlying attitudes and related behaviours that contribute to their offending.

At the public hearing in Ipswich, similarly, Ms Rebecca Shearman identified that:

*...voluntary is not always the way to go sometimes. A lot of people who are using violence in their personal relationships or against families need to be mandated, at least initially, into programs. They do not see a problem with their behaviour; it is the victims that do.*¹³³²

¹³²⁶ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 499.

¹³²⁷ Domestic and Family Violence Protection Act 2012 (Qld), section 71.

¹³²⁸ SPEAQ, Submission No. 78, page 10, 23

¹³²⁹ Ibid, page 23.

¹³³⁰ Ibid, page 23.

¹³³¹ Ibid, page 23.

¹³³² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Ipswich, 29 July 2014, page 18.

While the true merit of court mandated programs is unknown, anecdotal evidence suggests that more offenders attend behaviour change programs if mandated to by a court; whereas if participation is voluntary and there are no consequences for failing to attend, attendance is more likely to be discontinued and programs therefore, to be ineffectual.¹³³³

Some submitters expressed uncertainty in this regard, given concerns that *'it really does take that honest and genuine individual to make that commitment to change'*;¹³³⁴ such that men may not be motivated to change where they are not participating of their own accord. However, it has also been noted that very few men are internally motivated to participate in such programs: *'there is always some external pressure, whether that be from the court or from the men's partners'*.¹³³⁵

Questions have also been raised as to whether requiring someone to attend rehabilitation or counselling as a condition of a DVO may be a sanction somewhat akin to a sentence, though the making of such an order in itself does not connote the commission of a criminal offence. In addition, submitters speculated as to how enforcement of such orders would operate, and whether failure to attend counselling or rehabilitation in breach of order could be criminalised (though others, equally, have identified that there should be enforceable criminal penalties for non-compliance to ensure the issue is treated seriously and the problem behaviour properly addressed).¹³³⁶

The Committee notes that the 1999 National Crime Prevention report recommended mandatory referral of defendants to education programs with penalties for non-attendance or non-participation as part of *'an integrated community-based intervention program'* – a position that was essentially adopted in Victoria and New Zealand.¹³³⁷

The IWCADV recommended not only mandating offenders into men's behaviour change programs, but also *'requiring attendance at other programs (such as drug and alcohol support or mental health support) where indicated'*.¹³³⁸

The Committee notes it has been estimated that between 70% and 90% of all domestic assaults are committed while under the influence of alcohol, and consultation with Indigenous Australians has identified alcohol and drugs as *'major factors for attention if the issues of violence is to be successfully addressed'*.¹³³⁹

With regards to mandating program attendance or otherwise finding ways to obtain respondent consent to VIOs or to motivate parties to comply with the conditions of their orders, the Committee also notes the position of SPEAQ that, *'the practice of trading off a reduction in DVO conditions or durations... should be avoided, as program attendance does not guarantee that the man will be a safer person'*:

Some men do make significant changes but some do not. SPEAQ takes the view that consideration of the making of a VIO should have no bearing on the details of a DVO,

¹³³³ NSW Police Force, cited in New South Wales Parliament, Legislative Council, Standing Committee on Social Issues, [Domestic violence trends and issues in NSW](#), Report 46, Standing Committee on Social Issues, Sydney, NSW, August 2012, page 390.

¹³³⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 32.

¹³³⁵ Sentencing Advisory Council, [Sentencing Practices for Breach of Family Violence Intervention Orders: Final Report](#), June 2009, page 77.

¹³³⁶ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 474.

¹³³⁷ National Council to Reduce Violence Against Women and their Children, [Domestic Violence Laws in Australia](#), Commonwealth of Australia, June 2009, page 161.

¹³³⁸ IWCADV, Submission No. 53, page 10.

¹³³⁹ Aboriginal and Torres Strait Islander Women's Taskforce Against Violence, cited in C Cunneen, [Alternative and Improved Response to Domestic and Family Violence in Queensland Indigenous Communities](#), Queensland Government, Department of Communities, 2010, page 31.

*which should be based on consideration only of the respondent's demonstrated behaviour and the wishes of the aggrieved.*¹³⁴⁰

Further, in some cases (particularly the most serious):

*...only a custodial sentence will interrupt access to the victim and prevent them from continuing to threaten, intimidate, harass or be violent. A more effective option is program engagement **and** jail time.*¹³⁴¹

As a general principle however, as the ANSWLRC identified, imprisonment should be regarded as a sentencing option of last resort.¹³⁴²

The use of restorative justice options has also been raised by some practitioners, though such 'alternative' approaches have been the subject of much debate. The Committee understands there are considerable reservations about such options, and whether their process and outcomes are sufficiently stringent or formal, or indeed appropriate given the balance of power dynamics at play in DFV and sexual violence. However, it also notes that in some cases, restorative justice approaches have been identified as having potential to better support victims in being heard and giving voice to their concerns, thereby offering more victim-centric models of offender accountability, which might better address victim behaviour than a minor fine. While such issues rated only limited mention in submissions to this Inquiry, they may warrant further consideration by the State's Taskforce in the interests of comprehensive review.

Ultimately, the Committee considers that active involvement of victims in safe and culturally appropriate ways can assist in the identification and imposition of penalties that are not only in keeping with sentencing principles, but also limit any unintended impacts on the victim.¹³⁴³ Additionally, increased judicial education can also stand to improve the prospect of more informed and appropriately framed court interactions and sentencing decisions.

Importantly however, such education and training should not extend only to magistrates but to all court staff and legal professionals; for as Douglas and Stark have particularly identified, even casual interactions with registrars and court security can leave an indelible impression on victims;¹³⁴⁴ and improved understanding can not only reduce inappropriate interactions, but can also empower system agents to act proactively and advocate for better victim outcomes – including, as the WLS has encouraged, police prosecutors appropriately challenging magistrates' interpretations of the Act and pushing for thorough consideration of case circumstances and sentencing options.¹³⁴⁵ The Committee notes that ongoing judicial education is now '*entrenched in the profession*',¹³⁴⁶ and the Queensland Courts have also established Domestic Violence Protocols including safety guidelines, procedures and information and referrals for all court staff.¹³⁴⁷

¹³⁴⁰ SPEAQ, Submission No. 78, page 23.

¹³⁴¹ Ibid, page 20.

¹³⁴² ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, pages 558-559.

¹³⁴³ QIFVLS, Submission No. 19, page 6.

¹³⁴⁴ H Douglas and T Stark, [Stories from Survivors: Domestic Violence and Criminal Justice Interventions](#), University of Queensland, T.C. Beirne School of Law, 2010, page 71.

¹³⁴⁵ IWCADV, Submission No. 53, page 13.

¹³⁴⁶ H Douglas and T Stark, [Stories from Survivors: Domestic Violence and Criminal Justice Interventions](#), University of Queensland, T.C. Beirne School of Law, 2010, page 82.

¹³⁴⁷ Queensland Courts, [Domestic Violence Protocols 2012](#), Queensland Courts, September 2012.

Sexual Violence

Just as is the case for DFV, discriminatory beliefs, cultural mythologies and ill-informed stereotypes impact on the treatment of sexual offences *'from the earliest point and at every stage'*, including the conduct of the prosecution and into the trial and sentencing process.¹³⁴⁸ While many formal legislative attempts have been taken in a genuine attempt to encourage complainants to feel safe to report sexual offences *'without undue fear of further degradation by the legal process'*; the nature of the adversarial process and the pervasive impact of prevailing narratives and myths ultimately means, as the CMC 2003 *Seeking Justice* inquiry concluded:

*...the successful prosecution of a sexual offence in Queensland is likely to be limited to a relatively small proportion of reported offences overall.*¹³⁴⁹

As Easteal notes, new laws are 'hollow promises' of what they could be if they are not implemented in practice and accompanied by shifts in the attitudes and behaviour of the police, judges, lawyers and juries.¹³⁵⁰ For example: *'although new legislation may remove a concept, it does not stop judges from raising it in their remarks to the jury or in sentencing'*.¹³⁵¹

Submitters to the Inquiry suggested that understanding within the courts has improved, and that such overt displays of prejudice are now significantly fewer in number. However, as representatives of BRISSC identified:

*...when women do get to court, the judiciary [like the rest of the public] hold the exact same myths, messages, false ideas, prejudice and stereotypes that enable sexual violence to happen in the very first place... Even when people want to believe them, in the back of their mind they still think, 'Is that really rape? She wasn't really crying', or 'Maybe it didn't really upset her that much because she is not acting how I think a rape survivor should act', or 'She did walk home by herself', or 'Maybe she was putting herself at risk'... They are used by perpetrators also... They say, 'You won't be believed because you were walking home by yourself. You put yourself in that situation.'*¹³⁵²

Ms Di Macleod of the Gold Coast Centre Against Sexual Violence echoed these concerns, noting that a focus on the judiciary alone ignored the fact that increased training and education of prosecutorial staff and other players in the court system could also help to shift the courtroom dialogue, to ensure cases are more appropriately presented and contextualised. This way, she argued:

...when we are looking at evidence and we are looking at ticking the elements of that offence for it to go forward in court...

*...we could use the vulnerabilities when we are supporting someone who is saying, 'I didn't consent to this rape that occurred after we'd been to the nightclub,' and the woman has described herself as having vomited all over herself, for example. Why not use that to say, 'Why would a woman who has just vomited all over herself be wanting to engage in sexual activity right then and now?' You can start to paint a better picture for the jury.*¹³⁵³

¹³⁴⁸ S Kift, '[A legal process or a justice system? Sexual offences in Queensland – Still seeking justice](#),' *Alternative Law Journal*, vol. 28, no. 6, December 2003, page 293.

¹³⁴⁹ CMC, *Seeking Justice: An Inquiry into how sexual offences are handled by the Queensland criminal justice system*, Crime and Misconduct Commission, Brisbane, 2003, page 61.

¹³⁵⁰ P Easteal, '[Rape Prevention: Combatting the Myths](#),' *Without Consent: Confronting Adult Sexual Violence*, Proceedings of a conference, 27-29 October 1992, 1993, page 320.

¹³⁵¹ *Ibid*, page 332.

¹³⁵² *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹³⁵³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 30.

In addition to appropriate and ongoing education and training for all key legal system actors to ensure victims' cases are fairly positioned for a more informed application of the law; the Committee notes that the ANSWLRC also considered that judicial directions to the jury on consent could go some way toward providing jury members with accurate, objective information on sexual assault, and may assist in counteracting any misperceptions or adherence to rape myths by jury members and members of the judiciary.¹³⁵⁴ Further:

...where jury directions are directly responsive to continuing myths and misconceptions about sexual violence – for example, 'that physical resistance is necessary to convey lack of consent and that 'true victims' sustain injuries—they are also an important mechanism to reinforce the communicative model of consent. As the VLRC stated:

*The jury direction performs an educative function by clarifying the law and establishing standards of behaviour for sexual relations which are based on principles of communication and respect.*¹³⁵⁵

The Committee notes that Victoria and the Northern Territory have legislated jury directions about consent, and the 1999 *Model Criminal Code* developed by the Model Criminal Code Officers Committee-Standing Committee of Attorneys-General also recommended mandatory jury directions on consent in relevant cases.¹³⁵⁶ The 2000 Queensland Taskforce on Women and the Criminal Code shied away from a compulsory direction, noting that it '*would not necessarily overcome undesirable attitudes held by judges and juries*', but endorsed the Victorian model to the extent of recommending that the jury be directed to consider the steps taken by the accused to ensure that the complainant consented in cases where honest and reasonable belief in consent is raised.¹³⁵⁷ In line with this, the ANSWLRC outlined a model direction that state and territory sexual offence provisions require a judge to issue to the jury '*if it is relevant to the facts in issue is a sexual offence proceeding*'.¹³⁵⁸ BRISSC in its submission to the Inquiry adopted the broader, related position that '*similar education [to that provided to people working within the criminal justice system] should be made available to people sitting on the jury of all cases involving sexual offences*'.¹³⁵⁹

A range of submitters also identified that various inconsistencies, lack of understanding, and a lack of public confidence in court outcomes for sexual violence have also been effectively addressed in a number of jurisdictions through the use of specialised sexual offences courts or court lists.¹³⁶⁰ For example, the Gold Coast Centre Against Sexual Violence identified that the introduction of sexual offences courts staffed with specialist trained officers in South Africa has led to a 20% increase in the conviction rate, with matters also rarely withdrawn and generally disposed of within six to nine months; while in Manitoba, Canada, '*specialisation was seen to increase the quality of the crown case, achieve higher conviction rates and an increase in reporting*'.¹³⁶¹ Locally, the Centre pointed to two distinct models of specialisation employed in NSW and Victoria:

Legal reform in NSW has resulted in dedicated courts with specialist staff, separate entrances for victims and specially trained prosecutors who ideally handle cases from bail to trial. Sexual assault trials are given listing priority over all other cases and are to be

¹³⁵⁴ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 1179.

¹³⁵⁵ Ibid, page 1170.

¹³⁵⁶ Ibid, page 1170.

¹³⁵⁷ Ibid, page 1172.

¹³⁵⁸ Ibid, pages 1175-1176.

¹³⁵⁹ Brisbane Rape and Incest Survivors Support Centre, Submission No. 24, page 5.

¹³⁶⁰ Zig Zag Young Women's Resource Centre Inc., Submission No. 54, page 3. Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 12.

¹³⁶¹ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 12.

*listed within four months of the committal date and no later than six months from the date of committal (Wilkins: 2011).*¹³⁶²

Victoria has taken a case management approach and specialist sex offence list modelled on examples from Canada and South Africa. The Magistrates Court of Victoria states:

“The Sexual Offences List is a specially managed list of all cases relating to a charge for a sexual offence in recognition of the unique features of such cases including the difficulties faced by complainants. A specially managed list will also provide a greater level of consistency in the handling of these cases.”

Since legislative changes came into effect in Victoria in 2006, there has been a significant increase in the number of sexual offences that are both reported and investigated by police and in those that proceed to trial. There has also been less delay with a more timely resolution of matters (Quinn: 2011).

Victoria's use of a specialised list and specialised prosecution units was also particularly singled out for consideration by Zig Zag.¹³⁶³

With regard to the sentences issued, the Gold Coast Centre Against Sexual Violence noted that the leniency of sentences is often questioned by the complainant and *'the community is very vocal in relation to perceived lenient sentences'*.¹³⁶⁴ However, it also noted that the huge attrition rate should arguably be of more concern, given there are significantly more offenders who are escaping conviction through not being charged or prosecuted.¹³⁶⁵ Some stakeholders also suggested that calls for increased penalties may be unhelpful, feeding in to the contradictory response to rape and sexual violence that demonises a certain group of 'sex offenders' on the one hand, while minimising most sex offending because it occurs in an intra-familiar context or where the victim knows the offender and has no relationship to the monstrous, archetypal stranger rapist.¹³⁶⁶ The Centre for Innovative Justice highlighted that the 'sex offender' is *'a convenient scapegoat for social fears and vulnerabilities, which are amplified by sensational media stories and highly atypical cases'*, and that the accompanied increased criminalisation and stigmatisation of offenders has resulted in fewer offenders taking responsibility for their offending.¹³⁶⁷ Indeed, people accused of sexual assault are less likely to plead guilty than those accused of other offences: figures from the County Court of Victoria for 2012-13 indicated that whereas 73% of overall cases are finalised through a plea of guilty, this falls to 45% in relation to sexual offence cases, and offenders are also more likely to appeal a guilty verdict than any other type of offence.¹³⁶⁸ In line with this, Mr Rodney Crisp also submitted to the Inquiry that a reduction in the scale of sanctions for sex-related crimes, with the exception of the most serious criminal offences, together with a shift towards more restorative types of justice, could see sex offenders *'encouraged to admit their crimes instead of denying them, assuming responsibility for their acts, requesting and receiving pardon from their victims, providing compensation wherever appropriate, and laying the foundations for pacification and reconciliation of those concerned'*.¹³⁶⁹

Given the apparent stagnation in outcomes from efforts to address case attrition and low levels of conviction, and a recognition of the inherent limitations of the adversarial criminal system, *'which any amount of reform will not ameliorate'*; the Centre for Innovative Justice has noted that sector

¹³⁶² Ibid, page 12.

¹³⁶³ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 3.

¹³⁶⁴ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 8.

¹³⁶⁵ Ibid, page 8.

¹³⁶⁶ Centre for Innovative Justice, [Innovative justice responses to sexual offending – pathways to better outcomes for victims, offenders and the community](#), RMIT University, May 2013, page 17.

¹³⁶⁷ Ibid, page 17.

¹³⁶⁸ Ibid, page 16.

¹³⁶⁹ Rodney Crisp, Submission No. 9, page 4.

professionals and academics 'have begun to consider innovative justice mechanisms as an important addition to the justice armoury in response to sexual assault', to be pursued in addition to conventional criminal justice reform.¹³⁷⁰ The Centre outlined a range of various developments, including various truth telling mechanisms, problem-solving courts, and specialist restorative justice conferencing models. The Gold Coast Centre Against Sexual Violence also noted that while it is not appropriate to utilise a traditional restorative justice model, 'in New Zealand and also in the USA, there has been some success with project RESTORE, a specialised restorative justice practice utilised in certain cases of sexual violence'.¹³⁷¹

11.4 Peoples experiences with Court processes - a Domestic Violence perspective

A consistent theme of submissions to the Inquiry was that domestic violence victims' encounters with the legal system are often characterised by insensitive and dismissive treatment and a lack of information and support, leaving them feeling isolated, disempowered and re-victimised by the experience.

Access to Fair and Dignified Treatment

The IWCADV submitted women continue to report not being believed, being treated as an annoyance or potential criminal, and being prevented from fully communicating their concerns or even having the opportunity to tell their side of the story.¹³⁷² As the WLS noted in its submission, being heard means:

*...that their concerns are taken seriously; they are assessed and acted upon with appropriate speed; their safety is prioritized; they are communicated with in a respectful and courteous manner; and they are kept informed of their case progression.*¹³⁷³

Courts are currently confronted with an increasing and overwhelming number of domestic violence cases, with approximately 23,794 new applications for protection orders lodged in Queensland Magistrates Courts in 2012-13 – an increase of 1,797 (8%) on the previous year. As a result of these and other legal actions, approximately 34,863 orders were issued in total in 2012-13 (including protection orders, temporary protection orders, and variations or revocation of existing orders).¹³⁷⁴

This considerable workload may be contributing to delays within the system which ultimately minimise the sense of justice for victims and can also have negative consequences for victims' safety, prolonging life interruptions and impacting on wellbeing. As one victim identified:

*The length of time between making application to the court for a protection order and actual appearance in court is very lengthy. In my case only a temporary protection order was given initially. I then had to wait another 6 weeks before I appeared in court to then be told the case was going to trial. I had to wait another 6 weeks to go to trial to get a 2 year protection order granted.*¹³⁷⁵

Ms Rosemary O'Malley of the Domestic Violence Prevention Centre Gold Coast also noted that due to the cycle of domestic violence there are lots of reasons why a woman may on the night or a few days later agree to be a complainant but after two or three months to get to court with mentions and adjournments, the victim may not wish to proceed.¹³⁷⁶

¹³⁷⁰ Centre for Innovative Justice, [op cit](#), page 18.

¹³⁷¹ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 13.

¹³⁷² IWCADV, Submission No. 53, page 11.

¹³⁷³ WLS, Submission No. 60, page 9.

¹³⁷⁴ Queensland Courts, [Magistrates Courts of Queensland, Annual Report 2012-13](#), September 2013, page 47.

¹³⁷⁵ BDVS, Submission No. 56, page 3.

¹³⁷⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 46.

Additionally, when matters do come before the court it appears they are often dealt with in haste, communicating a sense to victims they are all the same; and potentially denying them the opportunity to sufficiently outline their particular circumstances and safety concerns, such that the risks of inappropriate orders are increased. This can serve to compound existing process shortcomings that contribute to a lack of empathetic and informed engagement of the victim, and many report feeling sidelined, disadvantaged and ultimately, further traumatised by a process that should rather serve to help safeguard their wellbeing.

For example, with regards to the conduct of prosecutorial staff in particular, one victim testified in a confidential submission to the Inquiry:

I remember being struck by the lack of empathy and common good manners from the police woman at the time. She did not introduce herself, nor look me in the eye as she spoke. Her attitude was one of not caring, her tone of voice short and clipped as I asked questions of her regarding the process of the day. I got the impression to her, I was just another 'number', a nameless face who needed representation in court. I felt somewhat taken aback at the distinct lack of 'helpfulness' and unwillingness to answer my questions. I felt extremely humiliated and put off by her obvious cold attitude...

On my second court appearance, the same police representative was there. Again, there was no greeting. In fact, she did not speak one single word to me during the whole process that morning. I asked a question of her during court proceedings and she ignored me, continuing to shuffle papers. She did not indicate when I should speak to the magistrate, nor when I should leave the courtroom. I felt humiliated and unimportant. Again I felt her attitude was one of uncaring and contempt.¹³⁷⁷

Similar stories were communicated to the Committee on a number of occasions over the course of the Inquiry. In addition, Douglas and Stark's 2010 survivor study found that women were concerned that magistrates' behaviour in their individual case was affected by the magistrate having insufficient time to prepare and read the relevant case materials prior to the hearing, which reduced some women's sense of confidence in the legal system.¹³⁷⁸

...when you have judges that are making decisions who clearly haven't had the time to read all the documentation or make informed decisions and you're at their mercy, that is frightening. (IV 9, 26).

We went to court for a hearing because the order he had been served was only a temporary one. The magistrate gave me hell. What do you want these conditions on it for?... Do you know what she said? She goes why do the children need to be on it anyway? This was after she had really [raised] me about the conditions. She goes why should the children? And I said I'm not sure if you've read my application. My application was pages long. She goes oh kind of. She goes as far as I'm concerned, this isn't domestic violence anyway. The magistrate hardly spoke to me at all; just spoke to G, same drill again. (IV 7, 26).

A different judge, a male fellow who admitted in court I have 30 cases today, I am too busy, I haven't had time to read everything when there were medical reports in there... (IV 9, 20)¹³⁷⁹

Douglas and Stark reported women found this lack of preparation was 'frightening', potentially leading to inconsistent response and, according to one victim, a failure to understand the

¹³⁷⁷ Confidential Submission No. 25.

¹³⁷⁸ H Douglas and T Stark, [op cit](#), page 78.

¹³⁷⁹ Ibid, pages 78-79.

circumstances of the case. In addition, the failure to read materials in advance means victims going through the details of their story yet another time, which can add to the embarrassment and shame some women feel about taking their cases to court.¹³⁸⁰

Submissions also raised other issues surrounding the failure to appropriately support victims in telling their story and communicating their safety concerns – factors which are crucial to ensuring a sense of justice. For example, in one confidential submission, a victim stated:

*...the arresting officer attended my home at approximately 9pm to get me to sign a further statement that he had forgotten I needed to sign. I was not given enough time to thoroughly proof read the document. If I had, I would not have signed it, as upon later perusal, I discovered it to be poorly written, with spelling and grammatical errors and incorrect information. I felt that the sloppy way in which it was written detracted from the importance of the message the statement was supposed to convey. I felt that it would reflect poorly on me in court if my statement of representation was badly written. The next day I phoned the officer with my concerns, which he summarily dismissed as not important. He stated that the Magistrate would be 'too busy' to read the document anyway.*¹³⁸¹

A failure to provide interpreters, similarly, can crucially undermine the victim's communication of their experience and safety needs. Some jurisdictions have made significant steps to facilitate necessary supports, with the IWCADV particularly identifying that the Richlands Magistrates Court offers lessons for others, having 'led the way in providing telephone interpreters at domestic violence mentions using modern technology' and 'providing great benefit':

*...it has streamlined the process; ensured that both respondents and aggrieved [parties] are aware of the intent, meaning and consequence of an order, and; most importantly, have ensure the improved safety of women as an outcome of the process.*¹³⁸²

However, for the majority of victims, access to these types of services can prove significantly more difficult; and this challenge is particularly acute in many remote Indigenous communities, as QIFVLS identified:

*Where English skills are poor, interpreters become crucial to accessing justice. However, in remote communities, it can be close to impossible to access an interpreter. If an interpreter can be found, it can be time consuming and obviously impacts on service provider's resources. QIFVLS has experienced difficulties with the use of locally based interpreters, with clients being concerned about divulging confidential information to a fellow community member. For cultural reasons clients may also be reluctant to disclose confidential information to an interpreter of the opposite sex.*¹³⁸³

This is apparently on top of a range of other inappropriate justice settings and service conditions.

A Safe Environment, Privacy and Minimal Contact with Accused

The QIFVLS noted that in remote communities, in the time between monthly circuit court sittings, matters are dealt with through the Remote Justices of the Peace (Magistrates Court) Program. Their submission identified:

In QIFVLS' experience, victims are often reluctant to have their matters heard in these JP Courts as the person determining the matter is a local who could very well be related to

¹³⁸⁰ Ibid, page 79.

¹³⁸¹ Confidential Submission No. 25.

¹³⁸² IWCADV, Submission No. 53, page 14.

¹³⁸³ QIFVLS, Submission No. 19, page 10.

*the defendant. In such instances, victims often do not feel that they will be adequately heard or protected.*¹³⁸⁴

In addition, many communities apparently face a lack of appropriate facilities for DFV processes. For instance, QIFVLS reports that often interview rooms are limited and ‘*preference for available private spaces is given to defendants*’, such that ‘*the victim is unable to give instructions in a confidential and safe environment*’.¹³⁸⁵ In more metropolitan settings similarly, the Committee heard that a lack of dedicated victim waiting areas means aggrieved parties often find themselves face to face with perpetrators and/or their supporters, and may also find themselves sharing bathroom facilities with supporters of the other party – an intimidating and potentially hazardous scenario for those involved. A 2010 examination by Douglas reported that some women experienced further intimidation and abuse from their former partners while waiting for their case to be called on:

I had to sit in the waiting room... for two hours with G harassing me. (IV 7, 26)

I think it is more vulnerable because you are actually in the same room and until you get some strength in yourself, until you are comfortable with confronting that person – it is a major step, you are actually standing up for yourself. But having that person in that same room initially – and if you’re not a strong person you worry. (IV 13, 11)

Some courts have safe rooms, which have greatly improved the sense of safety for some women; though these facilities can be limited and especially crowded given the significant number of DFV and sexual assault cases. Interviewee testimonies from Douglas and Stark's 2010 Queensland survivor study further identified.

They’ve seen him running round the courthouse looking for me when I’ve been in the [domestic violence service] rooms and things like that. (IV 8, 26)

I think the whole idea which was fantastic for having rooms, locked rooms where you could sit before court appearances was great. That was a level of protection. (IV 9, 26)

The safe room was great. It was a bit - quite frankly they should have funding for a bigger room. Facilitator: Can you imagine doing it without it [the safe room]? Interviewee: I couldn’t do it. (IV 14, 22-23)

A confidential submission to this Inquiry revealed:

When I left the interview room I came face to face with the perpetrator for the first time since the assault, and immediately felt very afraid and physically unwell. If it wasn’t for the friend who had attended with me as my support person, I would possibly have left the court, unable to attend due to the anxiety and fear associated with being confronted by my attacker.

*[I was moved] to a separate tiny side room... [which] was crowded, with only 5 people (including aggrieved and their support persons) able to take advantage of this ‘safe’ room.*¹³⁸⁶

The submission accordingly recommended that courts:

*Provide a separate waiting room that is adequately sized and secure for domestic violence victims to use prior to their case being heard in court.*¹³⁸⁷

¹³⁸⁴ Ibid, page 10.

¹³⁸⁵ Ibid.

¹³⁸⁶ Confidential Submission No. 25.

¹³⁸⁷ Ibid, page 6.

In dealing with these issues, a 2012 NSW parliamentary review of domestic violence trends and issues identified that some local courts in that state had taken the position that victims were not required to attend court on the first mention date unless it was a defended hearing; though it was also considered that attendance could offer another opportunity for the victim to be identified and engaged by support service providers.¹³⁸⁸

It was also suggested that courts consider increasing use of audio-visual link and closed-circuit television options to receive evidence remotely and facilitate vulnerable persons giving evidence from another location in the courthouse. This is in line with similar provisions for victims of sexual offences and other vulnerable witnesses, which allow them to provide evidence via CCTV so they do not have to sit in the courtroom and face the alleged perpetrator.¹³⁸⁹

Adding to these issues surrounding the incapacity to offer a supportive environment for victims to engage in the court process are concerns regarding the degree to which victims' right to privacy and confidentiality are able to be maintained. Such difficulties are apparently particularly acute in remote communities, as identified by QIFVLS:

*...the general reluctance of victims to access support services is multiplied in many communities where the limited available service providers are staffed by family members of both victim and defendant. A (perceived) lack of confidentiality often leads to conflicts, as victims feel their story is being spread through the community and beyond. Further, confidentiality is not always practicable in communities where interview rooms are limited and preference for available private spaces is given to defendants. The victim is unable to give instructions in a confidential and safe environment.*¹³⁹⁰

The IWCADV emphasised that confidentiality and respect for clients' privacy is an important element of best practice in work with vulnerable populations, which should be interrupted only when outweighed by other considerations such as 'duty of care to them or their children, serious safety concerns, etc.':

*Client confidence in the operation of this principle allows for the building of rapport (hence disclosures and honest sharing of concerns and difficulties), and development of [informed and] effective interventions, strategies for addressing barriers and issues of concern, and plans to achieve goals for the future and positive outcomes.*¹³⁹¹

Recommendation 53

The Committee recommends the Department of Justice and Attorney-General work with local courts to establish appropriate victim waiting rooms, protection and remote witness facilities to preserve confidentiality and safety in all local courts around the State.

Access to Information, Representation and Support

The Committee received evidence over the course of the Inquiry that suggests victims are often not fully informed of what is required of them at court, or provided information about the different options and services available to them, and are often left confused as to why certain actions have been taken or not taken.

¹³⁸⁸ New South Wales Parliament, Legislative Council, Standing Committee on Social Issues, [Domestic violence trends and issues in NSW](#), Report 46, Standing Committee on Social Issues, Sydney, NSW, August 2012, page 340.

¹³⁸⁹ [Ibid](#), page 345.

¹³⁹⁰ QIFVLS, Submission No. 19, page 10.

¹³⁹¹ IWCADV, Submission No. 53, page 11.

A lot has been done and it is quite successful but all of that is geared towards the offender... there is an overlay that is not addressed, unfortunately, and that is the victim and the rest of the family who suffers from the offender's actions. I know that one of the... common criticisms or complaints from victims or families is, 'I just didn't know the court was on.' Quite often it is at the whim of a defence lawyer anyway whether the matter gets finalised on this day, or in a month's time.¹³⁹²

This contributes to a feeling of being disengaged or 'left out' of the process, thereby devaluing their contribution and potentially diminishing scope for ensuring that the particulars of the offending incident are fully and appropriately outlined and documented; and sentencing thus suitably informed.

The experience of one submitter to the Inquiry is instructive in this regard, and unfortunately, somewhat representative of other testimonies and submissions received by the Committee:

I entered the court feeling somewhat at a disadvantage, and unprepared in the context of what to expect from my meeting with the Magistrate... An adjournment of the matter was requested by the respondent's solicitor, at which point I leaned over towards my QPS representative and quietly asked why the respondent would have the matter adjourned. She replied "because he can", or words to that effect. I left the court feeling confused and disempowered.

...

On my way out of the court building, I was approached by the lady from the domestic violence organisation... She was unable to clarify why an adjournment was granted and told me I would have to contact the police to find out more. Later that day, I contacted the arresting officer who, at first, did not even remember who I was. He explained that the matter could have been adjourned for many reasons and he was not privy to the reason in this case.

...

I telephoned the Women's Legal Service for more information, an automated message told me that they were experiencing large numbers of calls, and I was hung up on. I repeated the call at least six times throughout the day, unable to get through or even leave a message. I phoned Legal Aid, and after a wait of forty minutes spoke to a lady who informed me that I would need to get a solicitor to represent me. That was the first time I had been told that. The police had told me that I would be represented by the police prosecutor.

...

In a further quest for accurate information, I attended a free legal session at the local Family Relationship Centre. The solicitor there informed me she was a Family lawyer and could not help me regarding to my questions about the criminal law process. She informed me that the police prosecutor would 'probably not contact me prior to the court date' and that I should obtain legal advice from a criminal law solicitor...

...

The officer informed me he was going on holidays for five weeks and therefore would not be in touch. When I asked for a contact person he could not give me one...

...

¹³⁹² Transcript of Proceedings (Hansard), Public Hearing, LACSC, Cairns, 12 August 2014, page 22.

During this second court appearance, the respondent contested the protection order and the magistrate informed me I would have to 'get witnesses'. When I asked if she meant witnesses to the incident of assault, she responded with "no, any one you want to call to witness about your relationship", or words to that effect. I left court none the wiser as to what was expected of me or what I was trying to prove via my witnesses... I telephoned the domestic violence liaison officer at the local police station. He gave me some information about what was expected of my witnesses, and assured me that he would get in touch with a police officer from [the local police] Station to call me back. I received no call back.

I telephoned [the local police] Police station the following day and spoke to the relieving officer in charge. He informed me he had not read my file and would do so and get back to me in a couple of days. He did not call.

...

The respondent attended court in relation to the assault charge. He pleaded not guilty, but I was not informed of this until I made a phone call to the QPS and requested they advise me of the outcome. The officer I spoke to was unable to inform me of the next step in the process.

I again telephoned the domestic violence liaison officer. He was not available and I left a message on his answering machine. He did not return my call. I again phoned Legal Aid who advised me that the case would go to court again and the respondent would have another opportunity to plead guilty or not guilty. He further informed me that I would need to contact the police in relation to finding further witnesses to the event. He also stated that I should have been told to contact the Director of Public Prosecutions who could inform me further about my case. This was the first time anyone had informed me I should do that. By this stage, I felt as if I was going round in circles and getting nowhere. I felt disempowered by the lack of information provided.

...

I phoned the Director of Public Prosecutions who, after placing me on hold for 9 minutes, informed me they did not deal with cases in the Magistrates Court. They told me to ring Victim Assist. Yet again, I felt a sense of disempowerment due to incorrect information.

After placing a call to Victim Assist, I was told a staff member from the local court would be contacting me to assist me with my enquiries and provide me with guidance regarding the court process. I have not yet received a call back.¹³⁹³

The Committee notes in the 2011 Victims of Crime Survey the most common reasons for dissatisfaction with police responses were 'Didn't do enough' (59.4%) and 'Didn't keep me informed' (50.8%). These were also the most common reasons for dissatisfaction in 2010.¹³⁹⁴ Keeping the victim informed was also identified by 37.9% of surveyed victims as one of the ways in which the police response could have been improved – up from 27.3% in 2004.¹³⁹⁵

In this regard, the Committee notes research which indicates many new officers particularly conceptualise their roles in terms of asserting and upholding the law (and their performance in terms of the extent to which this is achieved), rather than as service providers with an obligation to be

¹³⁹³ Confidential Submission No. 25.

¹³⁹⁴ Queensland Government, Office of Economic and Statistical Research, *Crime Victim Surveys 1996-2011: Results and trends for Queensland, prepared for the Queensland Police Service, Office of the Government Statistician, revised final version A, 24 April 2012, page 3.*

¹³⁹⁵ Ibid, page 25.

responsive to client needs.¹³⁹⁶ Acting Assistant Commissioner (Northern Region) Paul Taylor reported this is a challenge the QPS continues to combat:

*Police traditionally have not got the service part of our name. We very poorly, in my view, do that follow-up. If you talk about establishing credibility, they are the little things that establish credibility. So if we say that we are going to ring someone back, we need to do that. The really sad part from my perspective is that a lot of the times we have a good story to ring the person back on and we fail to do that. That is an area that we recognise. We can do a hell of a lot better and we are trying to take steps to improve that. Sadly, we are a large organisation and we deal with hundreds and thousands—I think the calls for service are over 100,000 here in Townsville... That is an area where we need to step up to the plate and do better.*¹³⁹⁷

A number of submitters further argued that a lack of representation and support services for victims serves to perpetuate disadvantage and reinforce the harmful power dynamics inherent in the offending behaviour in the first place. As one victim identified:

*I felt more abused and violated through the legal and court system than I ever did in the relationship. It was his ultimate tool, if I had known how bad the court system was going to be I would have fled instead.*¹³⁹⁸

This appears to be particularly the case where the respondent's control of finances means they are able to engage a solicitor and have the advantage of understanding the court process, whilst aggrieved parties conversely may struggle to get consistent counsel.¹³⁹⁹ For example, as clients of the BDVS reported:

I felt that it was too hard to get Legal Aid; when I did get legal assistance I felt very pushed and brushed off. I really felt I was only given the minimum of service as it was 'just a DV case'.

As I could no longer afford any legal fees and my experiences with legal aid lawyers were so poor I had to learn the legislation myself and self-represent. He was able to afford barristers at each court hearing.

Private lawyers are too expensive – I am 'asset rich but cash poor', we had a mortgage together so because of this I wasn't able to access free legal representation because of the asset pool...

I learnt that court was about who could tell the biggest lies and afford the best lawyers. His affidavits contradicted themselves but it didn't even seem to matter.

*It is not a fair justice system where someone can afford good legal representation and someone else cannot.*¹⁴⁰⁰

QIFVLS submitted these types of issues ultimately reflect what 'appears to be a fundamental undervaluing of the involvement of, and particularly legal representation of victims in the justice system' in such matters.¹⁴⁰¹ QIFVLS identified 'many people who enquire about their services are surprised to learn that they are entitled to legal representation and have often not been informed

¹³⁹⁶ K Bullock, *Citizens, Community and Crime Control*, Palgrave Macmillan, London; New York, 2014, page 59; R Mawby, *Policing Images: Policing, Communication and Legitimacy*, Routledge, London, 2002, page 45.

¹³⁹⁷ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, page 9.

¹³⁹⁸ BDVS, Submission No. 56, page 3.

¹³⁹⁹ Confidential Submission No. 25.

¹⁴⁰⁰ BDVS, Submission No. 56, page 4.

¹⁴⁰¹ QIFVLS, Submission No. 19, page 10.

about their ability to access legal assistance'.¹⁴⁰² QIFVLS also reported that victims are also commonly unaware that they have a right to be on the Victims Register and have a say in court during certain proceedings such as parole hearings:

*QIFVLS recently assisted one of its clients (a victim of domestic violence) to make submissions to the parole board considering the release of the perpetrator of the domestic violence. QIFVLS was able to inform the client about this option and assist in the client making the submission because of the ongoing relationship with the client. Without QIFVLS' ongoing involvement and relationship with this client, they would not have been aware that this option was available to them.*¹⁴⁰³

Further, submitters have additionally identified a need for improved emotional and culturally sensitive support and liaison with victims, and 'an increased focus on involving victims in the process' more broadly.¹⁴⁰⁴

Douglas and Stark recounted similar experiences:

*I was confused. I was terrified to go into – 'cause I had to go into the court. I'd never been in a court room in my life. My sister-in-law came in with me and the domestic violence unit in X. It was all so new to me and humiliating. I was open, baring everything out there about what I'd hidden and lied about for years. And he was there with his solicitor. I didn't have a solicitor 'cause I didn't have any money. I felt like I was going to throw up. I was absolutely intimidated, completely intimidated. (IV 18, 12-13)*¹⁴⁰⁵

QIFVLS also particularly highlighted that in Indigenous settings, Community Justice Groups which are utilised to enhance cultural appropriateness of criminal proceedings usually act on behalf of the defendant; with the consequence:

*...if a victim seeks assistance from the Community Justice group, there is often a real conflict of interest for the Group who are already engaging with the defendant. Consequently, the victim is often left without access to culturally appropriate support in the criminal justice process.*¹⁴⁰⁶

Notably, where women have reported more positive experiences of the justice system, the BDVS has noted that the several key themes or common factors included:

- Timely access to specialised legal services for initial advice and information;
- Access to high quality, trained legal representation;
- Support and practical assistance to navigate systems such as:
 - o Completing forms;
 - o Understanding language and terminology; and
 - o Emotional and practical support.

In line with this, a confidential submission to the Inquiry stated:

Long waiting times and the inability to access free legal information, as in the case of the Women's Legal Service, was extremely frustrating and disempowering. Seeking out and attending a free 15 minute legal session with a lawyer, who then declared she was not an expert in the field of law I required was another frustrating obstacle to gaining

¹⁴⁰² Ibid, page 12.

¹⁴⁰³ Ibid, page 9.

¹⁴⁰⁴ Ibid, page 11.

¹⁴⁰⁵ H Douglas and T Stark, [op cit](#), page 70.

¹⁴⁰⁶ QIFVLS, Submission No. 19, page 11.

information. Receiving conflicting information from the QPS and Legal Services in relation to securing a lawyer for representation still has me confused regarding my need (or not) to do so...

*I have found preparing for and attending court very stressful. If I was provided with timely, reliable, up to date information about this matter, I may have been able to avoid some of these stresses as I would have known in advance what to expect.*¹⁴⁰⁷

The Committee acknowledges submitters widely called for the funding of and increased availability of specialist legal assistance and court support for DFV victims, as part of a required shift to more victim-centric approaches to criminal justice more broadly. The BDVS also noted that clients of the service had suggested that the establishment of a rating system for Legal Aid lawyers, which would also indicate areas of speciality or practice experience, 'so people know what they are getting' and are able to 'pick a lawyer who specialises in DV' and has the recommendation of others.¹⁴⁰⁸ Other reviews have also suggested the development of a legal aid checklist for staff providing assistance to people in domestic violence situations.¹⁴⁰⁹

Victim Engagement and Assistance

Among the options to support an 'increased focus on involving victims in the process',¹⁴¹⁰ the Committee notes that the ANSWLRC report on the legal response to DFV recommended better use of victim impact statements in DFV proceedings, particularly given:

*...the level of seriousness of a breach may not necessarily be linked to the level of violence used by an offender in breaching the order, or to whether the violence was physical, and that a key factor is the impact a breach has on a victim's sense of security.*¹⁴¹¹

The report also suggested that police operational guidelines, reinforced by training, should:

*...require police when preparing witness statements to ask victims about the impact on them of the breach, and advise them that they may wish to make a victim impact statement – which is one way of informing a court about the harm and injury suffered by a victim as a result of a breach.*¹⁴¹²

In Queensland, victim impact statements currently cannot be presented in case of a breach of a domestic violence protection order, as they are limited to offences against the persons (or conspiracy to commit such offences) and prescribed offences under temporary legislation. However, even where available, and 'if a victim is completely willing and able to be fully involved in the criminal justice system response to the offence committed against them', QIFVLS has suggested the system currently makes limited use of such opportunities:

Although there is legislative provision for such involvement, it does not translate into established practice. Victim Impact Statements (VIS) are not routinely obtained and provided in the lower courts. Victims are not always made aware of court dates and events, and not always made aware of their rights, such as to give and read a VIS to the

¹⁴⁰⁷ Confidential Submission No. 25.

¹⁴⁰⁸ BDVS, Submission No. 56, page 6.

¹⁴⁰⁹ Legal Aid NSW, [Report on Legal Aid NSW Services to People in Domestic Violence Situations](#), Legal Aid Commission of NSW, 25 November 2008, page 11.

¹⁴¹⁰ QIFVLS, Submission No. 19, page 11.

¹⁴¹¹ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 557.

¹⁴¹² [Ibid](#), page 557.

*Court. Consequently, the victim's voice and personal impacts upon them, are often lost in the process.*¹⁴¹³

Where vision impact statements are provided for cases heard in criminal courts, however, Douglas has identified that there is evidence to suggest that judges carefully consider the submitted information, and treat the matter seriously:

For example in R v Major the judge heard the contents of the victim impact statement and observed:

*The dreadful effects of prolonged episodes of domestic violence are notorious. Deterrence, both personal and general, is an important factor in sentencing in domestic violence cases. So too is denunciation.*¹⁴¹⁴

Accordingly, there has been some suggestion it may be appropriate to allow the presentation of victim impact statements in breach offence cases not only to 'help in the victim's recovery but also as a way of educating judicial officers about the broad effects of domestic violence'.¹⁴¹⁵

Victim engagement is also constrained or diminished by a range of practical impediments to their involvement in the trial and sentence process, which can further compound the 'general failure to ensure that victims feel informed and included in the process'.¹⁴¹⁶ Attendance at court can involve a significant organisational and financial burden that may include securing leave from employment, transport to and from court, accommodation and childcare for the duration of proceedings, legal assistance and various ancillary costs.¹⁴¹⁷

Victim Assist Queensland currently offers a range of important services and distributes compensation in line with statutory requirements instituted through the *Victims of Crime Assistance Act 2009*, which provides for compensation to victims of physical acts of domestic violence that constitute criminal offences. The Committee notes the Domestic and Family Violence and Other Legislation Amendment Bill 2014 which is currently before the Legislative Assembly also proposes to extend the coverage of the Act to include victims of non-criminal domestic violence (that is, domestic violence that is not an offence beyond a breach of order conditions).¹⁴¹⁸

Such compensation is vital for many victims, not only in terms of compensating for their actual loss, but also in terms of sending a message to victims that the community cares about them and that harm is not acceptable. As QIFVLS emphasised, it 'may also empower the victim by restoring their sense of control and giving them sufficient funds to escape the violent relationship'.¹⁴¹⁹ QIFVLS also identified in their experience:

*...the compensation process is most effective if it has the flexibility to provide practical compensation, for example to change locks or provide a new washing machine if the victim's one is damaged during an incident.*¹⁴²⁰

However, the ability for victims to access such assistance in a timely manner is apparently limited by a range of issues, including cumbersome and time-consuming assessment processes, lengthy approval times, and a lack of training or understanding of the dynamics of domestic violence.

¹⁴¹³ QIFVLS, Submission No. 19, page 8.

¹⁴¹⁴ H Douglas, [Domestic violence law and criminal law: What hope for improved application of both?](#), *CDF Reader*, Vol. 11, No. 1, September 2012, page 7.

¹⁴¹⁵ Ibid.

¹⁴¹⁶ QIFVLS, Submission No. 19, page 9.

¹⁴¹⁷ Ibid, pages 8-9.

¹⁴¹⁸ *Explanatory Notes*, Domestic and Family Violence Protection and Other Legislation Amendment Bill 2014, page 4.

¹⁴¹⁹ QIFVLS, Submission No. 19, pages 10-11.

¹⁴²⁰ Ibid.

With regards to the first of these issues in particular, QIFVLS submitted that the application form to apply for crime victim's compensation is '*lengthy, arduous, and almost impossible for many QIFVLS clients to complete without assistance*'.¹⁴²¹ The IWCADV similarly noted that even specialist staff who have been trained in how to fill in the 14-page forms '*still encounter a number of difficulties*'.¹⁴²² It was also identified that many of its clients have faced delays of several months before receiving approval for compensation. This is a long time to wait for assistance, especially given the considerable and often immediate financial toll of many impacts including:

*...difficulties finding secure accommodation, medical bills for family members, counselling and other emotional recovery needs, even lack of clothing or other household items (often damaged, destroyed or stolen by the offender as a function of the abuse).*¹⁴²³

Other repercussions include unpaid household debts (phone, electricity or SPER debts) which families may be unable to meet due to the disruptions of DFV (including disruptions of employment and other unanticipated costs); QIFVLS has particularly identified:

*Further concerns arise when victims and offenders cannot meet rental payments and are then evicted, placing a greater burden on homeless services and government housing. The current three strikes policy of social housing can also work to the detriment of a victim as domestic violence incidents can result in complaints and subsequent strikes, ultimately leading to eviction.*¹⁴²⁴

In many cases these costs may be limited not only by effective early intervention service responses, but also by the provision of prompt compensatory assistance, '*before family violence issues spiral out of control*'.¹⁴²⁵ While many assessors and support staff are reportedly '*very supportive*' of clients and '*reasonably well aware of the dynamics of domestic violence*', the IWCADV also noted that a number of its clients have also reported negative experiences, including being treated with disbelief or subjected to judgemental questioning and pushed to provide substantial 'evidence' of abuse.¹⁴²⁶

The Committee notes some submitter's proposed increased use of debt recovery from offenders to help fund domestic violence policing and victim assistance.¹⁴²⁷ However, it was also emphasised that in some instances, this could trigger further violence or escalate existing violence, and that such options should accordingly be applied only when safe to do so, and subject to consultation with those involved.¹⁴²⁸

In order to address these issues, and given the particular urgency of the need for assistance in many cases, the IWCADV recommended the implementation of differential response model for victim compensation assessment. In general terms, the IWCADV's submission identified this might entail a two or three-tiered assessment model, comprised of:

1. *standard assessors - professional assessors who would process the more straightforward cases, albeit seeking assistance from senior assessors when required;*

¹⁴²¹ Ibid.

¹⁴²² IWCADV, Submission No. 53, page 17.

¹⁴²³ Ibid.

¹⁴²⁴ QIFVLS, Submission No. 19, page 6.

¹⁴²⁵ Ibid, page 6.

¹⁴²⁶ IWCADV, Submission No. 53, page 17.

¹⁴²⁷ See for example: Max Vardenga, Submission No. 66, page 3.

¹⁴²⁸ IWCADV, Submission No. 53, pages 17, 19.

2. *complex case assessors - experienced professional assessors with training to specific areas including domestic and family violence, who would handle cases that require a greater level of discretionary judgement and specialised training; and*
3. *senior assessors - highly experienced professional assessors who would have case review and oversight, providing supervision and making assessments on extremely complex or sensitive cases requiring discretionary judgement.*¹⁴²⁹

Interplay of Domestic Violence Proceedings and Family Court Matters

The interconnection between Commonwealth family law proceedings and domestic violence matters adds further complexity to the State's response to domestic violence. The BDVS submitted the lack of continuity and understanding between the court systems, including insufficient recognition of domestic violence issues in family law proceedings, is a key issue which may serve to perpetuate systemic violence and place children at continued exposure to harm. Clients of the BDVS have identified:¹⁴³⁰

There are too many courts and no consistency across the courts. I had several different magistrates, one for my domestic violence application and another for all my family law. They didn't know what was happening between both the courts and how both issues affected each other.

*My Family Court Orders are not clear enough and he continues to manipulate orders to restrict contact with my child.*¹⁴³¹

Where family law orders substantively conflict with conditions applied to domestic violence protection orders, the family law order prevails to the extent of the conflict. Police and courts rely on parties to inform them of any existing orders, however it appears this system is not working effectively and needs improvement.

It was also identified that some magistrates apparently refuse to name children on orders even where a clear risk of harm exists, despite specific provision in the *Domestic and Family Violence Protection Act 2012* (Qld) for the naming of the child where '*necessary or desirable to protect the child*' from associated domestic violence or exposure to violence committed by the respondent.¹⁴³²

The IWCADV identified this is often framed as '*not wanting to prevent fathers from seeing their children*'. However, the Act explicitly emphasises such principles should not be maintained to the detriment of safety, stating in section 78(2): '*the court must not diminish the standard of protection given by a domestic violence order for the purpose of facilitating consistency with a family law order*'.

The IWCADV also reported on a number of occasions it had witnessed parties to a matter being sent out of court, sometimes with police prosecutors or domestic violence support workers, with the instruction that the magistrate will only hear the order when they return with an agreement or parenting plan regarding the children. IWCADV submitted:

This practice is extremely unsafe for both women and children, and is breach of the Family Law Act 1975. The Family Law Act 1975 (Section 63C:1A) clearly states that "An agreement is not a parenting plan [and therefore not legally enforceable] for the purposes of this Act unless it is made free from any threat, duress or coercion". Further,

¹⁴²⁹ Ibid, page 18.

¹⁴³⁰ BDVS, Submission No. 56, page 4.

¹⁴³¹ Ibid, page 4.

¹⁴³² *Domestic and Family Violence Protection Act 2012* (Qld), section 53.

*the principles of justice reinforce the importance of both parties being fully informed in the process of making an agreement.*¹⁴³³

¹⁴³³ IWCADV, Submission No. 53, page 16.

The Committee notes similar issues were acknowledged in the 2012 NSW parliamentary review of domestic violence trends and issues, which concluded that outcomes in this regard could be enhanced by new technological and legal capacity to permit information sharing between jurisdictions, together with training to facilitate greater understanding of the dynamics of domestic violence and the operation and interplay of domestic violence legislation and the *Family Law Act 1975* (Cwth).¹⁴³⁴

The report identified such steps could serve to equip magistrates and judges to better understand the complexities of these issues and ensure that family law orders and DVOs are consistent and appropriate, including positioning them to be able to amend, vary, discharge or suspend family law orders as appropriate and specifically provided for in section 78 of the *Domestic and Family Violence Protection Act 2012* (Qld):

78 Court may consider family law order

1. Before deciding whether to make or vary a domestic violence order, the court may—

- a) have regard to any family law order of which the court has been informed; and*
- b) if the family law order allows contact between a respondent and a child that may be restricted under the proposed domestic violence order or variation—consider whether to exercise its power, under the Family Law Act 1975 (Cwth), section 68R or the Family Court Act 1997 (WA), section 176, to revive, vary, discharge or suspend the family law order.*

Outcomes of more informed and consistent practice include:

- improving safety and reducing confusion for the parties involved;
- reducing the frequency of technical breaches of domestic violence orders; and
- ensuring less court time is taken up with applications to amend conditions after a conflict is realised.¹⁴³⁵

Recommendation 54

The Committee recommends the Government examine current shortfalls in interpreter services for all parties, and work with local courts to deploy technological and other solutions to address these service gaps.

Recommendation 55

The Committee recommends the Domestic Violence Taskforce consider more systematic provision of options to allow victims of domestic and family violence to give evidence via audio-visual link, closed circuit television and other means, and to otherwise minimise unnecessary court appearances.

¹⁴³⁴ New South Wales Parliament, Legislative Council, Standing Committee on Social Issues, [Domestic violence trends and issues in NSW](#), Report 46, Standing Committee on Social Issues, Sydney, NSW, August 2012, page 267, page xliii-xliv.

¹⁴³⁵ [Ibid](#), page 267, page xliii-xliv.

Recommendation 56

In line with the ANSWLRC recommendations, the Committee recommends police operational guidelines, reinforced by training, should require police, when preparing witness statements in relation to breach of protection order proceedings, to ask victims about the impact of the breach, and advise them that they may wish to make a victim impact statement and about the use that can be made of such a statement.

Recommendation 57

The Committee recommends the Queensland Police Service and Office of the District Public Prosecutor consider establishing minimum service standards for ensuring victims are kept well informed throughout the prosecution process.

In this regard, the Committee highlights the recommendations of the ACT Office of the Director of Public Prosecutions (DPP), and Australian Federal Police (AFP)'s 2005 review of responses to sexual assault:

- Victims—or their carers in the case of children—should be kept well informed throughout the prosecution process:
- Within 14 days of the DPP's receipt of the file, the victim should be contacted and an appointment should be arranged for them to see either the allocated prosecutor or the witness assistant to explain the court process, the prosecutor's role and the victim's role.
- After the first mention date in court, the victim should be sent an information package informing them of the court process and providing contacts for relevant services, the name of the allocated prosecutor and details of the next court date.
- After each mention in court, the victim should be advised by letter or phone of the next court date.¹⁴³⁶

Recommendation 58

The Committee recommends the Department of Justice and Attorney-General and Legal Aid Queensland consider the establishment of a domestic and family violence duty lawyer service and other options to support the provision of specialised and experienced representation for domestic and family violence matters.

Recommendation 59

The Committee recommends the Department of Justice and Attorney-General work to expand and maintain domestic and family violence respondent court work or other specialist court lists and processes across all Magistrates Courts in Queensland, together with accompanying support court services for aggrieved parties.

¹⁴³⁶ Office of the Director of Public Prosecutions (ACT) and AFP, [Responding to Sexual Assault: The challenge of change](#), Australian Capital Territory Government, February 2005, page xxviii.

Recommendation 60

The Committee recommends the development of a comprehensive and role-specific education and training framework for all court staff (including registry staff, volunteers and Justices of the Peace), legal professionals and Magistrates about the nature, dynamics and risk indicators of domestic and family violence, in coordination with specialist domestic violence workers.

Recommendation 61

The Committee recommends that training for all Queensland Magistrates, Registrars and senior legal officials include instruction in the operation and integration of the *Domestic and Family Violence Protection Act 2012* (Qld) and the *Family Law Act 1975* (Cwth) (with relevant amendments).

Recommendation 62

The Committee recommends that the Queensland Attorney-General and Minister for Justice consult with the Commonwealth Attorney-General to develop effective methods for information sharing between the Family Court of Australia and Queensland courts, with a view to ensuring Queensland magistrates and judges have the technological and legal capacity to promptly determine whether a party is subject to a current family law order and the conditions of that order.

Recommendation 63

The Committee recommends that the Domestic Violence Taskforce review the feasibility of increased use of rehabilitative sentencing options for domestic violence offences to enhance tertiary prevention, including referrals to support services, treatment programs, counselling and intervention programs.

11.5 People's experiences with Court processes - a Sexual Violence perspective

By their very nature, court processes are inevitably distressing for sexual assault victims, requiring the necessary revisiting of a highly traumatic event, and likely subjection to accusatory or minimising lines of questioning during cross-examination. As Easteal stated:

*In no other violent crime is the victim subjected to the type of scrutiny and interrogation that befalls the rape victim in the court. She has traditionally been shown as either pure and chaste—hence a bona fide victim—or impure and a 'bad' woman.*¹⁴³⁷

With the majority of cases continuing to be argued on the basis of consent, the defence's strongest and most consistent tactic continues to revolve around undermining the victim's credibility and casting doubt over the legitimacy of their experience.¹⁴³⁸

Over the last two decades there has been significant reform work directed at improving the situation of sexual assault victims in the criminal justice system, including various formal legislative and procedural steps taken in a genuine attempt to encourage complainants to feel safe and supported in engaging with the system. However, the efficacy of these efforts remains in doubt, with poor conviction rates and evident examples of professional and systemic resistance; and with victims

¹⁴³⁷ P Easteal, 'Rape Prevention: Combatting the Myths,' *Without Consent: Confronting Adult Sexual Violence*, Proceedings of a conference, 27-29 October 1992, 1993, page 3232.

¹⁴³⁸ Kelly, cited in K Daly and S Curtis-Fawley, 'Restorative justice for Victims of Sexual Assault,' Chapter 9 in K Heimer and C Kruttschnitt eds., *Gender and Crime: Patterns of Victimization and Offending*, NYU Press, New York, 2006, page 233

continuing to report feeling dissatisfied with the way they are treated and highly disempowered by the process – no insignificant thing for a victim of a crime fundamentally defined by an abusive removal of autonomy.¹⁴³⁹

Many of the concerns detailed in submissions to the Inquiry echoed those outlined for the other primary type of gendered violence (DFV), including issues of insensitive treatment and victim blaming, and a failure to attend to victims' safety needs and keep them appropriately informed and engaged in throughout Court proceedings. The overall effect of these deficiencies, as one submitter to the Inquiry testified, is telling:

*I would not describe my experience with the criminal justice system as positive. It has left me feeling disempowered. I no longer have any faith in the ability of the current Queensland criminal justice system to protect me or any other woman who has experienced or is experiencing sexual violence. Until the system has radically changed, I would not in good conscience encourage other women to report their experience of sexual violence unless they are fully prepared to face the very real possibility of their perpetrator being set free. The reporting process, pre-trial and trial, combined with the build-up of waiting periods in between, are simply not worth that amount of anxiety and duress for what is all too often a disappointing outcome for the victim.*¹⁴⁴⁰

This secondary victimisation suffered by women in sexual assault court cases is considered to remain a significant factor in women's reluctance to report sexual assault.¹⁴⁴¹

Fair and Dignified Treatment

Research suggests historically, the rights and sensitivities of complainants have been regularly and routinely abused and they experience great difficulty having their stories believed and treated with dignity and fairness'.¹⁴⁴² While submitters have acknowledged that '*not all victims/survivors have had a negative experience of the criminal justice system*' and there have been a range of measures put in place to improve procedural fairness and ensure victims are better supported to participate in criminal justice system processes¹⁴⁴³ it is evident that beyond the application of the law, there are still significant shortcomings in the way many complainants are treated during the course of their interactions with Courts. This may be unnecessarily amplifying or prolonging their anguish.

In the first place, the moniker that '*justice delayed is justice denied*' is particularly apt for sexual assault victims, given that women often describe having essentially put life on hold during the trial's progression, and functioning at a significantly reduced level in their daily lives due to the stress and anxiety of both the proceedings and '*the threat of delay*', as well as having to reapply for leave from work or make other arrangements at each instance of rescheduling.¹⁴⁴⁴ In regards to the lengthy process involved, the Gold Coast Centre Against Sexual Violence noted:

After reporting to police and the forensic examination there will typically be a period of waiting – waiting for contact from the police, waiting to see if charges are laid, waiting for medical results, waiting for information about what happens next.

¹⁴³⁹ S Kift, '[A legal process or a justice system? Sex offences in Queensland – Still seeking justice](#),' *Alternative Law Journal*, Vol. 28, No. 6, December 2003, page 293.

¹⁴⁴⁰ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁴⁴¹ D Parkinson, '[Supporting victims through the legal process: The role of sexual assault service providers](#),' Australian Institute of Family Studies, Australian Centre for the Study of Sexual Assault, *ACSSA Wrap*, No. 8, 2010, page 1.

¹⁴⁴² S Kift, [op cit](#), page 293.

¹⁴⁴³ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 3.

¹⁴⁴⁴ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

If charges are laid there may be a bail application and several mentions or adjournments in court where the complainant does not need to appear, however because of ad-hoc communication she may not even be aware of what is happening.

If the case goes to committal there will inevitably be a time delay and she may or may not be required to appear. If the case is committed to trial there will be further delays sometimes years after the offence was first reported to police. This time delay leaves what many victim/survivors have described as “a cloud hanging over my head” affecting memory, healing and engagement with the criminal justice process. Some victim/survivors want to withdraw and “try and get on with their lives”. These time delays impact on the administration of justice.¹⁴⁴⁵

Zig Zag similarly highlighted the '*often lengthy delays and adjournments of court proceedings*', which they said could at times '*be observed as deliberate defence tactics aimed at delaying proceeding*',¹⁴⁴⁶ and which increased the likelihood of both enduring trauma and case withdrawals. PACT also particularly identified concerns not only regarding the length of waiting times to be heard, but also the '*unacceptable*' delays '*whilst a child is kept waiting in the Court precinct to give evidence*'. Further, '*late or no referrals for child victims and witnesses going through the court process*,' the submission noted, '*does not enable adequate preparation and support for the court process*'.¹⁴⁴⁷ While the Committee notes that this observation applied equally to child victims and witnesses for all crimes, approximately 63% of cases referred to PACT are children involved in sexual matters.¹⁴⁴⁸

Confirming the significance of the issue, one submitter testified to the Inquiry it was the uncertainty surrounding potential delays more so than the process itself that generated the greatest amount of ongoing anxiety and stress, noting it had influenced her decision to give evidence in court rather than pre-recording evidence, in the hope of avoiding further delay:

...one of the things that had been suggested is that I go in a room beforehand and then I would give my evidence and they would have that played back in November. But what I was really trying to stress was that it was not so much for me—and I know that this, again, is different for other women—him being in the room; it was more having that potential delay.¹⁴⁴⁹

While undoubtedly, hurrying the legal process could stand to jeopardize the defendant's right to a fair trial, complainants are evidently severely affected by the extent of current delays. In its submission to the Inquiry, Zig Zag noted '*in some jurisdictions there has been success in implementing time restrictions and other processes in order to expedite court proceedings to address some of the needs of victims whilst balancing the due process rights of the accused*'.¹⁴⁵⁰

The Gold Coast Centre Against Sexual Violence made a similar observation, recommending more specifically that Queensland '*adopt a list management approach*', utilising '*a dedicated sexual offences list with case managers to monitor and track cases to ensure a resolution of matters within defined time frames*'.¹⁴⁵¹

Ongoing questions have also been raised about the conduct and attitudes of legal professionals and judicial officers across the system, with surveys of Queensland victims having revealed '*a number of women feel they were being pressured to withdraw charges because the police or others in the*

¹⁴⁴⁵ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 8.

¹⁴⁴⁶ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 4.

¹⁴⁴⁷ PACT, Submission No. 7, page 3.

¹⁴⁴⁸ Ibid, page 1.

¹⁴⁴⁹ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁴⁵⁰ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 4.

¹⁴⁵¹ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 8.

criminal justice system believe they wouldn't get a conviction'.¹⁴⁵² Zig Zag also highlighted women have also generally been afforded 'a lack of time and due care and attention, and clear communications'; and have reported being rushed and/or not provided appropriate information in regard to giving evidence.¹⁴⁵³

Others also detailed more subtle deficiencies in practice, which nonetheless had significant cumulative effects as shown in the following examples:

During the trial the prosecuting lawyer had addressed me by my title, which is 'Dr'. I am not precious about this, but it was interesting that for the rest of the trial the defence lawyer and the judge both referred to me as 'Ms'. I did not correct this because I did not want to look pretentious or anything, but I do think it is significant given that juries are known to be more harsh on unmarried women in these cases.¹⁴⁵⁴

...a single room had been booked for me at a motel in [area of trial] and I had asked the officer if this single room was for two people, because I had specifically asked for my partner to come and he had said yes. I went online and checked and it said single rooms were just for one person only, so I had to phone the DPP to confirm and then the DPP got back to me and said there had been a mistake; it was only for one person. So they phoned and changed it to make it for two people. I hate to think of how it would have been if I had not double-checked that, given the stress of that day. I had already not brought my suit and my partner had to drive two hours [to home] to pick up that because of how nervous I was.¹⁴⁵⁵

Lastly, agencies have highlighted the need for increased focus on ensuring relevant information in appropriate community languages as well as the need for professional interpreters to support the engagement of victims and witnesses of Aboriginal and Torres Strait Islander of CALD backgrounds and with other special needs. Zig Zag identified that there continues to be a '*lack of appropriate use of professional interpreters and available support persons for marginalised and culturally linguistically diverse women*'.¹⁴⁵⁶

Access to Information and Transparency in Decision Making

Submitters to the Inquiry also revealed victim/survivors '*often report that they do not know what is happening with their complaint at each stage as it advances through the Court, nor have they felt appropriately prepared by the ODPP in their role as a witness in the proceedings*'.¹⁴⁵⁷ Inconsistent and inaccurate information about legal processes is apparently '*contributing to overall miscommunication during criminal justice proceedings*';¹⁴⁵⁸ and a lack of appropriate referral to support systems. Further, these factors may also be precluding women from gaining access to vital practical, financial and emotional support; or to the Victims Register,¹⁴⁵⁹ which:

provides victims of violent or sexual offences with information about an offender's sentence, the correctional centre where they are being held, their security classification, release and eligibility dates, when they are transferred or discharged, the Probation and

¹⁴⁵² Bone, cited in K Dennehy, '[Rape victims still suffering insensitivity](#)', *Brisbanetimes.com.au*, 6 September 2009.

¹⁴⁵³ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 4.

¹⁴⁵⁴ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁴⁵⁵ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁴⁵⁶ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 4.

¹⁴⁵⁷ *Ibid*, page 3.

¹⁴⁵⁸ Brisbane Rape and Incest Survivors Support Centre, Submission No. 24, page 4.

¹⁴⁵⁹ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 3.

*Parole office they will be reporting to and other events such as the death of the offender.*¹⁴⁶⁰

This is contrary to the advice of the ODPP Director's Guidelines, which emphasise that 'every victim who is a witness must be advised of the trial process and his or her role as a prosecution witness', and provide a list of information about various services, assistance, court processes, decisions and options about which victims must be provided information at the beginning of the trial and on request, as appropriate.¹⁴⁶¹

A Cairns-based sexual assault worker submitted to the Inquiry:

*ODPP seems to be a rather secret society and no one from outside is seen as valuable. Perhaps due to their role I'm not sure but in the past it has been very difficult to work "with" them. Personalities can also play a part in this difficulty. As personnel changes have occurred there have been some improvements. Ideally we should work collaboratively together for our clients.*¹⁴⁶²

Representatives from BRISSC similarly reported of the ODPP that they do not feel enfranchised and are 'being left out of the loop on the information'; and noted 'decisions being made late concerning the value of the evidence to be given', sometimes after earlier contraindications as to prospects for success, and with insufficient accompanying explanation.¹⁴⁶³ Zig Zag also highlighted a lack of transparency in decision making within the ODPP throughout proceedings, together with a lack of engagement and pre-Court preparation with some clients, which further undermines victim agency and engagement in the justice process. However, its submission also placed particular emphasis on questions surrounding matters that do not proceed to trial, and the reasons for this.¹⁴⁶⁴ The submission stated:

*Victim/survivors often report a lack of understanding about why their complaint has not progressed. This lack of transparency in decision making unfortunately reinforces a common belief held by young women victim/survivors of sexual violence that "no-one believes them" [in relation to the offences] and /or "it is not worth reporting as nothing happens to the offender anyway" [no justice or perpetrator accountability and continuing sense of perpetrator impunity].*¹⁴⁶⁵

These concerns were echoed by a representative from WWILD, who detailed repeated efforts to get a detailed explanation for reasons not to prosecute in the instance of a woman with cognitive impairment who had been sexually assaulted over an extended period by a family member (a case for her younger sister went ahead and was successfully prosecuted).¹⁴⁶⁶

The Committee notes the 2003 *Seeking Justice* inquiry prompted a range of required actions to address these issues, with the ODPP developing formal guidelines clearly requiring a written summary of the reasons for decisions that are made about the case; and the QPS and ODPP having developed and agreed to formal protocols identifying who will contact the complainant about the

¹⁴⁶⁰ Queensland Corrective Services, [Victims Register](#), State of Queensland (Department of Community Safety), webpage, 7 January 2014, accessed 10 November 2014.

¹⁴⁶¹ Office of the Director of Public Prosecutions, [Director's Guidelines](#), Department of Justice and Attorney-General, 1 August 2014, page 32 (Guideline 25). Guideline 25, page 32.

¹⁴⁶² Confidential Submission No. 13.

¹⁴⁶³ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁴⁶⁴ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 4.

¹⁴⁶⁵ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 4.

¹⁴⁶⁶ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

decisions made in every sexual offence matter; including an ODPP guideline that reasons for terminating prosecution must be subsequently provided to the victims of the crime.¹⁴⁶⁷

In addition, a QPS and ODPP *Failed Sexual Offence Prosecutions Working Party* was established to review and report on all sexual offence matters that fail at committal or before the higher courts, or are discontinued by the ODPP, as well as the roles of the investigating/arresting officer and police prosecutor in the matters.¹⁴⁶⁸ However, the Committee notes that a 2008 follow-up review to the response to *Seeking Justice* identified that although communication had been strengthened since the initial report's publication, *'there is still room for improvement'*; and that while victim support representatives were generally unable to comment on whether communication between the QPS and the ODPP had improved since *Seeking justice*, many suspected that the difficulties that their clients encountered in their attempts to gain information from the QPS during the transition of their cases to prosecution were an indication of continued shortfalls in this regard.¹⁴⁶⁹

BRISSC emphasised *'access to accurate, timely and relevant information is essential to ensure that all victims of crime are able to make informed decisions and effectively participate in legal proceedings'*.¹⁴⁷⁰

A Safe Environment and Minimal Contact with the Accused

As similarly noted with respect to DFV, a number of environmental and practical aspects of the court process – such as the facilities available for victims and measures to support their sense of safety and privacy and minimise unnecessary exposure to duress during court appearances – can have a significant effect on victims of sexual offences. While measures have apparently been taken to install safe rooms, or to pre-arrange for private spaces to be available to victims, this appears to be managed in an ad-hoc rather than fulsome way; with a failure to fully consider the practical aspects of their use. For example, one victim/survivor submitted to the Inquiry:

*During the time of the trial [my support worker] had asked the DPP if I could have a private room. I was granted a private room. The problem was the private room did not have a washroom. The washroom was in the main room where the defendant was with his girlfriend and baby and family and they sat there in the main room the whole time, so every time I needed to use the washroom I had to go with my two support people and my partner, who basically acted as a barricade any time I had to go to the toilet, which is not fun when you are already going to go up and be cross-examined and things like that.*¹⁴⁷¹

The BRISSC accordingly recommended to the Committee that *'safe rooms include accessible bathrooms, and kitchens be made available to women at Court'*, together with *'enhanced security provisions... to prioritise the specific safety needs and high risks involved for women who have experienced sexual violence'*;¹⁴⁷² with a similar recommendation from the Gold Coast Centre Against Sexual Violence also noting the need for consideration to separate entrance/exit options to the Courtroom to minimise other unfortunate confrontations.¹⁴⁷³

¹⁴⁶⁷ CMC, *How the Criminal Justice System Handles Allegations of Sexual Abuse: A review of the implementation of the recommendations of the Seeking Justice report*, Crime and Misconduct Commission, March 2008, page xix; Office of the Director of Public Prosecutions, *Director's Guidelines*, Department of Justice and Attorney-General, 1 August 2014, page 32 (Guideline 25). Guideline 20, pages 26-27.

¹⁴⁶⁸ QPS and Office of the Director of Public Prosecutions, *QPS and ODPP Failed Sexual Offence Prosecutions Working Party, Terms of Reference*, revised 23 June 2010.

¹⁴⁶⁹ CMC, *How the Criminal Justice System Handles Allegations of Sexual Abuse: A review of the implementation of the recommendations of the Seeking Justice report*, Crime and Misconduct Commission, March 2008, page xix.

¹⁴⁷⁰ Brisbane Rape and Incest Survivors Support Centre, Submission No. 24, page 4.

¹⁴⁷¹ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁴⁷² Brisbane Rape and Incest Survivors Support Centre, Submission No. 24, page 5.

¹⁴⁷³ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 10.

The Committee notes that the ANSWLRC review identified that although modification of facilities may require resources, *'a review of existing facilities may well identify simple and cost-efficient strategies to achieve these results, including reduced security staff costs and reduced incidents'* – but most importantly, reduced stress on the victim.¹⁴⁷⁴

Most Australian jurisdictions have also introduced legislative measures to make the experience of giving evidence in Court less daunting for victims of sexual offences, including the use of screens between the complainant and defendant in the court room, options for pre-recording, and the use of closed-circuit television to allow victims to give evidence from outside the courtroom. Such measures are currently available in Queensland, and provided as a matter of course to all child witnesses as per a mandatory provision that this be the case. However, for adult complaints there is no such automatic right, with their provision ultimately subject to a discretionary request.¹⁴⁷⁵ As the Gold Coast Centre Against Sexual Violence identified:

*In order to have a support person in court, to have a screen or to give evidence from outside the court room the victim/survivor will need to make a request under Section 21A of the Evidence Act 1977 which may or may not be granted (Macleod et al: 2012).*¹⁴⁷⁶

The Gold Coast Centre Against Sexual Violence submitted a view that the discretionary nature of this provision, together with resourcing constraints (including for example the availability or operability of CCTV technology), may be limiting women's access to protections they are duly entitled to, and thereby, their ownership over their safe engagement in the Court process:

Most victim/survivors feel that they meet the criteria for a special witness as defined under Evidence Act 1977 particularly Subsection 2 (b) (ii) would be likely to suffer severe emotional trauma and also Subsection 2 (b) (iii) would be likely to be so intimidated by the defendant as to be disadvantaged as a witness. However they can be persuaded by police or prosecutors not to have a screen or give remote evidence and therefore special witness consideration is not requested. Therefore in Queensland most adult complainants have to face the offender in court.

The Centre noted *'to reduce the fear of being in the presence of the offender'*, in some jurisdictions there is a presumption that all complainants in sexual offence matters – that is, adults and children alike – will be treated as special witnesses and give their evidence via CCTV unless they choose to enter the courtroom'.¹⁴⁷⁷ For example:

In NSW, the adult complainant is entitled to have a support person or persons present when giving evidence and in New South Wales, most adult complainants now choose to give evidence by way of CCTV (Wilkins: 2011).

*In Victoria, there is a presumption that the complainant will give evidence by alternative means such as CCTV unless an application is made by the prosecution for them to give evidence in Court.*¹⁴⁷⁸

¹⁴⁷⁴ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, pages 1513-1514.

¹⁴⁷⁵ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 9.

¹⁴⁷⁶ Ibid, page 10.

¹⁴⁷⁷ Ibid, page 10.

¹⁴⁷⁸ Ibid, page 10.

The Centre submitted a similar presumption should operate in Queensland, noting that 'where this is available it is important to ensure that the Court has the technological equipment available and that it is fully operational'.¹⁴⁷⁹ In this regard the Committee notes PACT's submission to the Inquiry that:

*Faulty CCTV and other technological equipment continue to have a negative impact on a child's court experience. Communication across all parties needs to be enhanced as information and clarity reduces stress of the unknown.*¹⁴⁸⁰

The Committee notes that some similar arguments about potential to minimise suffering have also been extended with regards to complainants being required to attend to give evidence at committal hearings for sexual offences. Four key issues arising from the committal process identified by the ANSWLRC, include:

1. *The victim is required to give evidence not once but twice and be subject to cross-examination at both committal and trial, exacerbating the stress of court proceedings.*
2. *Cross examination of complainants at committal is often more rigorous and intimidating because there is no jury present.*
3. *The experience of cross examination at committal often leads complainants to seek to have the proceedings discontinued.*
4. *The final disposition of the proceeding is delayed.*¹⁴⁸¹

As is the case with special witness provisions, there are various restrictions in all states and territories on child complainants (and those with cognitive impairments) being required to give evidence at committal hearings for sexual assaults, with some states prohibiting either or both their attendance and/or cross-examination.¹⁴⁸² There has been some discussion that these provisions should be extended universally, so that adult complainants are also afforded such consideration.

The ACT has already moved to implement such a restriction, with the *Magistrates Court Act 1930* (ACT) providing that complainants in sexual offence proceedings must not be required to attend, give evidence or be cross-examined at a committal hearing in relation to the offence; and with no provision for leave to be granted by the Court. In NSW, the magistrate must not direct the attendance of an adult victim unless satisfied that there are 'special reasons' why the victim should 'in the interests of justice' attend to give oral evidence. Similarly, in Victoria, adult complainants may only be cross-examined with leave of the Court and:

*Before leave may be granted, the defence must identify the issue on which they want the witness to be cross-examined and provide a reason why the evidence of the witness is relevant to that issue. The court must then be satisfied of those matters and that the cross-examination of the witness on that issue is justified having regard to a list of factors. Special mentions are held for this purpose.*¹⁴⁸³

In its final report the ANSWLRC ultimately concluded that there is generally '*little or no benefit in requiring that complainants give evidence twice*'; but that circumstances will arise in which it is in the interests of justice for a complainant to be required to attend to give evidence, and that it is therefore preferable that options more akin to those employed in NSW and Victoria be implemented

¹⁴⁷⁹ Ibid, page 10.

¹⁴⁸⁰ PACT, Submission No. 7, page 3.

¹⁴⁸¹ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 1215.

¹⁴⁸² [Ibid](#), page 1253.

¹⁴⁸³ [Ibid](#), page 1216.

to reduce the impacts of this. In this regard, the Committee notes the Commissions' final recommendation that:

State and territory legislation should prohibit:

- a) *any child; and*
- b) *any adult complainant, unless there are special or prescribed reasons, from being required to attend to give evidence at committal hearings in relation to sexual offences.*¹⁴⁸⁴

Committee Comment

The Committee notes that its previous recommendation regarding the use of safe rooms, although framed within the context of the safety issues surrounding DFV, should be considered to apply equally in regards to sexual offences. In addition, it considers that the issues relating to the attendance and participation of adult complainants at committal hearings should appropriately be included in the considerations of the State Domestic Violence Taskforce.

Victim Privacy and Sexual Communications Counselling Privilege

Given the significant violation of an individual's private sphere that is inherent in sexual assault, violations of victims' rights to privacy are of especially significant concern, and can notably undermine their feelings of safety. While the Committee is not aware of any recurring breaches or shortfalls in this regard, it was alerted to a concerning incident experienced by one victim during her participation in proceedings. Specifically, the submitter noted:

With regard to the 38-minute pretext transcript that was played in front of the defendant and the jury, all of them received a written copy of the transcript and it was also played out loud. That transcript had my private home address on it which was not blacked out. This was given to the accused, so he also now knows my home address. I was not allowed to bring two of my support people in...

Equally concerning to the Committee was the apparently nonchalant response to this oversight. As the young woman recounted:

*One of the things that I found particularly disturbing about that was I did point it out at the end, and this was just after the prosecuting lawyer—everything else was wonderful in terms of him and the support that he was able to give—had just kind of critiqued the jury on their decision and basing this on the fact that he was probably a clean-cut guy with a girlfriend, baby and all of this kind of thing. Then I said, 'I'm very concerned that my private home address was there and that he received a copy of this transcript,' and his response was, 'Well, he's a first offender, clean-cut guy. You probably don't have anything to worry about.' I am like, 'Well, given that this has just happened to me, I am concerned.'*¹⁴⁸⁵

At a broader, systemic level, the issue of sexual assault communications privilege has been a topic of some discussion. Sexual assault communications are communications made in the course of a confidential relationship between the victim/survivor of sexual assault and a counsellor.¹⁴⁸⁶ Within the Court system however, this confidentiality is essentially waived in Queensland, with the defence able to seek access to this material to assist with preparation for trial, and for use during cross

¹⁴⁸⁴ [Ibid](#), page 1216.

¹⁴⁸⁵ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁴⁸⁶ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 1257.

examination of the complainant and other witnesses.¹⁴⁸⁷ As the Gold Coast Centre Against Sexual Violence noted in its submission, *'if at any point in proceedings it is revealed that the victim/survivor has sought counselling then her records may be subpoenaed'*.¹⁴⁸⁸

The disclosure of this highly personal information made in a context of private healing is deeply distressing for many sexual assault victims, and can be an additional barrier to women's participation in the criminal justice system. A significant number of reform bodies and reports have recognised the negative effects of this invasion of privacy on victims and on the sexual violence services that provide counselling,¹⁴⁸⁹ and have generally confirmed a view that *'privilege serves the important public interest of encouraging people who have been sexually assaulted to seek therapy, and may also encourage people who are sexually assaulted to report the crime to police'*.¹⁴⁹⁰

Since the 1990s, legislation to protect sexual assault communications from unfettered access by the defence has accordingly been introduced in all Australian states and territories – with the exception of Queensland.¹⁴⁹¹ Echoing the recommendations of the 2010 ANSWLRC report, the BRISSC, Gold Coast Centre Against Domestic Violence and the Women's Legal Service called for this situation to be addressed as a matter of urgency,¹⁴⁹² to *'afford rape complainants protection and privacy in relation to their emotional journey in the aftermath of a sexual crime'*,¹⁴⁹³ just as is reasonably accepted as just practice and extended to victims across the rest of the country.

The Committee supports these requests, and calls for the Queensland Government to bring the state into line with other jurisdictions on this important issue. In this regard it notes the recommendations of the ANSWLRC that:

...state and territory legislation and court rules relating to subpoenas and the operation of the sexual assault communications privilege should ensure that the interests of complainants in sexual assault proceedings are better protected, including by requiring:

- a) parties seeking production of sexual assault communications, to provide timely notice in writing to the other party and the sexual assault complainant;*
- b) that any such written notice be accompanied by a pro forma fact sheet on the privilege and providing contact details for legal assistance; and*
- c) that subpoenas be issued with a pro forma fact sheet on the privilege, also providing contact details for legal assistance.*¹⁴⁹⁴

Recommendation 64

The Committee recommends the Queensland Government consider reforms to legislation on sexual assault communications privilege to protect the privacy of victims/survivors as occurs in other Australian States and Territories.

¹⁴⁸⁷ [Ibid](#), page 1257.

¹⁴⁸⁸ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 10.

¹⁴⁸⁹ [Ibid](#), page 10.

¹⁴⁹⁰ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 1257.

¹⁴⁹¹ Women's Legal Service, Submission No. 60, page 20; Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 10.

¹⁴⁹² Brisbane Rape and Incest Survivors Support Centre, Submission No. 24, page 6; Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, pages 10-11; Women's Legal Service, Submission No. 60, page 20.

¹⁴⁹³ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 11.

¹⁴⁹⁴ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 1266.

Adequate representation and support

Despite the fact it is '*probably the hardest crime to take to court*', and that sexual assault trials can occupy a significant proportion of District Courts' lists as one of the most contested of all offences (a much smaller proportion of defendants plead guilty relative to other types of crimes);¹⁴⁹⁵ court support generally is not funded for sexual assault victims.¹⁴⁹⁶ As Zig Zag submitted to the Committee:

*Whilst there is limited funding for services to young women under the age of 18 years provided by Protect All Children Today (PACT), Zig Zag has identified significant barriers for young women aged 18 – 25 years in accessing appropriate Court Support from specialist sexual assault service providers as this is not currently funded.*¹⁴⁹⁷

Stakeholders expressed a consistent view that victims and witnesses would benefit enormously from having assistance to navigate the criminal process – in effect, having someone to walk them through the system.¹⁴⁹⁸ A representative from BRISSC noted that women often find processes confusing, and '*often talk to us about not having support and how much that really does impact on the evidence that they can give in court*'.¹⁴⁹⁹ The Gold Coast Centre Against Sexual Violence further submitted:

The complainant will usually need support to attend court as to them it is a foreign environment using a foreign language and unknown rules... The complainant is often reluctant to ask family and friends to accompany her as she doesn't want to put them through it, for them to hear the horrific details and she often feels embarrassed and ashamed (Macleod et al: 2012).

At court there can be physical and emotional safety issues where encounters with the offender and his supporters often occur. These encounters are typically outside the entrance to the building, inside in the lifts or hallways and can be particularly intimidating for victim/survivors.

A support person to accompany them can provide some practical assistance and reduce anxiety. Through counselling, education and information, a support worker can liaise with police and ODPP, prepare a complainant for court and introduce techniques to maximise emotional safety, minimise the chances of being overwhelmed and provide debriefing.

*A well informed, well supported complaint is less likely to want to withdraw from the system. Both police and prosecutions have expressed concern that victims of sexual offences are not sufficiently supported during the prosecution process and that community support services for adult victims were rare. Some police believed that the unavailability of quality support services may contribute to many complainants not seeing the court process through (CMC: 2008).*¹⁵⁰⁰

In addition, a representative from BRISSC noted an informed support worker can also help to ensure that victims are appropriately afforded the necessary protections they are entitled to, noting that '*not having an advocate there also can be really difficult in terms of arranging special witness*

¹⁴⁹⁵ The Centre for Innovative Justice notes that in 2002 in Victoria, for example, sexual assault trials occupied close to 50% of County/District Courts' lists; and whereas 73% of overall cases before the County Court of Victoria are likely to be finalised through a plea of guilty, more than half of sexual assault cases are contested, with just 45% pleading guilty. See: Centre for Innovative Justice, [Innovative justice responses to sexual offending – pathways to better outcomes for victims, offenders and the community](#), RMIT University, May 2013, page 16.

¹⁴⁹⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 29.

¹⁴⁹⁷ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 3.

¹⁴⁹⁸ ANSWLRC, [Family Violence – A National Legal Response: Final Report](#), 2010, page 1208.

¹⁴⁹⁹ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁵⁰⁰ Gold Coast Centre Against Sexual Violence Inc., Submission No. 60, page 9.

provisions... [which] are at the discretion of the court and they have to be asked for, whereas in New South Wales they are mandatory'.¹⁵⁰¹

The Committee notes a volunteer court support network is currently in place to assist victims of all crime, but as submitters identified, *'this is not specialist and the volunteers do not necessarily have the specialist skills around adequately supporting women who have experienced sexual violence'*.¹⁵⁰² Sexual violence support services appear to be attempting to fill the gap, but evidently lack the specific funding for this work under their Government funding contracts, and are insufficiently resourced to appropriately support women in what are generally intensive and time-consuming court scenarios.¹⁵⁰³

In calling for funded Court support, further, the Committee also acknowledges that despite previous discussions about the benefits of locating a special victim and witness support, liaison and advocacy service within the ODPP,¹⁵⁰⁴ stakeholders emphasised their preference that the role be independent of the ODPP.¹⁵⁰⁵ This would allow support workers to ensure that *'women do have access to clear communication with the ODPP... and understand what is happening in the court and all the different steps and stages along the way'*, are appropriately supported in their personal participation and receive advocacy that is independent of prosecutorial objectives.¹⁵⁰⁶ Stakeholders were largely of the opinion that this role could be fulfilled by existing specialist sexual violence support and prevention services were additional, specific funding made available.¹⁵⁰⁷

Importantly any such support must also include culturally appropriate support options for Aboriginal and Torres Strait Islander women, for whom *'the legal stakes and consequences can be even higher, [and community] pressure can be unbearable'*;¹⁵⁰⁸ as well as for culturally and linguistically different women, gender and sexually diverse individuals, and other disadvantaged persons.

Committee Comment

Despite significant efforts to improve the criminal justice system's response to sexual violence over the last decade, it is clear there is still much work to be done. Submitters have identified a number of shortcomings, but also a range of solutions to improve victim's interactions with the courts by enhancing understandings of sexual violence and the law, improving compliance with existing policies and procedures, consolidating safety measures, and addressing delays in proceedings.

Recommendation 65

The Committee recommends the Queensland Government work with the Queensland Law Society and Bar Association of Queensland to explore options to expand and enhance education and training on sexual assault for all legal professionals.

¹⁵⁰¹ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁵⁰² Ibid.

¹⁵⁰³ Ibid.

¹⁵⁰⁴ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 1211.

¹⁵⁰⁵ Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 3.

¹⁵⁰⁶ Ibid, page 3.

¹⁵⁰⁷ Brisbane Rape and Incest Survivors Support Centre, Submission No. 24, page 5; Zig Zag Young Women's Resource Centre Inc., Submission No. 24, page 4.

¹⁵⁰⁸ ANSWLRC, *Family Violence – A National Legal Response: Final Report*, 2010, page 1209.

Recommendation 66

The Committee recommends that the Queensland Government consider the introduction of sexual offence provisions providing that a judge must, if it is relevant to the facts in issue in a sexual offence proceeding, provide a direction in relation to the meaning and application of consent, in keeping with the recommendations of the ANSWLRC.

Recommendation 67

The Committee recommends the Queensland Government consider options for the introduction of time restrictions and other processes to expedite court proceedings for domestic violence, sexual offences, cases involving child victims and witnesses and other high sensitivity matters, whilst balancing the due process rights of the accused.

Recommendation 68

The Committee recommends that the Queensland Government give consideration to the development and trial of specialised court lists and prosecution units to respond to sexual offences in Queensland.

Recommendation 69

The Committee recommends the Queensland Government reforms legislation on sexual assault communications privilege to protect the privacy of victims/survivors in line with other Australian states and territories.

Recommendation 70

The Committee recommends that special witness provisions are made mandatory for all violent sexual offences.

Recommendation 71

The Committee recommends the Queensland Government provide funding for specialist sexual violence support and prevention services to provide court support for victims who have experienced sexual violence.

12. Prostitution and Trafficking

The Committee received a number of submissions which specifically touched on the issue of illegal prostitution in Queensland, together with related concerns surrounding sex-trafficking, under-age prostitution, and other serious and organised criminal practices.

In particular, the Australian Christian Lobby (ACL), FamilyVoice Australia, Ms Andrea Tokaji (Fighting for Justice Foundation) and CLEAR International Australia alerted the Committee to their concerns regarding the incidence and significant ill-effects of these crimes, and the inadequacy of the State's current legal framework and coordination of policing and social service interventions and responses.

The first three of these submissions particularly urged the Committee to consider recommending the adoption of the legal framework implemented in various forms in certain Scandinavian countries, described generally as the 'Nordic Model' and particularly epitomised by Sweden in its 1999 Act Prohibiting the Purchase of Sexual Services.

This model takes a demand-side approach to eradicating prostitution which criminalises the purchase, attempted purchase and procurement of sexual services in any circumstance, but not their sale.^{1509 1510} It reflects an underlying view the practice is a serious form of male violence against women and children which normalises their subjection and sexual exploitation, with harmful societal consequences.^{1511 1512}

Accordingly, punitive measures are explicitly targeted at clients and other enabling parties as the criminal perpetrators responsible for this exploitation; while sex workers, as their victims, are spared any legal repercussions and instead provided access to a range of support services to help them exit the industry.¹⁵¹³ Public support for the laws is widespread in Sweden,¹⁵¹⁴ and a 2010 review found the ban on the purchase of sexual services '*has had the intended effect and is an important instrument in preventing and combatting prostitution and human trafficking for sexual purposes*'.¹⁵¹⁵

¹⁵⁰⁹ This includes the outlawing of a range of activities which allow prostitution to take place, including pimping, procuring, operating a brothel and renting a property to a sex worker where sex work is to be carried out on the premises. In 2005, the legislation was also extended to include criminalisation of cases where payment had been promised or made by another party, and to incorporate a new section which explicitly criminalised the purchase of a sexual act with a child. (See: FamilyVoice Australia, Submission No. 30, page 5; Hon. B Wightman MP, [Regulation of the Sex Industry in Tasmania](#), Discussion Paper, 2012, Department of Justice, State of Tasmania, page 16.)

¹⁵¹⁰ Swedish Ministry of Industry, Employment and Communications, [Prostitution and trafficking in women](#), Fact Sheet, January 2004, page 1; Hon. B Wightman MP, [Regulation of the Sex Industry in Tasmania](#), Discussion Paper, 2012, Department of Justice, State of Tasmania, page 16.

¹⁵¹¹ Swedish Ministry of Industry, Employment and Communications, [Prostitution and trafficking in women](#), Fact Sheet, January 2004, page 1.

¹⁵¹² The legislation itself uses gender-neutral language. However, the underlying philosophy does not take into account the diversity of sex workers, including male or transgender workers, framing the industry rather as an innate expression of male violence and exploitation of women: '*the legislative proposal stated that it is shameful and unacceptable that, in a gender equal society, men obtain sexual relations with women in return for payment*' (Regeringskansliet, Government Offices of Sweden, [Evaluation of the prohibition of the purchase of sexual services - Summary](#), SOU 2010: 49, 2010, page 1. See also: Swedish Ministry of Industry, Employment and Communications, [Prostitution and trafficking in women](#), Fact Sheet, January 2004, pages 1-2.).

¹⁵¹³ Under the Swedish model criminal sanctions are not seen as constructive as they may act as barriers that prevent prostitutes from pursuing other work opportunities and thereby further isolate these individuals or generally reinforce their reliance on the trade. Exit services, including outreach programs, education and alternative employment programs and other support services are emphasised as critical supply-side aspects of the government's overall strategy.

¹⁵¹⁴ Opinion polls conducted in 2001 and 2002 revealed that around 8 out of 10 Swedes were in favour of the *Act that Prohibits the Purchase of Sexual Services* (Swedish Ministry of Industry, Employment and Communications, [Prostitution and trafficking in women](#), Fact Sheet, January 2004, page 1).

¹⁵¹⁵ Swedish Ministry of Industry, Employment and Communications, [Prostitution and trafficking in women](#), Fact Sheet, January 2004, page 1.

The primary basis for this and subsequent positive evaluations has been a reported halving in the incidence of street prostitution. As a result, while there has been an increase in sexual services involving first contact over the internet, it has been reported that the incidence of prostitution overall has held constant or '*unlike in comparable countries... at least not increased*'.¹⁵¹⁶ Surveys conducted in the period following criminalisation have also confirmed that the proportion of men reporting they have, on some occasion, purchased sexual services, has decreased.¹⁵¹⁷

Proponents argue the model is also preferable to alternatives given reported associations between the legalisation or decriminalisation of prostitution in some developing countries, and subsequent increases in the levels of human trafficking.

In Queensland, prostitution has effectively been legalised in some form since 1999,¹⁵¹⁸ following an extensive review and consultation process conducted over the course of almost a decade. The State's approach is based on a 'harm minimisation' philosophy that recognises the inevitable existence of prostitution across the State and the right of adults to freely choose to enter the sex industry; but aims to provide an appropriate licensing and regulatory framework to better protect the health, safety and welfare of sex industry workers and their clients.¹⁵¹⁹

Under the provisions of the *Prostitution Act 1999*, sole operators may work lawfully from their own homes or other premises (including outcalls) without a licence. However, it is illegal for two independent sex workers to share premises, such that those individuals who wish to operate in a cooperative service environment must do so in a licensed brothel.¹⁵²⁰ Licensed brothels may conduct their activities on an in-house basis only (outcall services may be provided only by sole operators); and it remains illegal to solicit from the street or to operate through escort agencies, massage parlours or non-licensed brothels.

The Prostitution Licensing Authority (PLA) is responsible for issuing brothel licenses and managers' certificates (required if the management of the brothel is to be carried out by a second person), as well as monitoring compliance with the legislation more broadly.¹⁵²¹ Licences or certificates are refused if the PLA is of the opinion the applicant is not suitable, or if the applicant has been convicted of a disqualifying offence; holds an interest in another brothel; is insolvent; holds a licence or permit under the *Liquor Act 1992*; has had a brothel licence cancelled in the last three years; or on other various grounds.¹⁵²² The PLA maintains a Register which records details of persons to whom a licence or certificate has been issued.

Reviews of the *Prostitution Act 1999* carried out by the former Crime and Misconduct Commission (now the Crime and Corruption Commission) in 2004, 2006 and 2011 all determined the Act has contributed to a safe and healthy licenced brothel industry in Queensland with minimal impact on community amenity. In addition, there has generally been no evidence of official corruption,

¹⁵¹⁶ Regeringskansliet, Government Offices of Sweden, [Evaluation of the prohibition of the purchase of sexual services - Summary](#), SOU 2010: 49, 2010, page 40.

¹⁵¹⁷ [Ibid](#), page 38.

¹⁵¹⁸ In 1992, the Government acknowledged the rights of sole operators to work independently in their homes (by way of the *Prostitution Laws Amendment Act 1992*), but no further steps were taken to legalise brothels or any other forms of prostitution until 1999.

¹⁵¹⁹ *Explanatory Notes, Prostitution Bill 1999*, page 2; PLA, [2012-13 Annual Report](#), 2013, page 17.

¹⁵²⁰ PLA, [Sex Work \(Prostitution\) and the Law in Queensland](#), Fact Sheet, December 2011, accessed 10 September 2014.

¹⁵²¹ PLA, [2012-13 Annual Report](#), 2013, page 32. The PLA also issues guidelines regarding the specific form and type of advertisements that may be permitted under the legislation (as intended to establish consistent advertising standards and target illegal operators masquerading as legal service providers).

¹⁵²² See sections 15-17, [Prostitution Act 1999](#).

organised crime, or involvement in child prostitution or illegal drugs;¹⁵²³ nor *'any evidence of human trafficking for the purpose of sexual servitude at any of the state's licensed brothels'*.¹⁵²⁴

Despite the clean bill of health for the legal sector, however, it has been estimated that up to 90% of prostitution ultimately remains beyond the scope of the regulatory regime.¹⁵²⁵ This includes both the State's unlicensed (but legal) private operators and *'a thriving illegal prostitution sector'*¹⁵²⁶ which, despite significant police activity, has persisted since the regime's introduction and operates *'largely with impunity'*.¹⁵²⁷ Estimates as to the precise size of the illegal sector vary widely, and have often been subject to exaggeration.¹⁵²⁸ However, it is generally accepted that the number of illegal brothels exceeds the number of legal brothels in the State.¹⁵²⁹

This has been attributed primarily to the 'overly restrictive' nature of the regulatory scheme and its heavy compliance cost burden, which pose significant barriers to entry and to the fiscal sustainability of legal operators.¹⁵³⁰ Prior to securing a licence, applicants are required to have obtained development approval from their relevant local government authority, which can itself present a significant hurdle; and media reports have identified that many banks are reluctant to lend money to fund the purchase or costly set-up of a brothel *'because they see it as too risky'*.¹⁵³¹ Further, fees for a single licence and accompanying managers' certificate for a five-room brothel – the maximum permitted size in Queensland – are close to \$35,000 annually; with penalties of up to \$6,831 (60 penalty units) or six months imprisonment for a range of administrative licensing offences including a failure to update details; and up to \$22,770 (200 penalty units) or five years imprisonment for a range of more serious *'offences relating to a licensed brothel'*.¹⁵³²

For an illegal operator, in contrast, maximum penalties for public soliciting either by oneself or on another's behalf range from up to \$1,708 (15 penalty units) for a first offence, to a maximum of \$3,415 (30 penalty units) or six months imprisonment for a third or subsequent offence; and operation of a brothel that has been previously detected and declared a 'prohibited brothel' incurs a maximum penalty of \$22,770 (200 penalty units) or three years imprisonment (compared to 200 penalty units or five years imprisonment for certain licensed brothel offences).¹⁵³³ As a result, illegal operators can potentially afford to be detected on multiple occasions – and possibly at lower rates of penalisation – before they incur financial liabilities approaching the annual licence and associated compliance costs faced by those operating under the regulatory regime.

¹⁵²³ PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, page 2; CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 33.

¹⁵²⁴ PLA, [Annual Report 2012-13](#), 2013, pages 4, 17.

¹⁵²⁵ A Schloenhardt and D Cameron, 'Happy Birthday Brothels! Ten Years of Prostitution Regulation in Queensland', *Queensland Lawyer*, Vol. 29, 2009, pages 205-206.

¹⁵²⁶ PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, page 3; CMC, [Regulating Prostitution: An Evaluation of the Prostitution Act 1999 \(Qld\)](#), 2004, page xvi.

¹⁵²⁷ PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, page 3; CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 3.

¹⁵²⁸ CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, pages 23-24.

¹⁵²⁹ A Schloenhardt and D Cameron, op cit, page 216.

¹⁵³⁰ PLA, [2012-13 Annual Report](#), 2013, page 32; M Solomons, [Slowing economy and competition from illegal outlets closing brothels in Queensland](#), *The Courier Mail*, 30 September 2012; PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, pages 2-3.

¹⁵³¹ M Eaton, [Call for changes to Queensland's prostitution laws as brothels fall on tough times](#), *ABC News - 7:30 Queensland*, 3 August 2013.

¹⁵³² Division 2, 'Offences relating to the operation of a licensed brothel', [Prostitution Act 1999](#).

¹⁵³³ See Part 5, 'Prohibited brothels', and Part 6, 'Offences', [Prostitution Act 1999](#).

Given this, and the potential to earn significantly higher profits in the illegal sector and perceived low risk of detection;¹⁵³⁴ there are evidently limited incentives for illegal operators to seek legal status.¹⁵³⁵ Notably, while it was originally projected that there would be up to 80 licensed brothels in the State, in 2012-13 there were just 24 licensed brothels operating in Queensland – the same number as in operation in 2006-07, despite a 12% increase in the State's population in the intervening period.¹⁵³⁶

Queensland's illegal sector is smaller than in other states,¹⁵³⁷ and is generally thought to have remained relatively static over time.¹⁵³⁸ However, the 2011 CMC review of the legislation acknowledged stakeholders *'agree that there is a pressing need to reduce the illegal prostitution sector'*, though there is *'no consensus among respondents'* as to how this might best be achieved.¹⁵³⁹ The review accordingly called for authorities to consider a range of approaches to further reduce illegal prostitution and its associated risks.¹⁵⁴⁰

Notably, as it has been estimated that approximately 75% of the prostitution market involves outcall services, there is a general consensus that attempts to address illegal operations are likely to have limited success as long as legal brothels are excluded from catering for this three quarters of all service demand.¹⁵⁴¹ A majority of industry stakeholders continue to push for licensed brothels and independent escort agencies to be allowed to legally provide outcall services, noting that prohibition has not acted to prevent the illegal provision of these services, but merely pushed them underground and put the legal sector at a competitive disadvantage.¹⁵⁴² This proposal was previously the subject of a specific-purpose CMC review which ultimately settled on a 'precautionary' approach of instead recommending a range of enhanced police enforcement measures and tightened advertising restrictions (including measures to prevent illegal brothels and agencies masquerading as legal private operators).¹⁵⁴³ However, outcall services are now fully legalised in a majority of Australian state and territory jurisdictions (subject to licensing and registration requirements), and the Committee acknowledges that the Queensland Government has recently undertaken to assess such proposals once again.¹⁵⁴⁴

Other suggested reforms to the existing regime have included calls for:

- an increase in the number of rooms permitted in brothels;
- a re-evaluation of the economic feasibility of legal brothels and concordant adjustment of licensing fees;

¹⁵³⁴ A Schloenhardt and D Cameron, op cit, page 219.

¹⁵³⁵ Media Release, [CMC report into the effectiveness of the Prostitution Act 1999](#), PLA, 29 June 2011.

¹⁵³⁶ PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, page 2.

¹⁵³⁷ CMC, [Regulating outcall prostitution: Should legal outcall prostitution services be extended to licensed brothels and independent escort agencies?](#), 2006, page ix.

¹⁵³⁸ CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 46.

¹⁵³⁹ [Ibid](#), page 30.

¹⁵⁴⁰ [Ibid](#), page 30.

¹⁵⁴¹ A Schloenhardt and D Cameron, op cit, page 219.

¹⁵⁴² [Ibid](#), page 219; PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, pages 1-2.

¹⁵⁴³ A Schloenhardt and D Cameron note that on 13 October 2008, the then Police Minister, Hon. Judy Spence MP, issued a media release confirming that the prohibition on outcalls from licensed brothels and independent escort agencies will remain. (A Schloenhardt and D Cameron, op cit, page 206)

¹⁵⁴⁴ M Eaton, [Call for changes to Queensland's prostitution laws as brothels fall on tough times](#), *ABC News - 7:30 Queensland*, 3 August 2013. The report notes that Police Minister, Hon. Jack Dempsey MP, provided a statement to the ABC in which he said the possibility of allowing the State's licensed brothels to conduct outcalls is currently being assessed.

- the provision of safe house facilities for Brisbane’s street-based prostitutes; and
- calls for two independent sex workers to be able to share premises or otherwise work together – addressing what constitutes a significant portion of the illegal sector, often neglected due to a focus on illegal brothels and escort agencies.¹⁵⁴⁵

In addition, the Committee notes reviews of legislation have also examined both the model of full decriminalisation implemented in New Zealand and New South Wales; and the model of targeted criminalisation embodied in the Swedish approach. In its most recent 2011 review of Queensland’s legislation, the CMC reconfirmed its commitment to the position adopted in its 2004 review, that *‘there is little evidence to date that any of these models provide a better approach to prostitution than the one currently taken by Queensland’*.¹⁵⁴⁶

The Committee notes the Swedish approach highlighted has also been considered in a number of subsequent reviews in other jurisdictions around Australia and across the Commonwealth. Despite its promoted benefits, the approach has also been identified as having further marginalised and stigmatised sex workers and driven a return to underground prostitution, thereby jeopardising health and safety and providing more opportunities for organised crime.¹⁵⁴⁷ Swedish sex workers have reported:

- *experiencing difficulties with evictions and finding accommodation and having to resort to working in more isolated environments;*
- *increased difficulty assessing clients, as buyers are more stressed and negotiations tend to be done more rapidly;*
- *challenges in relation to their cohabiting with a partner or family (since it is illegal to receive any of a sex worker’s income);*
- *problems with immigration and tax authorities; and the threat of losing custody of their children if it emerges they are engaging in sex work ; and*
- *increased competition for fewer customers has apparently lowered prices, such that industry workers – and particularly those street workers who are often the most vulnerable – are more likely to take risks or perform acts they would previously have refused.*¹⁵⁴⁸

Proving attempted crimes has also reportedly proved difficult, with police resorting to intrusive filming practices and waiting until the sexual act has begun before intervening, all of which requires a significant investment of policing resources.¹⁵⁴⁹

Sex worker groups have also criticised the model as 'simplistic' and 'infantilising' the dominant discourse's positioning of them as involuntary participants and victims, arguing it fails to recognise their autonomy and individual agency and reinforces many commonly held, morally-infused stereotypes about the background and characteristics of industry participants. That is, while

¹⁵⁴⁵ CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 46.

¹⁵⁴⁶ [Ibid](#), page xvi.

¹⁵⁴⁷ [Ibid](#), page xvi.

¹⁵⁴⁸ J Levy and P Jakobsson, ‘Sweden’s abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden’s sex workers’, *Criminology & Criminal Justice*, March 31 2014, pages 7-11; Hon. B Wightman MP, [Regulation of the Sex Industry in Tasmania](#), Discussion Paper, 2012, Department of Justice, State of Tasmania, page 18; Scarlet Alliance Australian Sex Workers Association and Rose Alliance (Sweden), [The Swedish Model of criminalising sex work since 1999 – Briefing Paper](#), 2011, page 2.

¹⁵⁴⁹ Hon. B Wightman MP, [Regulation of the Sex Industry in Tasmania](#), Discussion Paper, 2012, Department of Justice, State of Tasmania, page 18; Regeringskansliet, Government Offices of Sweden, [Evaluation of the prohibition of the purchase of sexual services - Summary](#), SOU 2010: 49, 2010, page 40.

disadvantage and disempowerment may undoubtedly shape the participation of some sex workers¹⁵⁵⁰ – and this is particularly more likely to be the case for street workers; others have stressed that theirs was a conscious decision to work in the industry, made after deliberate consideration of a range of options.¹⁵⁵¹ Similar conclusions have been reached regarding the diversity of industry workers in Queensland. A local study of Queensland sex workers completed in 2003, for example, found that about one in four sex worker respondents had completed a university degree; and that factors such as a good income, flexible hours and autonomy had ultimately marked the profession out as more attractive than other work, particularly for single parents and students who could more easily accommodate their parenting responsibilities or study commitments.¹⁵⁵² Notably, a 2003 study of 216 sex workers in Queensland aged 18 years or older showed an average weekly income of \$1,500 a week when the average weekly earnings in Queensland was approximately \$900, which may help account for why two-thirds of brothel and sole workers said at the time that they would choose sex work again and felt the future held good prospects for them (compared to a third of street workers).¹⁵⁵³

At the same time, it should be noted that while most sex workers see their participation in the industry as a short term scenario; leaving the profession can be difficult and often requires multiple attempts. Many of the factors that draw sex workers into the industry persist as primary factors for their remaining in it, with the 'rewards' in particular singled out as the main impediment to exit, followed closely by reluctance to lose the flexibility of hours that the industry can offer, and the camaraderie and sense of belonging that some sex workers describe.¹⁵⁵⁴ However, barriers to exit can also include a range of adverse influences and disincentives, and scenarios of compulsion or duress.¹⁵⁵⁵ Government support for vocational training programs and other various support services is recognised as an important step in ensuring that those workers who do wish to leave the industry – and especially those operating illegally and particularly on the street, who are most at risk of harm and being 'trapped' in exploitative and coercive criminal work arrangements (including trafficked servitude)¹⁵⁵⁶ – have the necessary support to find alternative employment.

¹⁵⁵⁰ In 2014 an Ipswich prostitute was sentenced for procuring five teenage girls to engage in sex work. The woman had a low IQ, a learning disability and a troubled background and mild brain impairment. Queensland Court of Appeal president Margaret McMurdo said a psychologist found the women had befriended young women with similar psychological issues and recruited them into prostitution 'as she knew no better'. The victims were given alcohol and drugs, and while not coerced into sexual activity, 'it was usually made clear there would be no money for rent and food if they did not earn money'. See: R Wilson, 'Ipswich sex worker's jail term cut by two years', *Central Queensland News*, 17 September 2014.

¹⁵⁵¹ CMC, *Regulating Prostitution: An Evaluation of the Prostitution Act 1999 (Qld)*, 2004, pages 52-53. PLA, *Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999*, 2011, pages 6, 8-9.

¹⁵⁵² A Quadara, 'Sex workers and sexual assault in Australia', Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies, *Issues*, No. 8, 2008, pages 3-4; New Zealand Government, *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*, Ministry of Justice, May 2008, pages 61-62; S Pickering, J Maher and A Gerard, *Working in Victorian Brothels: An independent report commissioned by Consumer Affairs Victoria into the Victorian brothel sector*, 2009, page v.

¹⁵⁵³ New Zealand Government, *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*, Ministry of Justice, May 2008, page 67.

¹⁵⁵⁴ *Ibid.*, page 77.

¹⁵⁵⁵ In the New Zealand survey of 780 sex workers regarding their reasons for entering the sex industry, 92.8% sought money, 73.3% cited paying household expenses, 61.5% cited paying for a social lifestyle and luxuries and 58.8% cited saving up. Approximately 49.7% cited curiosity, 38.1% identified supporting children and family as a reason and 24.1% referred to paying for education. Conversely, 30.6% cited 'no other income', 5.3% cited supporting gambling use, 21.4% identified support for alcohol or other drug use, and 3.9% felt they were made to work by someone. (See: New Zealand Government, *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*, Ministry of Justice, May 2008, page 63).

¹⁵⁵⁶ In its 2011 review of the legislation, the CMC noted that 'it is agreed among the QPS, the AFP and the PLA that any risk of sex trafficking in Queensland is much greater in the illegal sector'. See: CMC, *Regulating Prostitution: A follow-up review of the Prostitution Act 1999*, 2011, page 20.

The CMC noted 'the framework under the Act was originally designed to balance the strict regulation of the licensed brothel industry with addressing the social factors which contribute to involvement in the industry'.¹⁵⁵⁷ Accordingly, the State has, and continues to provide, a range of support and exit services to help address various adverse risk factors for entry (including homelessness and drug use) and disincentives or barriers to exit.¹⁵⁵⁸ However, the 2011 CMC review noted that responsibility for these 'diversionary efforts', which was transferred to the PLA from the former Prostitution Advisory Council and a subsequent inter-agency committee, 'continues to sit uncomfortably with the PLA's role as the industry regulator'.¹⁵⁵⁹ The review thus proposed that responsibility for coordinating strategies to address the social factors surrounding prostitution be vested in a new Ministerial Advisory Committee.

Importantly, some sex workers have indicated they '*find it offensive that they should be offered assistance to leave a job where they are quite happy*'.¹⁵⁶⁰ Accordingly, they have emphasised that exit programs should not position sex work as an unacceptable occupation but rather should '*be framed in a more sex positive way... as a program that can help sex workers to broaden their qualifications and opportunities, not just get them out of sex work*'.¹⁵⁶¹ In line with this, various regulatory inquiries have highlighted the importance of ensuring service providers have the flexibility to offer tailored interventions that reflect the diversity and complexity of the *experiences, needs and constraints that different sex workers may face*.¹⁵⁶²

New Zealand's 2008 *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003* offers an instructive overview of research into models of best practice for leaving the industry, outlining key best practice principles of delivery (such as accepting that there will be stops and starts, and that outreach should be adopted); and of the nature and content of what is delivered (eg. holistic, integrated service interventions).¹⁵⁶³

Sex Trafficking

In addition to monitoring and evaluating the outcomes of these social service interventions, the CMC review envisaged that the proposed Ministerial Advisory Committee would also take charge of the monitoring of a wide range of issues extending beyond the regulated licensed sector. Among other key trends to be considered, the CMC highlighted the influx of migrant sex workers – mainly from Asia – in the legal and illegal sectors of the prostitution industry in Queensland, '*raising the question of whether any of these workers are the victims of sex trafficking or debt bondage*'.¹⁵⁶⁴

¹⁵⁵⁷ CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 46.

¹⁵⁵⁸ [Ibid](#), pages 36-37.

¹⁵⁵⁹ [Ibid](#), page xiii.

¹⁵⁶⁰ New Zealand Government, [Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003](#), Ministry of Justice, Wellington, 2008, page 15.

¹⁵⁶¹ Respect Inc., cited in the CMC [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, pages 37-38.

¹⁵⁶² CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 36; New Zealand Government, [Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003](#), Ministry of Justice, May 2008, pages 77-80.

¹⁵⁶³ New Zealand Government, [Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003](#), Ministry of Justice, May 2008, page 77.

¹⁵⁶⁴ CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 20.

Due to the clandestine nature of people trafficking, its extent in Queensland is difficult to establish.¹⁵⁶⁵ There have been some alarming instances of trafficking and/or sexual servitude in Queensland, including:

- a Gold Coast man who brought sex workers from Thailand to work under conditions and employment that were far inferior to those that had been promised (sentenced in October 2008);¹⁵⁶⁶
- a woman who trafficked her nine-year-old daughter from Thailand to work in her Brisbane massage parlour offering sexual services (sentenced in April 2013);¹⁵⁶⁷ and
- a Jamaican man who forced a number of women to work as prostitutes from an apartment on the Gold Coast (sentenced in the United States in September 2014).

Some reports have also raised questions about the circumstances of employment of young migrant women being transported to Queensland's mining towns to operate as sex workers.¹⁵⁶⁸

However, there is little evidence such practices are widespread,¹⁵⁶⁹ and it is also generally recognised that relative to other countries, *'opportunities to traffic people into Australia are low because of our strong migration controls and geographic isolation'*.¹⁵⁷⁰ AFP investigators have noted detected trafficking cases do not match stereotypes about 'high-end' organised crime, but have rather tended to involve more isolated small-scale operations characterised by small business owners who have used family or business contacts to facilitate recruitment, movement and document fraud.¹⁵⁷¹ The CMC also noted that there has been a trend internationally to conflate prostitution with trafficking so that every migrant sex worker is immediately regarded as trafficked and exploited;¹⁵⁷² however, *'despite the growing number of Asians involved in the sex industry – in both the legal and illegal sectors – the QPS reports there is little evidence that these workers are victims of sex trafficking'*.¹⁵⁷³

In this regard, it is important to draw distinctions between:

- migrant sex workers working by choice for legal brothels and working in accordance with the terms and conditions of their visas;
- migrant sex workers working for legal brothels who may be breaching the terms and conditions of their visas;
- migrant sex workers working for illegal prostitution operators – either knowingly or unknowingly; and
- migrant sex workers who are victims of sex trafficking or debt bondage.¹⁵⁷⁴

¹⁵⁶⁵ PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, page 20.

¹⁵⁶⁶ Commonwealth Department of Public Prosecutions, ['Keith Dobie', Case Reports – Human Trafficking and Slavery](#), 2014.

¹⁵⁶⁷ S Elks, [Brisbane mother jailed for child trafficking of daughter, nine](#), *The Australian*, 16 April 2013.

¹⁵⁶⁸ [Sex workers trafficked through Queensland mining towns](#), *Brisbanetimes.com.au*, 10 July 2012.

¹⁵⁶⁹ K Stephens, [Gold Coast pimp's crimes uncommon in Australia](#), *Brisbanetimes.com.au*, 2 July 2014; A Schloenhardt, G Beirne and T Corsbie, [Human Trafficking and Sexual Servitude in Australia](#), *UNSW Lay Journal*, Vol. 32, No. 1, 2009, pages 30-31.

¹⁵⁷⁰ Australian Government, Attorney-General's Department, [Human trafficking](#), website, accessed 10 September 2014.

¹⁵⁷¹ F David, [Trafficking of women for sexual services](#), AIC, Research and Public Police Series, No. 95, page 34; JJ Larsen and L Renshaw, [People trafficking in Australia](#), *Trends & issues in crime and criminal justice*, No. 441, June 2012, AIC, Australian Government, page 4.

¹⁵⁷² PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, page 22.

¹⁵⁷³ CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 20.

¹⁵⁷⁴ [Ibid](#), page 21.

While some workers have suffered various restrictions on their freedom, including being escorted when leaving the work premises and having their passports taken away until their debt is repaid; many victims have had access to mobile phones and other facilities, and have not been subject to the type of physical restraints or confinements associated with stereotypical connotations of servitude and trafficking. Rather, as David notes, *'coercion and control has involved a range of subtle methods such as threats of violence, obligations to repay debt, isolation, manipulation of tenuous or illegal migration situations and a general sense of obligation'*.¹⁵⁷⁵

Given the international context of the human trafficking issue and constitutional limitations, most legislative measures, policies and other anti-trafficking responses have been coordinated at the Commonwealth Government level.¹⁵⁷⁶ However, the QPS, PLA and other relevant authorities do play an important role in *'supporting multi-jurisdictional investigations and investigating conduct resulting in sexual servitude'*, including often providing the first response to trafficking situations, before referring incidents to the AFP.^{1577 1578} All Australian police services are signatories to the Australian Policing Strategy to Combat Trafficking in Women for Sexual Servitude, which sets out the roles and responsibilities of state and territory police.

The Queensland Government also has a responsibility to ensure that health and support services are adequately tailored to support migrant workers who may be at risk of, or subject to, exploitative practices and other safety risks. The Committee notes the particular concerns raised in the 2011 CMC review report that limitations such as *'language barriers, migrant workers' relationship with the authorities... and a lack of support services make this group one of the most vulnerable to exploitation'*:

*Unscrupulous operators are at liberty to advise uneducated workers and particularly those from culturally and linguistically diverse (CALD) backgrounds who have little or no English language skills whatever they want in relation to the law, support services, legal protections available to them etc. with little opportunity for service providers to counter such information...*¹⁵⁷⁹

Since the review, the PLA has produced a comprehensive resource for CALD sex workers together with a multilingual fact sheet about working in the industry.¹⁵⁸⁰ However, the Committee acknowledges the CMC review recommendation that the proposed Ministerial Advisory Committee monitor the provision of services to migrant sex workers *'in both the legal and illegal sectors and assist in developing strategies to enhance their access to these services'*.¹⁵⁸¹

CLEAR International Australia submitted that Queensland should follow other states in enacting *'complementary offences in the Queensland Criminal Code to cover any deficiencies in the law and protect those that are affected by this insidious crime, and in so doing reduce criminal activity in Queensland'*.¹⁵⁸² More specifically, the submission called for amendments to *'contain a definition of slavery and servitude that not only includes sexual acts, but also extends to forced labour, trafficking in persons and debt bondage to cover any form or shape that the offence may take'*.¹⁵⁸³

¹⁵⁷⁵ F David, *Trafficking of women for sexual services*, AIC, Research and Public Police Series, No. 95, page 39.

¹⁵⁷⁶ N Dixon, *Human Trafficking: Australia's Response*, Research Brief No. 2011/08, 2011, page 62.

¹⁵⁷⁷ F David, *Trafficking of women for sexual services*, AIC, Research and Public Police Series, No. 95, pages 12-13.

¹⁵⁷⁸ In Queensland, detecting and responding to this crime type is part of the remit of the Prostitution Enforcement Taskforce.

¹⁵⁷⁹ CMC, *Regulating Prostitution: A follow-up review of the Prostitution Act 1999*, 2011, page 40.

¹⁵⁸⁰ PLA, *2011-12 Annual Report*, 2013, pages 31-32.

¹⁵⁸¹ CMC, *Regulating Prostitution: A follow-up review of the Prostitution Act 1999*, 2011, page 41.

¹⁵⁸² CLEAR International Australia Ltd, Submission No. 16, page 3.

¹⁵⁸³ CLEAR International Australia Ltd, Submission No. 16, page 1.

Commonwealth trafficking and slavery offences are established under Division 270-271 of the Commonwealth Criminal Code, including section 270 offences for sexual servitude, deceptive recruitment, and forced labour and forced marriage; and section 271 offences dealing with trafficking in persons, debt bondage, and other related offences.¹⁵⁸⁴ The initial enactment of these offences stemmed from a 1998 report of the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General (MCCOC) which recommended all jurisdictions enact legislation to create a 'national scheme' of laws prohibiting slavery, sexual servitude and deceptive recruiting, and proposed a number of model offences. The MCCOC noted that there were practices amounting to servitude or slave-like treatment existing within states and territories that could be criminalised at this level.

Apart from Tasmania and Queensland, all states and territories have enacted sexual servitude and deceptive recruiting offence provisions mirroring Commonwealth provisions (apart from slavery offences, which were seen as Commonwealth legislative purview), making one or both types of conduct an offence. Despite Queensland not having specific sexual servitude or deceptive recruitment offences, the Committee notes the Queensland *Criminal Code* has a range of ordinary criminal offences which potentially cover domestic trafficking related activity (eg. rape, assault, sexual assault, kidnapping and deprivation of liberty);¹⁵⁸⁵ as well as offences for:

- knowingly enticing or recruiting a person under 18 or an intellectually impaired person in order to engage in carnal knowledge (s 217); and
- knowingly enticing or recruiting a person to engage in a sexual act by use of threats or intimidation, false pretence, or administering a substance with intent to stupefy or overpower a person to enable a sexual act to be engaged in with the person (s 218).

Both the above offences attract a maximum penalty of 14 years imprisonment, which is higher than the maximum penalties applicable for trafficking in persons and deceptive recruiting for sexual services under the Commonwealth Criminal Code.¹⁵⁸⁶

CLEAR International Australia also highlighted the potential for the Queensland Government to implement measures enabling businesses to take a more active role in preventing and deterring slavery through improved monitoring and verification of labour standards and supply chains. CLEAR suggested that such measures might entail supply chain verification and disclosure requirements for companies with gross receipts in excess of identified threshold levels; or accreditation models enabling organisations to be certified and identify as 'slavery free' on their products, or other accountability mechanisms and incentives.¹⁵⁸⁷

The ACL, Ms Andrea Tokaji (Fighting for Justice Foundation) and FamilyVoice Australia also presented a view that Queensland's limited legalisation of prostitution may be supportive of an increased incidence of trafficking for sexual servitude. The regulated legal supply of prostitution, they argue, sends permissive normative messages about the exploitation of women which are ultimately counterproductive to attempts to curb demand for, and the incidence of, sex trafficking.¹⁵⁸⁸

Sex worker organisations have conversely pointed out that demand for sexual services has remained relatively steady in Queensland, and that there is no reason why a supportive regulatory regime and migration framework need in any way increase vulnerability to, or incidence of, exploitation. Such

¹⁵⁸⁴ [Australia's offences relating to trafficking in persons](#), Human Trafficking Working Group, T.C. Beirne School of Law, University of Queensland, accessed 15 September 2014.

¹⁵⁸⁵ Interdepartmental Committee on Human Trafficking and Slavery, [Trafficking in Persons: The Australian Government Response, 1 July 2012 - 30 June 2013](#), Fifth Report, 2014, page 26.

¹⁵⁸⁶ Criminal Code Act 1989 (Qld); sections 270-217, Criminal Code Act 1995 (Cwth).

¹⁵⁸⁷ CLEAR Australia International Ltd, Submission No. 16, pages 4-5.

¹⁵⁸⁸ Ms Andrea Tokaji, Fighting for Justice Foundation, Submission No. 44, pages 17, 21.

perspectives, they argue, are infused with an unhelpful *'anti-sex work moralism'*,¹⁵⁸⁹ when the criminal activity being perpetrated is a serious and concerning issue of labour exploitation, as distinguished from the conditionally legalised activity of prostitution.¹⁵⁹⁰ Accordingly, these groups and others have argued that moves to address trafficking by criminalising prostitution are unhelpful in practice as they may serve only to drive industry further underground, making migrant workers more reliant on broker agents and thereby, further vulnerable to exploitation.¹⁵⁹¹

Some scholars have also suggested that the 'blunt instrument' of a blanket ban on the purchase of sexual services may also undermine efforts to prevent trafficking within a broader, more comprehensive labour migration framework that recognises diversity of trafficking experiences. In its 2012-13 *Trafficking in Persons* report, Australia's Interdepartmental Committee on Human Trafficking and Slavery (the IDC) noted that *'while the most visible form of these crimes involves the transnational movement of women for sexual exploitation'*, men, women and children can be *'exploited for a wide range of other purposes, including forced labour in industries such as hospitality, construction, forestry, mining and agriculture; domestic and sweatshop labour; street begging; forced recruitment into militias and armed forces; and the harvesting of body organs'*.¹⁵⁹² In 2012-13, the IDC noted that approximately 43% of the new AFP investigations related to sexual exploitation, and 45% related to other forms of labour exploitation, with the remainder of new matters relating to other forms of trafficking and slavery.¹⁵⁹³ In recognition of this complexity, there has recently been an increasing shift in focus *'from combating sexual exploitation to addressing all forms of exploitation, regardless of industry'*.¹⁵⁹⁴

The Committee notes the common conclusions of a wide range of reviews and inquiries that views regarding sex work, trafficking and the relationship between the two have been highly polarised, and have significantly shaped alternative views as to both the nature and extent of the practices and the most appropriate policy responses.¹⁵⁹⁵

While reports generally confirm that most human trafficking activities in Australia are concentrated in New South Wales and Victoria,¹⁵⁹⁶ Queensland will continue to have an important role to play in contributing to the Commonwealth Government's inter-jurisdictional response to these crimes, including through collaborative police training, education and investigatory efforts; an ongoing commitment to social awareness and education; and through the provision of early intervention and post incident support services.

Committee Comment

Prostitution regulation is a fraught issue. It is charged with belief and ideology and there remains a dearth of evidence about the efficacy of various approaches. It has become apparent to the Committee there is little systematic review and a wide disparity in results from the evaluations that

¹⁵⁸⁹ Saunders and Scarlett Alliance, cited in E Jeffreys, [Anti-trafficking Measures and Migrant Sex Workers in Australia](#), *Intersections: Gender and Sexuality in Asia and the Pacific*, issue 19, February 2009.

¹⁵⁹⁰ Drugs and Crime Prevention Committee, [Inquiry into people trafficking for sex work: Final Report](#), Parliament of Victoria, June 2010, pages 31, 124-125.

¹⁵⁹¹ E Jeffreys, [Anti-trafficking Measures and Migrant Sex Workers in Australia](#), *Intersections: Gender and Sexuality in Asia and the Pacific*, Issue 19, February 2009.

¹⁵⁹² Interdepartmental Committee on Human Trafficking and Slavery, [Trafficking in Persons: The Australian Government Response, 1 July 2012 - 30 June 2013](#), Fifth Report, 2014, page 11.

¹⁵⁹³ Ibid.

¹⁵⁹⁴ Statement by the Australian Attorney-General the Honourable Nicola Roxon MP, [The Government's Response to People Trafficking](#), Australian Government, 26 November 2012, page 4; Larsen and Renshaw, [People trafficking in Australia](#), 2012, page 4.

¹⁵⁹⁵ Drugs and Crime Prevention Committee, [Inquiry into people trafficking for sex work: Final Report](#), 2010, page 121.

¹⁵⁹⁶ CMC, [Regulating Prostitution: A follow-up review of the Prostitution Act 1999](#), 2011, page 20; PLA, [Submission to the Crime and Misconduct Commission Review of the Prostitution Act 1999](#), 2011, page 21.

have been conducted, with results often found to support differences in ideology rather than differences in research findings.¹⁵⁹⁷

Prostitution is an area with high consequences and deeply charged debate which has attracted ongoing concern and attention; yet no one model has been identified to date that can solve the multitude of problems and service complexities it entails:

*...none of these approaches adequately addresses the full range of reasons for seeking or providing prostitution services, or eliminates all the conditions that lead vulnerable people to become involved in the industry.*¹⁵⁹⁸

*...there can be no going back from a regulated model in Queensland – we have 23 licensed brothels operating... some comfortably, others not so comfortably, still others struggling to stay afloat. There are a number of possible ways forward, including expanding the legal sector to include outcalls, sex worker collectives and effective programs to help workers leave the industry...*¹⁵⁹⁹

Accordingly, the Committee considers that ultimately, this is an area which should be subject to further and evolving review and policy development.

The Committee notes in 2011, the CMC called on the Government to action two previous recommendations (outstanding from the 2006 review), which although supported, were yet to be fully implemented. These recommendations related to the establishment of an inter-agency Ministerial Advisory Committee to address issues facing Queensland's sex industry, and a tightening of the legislation linked to advertising to prevent illegal operators masquerading as legal enterprises.¹⁶⁰⁰ The Committee considers it would be appropriate to action these recommendations.

Recommendation 72

The Committee recommends the Government take steps to action the outstanding recommendations from the Crime and Misconduct Commission's 2011 review of the *Prostitution Act 2009*.

Recommendation 73

The Committee recommends the Government consider reviewing in further detail the incidence of trafficking, current support service levels in the prostitution industry, and the need for further policy development and response to ensure Queensland policies remain consistent with inter-jurisdictional partnerships and efforts.

¹⁵⁹⁷ A Edwards, *Selling Sex: Regulating Prostitution in Queensland: A report to the Prostitution Licensing Authority*, PLA, Queensland, 2009, page 6.

¹⁵⁹⁸ CMC, *Regulating Prostitution: An Evaluation of the Prostitution Act 1999 (Qld)*, 2004, page 28.

¹⁵⁹⁹ Edwards, *Selling Sex: Regulating Prostitution in Queensland*, 2009, page 19.

¹⁶⁰⁰ CMC, *Regulating Prostitution: A follow-up review of the Prostitution Act 1999*, 2011.

13. Indigenous Issues

A number of Indigenous issues have already been addressed in this report, in examining justice reinvestment, early intervention initiatives and other alternative dispute mechanisms. Similarly, Indigenous issues have been discussed in the consideration of domestic and family violence. This Chapter examines additional issues relating to Indigenous communities, particularly in relation to the over-representation of Indigenous people in the criminal justice system.

13.1 Indigenous over-representation

Indigenous overrepresentation in the criminal justice system is a complex issue and involves a range of factors including but not limited to economic, social and cultural factors. Between 2001 and 2011, Indigenous imprisonment rates increased by 51 percent, while non-Indigenous imprisonment rates increased by less than four percent. The ratio of Indigenous to non-Indigenous imprisonment rates rose from 10.2 percent in 2001 to 14.8 in 2012, an increase of more than 40 percent.

The over-representation of Indigenous Australians in the criminal justice system was a common theme in submissions with a number of submissions highlighting the imbalance that exists between Indigenous and non-Indigenous people as follows:

- In 2013, ATSI people in custody were 12.2 times more likely than non-ATSI persons to be in prison in Queensland;
- In 2013, ATSI prisoners made up 31 percent of the prison population;
- Specifically for young people in Queensland, the Commission for Children and Young People and Child Guardian report 2011/12 states:
 - o ATSI children represent 6.4 percent of the total population of young people aged 10-17 in Queensland, yet offences by ATSI young people were:
 - 17 times more likely to result in an arrest by police;
 - 12 times more likely to result in Childrens Court proceedings;
 - 19 times more likely to result in a youth justice supervision order to be given by courts;
 - 33 times more likely to result in a sentenced detention order.
 - o ATSI young people aged 10 to 13 years were detained in un-sentenced detention (including remand) at a rate 29 times that of non-Indigenous young people the same age.¹⁶⁰¹

It is not surprising submissions considered these issues to be urgent and in need of reform to ensure rates of remand and imprisonment are reduced.¹⁶⁰²

The BAQ raised similar concerns primarily citing Weatherburn (2014), where it was considered social and political restraints require that reductions in imprisonment cannot be achieved without addressing the level of Indigenous commission of serious offences. The BAQ focused its submission firstly on changes that are needed to reduce the rate in imprisonment among Indigenous Australians, and secondly, on the need for social investment in health, education, housing and employment to address causative factors that lead to Indigenous overrepresentation in the criminal justice system; stating:

¹⁶⁰¹ Queensland Law Society, Submission No. 51, pages 11-12.

¹⁶⁰² Ibid.

The issue of Indigenous over representation is complex and involves the interlinking of a wide variety of economic and social factors, policing and legislation. It is important that all of these factors are considered when addressing the issue of Indigenous over representation in the prison population. However, for present purposes, the submission concentrates on three aspects that may be addressed in the criminal justice system to reduce the rates of imprisonment among Indigenous Australians. They are:

1. *Changes to the Bail Act;*
2. *Alternatives to custody; and*
3. *Programs to reduce the rate of recidivism.*¹⁶⁰³

The BAQ also submitted a high proportion of Indigenous persons in prison are being held on remand, and these rates may be reduced through the introduction of bail hostels, or by dispensing with the need for bail in certain circumstances, or through the implementation of better risk assessment tools.¹⁶⁰⁴ On average, remand stays in Queensland are 5.1 months.¹⁶⁰⁵

Again, citing Weatherburn, the BAQ considered, 'In Queensland, relevant considerations in deciding whether or not to grant bail include the nature and seriousness of the offence; tend to reduce the likelihood of an Indigenous defendant gaining bail. The presumption against bail can work to the detriment of Indigenous defendants in other ways as well'.¹⁶⁰⁶

Weatherburn concluded, and the BAQ agree the best solution may be to establish a general presumption in favour of bail and leave it to the Courts to decide (on a basis of specified criteria) when the risk of offending, absconding or interference with witnesses is sufficient to overcome this presumption.¹⁶⁰⁷

A number of distinct proposals were put forward by the BAQ to address the over-representation of Indigenous people which are considered below with other initiatives put forward in submissions.

13.2 Changes to the Bail Act

The first proposal for consideration was a greater use of bail hostels. Bail hostels are residential premises used to accommodate defendants as a condition of their bail. For an Indigenous defendant who is at risk of not receiving bail due to a lack of suitable accommodation, bail hostels provide the Courts with an alternative to remand:

The further benefit of a bail hostel is that it may also be used as a basis for providing supervision, treatment and assessment, potentially increasing likelihood of compliance with bail conditions and reducing the likelihood of absconding.

*Bail hostels should only be utilised in instances where that person would have had their bail denied or revoked. It should not be used in circumstances where a person would have received bail but for the availability of a hostel.*¹⁶⁰⁸

Given the high average stay of Indigenous defendants on remand, the use of bail hostels could have an immediate impact in reducing the number of people on remand.

¹⁶⁰³ BAQ, Submission No. 70, pages 26-27.

¹⁶⁰⁴ Ibid, page 27.

¹⁶⁰⁵ D. Weatherburn, *Arresting incarceration: Pathways out of Indigenous imprisonment*, Aboriginal Studies Press, 2014.

¹⁶⁰⁶ BAQ, Submission No. 70, page 28.

¹⁶⁰⁷ Ibid, page 28.

¹⁶⁰⁸ Ibid, page 29.

Dispensing with bail

Dispensing with bail was another law reform strategy identified that has the potential to reduce Indigenous imprisonment. Bail is normally only dispensed with where an accused has committed a minor offence however the BAQ suggested many defendants are now being released on bail, whereas previously, this requirement would have been dispensed with. The BAQ contend there is no evidence to suggest there is any benefit flowing from this change but it comes at a significant cost:

*No matter how minor the original offence, failure to comply with the technical conditions of bail can lead to bail being revoked and the defendant placed on remand. This presents a problem where the original offence is minor and the breach is purely of a technical nature, for example, being in a prohibited location, failing to report to police, consuming alcohol, etc. If original conditions of bail serve no meaningful purpose (i.e. bail could have safely been dispensed with), the bail revocation that flows from breach of those conditions serves no meaningful purpose either.*¹⁶⁰⁹

Risk Assessment

Courts in Australia must make decisions about the risk of absconding or offending on bail based on nothing more reliable than past experience. Prediction based on professional knowledge and experience is significantly less accurate than prediction based on actuarial risk assessment. The BAQ considered a more structured and better informed bail risk assessment process has the potential to reduce the size of the remand population without increasing the risk to the general community.¹⁶¹⁰

13.3 Alternatives to custody, justice reinvestment and early intervention

The Committee considered the benefits of a justice reinvestment approach earlier in this report and identified significant results could be achieved in addressing the over-representation of Indigenous Australians in the criminal justice system. Programs developed at addressing the underlying causes of crime, early intervention programs, and programs offering greater community support post-release have all shown positive signs of preventing or reducing crime.

The BAQ, as strong supporters of a justice reinvestment approach, submitted consideration should be given to a number of alternatives to custody such as: vocational education, remedial education, intensive supervision combined treatment, drug courts and various forms of cognitive behavioural therapy (CBT). They argued programs such as these have been proven to be effective in reducing the risk of reoffending (citing a 25 percent reduction in reoffending), and added these types of programs would cost far less than imprisonment and some reduced risk of reoffending by up to 17 percent.¹⁶¹¹

Weatherburn states the defining characteristic of an effective rehabilitation program is one that reduces the influence of factors likely to increase the risk of reoffending (eg. Drug and alcohol abuse, poor social skills), whilst strengthening the influence of protective factors (eg. family relationships, labour market skills, supervision). In the case of Indigenous offenders, the evidence suggests rehabilitation programs are likely to be more effective if they incorporate Indigenous knowledge and personnel, are sustained (eg. Over at least a year), begin prior to release and incorporate on the job experience with other forms of support, such as mentoring.

¹⁶⁰⁹ Ibid, page 29.

¹⁶¹⁰ Ibid, page 29.

¹⁶¹¹ Ibid, pages 29-30.

Social investment and education, employment and accommodation

While the Committee held public hearings in a number of locations across the State, one thing that became apparent was regardless of the location, similar issues were being raised. Each location had individual considerations that were peculiar to that area, however the key social and economic contributors to crime that were discussed, did not vary significantly from the Sunshine Coast to Mt Isa, or from Cherbourg to Rockhampton. For example, witnesses at the Cherbourg hearing raised a variety of issues with the Committee, including: education, employment, health care, access to services, funding arrangements, agency service provision inconsistencies and problems stemming from economic, social and geographic disadvantage.¹⁶¹²

Although there were similarities, it was clear these factors became more acute in Indigenous communities. Greater social investment and focus on matters such as education, employment and accommodation was needed to address the underlying issues to crime.

The Australian Productivity Commission's *Overcoming Indigenous Disadvantage Key Indicators 2011* report found alcohol was regarded as the primary risk factor for violence and offending in Indigenous communities, and dependence on illicit drugs also increased involvement in crime, due in part to the costs of funding a drug habit, and that poverty, unemployment, low levels of education and poor parenting are also risk factors for offending.¹⁶¹³

Further, *The Doing Time – Time for Doing, Indigenous Youth and their Criminal Justice System*, House of Representatives, Standing Committee on Aboriginal and Torres Strait Islander Affairs report (Doing Time Report), found a range of physical and mental health issues directly relate and contribute to the over-representation of Indigenous youth in the criminal justice system. These issues include: mental health issues; alcohol, drug and substance misuse; foetal alcohol spectrum disorder; and hearing loss:

*Alcohol, drug and substance abuse contributes to young people coming into contact with the criminal justice system. In New South Wales, a study reported that, on average, detained youth began to use substances for non-medical purposes at 11 years of age and commenced using illicit drugs about two years later. Later research found that 63 percent of detained youth had engaged in binge drinking in the two weeks prior to being detained, while 56 percent had used amphetamines, 50 percent had used opioids, and 25 percent had injected an illicit drug.*¹⁶¹⁴

The BAQ cited further analysis from the Doing Time Report, submitting the arrest of Indigenous youths is strongly associated with low school attendance rates for 15 to 17 year olds. Weatherburn noted a range of social factors in a recent survey of the population in New South Wales prisons:

Indigenous prisoners are less likely than non-Indigenous prisoners to have completed year 10 (27 percent versus 57 percent); more likely to have been sentenced to detention as a juvenile (61 percent versus 33 percent for men, 34 percent versus 17 percent for women); more likely to have been unemployed in the six months prior to being imprisoned (64 percent versus 43 percent for men, 87 percent versus 60 percent for women); more likely to have been placed in care as a child (46 percent versus 27 percent); more likely to have had a parent in prison during their childhood (31 percent versus 12 percent for men, 36 percent versus 10 percent for women); and more likely to have been previously imprisoned (81 percent versus 56 percent for men, 59 versus 49

¹⁶¹² Transcript of Proceedings (Hansard), Public Hearing, LACSC, Cherbourg, 24 September 2014.

¹⁶¹³ B BAQ, Submission No. 70, page 30.

¹⁶¹⁴ *Doing Time - Time For Doing*, House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, June 2011, page 16.

*percent for women). Three quarters of Indigenous male inmates drink alcohol. 51 percent of Indigenous male inmates and 62 percent of Indigenous female inmates used illicit drugs daily or almost daily in the year before entering prison.*¹⁶¹⁵

At the Committee hearing in Cherbourg, Ms Sylvia Bond, a teacher at the Cherbourg State School, explained that she received special training in relation to foetal alcohol syndrome, ADD/ADHD and ASD and autism because about a quarter of the school's population is affected by these conditions. Ms Bond said that in addition to changing behaviour, it was important to consider what leads to glue sniffing, petrol sniffing and so forth. Ms Bond also explained that more and more children are affected by foetal alcohol syndrome, with the most effected cases occurring when the parents are also drug takers. Those children have behavioural problems so a lot of them go on to glue sniffing and petrol sniffing and become problems in the community and then they become problems in jail.¹⁶¹⁶

Ms Bond also confirmed there is an increase in the number of preschool children demonstrating symptoms of foetal alcohol syndrome, which is evidence by children not being able to focus on their work, and moving around a lot. These children cannot follow instructions and many experience hearing difficulties.¹⁶¹⁷ Mayor Ken Bone considered the lack of discipline in children was a root cause of antisocial, destructive behaviour within the community and that early intervention was the key to arresting these behaviours. He also felt that, despite 'everyone knowing everyone' within the community, 'we are not connected like we used to be'.¹⁶¹⁸

The strong relationship between unemployment and criminal behaviour, particularly when offenders come from low socioeconomic backgrounds, and the inadequate accommodation in many Indigenous communities, are key contributing factors for high rates of juvenile offending. The BAQ referred further to the Doing Time Report, which stated:

- *Almost one third of Indigenous children in Australia under the age of 14 lived in overcrowded accommodation;*
- *In remote areas, the figure increased to 59 percent for children aged 4 to 14 years and 54 percent for children aged 0 to 3 years;*
- *39 percent of Indigenous Australians living in remote areas lived in dwellings that either lacked or reported problems with basic household facilities. Basic household facilities considered important for a healthy living environment included those that assist in washing people, clothes and bedding, safely removing waste and enabling the safe storage and cooking of food.*¹⁶¹⁹

The BAQ concluded:

*In addressing the issue of Indigenous over representation in prison and in offending, the society must focus our attention much more broadly and consider strategies involving social investment, which will ultimately mean that we can limit the number of Indigenous Australian who come into contact with the criminal justice system.*¹⁶²⁰

¹⁶¹⁵ BAQ, Submission No. 70, page 31.

¹⁶¹⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Cherbourg, 24 September 2014, pages 1-2.

¹⁶¹⁷ *Ibid*, pages 1-2.

¹⁶¹⁸ *Ibid*, page 5.

¹⁶¹⁹ BAQ, Submission No. 70, page 32.

¹⁶²⁰ *Ibid*, page 33.

Again, at the Cherbourg hearing Ms Bond outlined the limited employment opportunities available, stating:

*There is nothing here for them. We have to look at alternative options for them to get employment and training so that they can benefit later to find permanent jobs and other opportunities. But there is nothing here at the present moment for our young people leaving school. All they are doing is unemployment benefits and there is no incentive in that.*¹⁶²¹

Mr Warren Collins, Chief Executive Officer, Cherbourg Aboriginal Shire Council, suggested more government and non-government departments that are funded to deliver services should be situated within the community and that they should be employing local people from Cherbourg who know what is going on and they might get better outcomes.¹⁶²²

Balanced Justice submitted one of the biggest factors contributing to the over-representation of ATSI people was disadvantage, similarly identifying employment, education and substance abuse as key contributing factors, with drug and alcohol use one of the biggest factors. Balanced Justice also acknowledged the links between substance abuse and violence, suicide, offending and incarceration, stating:

*Drug and alcohol abuse has also been shown to increase the risk of child neglect and abuse which in turn increases the risk of juvenile involvement in crime, and a significant increase in the number of Aboriginal and Torres Strait Islander children removed by State authorities from their families. The Bridges and Barriers report published by the National Indigenous Drug and Alcohol Committee acknowledged the critical need for new strategies to address alcohol and other drug misuse to significantly reduce the overrepresentation of Aboriginal and Torres Strait Islander Australians in the prison system.*¹⁶²³

Balanced Justice submitted another much overlooked factor is mental health within Aboriginal and Torres Strait Islander communities and the relationship of mental health problems with the social and economic circumstances of Aboriginal and Torres Strait Islander people. Balanced Justice report findings that approximately 73 percent of Aboriginal and Torres Strait Islander men and 86 percent of Aboriginal and Torres Strait Islander women in prison had a mental disorder (i.e. depressive, anxiety, psychotic or substance misuse disorders), compared with 20 percent of the wider Australian community:

*These results highlight the critical mental health needs of Aboriginal and Torres Strait Islander Australians, particularly those who are incarcerated. Unfortunately, the National Indigenous Drug and Alcohol Committee recently reported on the lack of opportunities that exist for Indigenous people to access appropriate treatment for mental disorders in custody. This means that mental health problems are likely to remain untreated and continue to affect the individual on their return back into the community; potentially placing these individuals at greater risk of re-incarceration.*¹⁶²⁴

Balanced Justice further identified a number of areas where institutional bias within the criminal justice system disadvantaged Aboriginal and Torres Strait Islanders. These areas included: the willingness of police to employ alternatives to arrest; a lack of community based alternatives to

¹⁶²¹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Cherbourg, 24 September 2014, page 10.

¹⁶²² Ibid, page 10.

¹⁶²³ Balanced Justice, Submission No. 61, pages 8-9.

¹⁶²⁴ Ibid, page 9.

prison in rural communities; inadequate funding of Aboriginal legal aid and excessively punitive sentencing.¹⁶²⁵

Health matters – hearing loss

One matter which the Committee discussed with the Anti-Discrimination Commissioner was that of the high rate of hearing loss in Indigenous people. Studies have shown Indigenous Australians have one of the highest levels of ear disease and hearing loss in the world, with rates up to ten times more than non-Indigenous Australians.¹⁶²⁶ The ADCQ advised:

In 2004-2005, a higher proportion of Aboriginal and Torres Strait Islander peoples than non-Indigenous people reported ear and hearing problems for all age groups under 55.

Statistics of hearing loss among the general prison population are not readily available, and the extent of hearing loss among Indigenous Australians in custody is unknown, though informed estimates suggest that the incidence may be very high indeed. The implications for Indigenous Australians who may have been convicted and incarcerated with an undiagnosed hearing loss could be most profound. The lack of diagnosis will impact on a prisoner's ability to cope with the demands of the prison system, and their ability to participate in rehabilitation programs may be compromised.¹⁶²⁷

The Committee understands studies of Indigenous school children aged 4-12 years in a selection of schools in New South Wales in the Hunter region revealed:

...more than 61% of children had ear problems of some type. Unilateral hearing loss was found in more than 10% of the children, and 22% of the children suffered bilateral hearing loss.¹⁶²⁸

Further, the problem was more severe for Indigenous children living in remote communities in northern and central Australia where a survey of over 700 children found:

91% of children aged 6-30 months had been diagnosed with some form of otitis media (OM). Perforations of the tympanic membrane affected 40% of children before the age of 18 months.¹⁶²⁹

Violence

Mr Justin Kenardy provided detailed findings to the Committee of recent research relating to assaults on children aged 0 –17 years, which lead to significant social and economic impacts. The research findings were based on an analysis of data from 10,409 hospital admissions associated with injury in children aged 0-17 years collected through the Queensland Trauma Registry (QTR) between 2005 and 2008.¹⁶³⁰

Mr Kenardy submitted:

Assault-related injury is a devastating consequence of violence and/or abuse and has become a prominent cause of morbidity and mortality in children and adolescents. It accounts for not only loss of life but also psychosocial problems, loss of quality of life and disability in survivors with enormous economic burden. Addressing the incidence of

¹⁶²⁵ Balanced Justice, Submission No. 61, page 10.

¹⁶²⁶ *Indigenous deafness under the microscope*, May 2014, <http://www.healthinonet.ecu.edu.au/about/news/2085>.

¹⁶²⁷ ADCQ, Submission No. 31, page 11.

¹⁶²⁸ Ibid.

¹⁶²⁹ Ibid.

¹⁶³⁰ Mr Justin Kenardy, Submission No. 15, page 2.

*violence against children and young people through prevention and intervention strategies has the potential to arrest the cycle of violence over time.*¹⁶³¹

Key findings from this research included:

- The rate of serious injury arising from assault amongst Indigenous children aged 12 or less is 12 times that of non-Indigenous children.
- Indigenous female children have the highest rate of assault-related injury, being 15 times more likely to have an assault-related injury than non-Indigenous females.
- Rate of assault-related injury in Indigenous compared to non-Indigenous children was highest outside major urban areas.
- In contrast, rate of assault-related injury in non-Indigenous children was highest within major urban areas.
- Numerous factors are likely to contribute to the high level of assault-related injuries experienced by children and adolescents from an Indigenous Australian background including intergenerational transmission of violence, the high rate of young parents, the high rate of crime, high levels of poverty, poor housing, increased substance abuse, high unemployment and socio-economic disadvantage.¹⁶³²

13.4 Current Initiatives

The Department of Justice and Attorney-General website lists a number of current justice initiatives aimed at Indigenous communities. Those that have not already been discussed in this report are considered below.¹⁶³³

Community Justice Groups

Community Justice Groups consist of community members who come together voluntarily with the aim of reducing crime and social problems in their communities. They provide support to Indigenous people within the community and develop local strategies to deal with justice related issues and reduce contact with the criminal justice system.

According to the Community Justice Group fact sheet available on the Courts webpage:

*CJGs are estimated to support over 5,000 Indigenous offenders and 3,000 victims of crime in communities throughout Queensland each year. CJGs develop strong working relationships with many non-government agencies to which they refer both victims and offenders to gain the support and assistance needed. These agencies include Aboriginal and Torres Strait Islander health organisations, rehabilitation centres, Relationships Australia, the Salvation Army, Centacare, employment agencies, sexual assault services, youth support groups, and men's and women's groups.*¹⁶³⁴

There are 54 Community Justice Groups currently funded around the State.¹⁶³⁵

While there has been generally positive support for Community Justice Groups, QIFVLS submitted:

At present, Community Justice Groups are utilised to enhance cultural appropriateness of criminal proceedings, usually on behalf of the defendant. If a victim seeks assistance from

¹⁶³¹ Ibid.

¹⁶³² Mr Justin Kenardy, Submission No. 15, pages 2-4.

¹⁶³³ See Chapter 8 on Restorative Justice and Diversionary Programs.

¹⁶³⁴ Department of Justice and Attorney-General, [Community Justice Group Program](#), Courts Innovation Program.

¹⁶³⁵ Queensland Government, [Aboriginal and Torres Strait Islander justice initiatives](#), website, accessed November 2014.

the Community Justice Group, there is often a real conflict of interest for the Group who are already engaging with the defendant. Consequently, the victim is often left without access to culturally appropriate support in the criminal justice process.

QIFVLS recommends the Queensland Government consider the funding of culturally appropriate victim-specific services to assist and represent victims in the criminal justice process. This is particularly needed in the lower courts, to improve victim engagement, and to ensure that Victim Impact Statements are obtained and utilised on a consistent basis.¹⁶³⁶

Indigenous Sentencing Lists

The Indigenous Sentencing List (ISL) is another program for Indigenous people who have committed an offence and consent to participating with support agencies or other professionals to overcome the underlying reasons for their offending.

The eligibility for the ISL is set out in the Department of Justice and Attorney-General Fact Sheet as:

Eligibility criteria for referral to an ISL varies depending on the location of the ISL, input of the Elders and the requirements of each Magistrates Court.

As a general guide, to be eligible for referral to an ISL, a defendant must:

- (a) identify as being of Aboriginal or Torres Strait Islander descent;*
- (b) appear before a Magistrates Court or Childrens Court (Magistrates Court) where the ISL is operating;*
- (c) either*
 - (i) plead guilty to the offences for which they are appearing; or*
 - (ii) indicate an intention to plead guilty to the offence (subject to negotiation with the prosecutor).*
- (d) be eligible for bail and be suitable for release into the ISL;*
- (e) be charged with an offence that is able to be dealt with summarily (whether by right or election);*
- (f) be charged with an offence that may attract a penalty of imprisonment; and*
- (g) charges and criminal history must be of such a nature that the magistrate considers it appropriate for the defendant to participate in the ISL.*

A defendant may not be eligible for the ISL where he/s he has been convicted of, or is currently charged with, an offence of a sexual nature and or breach of domestic violence orders.¹⁶³⁷

There are 12 areas across the State where ISLs are available and they are supported by the Community Justice Groups. The Community Elders and other Respected persons play a vital role in the operation of the lists providing cultural information to the presiding magistrate and stakeholders by advising on cultural practices, customs and behaviours.¹⁶³⁸

In the course of their advisory role Elders and Respected persons are required to advise on the content of pre-sentence reports (sometimes known as 'cultural reports'); make recommendations to the magistrate during bail applications and on sentencing; and facilitate and coordinate men's and

¹⁶³⁶ QIFVLS, Submission No. 19, page 11.

¹⁶³⁷ www.courts.qld.gov.au/data/assets/pdf_file/0008/205586/cip-fs-indigenous-sentencing-list-isl.pdf

¹⁶³⁸ Ibid.

women's yarning circles, and any other programs conducted by various Community Justice Groups.¹⁶³⁹

Similar to their views on the Community Justice Groups, QIFVLS submitted:

*Although the Murri Court and Indigenous Sentence List sought to impose culturally appropriate penalties, the models lack a focus on safe victim involvement.*¹⁶⁴⁰

Remote Justices of the Peace Magistrates Court Program

The Remote JP Magistrates Court Program (Remote JP Program) began in 1993 as part of the Government's response to the recommendations of the *Royal Commission into Aboriginal Deaths in Custody 1991*. Like the programs above, the Remote JP Program aims to make the criminal justice system more culturally appropriate for Aboriginal and Torres Strait Islander peoples.

Under the program, Remote JP Magistrates can form a Magistrates Court. They can hear and determine outcomes and sentence community offenders if the defendant pleads guilty.

The Remote JP Program operates in over 200 locations across Queensland, hearing the following types of matters:

- offences against local laws;
- summary offences (such as minor liquor offences, offensive language or trespassing);
- bail applications;
- applications for temporary protection orders; and
- grant adjournments.

As set out in the Department of Attorney-General and Justice Fact Sheet: the program allows Indigenous people to hold positive roles in the criminal justice system in their community and deal with local matters more quickly using culturally appropriate practices with local knowledge and respect enabling communities to decide local solutions to offending within their community using language and processes that are easily understood by defendants.¹⁶⁴¹

13.5 Former initiatives

Murri Court

A number of submitters recommended the re-instatement of the Murri Court as a form of justice reinvestment to assist in addressing the social contributors to crime within the Indigenous community.¹⁶⁴² The Committee set out its consideration of the Murri Court earlier in Chapter 8.

The Just Futures Strategy

The Committee notes one of the main goals of the Just Futures strategy released in 2011 (the Strategy) aimed at reducing the over-representation of Indigenous people in the criminal justice system as both victims and offenders. The Strategy was developed after extensive consultation with Aboriginal and Torres Strait Islander communities throughout Queensland to develop a new

¹⁶³⁹ Ibid.

¹⁶⁴⁰ QIFVLS, Submission No. 19, page 6.

¹⁶⁴¹ www.courts.qld.gov.au/data/assets/pdf_file/0003/205644/cip-fs-remote-jp-mag-court-program.pdf

¹⁶⁴² QIFVLS, Submission No. 19, page 6; ADCQ, Submission No. 31, page 16; ATSILS, Submission No. 34, page 6; QLS, Submission No. 51, page 12, BAQ, Submission No. 70, page 17.

Aboriginal and Torres Strait Islander Justice Strategy.¹⁶⁴³ The Strategy dealt with many of the social issues raised above stating:

*The Strategy will not treat offences committed by Indigenous people any less seriously than other offences but will focus on reducing offending by addressing the underlying causes and consequences of crime such as poverty, unemployment, the impact of past government policies and laws, and alcohol and substance misuse.*¹⁶⁴⁴

The Strategy contained four major components in its program of action - Community, Family, Opportunity and Justice. Many of the key actions from those components addressed the issues raised above including:

Community

- Employing health professionals to improve access to integrated drug and alcohol and mental health services and support healthy life transitions to adulthood for 8 to 18 year olds.
- Deliver community-developed social marketing campaigns focusing on reducing violence, supporting positive parenting and the value of education.¹⁶⁴⁵

Family

- Increase access to kindergarten through Early Years Centres by better engaging with Aboriginal and Torres Strait Islander people and improving school attendance.
- Support families of children in contact with the youth justice system and case manage children aged between 10 and 12 who come in contact with police.
- Provide training opportunities that translate to real jobs.
- Roll out a state-wide support service to help young people at-risk and develop sport and recreation services to engage young people at-risk in healthy lifestyles.¹⁶⁴⁶

Opportunity

- Establish a targeted Participate in Prosperity Program to provide intensive assistance to Indigenous people facing multiple barriers to finding employment.
- Provide job readiness assistance for those in prison and youth detention.
- Provide support for young people in detention to transition into education.
- Partner with industry to deliver training and jobs for Aboriginal and Torres Strait Islander people.
- Provide the Jails to Job Program including delivering traineeships, apprenticeships and employment to Indigenous people leaving prison each year.¹⁶⁴⁷

Justice

- Increase support for Community Justice Groups and Murri Courts.
- Increase involvement of Indigenous people in law enforcement.
- Improve support for Aboriginal and Torres Strait Islander victims.

¹⁶⁴³ www.cabinet.qld.gov.au/cabinet.aspx accessed November 2014.

¹⁶⁴⁴ Just Futures 2012-2015 Summary, Qld Government, available at: www.cabinet.qld.gov.au/cabinet.aspx.

¹⁶⁴⁵ Ibid, page 7.

¹⁶⁴⁶ Ibid, page 8.

¹⁶⁴⁷ Ibid, page 9.

- Involve Elders and respected persons in the rehabilitation and transition of Indigenous people, from prisons and youth detention centres, by providing assistance with accommodation and transitioning to education, training and jobs.
- Establish a cross-agency team to improve pre-release preparation and transition from prison for Indigenous people with cognitive and intellectual impairments.
- Improve transition programs from adult correctional centres and youth detention centres.¹⁶⁴⁸

The Committee understands the Government has decided not to continue with the implementation of the Strategy and is reviewing it along with other justice initiatives.

13.6 Funding and co-ordination of Initiatives

While the following matters may be equally applicable to the general application of crime prevention programs, the issue of allocation of funding and the co-ordination of services was specifically raised with the Committee in relation to Indigenous programs.

At the Townsville public hearing, much of the discussion turned to the provision of services for Indigenous programs and the requirement for greater co-ordination between government agencies and service providers. This was also touched on earlier in the report. Mr Gavin Kum Sing, Indigenous Department of Social Support, comments:

*The dollars that I find that are being spent on Indigenous services are given to the wrong people. The dollars are given to these services that are saying that they are there for our people but they also carry their own agenda in terms of what they have to achieve. By the time they have discussed with us their guidelines or directions and then consulted with us about what we think is right, out of 20 recommendations, three will probably coincide with their core business of what they want to achieve.*¹⁶⁴⁹

Mr Kum Sing also explained the difficulties associated with providing holistic solutions to Indigenous issues, observing that funding is being provided to singly focussed organisations that are unwilling or unable to collaborate with other organisations that do not align with the primary organisation's core charter:

*...these services that are applying for the funding rounds that are there are specifically targeted to provide one service. To then say that that is their bread and butter that is going to keep them afloat, the minute you say, 'I want to approach you for us to partner up to do this and then I will get homelessness here and then I will get unemployment here and then I will get this and that,' you are starting to threaten them because you are taking money away from them.*¹⁶⁵⁰

In the QIFVLS submission, a recent example of government formalities preventing access to justice or unnecessarily increasing the difficulties was explained as follows:

*Client A, who was medically evacuated out of her community after being the victim of a domestic assault. As a result of being evacuated and hospitalised, Client A could not make her Centrelink appointment and her payments were cut-off. The midwife that treated Client A provided her with a medical certificate but because it was not in the 'correct form' Centrelink would not accept it and discontinued her payments until a medical certificate in the correct form was provided.*¹⁶⁵¹

¹⁶⁴⁸ Ibid, page 10.

¹⁶⁴⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, pages 24-25.

¹⁶⁵⁰ Ibid, page 25.

¹⁶⁵¹ QIFVLS, Submission No. 19, page 12.

QIFLVS considered funding models did not appropriately consider assistance for victims submitting 'governments need to change the way funding is allocated for the provision of legal services to regional and remote Indigenous communities.' Further, 'Governments need to consider the disadvantages that Indigenous Australians face due to a lack of access to civil and family services and ensure that assistance is directed toward not-for-profit organisations and community legal centres servicing these issues'.¹⁶⁵²

QIFVLS considered without additional direction, the funding would continue to only be provided to criminal justice services for offenders and not provide enough support for holistic access to justice for victims.¹⁶⁵³

Mr Collins advised the Committee there were a number of funded government and non-government organisations attempting to address social issues but he feels outcomes are not being measured. He commented, 'I do not know who checks on them to see if those outcomes are being achieved or whether they just supply a report and then everything is ticked off'.¹⁶⁵⁴ Mr Collins advised the Committee of the need for a holistic solution:

It seems to just keep going on and on and on, but those problems are still there. It is not only non-government organisations; it is government departments. Government departments are reluctant to act because they are afraid of creating another stolen generation. They will never create another stolen generation, but they need to act. ... We all know that the first parents here were alcoholics. They have very good children at the moment. But if they continue going down that path, those children are going to turn, because they have nobody else. There is no intervention from anybody. Every time you talk to child safety they say, 'There have been no referrals'. Somebody must be referring them - parents and children - but they do not act. We continue on and on every year and the same thing happens and there is no intervention. Somebody has to bite the bullet and do it. Otherwise in 10 years' time we will get another parliamentary committee here and we are going to talk about exactly the same thing.

They have tried alcohol management. Alcohol management plans have not worked because of our vicinity within the region with access to alcohol. When they talked about the Australian Military Police coming in here, the council put a proposition to them, but the perpetrators are the ones who should be targeted. You do not tar everyone with the same brush like they continue to do.

*Everybody has to start working together to stop this problem.*¹⁶⁵⁵

Committee Comment

Consistent with the Committee's consideration of justice reinvestment and diversionary programs, there are a range of alternatives to custody that must be explored, particularly in relation to reducing the over-representation of Indigenous people in the criminal justice system.

The Committee notes the BAQ's suggested changes to the *Bail Act 1980* and accepts that dispensing with bail would indeed reduce the number of Indigenous and non-Indigenous people on remand, but the Committee does not accept this reactive strategy, preferring instead to see the implementation of proactive strategies that have proven to reduce the risk of reoffending such as vocational education, remedial education, and other programs designed to reduce the influence of causal factors and increase the influence of protective factors. The Committee sees merit in the bail hostels

¹⁶⁵² Ibid.

¹⁶⁵³ Ibid, page 12.

¹⁶⁵⁴ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC Cherbourg, 24 September 2014, page 5.

¹⁶⁵⁵ Ibid, page 5.

proposal, and the bail risk assessment approach suggested, and considers further investigation advantageous.

The Committee acknowledges that for Indigenous offenders, such programs are more likely to be effective if they incorporate Indigenous perspectives and knowledge and are managed and implemented by Indigenous personnel.

The Doing Time report, referred to above, concluded that drug and alcohol dependence, poverty, unemployment, low levels of education, poor parenting, and physical and mental health issues directly contribute to Indigenous over representation in the criminal justice system. The Committee acknowledges the need for a proactive approach and endorses education programs designed to target contributing factors and create employment opportunities for Indigenous people.

Whilst drug and alcohol fuelled violence is not unique to Indigenous communities, the Committee acknowledges the Productivity Commission's report which provides that alcohol and substance abuse are known to significantly contribute to violence in Indigenous communities. This finding reinforces the need for funding and programs that address causal considerations. To that end, the Committee acknowledges the Red Dust Healing Program (mentioned earlier in this report) that focuses on rehabilitation, reenergising, and re-establishing responsibilities through reflecting on the role men play in family and community could be used on a greater scale than it is currently operating. Steps must be taken to reduce the instances of violence against children as outlined in research provided to the Committee.

The Committee acknowledges the merits of programs designed to meet the needs of individuals and communities and acknowledges the universal importance of programs designed to enable participants to become self-sufficient using their own cultural tools. For programs to remain relevant they must be developed with and embedded in community. Evidencing this, the Committee acknowledges the Mornington Island Restorative Justice program and its highlighted benefits that may inform other Indigenous communities.

The Committee also sees opportunities for benefits from long term early intervention strategies to address health matters such as hearing loss in early stages of life. Redirecting resources to deal with these underlying health issues could reap significant rewards with children's behaviour and reduce incidences of them coming in contact with the criminal justice system as children or indeed later in life.

The Committee acknowledges funding challenges faced by organisations and considers a review of longer term funding models should occur to provide stability to organisations, which will lead to service delivery stability towards a long term view. The need for greater co-ordination between service providers must also be addressed.

The Committee notes concerns about the removal of the Murri Courts and discontinuation of the Just Futures Strategy and considers there are elements of these policies which could be reintroduced in conjunction with the current strategies where the Magistrates Court is building relationships with Indigenous communities.

The Committee also notes universal importance of providing responsive outcomes that focus on rehabilitation and reintegration of offenders into their community, and adopts this approach to inform its recommendations in this chapter.

Recommendation 74

The Committee recommends the Government recognise the over-representation of Indigenous people in the criminal justice system can be best met by targeting the underlying causes of crime.

Recommendation 75

The Committee recommends the Government give consideration to trialling a bail hostel program in a suitable location, and dispensing with bail where the accused has committed a minor offence.

Recommendation 76

The Committee recommends the Government establish an Indigenous Employment Taskforce to investigate sustainable employment and training opportunities for each Indigenous community in Queensland; and develop strategies specific to community need and geographic employment opportunities.

Recommendation 77

The Committee recommends the Government investigate programs for greater culturally specific training and commit to the further development for teachers and teacher's aides working with Indigenous children.

Recommendation 78

The Committee recommends the Government review its funding models for the provision of Indigenous services to ensure:

- o organisations providing a discrete service are not marginalised within the funding cycle;
- o greater certainty is provided for programs that require long term funding; and
- o greater coordination between service providers is achieved.

Recommendation 79

The Committee recommends the Government investigate programs to address the systemic hearing problems faced by the Indigenous youth, particularly in rural and remote communities.

14. People with Mental Illness and Intellectual Disabilities

The Committee heard evidence from a number of witnesses and received several submissions relating to people with mental illness or other cognitive impairment and their interactions with the criminal justice system.¹⁶⁵⁶ The submissions received were clear in their message - the criminal justice system in Queensland does not effectively deal with people with cognitive impairment and that there is an over-representation of people with an intellectual disability in the criminal justice system.

14.1 Over-representation

The two primary submissions received on this topic were a joint submission from the Anti-Discrimination Commission Queensland (ADCQ) and the Office of the Public Advocate; and a submission from Queensland Advocacy Incorporated. In their joint written submission, the ADCQ and the Office of the Public Advocate stated:

*Individuals with intellectual and mental health impairments, are over-represented at all stages of the criminal justice system as both victims and defendants. Yet it is important to note that the majority of people with a disability (including people with cognitive and/or mental health impairments) do not offend.*¹⁶⁵⁷

A similar position was submitted by Queensland Advocacy Incorporated, which stated persons with capacity impairments linked to intellectual and cognitive disabilities, acquired brain injury, Foetal Alcohol Spectrum Disorder, some forms of mental illness and other capacity-affecting conditions were over-represented in the criminal justice system as suspects, defendants, offenders, prisoners and repeat offenders.¹⁶⁵⁸

This issue is not confined to Queensland. The NSW Law Reform Commission recently published its report on a detailed study of the extent and nature of contact between people with cognitive and mental health impairments and the criminal justice system. That report found there was clear evidence of over-representation of people with cognitive and mental health impairments at all stages of the criminal justice system.¹⁶⁵⁹ In its report, the NSWLRC cited further studies from other jurisdictions indicating similar results. For example, studies of offenders with intellectual disabilities held on remand in Victoria and South Australia supported similar conclusions:

A 1999 Victorian study comparing offenders with intellectual disability against the mainstream prison population, found that 27% of the prisoners with intellectual disability were being held on remand, compared with 13% of the general prison population who were on remand. This result suggests an overrepresentation of people with intellectual disability in the Victorian remand population.

A study published in 2010 of 159 young people aged 13-17 remanded between 2008-09 in South Australia, found that 50.3% showed indications of mental health problems. The study found that there was a statistically significant overrepresentation of a range of mental health impairments in the study group when compared with the rates of the same impairments in adolescents in the community.

¹⁶⁵⁶ See for example: ADCQ and the Office of the Public Advocate, Submission No. 32; Queensland Advocacy Incorporated, Submission No. 58; John and Collein Avery, Submission No. 69.

¹⁶⁵⁷ ADCQ and the Office of the Public Advocate, Submission No. 32, page 4.

¹⁶⁵⁸ Queensland Advocacy Incorporated, Submission No. 58, page 6.

¹⁶⁵⁹ New South Wales Law Reform Commission, [People with cognitive and mental health impairments in the criminal justice system: Diversion](#), Report No. 135, June 2012, NSW Law Reform Commission, page 11.

A 2004 study of South Australian remandees found that almost 10% of the sample was found to have intellectual impairments within the intellectual disability range and a further 23% were found to have intellectual impairments in the borderline range.¹⁶⁶⁰

Similar findings were also apparent in a 2007 study of a United Kingdom prison:

The study found that although only 2.9% of the study sample met the criteria for intellectual disability (which is close to the rate in the general population), 21.7% were assessed as falling into the borderline intellectual disability range. This suggests a relatively high rate of intellectual impairment is also present in the UK prison population.¹⁶⁶¹

14.2 People with cognitive impairment as offenders

While the above studies are instructive, they do not show a complete picture of what is happening in Queensland. In relation to Queensland prisoners with cognitive impairment, no recent information was readily available. Both primary submissions referred to research undertaken by the (then) Queensland Department of Corrective Services in 2002 which found 10% of prisoners at that time scored under 70 in a functional IQ test which is indicative of an intellectual disability.¹⁶⁶² A further 29% of prisoners achieved a score in the range of 70-84 which placed them in the borderline intellectual disability range.¹⁶⁶³

As highlighted in the ADCQ and Office of the Public Advocate submission:

The research also showed that more than one in twenty prisoners had attended a special school as a child and that almost 32% of prisoners in Queensland had a mental illness. In comparison, only a small proportion of the general Queensland population have an intellectual disability (3%) or mental illness that results in a disability (6%).¹⁶⁶⁴

While there does not appear to be any further Queensland data, research conducted in other jurisdictions presents similar results. Independent research projects into the New South Wales court system has indicated:

- In 2009 - approximately 10% of participants in Magistrate's Courts achieved a standard IQ score below 70 – with a further 20% in the borderline (70 – 79) range;¹⁶⁶⁵
- Also in 2009 - approximately one third of the sample of defendants before NSW Magistrate's Courts had a mental health problem;¹⁶⁶⁶ and
- In a 2012 study, approximately 24% of people appearing before a court had an intellectual disability, with this figure rising to 43% for Aboriginal and Torres Strait Islanders.¹⁶⁶⁷

¹⁶⁶⁰ Ibid, page 78.

¹⁶⁶¹ Ibid, page 88.

¹⁶⁶² ADCQ and the Office of the Public Advocate, Submission No. 32, page 4; Queensland Advocacy Incorporated, Submission No. 58, page 6.

¹⁶⁶³ Queensland Department of Corrective Services, *Intellectual Disability Survey*, 2002.

¹⁶⁶⁴ ADCQ and the Office of the Public Advocate, Submission No. 32, page 5.

¹⁶⁶⁵ KA Vanny, MH Levy, DM Greenberg, SC Hayes, 'Mental illness and intellectual disability in Magistrates Courts in New South Wales', *Australia, Journal of Intellectual Disability Research*, March 2009, 53(3):289-97.

¹⁶⁶⁶ S Hayes, The evidence from Magistrates Courts - the prevalence of accused persons with intellectual and cognitive disabilities. NSW Justice Health Court Liaison Service Professional Days, 2009.

¹⁶⁶⁷ E Baldry, L Dowse and M Clarence, [People with Intellectual and other cognitive disability in the criminal justice system](#), Report for NSW Family and Community Services, Ageing, Disability and Home Care, December 2012.

In 2013, the Victorian Parliament Law Reform Committee, after conducting a detailed study, found from the anecdotal evidence and limited statistical evidence available, people with an intellectual disability or cognitive impairment formed a significant, and disproportionate, proportion of offenders and victims of crime.¹⁶⁶⁸ In the short amount of time available to the Committee during this Inquiry, it has been difficult to consider all the available research in detail; however the Committee notes a number of other inquiries have all presented consistent findings - that people with a cognitive impairment are over-represented in the criminal justice system and will be more likely to have:

- *earlier police contact and a higher number of police contacts;*
- *a higher incidence of contact with the criminal justice system generally; and*
- *a higher rate of episodes of custody, especially when the person with a cognitive disability has complex needs due to mental health issues or drug and alcohol disorders.*¹⁶⁶⁹

14.3 People with cognitive impairment as victims

The available figures for over-representation of people with intellectual or mental health impairments as victims are staggering. As highlighted by the ADCQ and the Office of the Public Advocate in their submission:

*Research has demonstrated that people with intellectual and mental health impairments are more likely to become a victim of crime than people who do not have a disability. Generally, people with intellectual disability are 'twice as likely to be the victim of a crime directed against them... and one and a half times more likely to suffer property crimes than non-disabled aged-matched cohorts.' Furthermore, between 50 and 99% of people with intellectual or psychosocial impairment are subject to sexual assault at some point in their lifetime.*¹⁶⁷⁰

At a private hearing on 8 August 2014, the Committee heard from representatives of a sexual violence prevention association whose client group comprises people with intellectual, learning and cognitive disabilities:

I want to point out the rates of victimisation for people with intellectual disabilities. They are quite high. They are much higher than the general population. If you are a woman with an intellectual disability, the research evidence says you have 70 percent to 90 percent chance of experiencing sexual and ongoing abuse in your lifetime. If you are a man it could be 40 percent to 60 percent. They also tend to be victims of robbery and victims of all sorts of exploitation...

The reasons for this are varied and I do not have enough time to go into them, but let us just say that the nature of the disability makes it easy for perpetrators to groom and to take advantage of this group of people...

*It is also where they live and the fact that they are dependent on people. The royal commission has illustrated institutional abuse and why that was allowed to happen and kept happening. It is the nature of dependency on others.*¹⁶⁷¹

¹⁶⁶⁸ Law Reform Committee, *Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and their Families and Carers*, Parliament of Victoria, March 2013.

¹⁶⁶⁹ Baldry, Dowse and Clarence, *People with Intellectual and other cognitive disability in the criminal justice system*, 2012.

¹⁶⁷⁰ ADCQ and the Office of the Public Advocate, Submission No. 32, page 5.

¹⁶⁷¹ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

14.4 Justice Reinvestment as an approach for people with disabilities

Earlier in this report, the Committee examined early intervention and justice reinvestment as alternatives to imprisonment and raised the issue of potentially applying justice reinvestment to cohort groups. The ADCQ was a strong advocate of this approach and spoke to the Committee at its public hearing about a recent NSW study¹⁶⁷² which showed the cost savings that could be made and the potential to reduce the over-representation which currently exists by taking a justice reinvestment approach to deal with people with intellectual disability as a cohort group. In that study, a cost benefits analysis was carried out after examining the pathways of a number of real individuals drawn from data in the NSW criminal justice system.

In the report, one case study referred to a young Aboriginal woman, Casey, who is in her early 20s, has an intellectual disability and has been diagnosed with a range of mental and other cognitive disorders, adjustment disorders, personality disorder and bipolar affective disorder. It was reported she has a long history of self-harm, physical abuse and trauma.¹⁶⁷³ It was stated that Casey's intellectual and personality disorders were key factors to her *'very high levels of institutional contact from a young age, particularly with police'*. It was estimated that the life course institutional costs of Casey from age 10 to 21 had reached \$5,515,293. This included 365 police incidents, 604 days in custody and 270 days in hospital and took into account costs involved with a number of agencies.¹⁶⁷⁴

It was projected that if Casey had been given an early intervention from the age of 7 and provided with an intensive early intervention package of \$150,000 per year up to age 17 and increased support from age 18, including accommodation with a package of \$250,000 – substantial savings could be made. It was suggested with appropriate intervention, Casey would not offend, not entering the criminal justice system and after taking into account the increased costs of support, would result in substantial savings of up to \$2.9 million by the age of 20. It was projected there could be \$3.7 million in savings by age 27.¹⁶⁷⁵ Notably the projected cost of early intervention in Casey's earlier life was only marginally more than the estimated costs of her interactions with the justice system between 7 and 15.¹⁶⁷⁶

14.5 Available Data

Despite the many completed studies, a common theme arising in other inquiries and also from this Inquiry in relation to other areas - is the lack of quality data available to inform government responses. As detailed earlier in this report, access to accurate data is essential for policy makers to develop effective strategies or programs. As part of any proposed solution, accurate information as to the level of interaction with the criminal justice system, by people with cognitive impairment must be collected.

¹⁶⁷² McCausland, Baldry, Johnson and Cohen, [People with mental health disorders and cognitive impairment in the criminal justice system - Cost benefit analysis of early support and diversion](#), Paper presented at the AHRC and University of New South Wales roundtable Access to Justice in the Criminal Justice System for People with Disability, August 2013.

¹⁶⁷³ Ibid, page 7.

¹⁶⁷⁴ Ibid, page 7.

¹⁶⁷⁵ Ibid, page 7.

¹⁶⁷⁶ Ibid, page 7.

Greater collection of data was recognised as being essential in Victoria,¹⁶⁷⁷ the Northern Territory,¹⁶⁷⁸ and also in New South Wales where the NSW Law Reform Commission stated:

On the basis of available data, the representation of people with cognitive and mental health impairments in the criminal justice system is disproportionately high. This is true for police contact and for Local Court proceedings, though the data is indicative only. It is also true for people in custody, where we have better data. For example the rate of mental health impairment in prisoners appears to be more than triple the rate in the general population, although there can be significant variation depending on the mental health impairments concerned. From available data, there also appears to be an over-representation of people with cognitive impairments in custody. The level of over-representation of young people with a mental health impairment or a cognitive impairment in the juvenile justice centres is particularly high.

However, the paucity of data means the exact scale of over-representation is unknown. This lack of available, comprehensive and consistent data regarding the representation of, and outcomes for, people with cognitive and mental health impairments in the criminal justice system has made it very difficult for us to quantify the present deficiencies, in order to evaluate the potential impact of our recommendations.¹⁶⁷⁹

The issue of availability of data was raised with the ADCQ at the public hearing on 6 August 2014. The Anti-Discrimination Commissioner considered there was very poor data collection in some areas, (again, not an isolated issue for Queensland) which stemmed from departments or agencies not working in unison.¹⁶⁸⁰

Committee Comment

Consistent with the Committee's earlier recommendations that prevention strategies must be developed taking into account evidence based research – it is essential that relevant departments (police, courts, corrective services) capture accurate information upon which to base policies. In order to fully understand the issues relating to the over-representation of people with cognitive impairment, greater efforts must be made to capture the relevant data, so that evidence based polices can be developed to deal with this very apparent problem.

Recommendation 80

The Committee recommends greater efforts be made to capture data about the representation of, and outcomes for, people with cognitive impairment and mental illness at all stages in the criminal justice system.

¹⁶⁷⁷ Law Reform Committee, *Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and their Families and Carers*, Parliament of Victoria, March 2013.

¹⁶⁷⁸ M Rowley, *The invisible client: people with cognitive impairments in the Northern Territory's Court of Summary Jurisdiction*, Paper presented at the Criminal Lawyers Association of the Northern Territory 14th Biennial Conference, Bali, June 2013.

¹⁶⁷⁹ NSW Law Reform Commission, *People with cognitive and mental health impairments in the criminal justice system: Diversion*, Executive Summary, Report No. 135, June 2012, NSW Law Reform Commission.

¹⁶⁸⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 6 August 2014, page 11.

14.6 Interactions with Police

The ADCQ and Office of the Public Advocate brought to the attention of the Committee, potential issues which occur during police interactions with persons with cognitive impairment:

When a person is a victim, defendant or witness in a criminal matter, their initial interactions regarding that matter are generally with a police officer. This initial interaction can set the scene for the overall interaction with the criminal justice system. It is important that police are appropriately trained to identify and accommodate persons with intellectual and mental health impairments and that people with intellectual and mental health impairments are provided with adequate legal and emotional support, to facilitate equal access to justice.¹⁶⁸¹

The ADCQ noted there were currently a number of positive steps being taken by the QPS in this regard noting the QPS' *Vulnerable Persons Policy* and specific provisions of the *QPS Operations Procedure Manual*.¹⁶⁸² The *Vulnerable Persons Policy* includes the following categories of people as being vulnerable and possibly encountering difficulties in accessing or receiving equitable or fair treatment during their contact with the QPS as a victim, witness or suspect:

- i) immaturity, either in terms of age or development;
- ii) any infirmity, including early dementia or disease;
- iii) mental illness;
- iv) intellectual disability;
- v) illiteracy or limited education which may impair a person's capacity to understand police questions;
- vi) inability or limited ability to speak or understand the English language;
- vii) chronic alcoholism;
- viii) physical disabilities including deafness or loss of sight;
- ix) drug dependence;
- x) cultural, ethnic or religious factors including those relating to gender attitudes;
- xi) intoxication, if at the time of contact with police the person is under the influence of alcohol or a drug to such an extent as to make them unable to look after or manage their own needs;
- xii) Aboriginal people and Torres Strait Islanders;
- xiii) children; and
- xiv) persons with impaired capacity.¹⁶⁸³

The policy recognises that 'any form of contact [with the criminal justice system] may have significant consequences for vulnerable people'¹⁶⁸⁴ and that while defendants must be held accountable for their actions, it is equally important that they receive 'fair treatment from people they have contact with in the criminal justice system'.

¹⁶⁸¹ ADCQ and the Office of the Public Advocate, Submission No. 32, page 8.

¹⁶⁸² Ibid.

¹⁶⁸³ [Queensland Police Service Vulnerable Persons Policy](#), page 1.

¹⁶⁸⁴ Ibid, page 2.

The QPS policy includes the following statement of commitment:

*The QPS is committed to pursuing the continuous improvement of policing services provided to vulnerable people, consistent with the following ambitions.*¹⁶⁸⁵

and lists the following 'ambitions':

The QPS will seek to:

- 1. Reduce crime against vulnerable people and hold offenders accountable for their actions.*
- 2. Support vulnerable people to understand and participate in criminal justice system processes.*
- 3. Treat vulnerable people with dignity, respecting their individual needs, challenges and circumstances.*
- 4. Facilitate access by vulnerable people to appropriate support services, including support persons and victim assistance.*¹⁶⁸⁶

The *Vulnerable Persons Policy* refers to a range of training programs which are designed to assist the QPS in improving their skills and knowledge in dealing with vulnerable persons, which includes:

- Elements of the Police Recruit Operational Vocation Education (PROVE) Program, First Year Constable (FYC) Program, the Constable Development (CDP) Program and Detective training;*
- Competency Acquisition Program (CAP) training on disability and mental health issues;*
- First Response Officer training on mental health intervention;*
- Courses on forensic interviewing of children and people with an intellectual disability as witnesses; and*
- Police Liaison Officer training.*¹⁶⁸⁷

The *Vulnerable Persons Policy* also acknowledges both the police records system (QPRIME) and the complaints system are capable of capturing information about police dealings with vulnerable persons, but that both systems can be enhanced and need further work to improve the consistency of data recording.¹⁶⁸⁸

Notwithstanding the above policies, the ADCQ submission considered police officers must be provided with adequate training in recognising, understanding and interacting with people that have some form of intellectual or mental health impairment, otherwise there may be negative consequences when those individuals enter the justice system. The ADCQ identified further training for officers and more guidance in procedural manuals was of great importance in the following areas:

- Identification of people with disability;*
- Responding to suspected abuse, neglect and exploitation of people with disability that may constitute a criminal offence;*

¹⁶⁸⁵ [Ibid](#), page 2.

¹⁶⁸⁶ [Ibid](#), page 2.

¹⁶⁸⁷ [Ibid](#), page 3.

¹⁶⁸⁸ [Ibid](#), page 3.

- *Provision of support and advocacy for people with disability when they are subject to questioning and arrest; and*
- *Appropriate questioning and interviewing techniques of people with disability.*¹⁶⁸⁹

The Committee received further evidence, in private, at its hearing on 8 August 2014 where a representative from WWILD explained:

...the barriers for people with intellectual disabilities in the criminal justice system are reporting to police and then going through the court process. As has already been mentioned, barriers exist for people with disabilities. Again, it is around communication and it is around respect—not just communicating with them but helping them to communicate with you. I think that that is something that is often lost. It is about those people understanding the system.

*They do not necessarily understand the difference between talking to a counter police officer and a CIB detective for instance.*¹⁶⁹⁰

Similar issues to those identified by the ADCQ and the Office of the Public Advocate were also raised with the Committee at the private hearing. In relation to issues of identification, the Committee was advised:

*In terms of the police, I think there should be further training around identification. People with disabilities do not always look disabled. That is just a fact.*¹⁶⁹¹

Provision of support and advocacy for people with disability when they are subject to questioning was also raised:

Most people who would go to the police station on their own would be people we would consider in the borderline mild/moderate group of people and they do not come across as being disabled. There needs to be better understanding by the police of section 93A of the Evidence Act where there is support for a person with a disability to attend the police station to make a report either as a victim or an offender.

*...There is also the need for the person to have a support or advocate and also for police to use appropriate questioning techniques. Traditional police questioning processes do not really work well with people with cognitive intellectual disabilities. It can actually skew the story—skew the statement—and the evidence just without even trying really.*¹⁶⁹²

As highlighted by WWILD in their submission to the AHRC Investigation into Access to Justice System for People with Disability, some witnesses were required to 'prove' their level of disability to police beyond confirmation from their parents as to that fact:

*19 year old 'Renee' had to wait several months to give her statement of a historical assault by 93A video statement, while WWILD staff and her father advocated and sought the written evidence demanded by police to 'prove' her disability, despite having told police that she had attended special school, and been diagnosed with permanent intellectual impairment in Year 4.*¹⁶⁹³

¹⁶⁸⁹ ADCQ and the Office of the Public Advocate, Submission No. 32, page 8.

¹⁶⁹⁰ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014, page 11.

¹⁶⁹¹ *Ibid*, page 11.

¹⁶⁹² *Ibid*, page 11.

¹⁶⁹³ AHRC, [Access to Justice in the Criminal Justice System for People with Disability](#), WWILD Submission No. 29.

Section 93A of the *Evidence Act 1977* provides special procedures which may be used when taking evidence from children or people with intellectual or mental health impairments. The section is designed to overcome issues that may be raised with witnesses' capacity and credibility to give evidence. It appears the process is understood and used regularly in relation to children's evidence but not in relation to people with mental health issues.

It allows witnesses to have their evidence recorded by police as opposed to making a written statement, with the recording of evidence being able to be admitted in court proceedings as the person's evidence-in-chief. There is a requirement that the witness be able to be cross-examined in the trial, but if the process is followed, there is a much greater ability for a person with intellectual impairment to make a complaint, and have their story told rather than following the usual more formal and more rigid procedures.

Committee Comment

The Committee is satisfied the QPS is moving in the right direction with its *Vulnerable Persons Policy* and Operations Manual, however it is apparent that further training is required to assist officers in dealing with people with intellectual disabilities.

The Committee does not consider these issues to be insurmountable and that bringing these matters to the fore will assist the QPS in recognising any shortfalls in their current training packages. In that regard, the Committee considers the policies and training packages used by the QPS in dealing with people with mental illness or intellectual disability should be reviewed as a priority.

Recommendation 81

The Committee recommends the Queensland Police Service review their training packages, policies and procedural manuals to improve the way police interact with people with a disability. In particular, the following issues should be considered in detail:

- o Identification of people with disability;
- o Provision of support and advocacy for people with disability when they are subject to questioning and arrest; and
- o Appropriate questioning and interviewing techniques of people with disability.

14.7 Interactions with the courts

Similar issues to those which are apparent with interactions with the police service arise with people with intellectual disabilities and their interaction with the courts.

In relation to the identification of persons with intellectual impairment, the ADCQ and the Office of the Public Advocate submitted that currently in Queensland, there is no systematic approach to identifying people with intellectual impairments who appear in the Magistrates Court.¹⁶⁹⁴

...although mental health liaison officers do assist to identify people who may be subject to an order under the Mental Health Act 2000. It would be preferable for identification of intellectual impairments to occur at the time of initial police contact, but in absence of this, the system should strive for identification at the time of first appearance.

¹⁶⁹⁴ ADCQ and the Office of the Public Advocate, Submission No. 32, page 17.

It is not necessary that people undergo comprehensive assessments, which can be expensive and time consuming, but rather that relatively simple screening processes are utilised to identify people who may have intellectual disability and/or impaired decision-making capacity.

Once people are identified, there should be appropriate coordination of referrals to appropriate support services and a mechanism to bring this to the attention of the appropriate personnel, including their lawyers. Early identification can assist with appropriate responses, including referral to appropriate supports and diversions, and may assist in having a matter efficiently processed through the criminal justice system.¹⁶⁹⁵

Compounding this, there is no ability for the Magistrates Court to offer a diversionary option equivalent to the Mental Health Court. Currently, the Queensland Mental Health Court is an option for people who have committed an indictable offence only - whereby they may be diverted from the criminal justice system and have their matter dealt with by the specialist mental health court.

For those that appear before a Magistrate on a summary offence, there are no procedures for a Magistrate to determine fitness for trial or unsoundness of mind.¹⁶⁹⁶ This position was summarised by the ADCQ and the Office of the Public Advocate:

While the common law would apply and the Magistrates Court could hear evidence and determine if the defendant is fit to plead or to stand trial in relation to charges for simple offences, there are no statutory provisions setting out the procedure in the Magistrates Court to follow.

Further, even if the Magistrates Court found that the person was of unsound mind and acquitted the defendant, there are no statutory provisions that enable the Magistrates Court to order treatment or care or other interventions for the defendant to prevent further offending.¹⁶⁹⁷

Dr Nick Collyer provided an example to the Committee at the Brisbane public hearing:

One of the case examples I was going to give you was one given to me by a local magistrate. It was a young man who had exposed himself. He had also committed a minor theft offence of a chicken. He had taken it to the local school to eat it and he had been picked up by the police. The magistrate said to me that he felt it was unfortunate that he did not really have any options for this person. There was no provision for him to suspend proceedings and divert them into the Mental Health Court as there is with indictable, more serious offences.¹⁶⁹⁸

Case Study - Melisa Avery

A stark example of the treatment of someone with an intellectual impairment by the Magistrates Court was brought to the attention of the Committee by John and Colleen Avery in both their written submission and their appearance at the Brisbane public hearings. The Averages spoke to the Committee about their experiences with the court system and the plight of their daughter, Melisa and her many interactions with the justice system:

Ours is a real lived experience. It has been very difficult and very distressing. We have been to the depths of despair and have experienced this journey at times very much

¹⁶⁹⁵ Ibid, page 17.

¹⁶⁹⁶ Ibid, page 13.

¹⁶⁹⁷ Ibid, page 13.

¹⁶⁹⁸ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Brisbane, 6 August 2014, page 36.

*alone, simply because no-one in the legal system knew how to appropriately deal with the matter. The great sadness is that the pain, the stress and the anguish that we have experienced as a family continues to permeate many families today. The systemic failures that prove to be such an ordeal for us still exist.*¹⁶⁹⁹

Melisa was diagnosed with an Intellectual disability at the age of three and attended special schools. After leaving schools, Melisa worked in an Endeavour Business Service however developed challenging behaviours as she matured including anxiety, lack of impulse control, obsessive-compulsive tendencies and dishonesty. As explained by Mr and Mrs Avery:

In 1996 she moved to live in an Endeavour Foundation 10 bed residential in Toowoomba and while this worked for 4 years, in 2000 she walked out of the residential early one morning and took up residence on the couch of a fellow employee. So, overnight, she went from 24/7 supported accommodation to no support at all. She still resides with this man some 14 years later; the relationship is often challenging, abusive and the threat of violence never far away. However at times they make a relatively happy couple.

*Her partner was a ward of the State, raised in the 60's and 70's at the Sisters of Mercy orphanage at Nudgee where he suffered much abuse. We are the QCAT appointed guardians for both our daughter and her partner which reinforces that they have decision making incapacity. The relationship has been assessed by those professionals working with the two as being the cause of great anxiety to our daughter as she attempts to show her de facto partner that she is a good 'wife' and housekeeper.*¹⁷⁰⁰

Melisa's way of showing this was to visit shopping centres and bring home groceries and cleaning products, other favourite items of her own such as greeting cards, post cards and DVDs - all unpaid for. As a consequence, she has been arrested, charged and appeared before a Magistrate receiving 15 convictions up to 2006. Penalties imposed on Melisa have included community service, fines, probation and being threatened with jail time. Melisa's responses to these punishments were explained by her parents:

Community Service, *loved it, packing flavoured milk and confectionary and rewarded with some at the end of the day.*

Fines, *various fines including a \$500 fine and she enjoyed withdrawing the cash from the bank and paying at the courthouse.*

Probation, *the probation officer was at a loss, and had no idea of how to work with her. But, she did not attend these meetings of her own volition.*

It was not until after an altercation with a shop assistant that one of the charges brought against Melisa was for an indictable offence enabling her to appear before the Mental Health Court. That court found her '*permanently unfit to plead*' because of her significant intellectual disability. The matter of the 15 earlier convictions in the lower court was brought to the Court of Appeal by the then Attorney-General on the basis that as Melisa was unfit to plead to the offence in the Mental Health Court, she should also be unfit to plead to the offences in the Magistrates Court. The Court of Appeal agreed and set aside those 15 convictions on the basis that it would be a miscarriage of justice to allow them to stand.

¹⁶⁹⁹ Ibid, page 15.

¹⁷⁰⁰ John and Collein Avery, Submission No. 69, page 1.

The Court of Appeal stated:

*It seems unsatisfactory that the laws of this State make no provision for the determination of the question of fitness to plead to summary offences. It is well documented that mental illness is a common and growing problem amongst those charged with criminal offences. The Magistrates Court has attempted to meet this problem through its Special Circumstances Court Diversion Program which apparently presently operates only in the Brisbane area. This program assists categories of vulnerable people including those with impaired decision making capacity because of mental illness, intellectual disability, cognitive impairment, or brain and neurological disorders. This commendable initiative, which allows for suitable compassionate supervisory and supportive bail and sentencing orders to be made in appropriate cases, may well be effective in assisting these vulnerable people. But it does not and cannot provide a satisfactory legal solution where people charged with summary offences under the criminal justice system are unfit to plead to those charges. The legislature may wish to consider whether law reform is needed to correct this hiatus in the existing criminal justice system.*¹⁷⁰¹

14.8 Legislative Amendments

The Committee understands a number of legislative amendments are being considered as a result of this decision through the current review of the *Mental Health Act 2000* including:

Where a magistrate is satisfied a person is likely to be, or appears, unfit for trial or of unsound mind due to an intellectual disability, the magistrate:

- *must discharge the person unconditionally, and*
- *may refer the person to the Department of Communities, Child Safety and Disability Services to consider whether appropriate care can be provided to the person.*¹⁷⁰²

As submitted by the Avery's however, based on a real situation involving Melisa in 2002, Disability Services are under no obligation to follow the Magistrate's orders. The Avery's submitted this amendment needs to be considered further and highlighted the need for a whole-of-government approach to these matters to ensure that appropriate solutions are arrived at:

The magistrate recommended that she had to have 30 hours of support, but Disability Services do not have to follow direction from the court. This is why we believe we need a holistic approach. We need all these departments to work together. I even wrote to Minister Davis and explained Melisa's story and said, 'Could you please go and talk to the Attorney-General? He just doesn't understand what I am getting at with my numerous letters to him.' I am still writing letters to him.

*I get a letter back just saying that it is a justice issue, but it is not. It is the whole thing. It is a holistic approach. Melissa needed early intervention. If she had got what she is getting now from 2011, our path may have been a very different one.*¹⁷⁰³

¹⁷⁰¹ *R v AAM; ex parte A-G* (Qld) (2010) QCA 30S (9).

¹⁷⁰² Queensland Health, [Review of the Mental Health Act 2000, Discussion Paper](#), May 2014, page 17.

¹⁷⁰³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Brisbane, 6 August 2014, page 17.

Further as submitted by the ADCQ and the Office of the Public Advocate, in relation to the proposed amendments:

...what is not considered as part of that review are the systems changes and supporting services that would be needed to support these legislative changes. Consistent findings of reviews and inquiries in other jurisdictions have found that without effective mechanisms to identify offenders with disability as well as case management to support diversion and available services to divert people to, legislative provisions will be of limited effectiveness in preventing re-offending.

Without such services, the legislative changes proposed in the review of the Mental Health Act 2000 could continue to see people 'falling between the cracks' with serious impacts both for their own rehabilitation and community safety.

While there are currently mental health court liaison staff, no such service exists for offenders with intellectual and cognitive impairments that would assist in identification, assessment, referral and case management.

We would recommend that the proposed reforms to the Mental Health Act 2000 be accompanied by a statewide court liaison service for people with intellectual and cognitive impairment, or alternatively expand the current mental health court liaison service to also encompass people with intellectual and cognitive impairments.¹⁷⁰⁴

Committee Comment

The Avery matter has highlighted several issues which the Committee considers must be addressed. The ADCQ and the Office of the Public Advocate have advised they will be submitting to the Review of the *Mental Health Act 2000* and the Committee urges the Government to carefully consider those submissions. The Committee also urges the Government to consider the need for better integration between government services to ensure that policies achieve the desired effect.

Recommendation 82

The Committee recommends the current review of the *Mental Health Act 2000* not only addresses the deficiencies in the law raised by the Court of Appeal but also addresses the disconnect between orders of the court and other government departments to deliver a holistic approach to mental health issues.

Recommendation 83

The Committee recommends the Government consider expanding the court liaison staffing programs to include services for people with intellectual and cognitive impairment.

14.9 Providing evidence in Court

Similar to the issues raised with providing statements to police, the difficulties for people with disabilities providing evidence in court was also raised with the Committee. It was submitted by the ADCQ and the Office of the Public Advocate that people with disabilities face additional barriers when involved in court proceedings including misconceptions about the credibility of their evidence and a lack of support to provide evidence.

¹⁷⁰⁴ ADCQ and the Office of the Public Advocate, Submission No. 32, pages 14-15.

The ADCQ and the Office of the Public Advocate detailed in their submission the relevant provisions designed to assist people with disabilities provide evidence-in-chief, the process for persons to be declared special witnesses and the procedures around legal representatives asking improper questions.¹⁷⁰⁵

It appears that the *Evidence Act 1977* includes sufficient provisions to assist people with intellectual disabilities however there needs to be more consistency in their application. At the private hearing in Brisbane, this matter was raised with the Committee by one of the support workers who provided evidence:

Again, [the special witness provisions] are not automatically instated and often the judiciary will turn it down if the person may not look disabled enough. So this is this whole issue of perception and assumptions made about a person's capacity based on how they appear. That is why training is so important. We would recommend that this happen at DPP level, police prosecutor level, victim liaison officer level and also members of the judiciary, which is very hard to crack.

...

The other thing that I would look at is that the Evidence Act needs to be reviewed and the role of witnesses and victims with disability and the court process. At the moment there are a lot of cases that do not go to court simply because of perceptions of the reliability of witnesses. We have had a number of those situations happen in the last few years. It is quite appalling for the victim to get to the point where their case is about to be heard in the District Court and it is removed, or the DPP decides not to move forward with it based on reliability of the witness.¹⁷⁰⁶

The ADCQ and the Office of the Public Advocate considered the combined effect of the provisions as they currently stand, used appropriately in the circumstances are that, in many instances, a person with an intellectual or mental health impairment would not even need to enter a courtroom or attend a trial. A person could still be subject to cross-examination, using the special witness provisions.

What is required however, is the person must be supported throughout and the legal process can be adapted to better accommodate needs specific to their intellectual or mental health impairment. The ADCQ and the Office of the Public Advocate considered that with proper implementation, these provisions should have the result that:

- *witnesses experience lower levels of stress or confusion;*
- *their evidence can be preserved at an early opportunity; and*
- *they can have the opportunity to demonstrate their competence and credibility in a more suitable environment than the traditional courtroom.¹⁷⁰⁷*

Committee Comment

The Committee agrees the inconsistency in the use of the *Evidence Act 1977* provisions is of concern, and that further support for people with intellectual and mental health issues is required. In relation to how this can be addressed, the Committee considers the proposals by the ADCQ and the Office of the Public Advocate for a Disability Justice Plan requires careful consideration.

¹⁷⁰⁵ Ibid, pages 15-17.

¹⁷⁰⁶ *Transcript of Proceedings (Hansard)*, Private Hearing, LACSC, Brisbane, 8 August 2014.

¹⁷⁰⁷ ADCQ and the Office of the Public Advocate, Submission No. 32, page 17.

The ADCQ and the Office of the Public Advocate submitted that Queensland must develop a Disability Justice Plan and referred the Committee to other jurisdictions that have put in place such a plan, notably New Zealand and South Australia. The South Australian plan has a simple purpose - *'To make the criminal justice system more accessible and responsive to the needs of people with disability'*.

The Committee notes Queensland has a new whole-of-government Disability Plan 2014-19 which is designed to enable people with disabilities to have greater choice and control over disability care and supports, and provide economic opportunities for people with a disability. The plan has seven priorities, with priority six being relevant to the justice area - *'Enhance mainstream services and facilities to enable genuine choice and participation in all areas including education, employment, health, justice services and housing.'*¹⁷⁰⁸

Priority six will be achieved by strengthening safeguards and enable equal and effective access to the justice system as victims or offenders. Under the Disability Plan, each Government Department is required to develop and publish disability service plans for their respective areas and continue to take action to improve services throughout the five years of the plan.

The Department's Disability Service Plan for 2014-16 includes 34 actions to support whole-of-government priorities. Those actions relate to a number of justice issues in Queensland, including the over-representation in the criminal justice system of people with an intellectual or cognitive impairment, both as offenders and victims of crime and also actions to protect the rights, interests and safety of people with a disability, and actions to help people find and use justice services more easily.¹⁷⁰⁹

While the Committee is satisfied the Department's Disability Service Plan for 2014-16 is a step in the right direction, consideration should be given to a Disability Justice Plan in its own right similar to that implemented in South Australia. In particular the Committee notes the principles of the South Australian Disability Justice Plan includes *'equality of opportunity'*. The issue of inequality became very apparent to the Committee when it heard evidence, during a private hearing, from two women with intellectual impairment who were sexually assaulted when they were much younger. One witness, told the Committee about her story and how both she and her sister were sexually abused when they were children by their step-father. He was prosecuted for the offences against her sister, but not against her. Her sister had no disability.

The second witness also relayed her story to the Committee about the difficulties she faced in accessing assistance and support through the criminal justice system. Her story was similarly terrible. The Committee understands it would have been extremely daunting for these women to come into Parliament House and appear before the Committee with their evidence and the Committee thanks them for sharing their experiences.

One exchange really hit home for the Committee regarding the issues of inequality and lack of respect that people with intellectual impairments face on a day to day basis. It would be remiss for us not to reproduce it in this report:

Support worker: [KP], *what did you say outside? That was gold.*

KP: *I got to think first. What was it?*

Support worker: *People have to—*

¹⁷⁰⁸ [Queensland Disability Plan 2014-19: Enabling choices and opportunities](#), page 6.

¹⁷⁰⁹ Department of Justice and Attorney-General, [Disability Service Plan 2014-2016](#), page 2.

KP: People—something about their boots.

Support worker: You said people have to learn to stand—

KP: Stand in their own boots—shoes, or whatever I said. It is hard to remember.

CHAIR: The meaning is not lost. We understand what you are saying.

Support worker: It was a very wise moment. [KP said] they need to stand in our shoes.

Recommendation 84

The Committee recommends the Government consider implementing a Disability Justice Plan for Queensland to give further recognition to the challenges faced by people with disability in accessing the justice system.

15. Physical and Environmental Crime Prevention

15.1 Introduction

In considering criminal activity within community contexts, the Committee focused on the use of crime prevention strategies having a positive immediate impact within a range of Local Government Areas (LGAs), and looked at the relationship between the QPS, local governments and constituents, many of whom are volunteers, working together to create safer communities.

The Committee also assessed the importance of situational crime prevention and Crime Prevention Through Environmental Design (CPTED), noting the positive, proactive planning and work being done in this area, as well as identifying opportunities for improvement.

This section of the report summarises a range of community crime fighting endeavours and includes recommendations to strengthen these pursuits. In making recommendations the Committee firstly acknowledges the good work being done, and secondly, honours the importance of grassroots, inclusive community based strategies that empower individuals, and in turn communities, to play a proactive role to create safer communities.

15.2 Situational Crime Prevention overview

Situational crime prevention is founded on rational choice theory, an opportunity-based theory that assumes offenders seek to benefit themselves by their criminal behaviour. This type of offending is rarely random.

As set out in Part 2 of this report – a situational crime prevention approach is directed at the physical environment in which crime occurs. This type of approach aims to reduce opportunities for crime through better design, organisation and management of public places, and generally improving security measures for both homes and businesses. More than ever, technology is also being used in situational crime prevention. As described by Assistant Commissioner Peter Martin:

There is no doubt that in my 35-year career as a police officer the greatest change that we are seeing in a positive sense is the embracing of technology, particularly over the last five years. The expansion of CCTV, particularly in the Brisbane area and in other areas, combined with the theory and the implementation of crime prevention through environmental design is working very effectively for us and every day there are examples—literally every day—where, through good investigative work, through employing CCTV, by target hardening and reducing the opportunity for crime, we are making a very significant difference.¹⁷¹⁰

Situational crime prevention overlaps with a number of other approaches to crime reduction: crime prevention through environmental design; problem-oriented policing and problem-oriented partnership policing; crime mapping; and product design against crime.¹⁷¹¹

A range of situational crime prevention strategies were raised with the Committee throughout the inquiry and these are discussed below.

¹⁷¹⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, Brisbane, 6 August 2014, page 7.

¹⁷¹¹ T Prenzler, *Professional Practice in Crime Prevention and Security Management*, Australia: Australian Academic Press, (Ed)(2014).

15.3 Crime Prevention through Environmental Design

CPTED strategies are aimed at minimising criminal opportunities while simultaneously enhancing opportunities for surveillance and crime detection. These strategies are not only focused on reducing victimisation at specific places, but also on minimising fear of crime at places. This is based on the premise that it is easier to *alter the environment* than it is to *change people*. CPTED focuses on encouraging the protection of potential victims, targets and target areas by using environmental design to increase opportunities for surveillance, effective management and control of places.

The two main crime control dimensions of CPTED are environment and design:¹⁷¹²

*By manipulating cues from the physical environment to discourage illegal and disruptive behaviours, while simultaneously promoting the intended use of space by legitimate users, CPTED has become a viable physical environmental intervention.*¹⁷¹³

CPTED is a form of situational prevention focused on physical settings. The CPTED method is concerned with designing open malls, parks, streets, buildings, entrances and rooms in ways that facilitate 'defensive space' and 'territoriality'.

The Heart Foundation submitted that increasing safety around walking, cycling and public transport use is a high priority because they considered Queenslanders should be more active, more often. The Heart Foundation provided:

The recent tragic murder of a French student in Brisbane while walking from public transport to her home highlighted the need for good personal safety infrastructure such as adequate lighting, but also the repercussions of increased perceptions of danger in the community and negative economic impacts on tourism and international study. We need to reduce crime in our neighbourhoods, especially around public transport hubs, and our walking and cycling routes.

A key goal to promoting walking and physical activity is to create walkable streets for people of all ages and abilities. If a streetscape meets the needs of people aged between four and 80 years, the visually impaired and wheelchair users, this provides a safer and more pleasurable walking experience for all individuals.

CPTED ...is achieved by creating environmental and social conditions that:

- *Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension);*
- *Maximise the effort required to commit crime (increasing the time, energy and resources required to commit crime);*
- *Minimise the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards);*
- *Minimise excuse making opportunities (removing conditions that encourage/facilitate rationalisation of inappropriate behaviour).*¹⁷¹⁴

¹⁷¹² Ibid, page 24.

¹⁷¹³ Ibid.

¹⁷¹⁴ Heart Foundation, Submission No. 33, page 1.

The Heart Foundation further provided:

CPTED concepts and principles are ideally incorporated at the design stage of a development, but can also be applied to existing developments and areas where crime and safety are a concern. Some simple strategies may include improved lighting, natural community surveillance, security cameras, emergency phones and landscape treatments with low vegetation that soften the harsh edges of a park or trail while maintaining visibility and eliminating hiding spaces for potential criminals.

The perception of safety removes a major barrier to people walking and riding bicycles. Creating an attractive, usable, well-maintained environment where people feel safer to love, work and travel and have a visual connection to the public realm will encourage more physical activity.¹⁷¹⁵

The Heart Foundation referred the Committee to the RESIDE project in Perth, Western Australia, noting a key finding that an increase in the fear of crime was associated with a decrease in residents' walking. Further, the Heart Foundation noted the *Good for Business* report which shows the direct economic benefits from developing communities that are more walking and cycling friendly.¹⁷¹⁶

15.4 Local Council initiatives – Community partnerships & CCTV Cameras

The Committee received a number of submissions from local councils outlining the programs they implement to prevent and reduce crime. Three examples from Toowoomba, Ipswich and Logan are set out below.

Crime reduction strategies in Toowoomba

The Safer Toowoomba Regional Partnerships Inc. (STRP) is an interagency, community-based group working to promote safety in Toowoomba City through needs-based crime prevention and injury prevention programs. Under the STRP Constitution the chair is appointed by the mayor of the Regional Council and the Superintendent of Police is deputy. Membership includes the Local State Member, State Government representatives (Education, Queensland Police Service, Department of Communities – Youth Justice, Corrective Services), Neighbourhood Watch, business, media, Toowoomba Regional Council and Indigenous person, Service groups such as the Toowoomba Youth Service and the Police Citizens Youth Club.¹⁷¹⁷

Since the groups' inception (approximately 15 years ago) STRP has raised in excess of one and half million dollars through grants and sponsorships to conduct a diverse range of very successful community activities, such as: The Heights Community Centre; Graffiti Busters; and a monthly radio program.¹⁷¹⁸

At the hearing, Councillor Geoff McDonald of Safer Toowoomba Regional Partnerships Inc., advocated for Safer Toowoomba Regional Partnerships, suggesting it needs to be taken to the next level. Cr McDonald acknowledged the organisation '*Toowoomba Says No 2 Domestic Violence*', as a core component of the crime partnership, alongside *Crime Stoppers* and the *City Safe Program*.¹⁷¹⁹

Cr McDonald also explained that the *City Safe Program*, through the CCTV and surveillance, has seen growth in the number of cameras, and growth in the number of reported incidents because there are 'more eyes on the street', attributing the success of the program to its visual nature and the

¹⁷¹⁵ Ibid, page 2.

¹⁷¹⁶ Ibid, page 2.

¹⁷¹⁷ Safer Toowoomba Regional Partnerships Inc., Submission No. 5, page 1.

¹⁷¹⁸ Ibid, page 1.

¹⁷¹⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Toowoomba, 31 July 2014, page 14.

heightened consciousness that creates. In Toowoomba, the *Liquor Industry Action Group* includes retailers which, along with the police and camera operators, provide a proactive approach to identifying and responding to possible incidents.¹⁷²⁰

The CCTV program has about 21 cameras in the Toowoomba CBD. Cr McDonald explained that the program has been successful and there has been a decrease in the number of assaults. Cr McDonald reiterated the importance of a whole-of-community approach to making the community a safer place, explaining that communities also need to be proactive.¹⁷²¹

Crime reduction strategies in Ipswich

Ipswich City Council reported it has enjoyed a twenty year relationship with the QPS, pursuant to a Memorandum of Understanding providing for efficient, effective and collaborative working arrangements to address crime prevention and detection via the Safe City Program:

Commencing in 1994 and championed by then Councillor Paul Pisasale (before he became Mayor), the Safe City Program was designed to engage multiple stakeholders to regularly meet and brainstorm crime prevention and detection strategies, with a view to enhancing community safety across the Ipswich Local Government Area (LGA).

The Program commenced from humble beginnings including the installation of four CCTV camera in the Ipswich CBD Mall. This project was fully funded by Council and its success was instantaneous in respect of its public crime detection, evidence gathering and general deterrence.

Over consequent and ensuing years the Safe City CCTV camera network has been extended to cover a range of public areas across the entire LGA from Goodna to Rosewood. The Program relies on 247 Pan Tilt Zoom (PTZ) infrared and night vision cameras all of which are wired in and transmit images via cabling to a 24/7 monitoring facility located in the Ipswich CBD Mall. The relevant cameras and 24/7 monitoring are fully funded by Council.¹⁷²²

Ipswich City Council also advised it has installed a further 283 cameras which monitor and protect all Council assets and facilities across the LGA, leading to a 74.9 percent reduction in crime since the Program's inception in 1994. Council notes the Program involves a range of community safety and crime prevention strategies which are far more reaching than simply installing and monitoring CCTV cameras, acknowledging that widespread advertising, publicity and community education surrounding the Safe City CCTV camera network has had a positive effect on general deterrence.

In addition to the abovementioned decreases in crime, Ipswich City Council acknowledged that QPS data reveals whilst more serious offences against the person (murder; rape; grievous bodily harm; unlawful wounding), decreased, they were replaced by offences such as common assault, public nuisance and/or graffiti.¹⁷²³

Crime prevention strategies in Logan

The Logan City Council submitted its Safety Camera Program has been a valuable source of information relating to trends of criminal behaviour being identified in areas of Logan City that have Council-run CCTV. Over a decade, the Logan Safety Camera Program has identified in excess of 6,000 incidents, the majority of which are lower order offences such as public drinking and intoxication and

¹⁷²⁰ Ibid, page 14.

¹⁷²¹ Ibid, page 14.

¹⁷²² Ipswich City Council, Submission No. 62, pages 1-2.

¹⁷²³ Ibid, page 2.

disorderly conduct. The Logan City Council acknowledges that *'while these offences may not be considered to pose a grave threat to community safety, if left unchecked, these offences may escalate into more serious offences'*.¹⁷²⁴

The Logan City Council receives complaints from residents relating to a range of community concerns, most of which relate to public safety in parks and laneways, with groups of young people congregating in parks after dark being a common complaint.¹⁷²⁵ Logan City Council considers its Safety Camera Program has been a 'resounding success in enhancing perceptions and realities of safety in Logan City' since its inception in 2001. The council contributed the program's success with support provided by the QPS that has resulted in addressing a wide variety of chronic and transient crime issues across Logan City, including volatile substance misuse and public intoxication, as well as providing a timely response resulting in the de-escalation of potentially volatile situations and the prompt apprehension of offenders:

*Logan District QPS regularly request deployment of Council's mobile safety camera devices for a range of crime prevention and community safety reasons, including hooning, beat activity, and in response to critical incidents. This partnership has allowed QPS to process offenders of transient crime while allowing Council to provide a timely and effective response to crime and safety concerns across the whole of Logan City, not just areas with permanent safety cameras.*¹⁷²⁶

15.5 Problem-Oriented Policing and Crime Mapping

Problem-oriented policing (POP) involves adopting a consultative approach to solving crime-related community problems, rather than simply reacting to crime by attempting to arrest offenders. POP advocated an information-driven approach, and the process aspects of situational crime prevention can be seen in the police problem-solving 'scan, analyse, respond, assess' model. The importance of partnerships with groups outside police led to the term 'problem-oriented and partnership policing' (POPP).

Computer-aided crime mapping is useful to show graphically how crime patterns occur across space and time; including stable, fluctuating and evolving patterns. Situational crime prevention operates on the assumption that the more crime is concentrated at particular times or places, the more amenable it is to effective interventions. 'Hot spot analysis' targets highly concentrated areas of crime.

As outlined earlier in this report, greater use of technology is enabling police to embrace alternate methods of policing rather than pure 'reactive' methods. The Committee understands the Griffith Centre of Excellence in Policing and Security and the QPS are embarking on a predictive policing trial and looks forward to the outcomes once completed.

15.6 Community Crime Prevention

The QPS continues to take an active role with the Community in not just fighting crime, but also with crime prevention initiatives. The Committee heard about the success of a number of QPS/community active partnerships which are set out below.

¹⁷²⁴ Logan City Council, Submission No. 84, page 4.

¹⁷²⁵ Ibid, page 4.

¹⁷²⁶ Ibid, page 8.

Neighbourhood Watch

Neighbourhood Watch (NHW) groups continue to form the backbone of community crime prevention programs. In 2012, the Government announced a commitment to renew the NHW program by increasing the number of groups; and taking NHW online with a focus on social media.¹⁷²⁷

As the Committee held its hearings around the State, it was no surprise that interested members of the community who came to attend were affiliated with their local NHW group. It was encouraging for the Committee to hear the QPS representatives in each location speaking highly of the NHW groups operating within their region.

For example, at the Gold Coast hearing, the Committee heard there were currently 69 active NHW groups in the Gold Coast district with three new groups being launched in 2012—at Coomera, Palm Beach and another one at Coomera.¹⁷²⁸ Embracing social media, the Committee was advised, 48 NHW members were trained as blog authors earlier this year, enabling them to provide input to the NHW blog website. The Gold Coast district NHW blog has 455 subscribers and is being promoted at every opportunity at community events by NHW personnel and by QPS officers from the district community policing unit and other volunteers in policing.¹⁷²⁹

At the Sunshine Coast, the NHW program remains similarly strong. The Committee heard the Sunshine Coast groups are also working with the issues of the new technology with the local police advising they *'acknowledge the good work that those groups do across the district and their commitment to working with us to make the place a safer community for all concerned.'*¹⁷³⁰

Highlighting the real results that community crime prevention can deliver, the Committee heard in Townsville that as a result of the recently established online NHW group:

*The information to date is that, just from that activity, 12 possible offenders with five offences recorded against them have resulted from the information that that group has provided.*¹⁷³¹

Superintendent Ron Van Saane spoke to the Committee about the challenges in maintaining active NHW groups after advising that some groups had ceased over recent years:

*I think Neighbourhood Watch has a lot to do with the social fibre of a community and the demographics that make up that area, particularly in Gladstone, which is an area of high industry with a young, mobile, probably affluent, for lack of a better word, population and also a lot of rental accommodation. We are trying to get our foot through the door there and we are doing proactive policing community awareness programs rather than creating Neighbourhood Watch. We would like to, but it is a challenge.*¹⁷³²

Superintendent Van Saane linked the prevalent types of offences to the activeness of the groups, noting that NHW were not particularly big in the rural areas where property offences like break and enters were not a big issue. He also observed that while NHW groups were active, some of the groups with elderly membership were more reluctant to embrace the modern technology available and continued to favour letterbox drops and the like. He noted while this was generally the case with

¹⁷²⁷ www.police.qld.gov.au/programs/nhwq/

¹⁷²⁸ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 4.

¹⁷²⁹ *Ibid*, page 4.

¹⁷³⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 2.

¹⁷³¹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, pages 4-5.

¹⁷³² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Rockhampton, 14 August 2014, page 10.

one NHW group, 'a younger lady in her twenties has come on board and has taken it to a whole new level.'¹⁷³³

Finally, in Toowoomba, Mr Ken Murphy, Coordinator of the Rangeville NHW Program, explained they see:

*a lot of crimes of opportunity: people have left door open; left the car doors unlocked and things like that. In discussions with a lot of the other Neighbourhood Watch areas we have all come to the conclusion that despite the fact that we are a fairly affluent area and if you were so inclined, if you break into a house in the Rangeville area, you are probably going to get a much better return on your investment, on your time, than if you were to break into a lesser area in town, we believe it is not so much that security levels are a lot higher but more because they are crimes of opportunity, the people involved are not in our area, which I guess from our perspective is obviously very good. But I guess to us it highlights part of the concern and the issues that happen in other areas.'*¹⁷³⁴

Volunteers in Policing (ViPs)

Separate to the NHW scheme the QPS also promotes the Volunteers in Policing (ViPs) program. ViPs are based in local police establishments where they work with police to address customer service, community safety and crime prevention needs in the community.

According to the QPS website, ViPs complement rather than compete with the roles and responsibilities of paid police officers and staff members and undertake the following range of tasks:

- Providing support to and assisting victims of crime;
- Offering referrals to other agencies;
- Liaising with community groups and participating in community-based activities;
- Conducting home security assessments and property identification;
- Managing key holders index for businesses;
- Participating in crime prevention initiatives - assisting police with customer service; and
- Assisting with school-based crime prevention projects.

The Committee heard the Gold Coast has a very active ViP cohort with 67 persons registered. Assistant Commissioner Hollands advised the Committee, the ViPs 'are normally retired members of the community who agree to volunteer to assist the police with various activities. ViPs are attached to all police divisions'. At the Gold Coast, ViPs were also attached to the district crime prevention command and the prosecution section at Southport and Coolangatta. Talking to the dedication of the ViPs, Assistant Commissioner Hollands advised:

I know that one ViP is a former member of the New South Wales police. I think this fellow is in his 70s, and he turns up there two mornings a week and helps the police with their prosecution work in terms of collating files and getting material ready for court. We also have volunteers in our northern investigation group and our southern investigation group. They assist at the CPIU in Surfers Paradise and also work out of the Elanora Police Beat. The volunteers assist with a wide variety of tasks including displays at shopping centres, shows and fetes. They provide lectures, provide lock-it-or-lose-it alerts and crime alert letterbox drops. They provide free home and business security audits and court

¹⁷³³ Ibid, page 11.

¹⁷³⁴ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Toowoomba, 31 July 2014, page 27.

*support, to name a few. Recently our volunteers assisted with a high-profile case involving animal cruelty. They conducted a letterbox drop of the area asking if anyone had any additional CCTV footage of the incident. Of course, those volunteers are allowing police time to be freed up to focus on more reactive policing work.*¹⁷³⁵

Station Community Crime Reduction Officers and specialist officers

A recent initiative, commencing this year is that of the QPS Station Community Crime Reduction Officers (SCCROs). As a result of the 2012 State Government commitment to delivering safer communities every police station has an officer to coordinate community crime reduction.

These officers coordinate the development, delivery and evaluation of preventative, problem solving programs and strategies for their area. In the Sunshine Coast the Committee was advised:

*...a lot of work has been done to blend [SCCROs] into the day-to-day business of policing within the district. Whilst the process is in its infancy, I think there are great opportunities there for those officers to work with other community groups to have a whole-of-community government approach to reducing crime and making the place a lot safer for all concerned.*¹⁷³⁶

The Committee understands the SCCROs work closely with key internal and external stakeholders to tailor and deliver crime-reduction strategies, including assisting with the case and place management responses to repeat calls for service and identified offenders within their division in collaboration with the officer in charge. SCCROs are also represented on the District Place and Case Committee and are working to integrate their involvement in the response to local issues identified within that particular committee, which is an internal committee of the QPS.¹⁷³⁷

As the Committee heard in Cairns, specialist officers are also used. Due to the high non-English speaking tourist population in Cairns, liaison officers are used to assist to forge relationships with the community:

*We have the only Japanese speaking police liaison officer here, who has created a great relationship not only with the tourists that come here from Japanese speaking areas, but also with Japanese businesspeople who are embedded in this region. She has also been utilised down on the Gold Coast and in Brisbane and is a great investment. On the back of that investment and with, I suppose, the shift in the numbers of tourists and where they come from, the movement towards the Chinese market saw us recognise our contribution in only a small way, in that we created a position for a police liaison officer with Chinese heritage. Again, at this stage that has been an excellent albeit small contribution to make sure that policing recognises the shift in tourism markets, so that we can greet that market with a degree of comfort and provide that market with the necessary information and understanding when they are here of practical things.*¹⁷³⁸

Similarly, the Gold Coast police recently established a Cross Cultural Liaison Unit (CCLU) working conjointly with its Crime Prevention Unit. The CCLU is currently staffed by a sergeant and one police liaison officer who is shared with the Logan police district.

This is the first time on the Gold Coast that we have had a police liaison officer working permanently in the district. In the three months since the unit has been established we have established important community contacts, attended a number of multicultural

¹⁷³⁵ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Southport, 28 July 2014, page 4.

¹⁷³⁶ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 2.

¹⁷³⁷ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Southport, 28 July 2014, page 4.

¹⁷³⁸ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Cairns, 13 August 2014, page 4.

*network meetings, assisted with victims of crime who were from culturally diverse backgrounds and also helped both the victim and police officers to bridge the gap where English is the second language.*¹⁷³⁹

myPolice Blog

Building on the modernisation of the NHW groups mentioned earlier, the myPolice Blog¹⁷⁴⁰ is one of the recent methods used by the QPS for sharing details about the organisation and its work. A large amount of information is now available to the public directly on-line with the site growing to over 15 blogs throughout the state which contain regular updates from local police about matters of interest to the community. More myPolice blogs will go online as regions develop them.

The Committee heard at the Sunshine Coast, since the *myPolice* blog had been released it had just over 96,000 blogs from the community with 75 percent of the views on the blog being undertaken on mobile devices, which is a clear indication of the community embracing technology.¹⁷⁴¹ Further, in the Northern Region the *myPolice* blog, had received 941,000 views, 1,227 posts and 610 email subscribers.¹⁷⁴²

Homelink

Another recent use of advanced technology was the Homelink program, established for people who live alone, who are mobility impaired, who have a physical, medical or mental health disability or who are elderly. Individuals provide their emergency contact details to the police, including details of their doctor. This information is then entered into QPRIME and in the event those persons require police assistance or some sort of medical assistance, or if they pass away, the police at least know who is living in that particular location.¹⁷⁴³

15.7 Personal Crime Prevention & Education Strategies

Despite the good work being done by the QPS and the community in crime prevention, there will always be a level of personal responsibility and safety that must be accepted by the public individually. According to the QPS, complacency of individuals consistently contributes to crime across the State.

At the Southport Hearing, Assistant Commissioner Hollands explained that crime reduction across the South-East Region, in particular the Gold Coast area, has been effective where community members have taken greater responsibility for their own personal safety and property security and where community members have engaged with local police and exchanged information about what is happening in their community.

At the Brisbane hearing, Assistant Commissioner Peter Martin, Brisbane Region, explained that individuals must take simple steps to protect themselves, and that a joint QPS and Brisbane City Council initiative had been to produce a range of crime prevention advertisements:¹⁷⁴⁴

We have produced a range of advertisements that appear in the cinemas, in the popular press and also on YouTube, trying to get the message out to people to make sure that they are situationally aware, that they employ good crime prevention strategies and

¹⁷³⁹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Southport, 28 July 2014, page 4.

¹⁷⁴⁰ <http://mypolice.qld.gov.au/>.

¹⁷⁴¹ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Mooloolaba, 30 July 2014, page 2.

¹⁷⁴² Transcript of Proceedings (Hansard), Public Hearing, Townsville, 12 August 2014, pages 4-5.

¹⁷⁴³ Transcript of Proceedings (Hansard), Public Hearing, LACSC, Southport, 28 July 2014, page 4.

¹⁷⁴⁴ Transcript of Proceedings (Hansard), Public Hearing, Brisbane, 6 August 2014, page 3.

*that, ultimately, they listen to their instincts and do not put themselves in unnecessary danger.*¹⁷⁴⁵

At the Mount Isa hearing, Acting Assistant Commissioner Taylor added that crime reduction is a very complex area and that it is difficult to explain the exact links between crime prevention and crime reduction. Acting Assistant Commissioner stated:

Given the complex nature of crime, it comes down to a multiple of strategies and influences which may or may not influence crime. Some of the things that we are doing here that we are pushing right across the region including Mount Isa are: we are asking the community to take greater responsibility for their personal safety and property security.

What is consistent throughout the region is the degree of opportunistic offences that occur. By that I mean predominantly juveniles in Mount Isa—approximately 95 percent of property related offences are committed by Indigenous juveniles who take advantage of the community's lack of property security. It is a difficult area to market. My experience is that the further you get away from Brisbane, the more people want to live a relaxed lifestyle. They want the ability to leave their house open, their car open and they believe that that is their right.

*On one hand you are trying to educate people that that is their right, but the better thing to do is to take the time and to take reasonable precautions to lock the car, remove property from sight and lock the home. That is an ongoing battle and we will continue to do that.*¹⁷⁴⁶

Assistant Commissioner Taylor also noted a 'Lock It or Lose It' campaign conducted in partnership with Coles and Kmart.¹⁷⁴⁷ Other crime prevention strategies include distributing 'No valuables or cash left in this vehicle' sun visors, as a deterrent and awareness campaign, and 'Fiscal the Fraud-Fighting Ferret', and a project is being implemented at schools for the same issues, to try to stem the issues around fraud.¹⁷⁴⁸

At the Ipswich hearing, Assistant Commissioner Wright explained the changing nature of community policing and emphasised the need for individuals to change behaviours accordingly. He cited the example of car theft, emphasising the need to be proactive – eg. not leaving car keys near the front door – and explained that the crime prevention co-ordinator in the area is very active.¹⁷⁴⁹

Assistant Commissioner Taylor also addressed the unlawful use of motor vehicles in the Northern region, predominately by juveniles. In acknowledging that this is predominately an opportunistic crime, Assistant Commissioner Taylor stated:

The problem is getting the community to realise that, without the keys, the car will probably be in situ where they left it. I do not know what the demographics are, but something like 45 percent, I would say from the other areas that I have intimate details of, of vehicles that are stolen are stolen from going into a house and getting the keys. We are all creatures of habit and we all design ergonomically an easy way of survival.

¹⁷⁴⁵ Ibid.

¹⁷⁴⁶ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, pages 2-3.

¹⁷⁴⁷ Ibid, page 5.

¹⁷⁴⁸ Ibid, page 9.

¹⁷⁴⁹ *Transcript of Proceedings (Hansard)*, Public Hearing, Ipswich, 29 July 2014, pages 5-6.

Typically, most families walk through the door and they will have a hook one or two steps in, a desk two or three steps in, a bowl two or three steps in and that is where the keys go. These kids are creatures of habit, too. They know that if they walk through the door within a few steps there is a fair chance of finding keys. We still have people who leave keys in unlocked cars on the street. It is extremely frustrating.

I intimated in our marketing and in our appeal to the community that there are some who will openly get into an argument — ‘We shouldn’t have to do that. Why should I have to lock up my car?’ I do not argue with them. I say, ‘No, you shouldn’t, but the smart money tells me that if you continue to do this you’re going to become a victim.’¹⁷⁵⁰

The message was the same in Townsville:

There is also a level of complacency within the community which is inconsistent with the exposure to crime that that community faces. Putting it simply, the five- or ten-second investment, such as I indicated in Mount Isa, in locking your car, removing your wallet, removing your credit card, putting it in your pocket, walking in the door, locking the door, hiding the car keys—those simple steps are not being taken by 30 percent to 50 percent of the households in Townsville. Whilst we are doing all these things and the community is certainly improving, the relationship can be improved by us working smarter and the community heeding the warning.¹⁷⁵¹

Finally, Chief Superintendent Maurice Carless reiterated this message at the Rockhampton hearing:

It has been our experience that the most effective crime reduction has occurred where community members take responsibility for their personal safety and property security and community members are engaged with local police and provided with accurate, timely information upon which they can make personal safety and property security decisions.¹⁷⁵²

Turning the Screws on Crime

One of the programs implemented across the State, is the ‘Turning the Screws on Crime’ program, which is aimed at improving awareness of a number of plate thefts that have been occurring throughout multiple districts. The program involves the distribution and attachment of one-way screws for members of the community to attach to their vehicles. Events are run by the QPS district community policing coordination group with ViP assistance at hot spots, such as shopping centre car parks, in order to deter potential offenders from committing crimes. The ViPs also accompany officers from the community policing unit. As advised at the Southport hearing, *‘they might set up at Bunnings on a Saturday and they will provide these screws to people so that their numberplates will not be stolen. They will even fit the screws to the numberplates if that is required.’¹⁷⁵³*

Committee Comment

The Committee recognises the important, and valuable work QPS officers are performing within communities and considers they are really leading the way in crime prevention. Rather than reacting to crime, QPS officers are highly visible, engaged participants actively building partnerships with communities at a number of levels.

¹⁷⁵⁰ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Mount Isa, 11 August 2014, pages 18-19.

¹⁷⁵¹ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Townsville, 12 August 2014, pages 4-5.

¹⁷⁵² *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Rockhampton, 14 August 2014, pages 2-3.

¹⁷⁵³ *Transcript of Proceedings (Hansard)*, Public Hearing, LACSC, Southport, 28 July 2014, page 4.

The Committee was encouraged to hear of the abovementioned successful QPS initiative, which are designed to engage communities hearing about the success of initiatives outlined above. In particular the use of Station Community Crime Reduction Officers and the increased use of the myPolice Blog could make real and tangible differences in the community. Notwithstanding the long running success of the NHW program, the Committee considers it may be timely to review this program with a view to adopting more social media as a means of engaging a broader cross section of the community in this valuable program.

The Committee endorses the importance of situational crime prevention and CPETD strategies being adopted throughout the State, and appreciates submissions and witnesses who shared examples to illustrate a range of important initiatives being realised throughout the State.

The Committee also acknowledges the range of CCTV programs in operation throughout local government areas and whilst the Committee acknowledges these programs, the Committee sees CCTV as a strategy to assist, rather than replace QPS officers stationed in communities. The Committee notes variations in funding models and resource allocation, including staffing, to CCTV programs and notes there may be benefits to adopting a coordinated approach to resource allocation and funding. Similarly, the Committee sees merit in formalising a coordinated approach to CPETD in planning schemes.

The Committee acknowledges the work of Local Governments and communities working together, supported by the QPS, ensuring their communities are safe places. Notwithstanding the positive outcomes of these fruitful partnerships, the Committee notes the emergence of a significant theme: that individuals must adopt basic proactive measures to protect themselves and their property. Locking doors and motor vehicles, and hiding car keys are rudimentary safety considerations that can easily be realised as free strategies to minimise crime.

Recommendation 85

The Committee recommends the Government and local councils take an active role in promoting CPETD principles in the planning of all new developments.

Recommendation 86

The Committee recommends the Government engage with local councils to ensure there is a coordinated approach to funding CCTV programs for crime prevention.

Recommendation 87

The Committee recommends the Queensland Police Service continue to promote a greater use of social media with the community, particularly with Neighbourhood Watch programs in order to engage a broader cross-section of community involvement in these programs.

Recommendation 88

The Committee recommends the Queensland Police Service continue to engage with the community in developing advertising and education initiatives to raise awareness of the routine precautions individuals must take to build safer communities.

Appendix A – Terms of Reference

That the Legal Affairs and Community Safety Committee (the Committee) conduct an inquiry on strategies to prevent and reduce criminal activity, by examining:

- the trends and type of criminal activity in Queensland, having regard to available crime statistics and issues in relation to unreported crime;
- the social and economic contributors to crime;
- the impacts of this criminal activity on the community and individuals, including the social and economic impacts;
- the effectiveness (including the cost effectiveness) of crime prevention strategies, including imprisonment, justice reinvestment, early intervention, alternative dispute resolution, and other models used in national and international jurisdictions;
- the experiences of Queenslanders with regard to the criminal justice system, including the experiences of victims of sexual violence and/or domestic violence including their interactions with the Queensland Police Service, the courts, prosecuting authorities, legal and support services and compensation processes; and
- possible strategies to increase collaboration and co-operation between various participants in the criminal justice system.

Further, the Committee is to recommend measures to curb criminal activity, reduce rates of recidivism, and build a safer community.

In undertaking the inquiry the Committee is to:

- hold public and private hearings across Queensland;
- ensure such hearings include an examination of available crime statistics for the relevant area or region; and
- take public and private submissions.

Further, that the Committee report by 31 October 2014

Appendix B – List of Submissions

Sub #	Submitter
001	Professor Tim Prenzler
002	Bruce Taylor
003	Morris Winter
004	Ken Park, Janet Wilkinson, Stephen Carter
005	Safer Toowoomba Regional Partnerships Inc.
006	Youth and Families Association
007	Protect All Children Today Inc.
008	Queensland Public Interest Law Clearing House Incorporated
009	Rodney Crisp
010	Grazia Catalano
011	Confidential
012	Frances Long
013	Confidential
014	Susan Savage
015	Justin Kenardy
016	CLEAR International Australia
017	Queensland Council of Social Service
018	Salvation Army Queensland Division
019	Queensland Indigenous Family Violence Legal Service
020	Dianne Turner
021	Hopecentre Services
022	Hon. Justice Margaret McMurdo AC
023	Law and Justice Institute (Qld) Inc.
024	Zig Zag Young Women's Resource Centre Inc.
025	Confidential
026	Maryborough Chamber of Commerce
027	Women in Prison Advocacy Network
028	Social Responsibilities Committee, Anglican Church Southern Queensland
029	Sisters Inside

Sub #	Submitter
030	FamilyVoice Australia
031	Anti-Discrimination Commission Queensland
032	Joint submission by the Anti-Discrimination Commission Queensland and the Office of the Public Advocate
033	Heart Foundation
034	Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd
035	Together Queensland – Brisbane Correctional Centre
036	Together Queensland – Capricornia Correctional Centre
037	Together Queensland – Capricornia Correctional Centre Farm
038	Together Queensland – Lotus Glen Correctional Centre
039	Together Queensland – Wolston Correctional Centre
040	Together Queensland – Brisbane Womens Correctional Centre
041	Together Queensland – Escort Security Branch
042	Central Highlands Regional Council
043	Australian Christian Lobby
044	Fighting for Justice Foundation
045	Amnesty International Australia
046	Queensland Child Safety Legislation Action Network
047	Crime and Corruption Commission
048	National Retail Association
049	Elizabeth Ann Hobson
050	Brisbane Rape and Incest Survivors Support Centre
051	Queensland Law Society
052	Michelle Edgely
053	Ipswich Women’s Centre Against Domestic Violence
054	Gold Coast Centre Against Sexual Violence Inc.
055	Youth Advocacy Centre Inc.
056	Brisbane Domestic Violence Service
057	Janet Wilkinson
058	Queensland Advocacy Incorporated

Appendix B – List of Submissions

Sub #	Submitter
059	Lesleigh Murphy
060	Women's Legal Service
061	Balanced Justice
062	Ipswich City Council
063	Confidential
064	Centre for Innovative Justice, RMIT University
065	Confidential
066	Max Vardanega
0676	Denis Bright
068	Barry Ryan
069	John and Collein Avery
070	Bar Association of Queensland
071	Don Culley
072	Daryl Parsons
073	Confidential
074	Confidential
075	SupportLink National Pty Ltd
076	School of Criminology and Criminal Justice, Griffith University
077	Australian Institute of Criminology
078	Services and Practitioners for the Elimination of Abuse, Queensland
079	Community Living Association Inc.
080	Catholic Prison Ministry
081	Russell Wattie
082	Confidential
083	Rob Katter MP, Member for Mount Isa
084	Logan City Council
085	Confidential

Appendix C – List of witnesses at Public Hearings

Monday 28 July 2014 - Southport
<p>Queensland Police Service</p> <ul style="list-style-type: none"> • Acting Chief Superintendent Ben Hanbidge, Gold Coast Police District • Acting Assistant Commissioner Steve Hollands, South Eastern Region
<p>Gold Coast City Council</p> <ul style="list-style-type: none"> • Ms Nina Sprake, Manager, Safe and Liveable Communities Branch
<p>Gold Coast Centre Against Sexual Violence Inc.</p> <ul style="list-style-type: none"> • Ms Di Macleod, Director
<p>Ms Michelle Edgely</p>
<p>Domestic Violence Prevention Centre Gold Coast Inc.</p> <ul style="list-style-type: none"> • Ms Louise Gorman, Community Development and Support Worker • Ms Rosemary O'Malley, Manager, Men's Domestic Violence Education and Intervention Program
Tuesday 29 July 2014 - Ipswich
<p>Queensland Police Service</p> <ul style="list-style-type: none"> • Superintendent Mark Kelly, Ipswich District • Assistant Commissioner Tony Wright, Southern Region
<p>Ipswich City Council</p> <ul style="list-style-type: none"> • Cr Andrew Antonioli, Chair, Health and Community Safety Committee • Mr Gary Ellacott, Principal Officer, Risk, Prosecution and Security Branch of Health, Security and Regulatory Services • Mr Graeme Kane, Operations Manager, Health, Security and Regulatory Services
<p>Mr Barry Ryan</p>
<p>Ipswich Women's Centre Against Domestic Violence</p> <ul style="list-style-type: none"> • Ms Rebecca Shearman, Program Coordinator
<p>The Base Youth Agency</p> <ul style="list-style-type: none"> • Mr Steve Axe, President • Ms Leanne Brown, Service Manager
<p>Mr Denis Bright</p>
<p>Prison Fellowship of Australia Queensland</p> <ul style="list-style-type: none"> • Mr David Way, State Executive Director
<p>Mrs Shirley Stevenson</p>

Wednesday 30 July 2014 - Mooloolaba
<p>Queensland Police Service</p> <ul style="list-style-type: none"> • Acting Superintendent John Bosnjak, Sunshine Coast Police District • Senior Sergeant Mark Burgess, Performance, Central Police Region • Assistant Commissioner Mike Condon, Central Police Region
<p>Buderim Safe Committee</p> <ul style="list-style-type: none"> • Mr Don Culley OAM, Chairperson
<p>Minyama Neighbourhood Watch</p> <ul style="list-style-type: none"> • Mr Gary Gillies, Secretary and Treasurer
<p>Mr Al Harvey</p>
<p>Kuluin Neighbourhood Watch</p> <ul style="list-style-type: none"> • Mr Sony Byquar • Mr Al Kingston
<p>Queensland Child Safety Legislation Action Network</p> <ul style="list-style-type: none"> • Ms Beryl Spencer
<p>Mr Johan Willem Bannink</p>
<p>SCOPE Regional Domestic and Family Violence Service, Centacare</p> <ul style="list-style-type: none"> • Ms Angela Short, SCOPE Safety Upgrades Practitioner
<p>Mr Terry and Mrs Kay Ebenezer</p>
<p>Mrs Leisa Grayson</p>

Thursday 31 July 2014 - Toowoomba
<p>Queensland Police Service</p> <ul style="list-style-type: none"> • Acting Superintendent Ben Marcus, Darling Downs District • Assistant Commissioner Tony Wright, Southern Region
<p>Mr Michael Edward Robinson, Member, Queensland Police Union</p>
<p>Safer Toowoomba Regional Partnerships Inc.</p> <ul style="list-style-type: none"> • Mr Geoff Holmes, Secretary • Cr Geoff McDonald, Chair • Mr Barry Nielsen, Founding Member
<p>Domestic and Family Violence Prevention Service</p> <ul style="list-style-type: none"> • Tamara, Court Support Worker
<p>Rangeville Neighbourhood Watch</p> <ul style="list-style-type: none"> • Mr Ken Murphy, Coordinator
<p>Ms Kathren Einam</p>

Wednesday 6 August 2014 - Brisbane
<p>Queensland Police Service</p> <ul style="list-style-type: none"> • Assistant Commissioner Peter Martin, Brisbane Region • Senior Sergeant Michael Newman, Brisbane Region
<p>Anti-Discrimination Commission Queensland</p> <ul style="list-style-type: none"> • Mr Kevin Cocks AM, Commissioner • Ms Neroli Holmes, Deputy Commissioner <p>Office of the Public Advocate Queensland</p> <ul style="list-style-type: none"> • Ms Jodie Cook, Public Advocate
Mr John and Mrs Collein Avery
<p>Women’s Legal Service</p> <ul style="list-style-type: none"> • Ms Angela Lynch • Ms Rosslyn Monro, Coordinator
<p>Together Queensland</p> <ul style="list-style-type: none"> • Mr Gordon Murray, State Section President • Mr Michael Thomas, Director Industrial Services
<p>Social Responsibilities Committee, Anglican Church of Southern Queensland</p> <ul style="list-style-type: none"> • Very Reverend Dr Peter Catt, Chair • Ms Leanne Wood, Senior Research Leader
<p>Queensland Advocacy Inc.</p> <ul style="list-style-type: none"> • Dr Nick Collyer, Systems Advocacy Worker

Friday 8 August 2014 – Brisbane
Mr Daryl Parsons
<p>Australian Christian Lobby</p> <ul style="list-style-type: none"> • Ms Wendy Francis, Queensland Director
<p>Aboriginal and Torres Strait Islander Legal Service</p> <ul style="list-style-type: none"> • Ms Julia Anderson, Law and Justice Advocacy Development Officer
<p>Heart Foundation Queensland</p> <ul style="list-style-type: none"> • Ms Sheree Hughes, Healthy Living Manager
<p>Queensland Law Society</p> <ul style="list-style-type: none"> • Mr Ian Brown, President • Mr Glen Cranny, Chair of the Criminal Law Committee • Ms Binari De Saram, Senior Policy Solicitor

Monday 11 August 2014 – Mount Isa

Queensland Police Service

- Superintendent Russell Miller, Northern Region
- Acting Assistant Commissioner Paul Taylor, Northern Region

Tuesday 12 August 2014 - Townsville

Queensland Police Service

- Acting Assistant Commissioner Paul Taylor, Northern Region

Townsville Crime Alerts and Discussions

- Ms Torhild Parkinson

Indigenous Department of Social Support

- Mr Gavin Kum Sing

Red Dust Healing

- Mr Randall Ross

Wednesday 13 August 2014 - Cairns

Queensland Police Service

- Acting Assistant Commissioner Paul Taylor, Northern Region

Queensland Indigenous Family Violence Legal Service

- Mr Mark Boreham, Solicitor

Together Queensland

- Mr John Stack

Mr Colin Campbell

Thursday 14 August 2014 - Rockhampton

Queensland Police Service

- Chief Superintendent Maurice Carless
- Superintendent Ron Van Saane

Together Queensland

- Mr Jay Francis, Capricornia Correctional Centre

Ascot Hotel

- Mr William Cordwell, Owner-Manager

Wednesday 24 September 2014 - Cherbourg
Cherbourg Aboriginal Shire Council <ul style="list-style-type: none"> • Cr Ken Bone, Mayor • Mr Warren Collins, Chief Executive Officer
Bunya Wakka Wakka Cultural and Heritage Aboriginal Corporation <ul style="list-style-type: none"> • Mr Michael Bond, Chairman
Barambah Local Justice Group <ul style="list-style-type: none"> • Ms Emma, Stewart
Ms Christine Bond
Mr Norman Bond
Ms Patty Bond
Ms Sylvia Bond
Mr Cecil Brown
Mr Arnold Murray

Statement of Reservation

YVETTE D'ATH MP

SHADOW ATTORNEY GENERAL AND SHADOW MINISTER FOR JUSTICE

SHADOW MINISTER FOR TRAINING

SHADOW MINISTER FOR DISABILITY SERVICES

SHADOW MINISTER FOR HOUSING

MEMBER FOR REDCLIFFE

PO Box 15057, City East QLD 4002

reception@opposition.qld.gov.au (07) 3838 6767



Ref:

27 November 2014

Mr Ian Berry MP
Member for Ipswich
Chairperson
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Berry

Statement of Reservation – *Inquiry on Strategies to Prevent and Reduce Criminal Activity in Queensland*

I wish to notify the committee that I have reservations about aspects of Report No. 82 of the Legal Affairs and Community Safety Committee into its Inquiry on Strategies to Prevent and Reduce Criminal Activity in Queensland

I will detail the reasons for my concern during the parliamentary debate on the tabling of the Committee's Report.

Yours sincerely

A handwritten signature in blue ink that reads "Yvette D'Ath".

Yvette D'Ath MP
Member for Redcliffe