



## Brisbane Rape & Incest Survivors Support Centre

15 Morrissey Street Woolloongabba Q 4102  
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ABN: 43 009 935 488

Queensland Sentencing Advisory Council

GPO Box 2360

Brisbane Qld 4001

To whom it may concern,

We are writing this letter in response to the request for feedback on the Terms of Reference for sexual and domestic violence offences.

### About Us

The Brisbane Rape & Incest Survivors Support Centre (BRISSC) was established in 1973 and is a community-based, not-for-profit organisation in Brisbane that provides support to all women (including cisgender & transgender women) survivors of sexual violence aged 15+. Our services includes phone support, individual counselling, advocacy, community education and training.

Our focus when reviewing the terms of reference was on aspect 1 – **sentencing for sexual violence offences**. Some of our reflections come from sector discussions as a member of the Queensland Sexual Assault Network (QSAN). BRISSC is also supportive of QSAN's submission for this topic. Please note, this letter was constructed quickly due to increasingly high demand within sexual violence services and includes paragraphs from previous submissions to the Women's Safety & Justice Taskforce (WSJT).

### Reflecting on Penalties

In our experience, penalties for sexual violence cases are inconsistent and do not often reflect the seriousness of the crime & its impact on the individual and community level. Minimal punitive penalties, suspended sentences, evidence requirements and lengthy court processes feed into the community perception that sexual offences have minimal consequences. There is also no consistent definition or understanding of what sexual abuse, sexual assault, grooming and sexual violence across jurisdictions ([The Harmony Campaign](#)).

BRISSC acknowledges that sexual violence in Australia has one of the highest acquittal rates and the lowest criminal prosecution rates compared to other crimes. We also acknowledge that at a community level, responses, in general, tend to make victim-survivors of rape feel not believed or wrongly blamed for the violence they experienced. Many sexual violence offences go unreported for a myriad of reasons including the inaccessibility and mistrust of our legislation and justice system (Australian Bureau of Statistics, Recorded Crime – Victims, Australia, 2019 & Personal Safety Survey 2016/2023). Therefore, most sexual violence experiences do not get to the stage where perpetrator justice system penalties are relevant. This barrier to reporting could be reduced through legislation and our justice system being more trauma informed and victim-survivor focused. The Women's & Safety Justice Taskforce (WSJT) recommendation to include affirmative consent in QLD legislation is essential for our law to be more trauma informed and



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have a nuanced definition of consent. As well as potential increase the conviction rate of sexual violence cases. This may also positively improve reporting rates.

### **Reflecting on the Prison System & Restorative Justice**

Imprisonment length does not have a clear impact on offender rehabilitation or reducing recidivism ([Queensland Productivity Commission, 2019](#)). The Queensland Productivity Commission stated in 2019 that more than 60% of prisoners have been in prison before ([Queensland Productivity Commission, 2019](#)). Our most marginalised populations also have the highest rates of imprisonment and surveillance. Offender accountability and some form of consequence are an important aspect of reducing violence. However, our current system is not supporting society in the way the legislation was set out to do.

We are supportive of the exploration of transformative and restorative justice (RJ) methods as alternative/additional forms of justice for victim-survivors, where appropriate. This form of justice is often overlooked or seen as inconsistent with public interest. RJ for serious adult offences is being explored in other Australian states and internationally. This justice pathway may have a greater positive impact on recidivism, community outcomes and victim-survivor mental/physical/emotional health and well-being. This also supports public interest by decreasing recidivism. There is growing evidence that restorative justice could be supportive for a wider range of offences ([Queensland Productivity Commission, 2019](#)). However, these processes will not be suitable or meet justice needs for every case. Emotional and physical harm to survivors needs to be considered and supported.

### **Reflecting on Intersectionality**

When considering people with intersectional identities, there are significant barriers to engage with the criminal justice system beyond what we are able to list here. For LGBTIQI+ victim-survivors, reporting their experience may out themselves and their perpetrator/s. They can also be worried about increased stigma or bias when reporting crimes committed by other members of the LGBTIQI+ community. It is also important to acknowledge the long-term impacts of the 'gay/trans panic' defence that was only removed from legislation in recent history. Similar barriers are also present for First Nations peoples especially but not limited to when the perpetrator is a well-regarded/known member of community.

Rape culture continues to be pervasive in our society. Systemic and societal changes to consent/health relationships education, accountability and attitudes is critical to create a true impact on reducing sexual offences. Based on BRISSC group discussions about the roots of sexual violence, women survivors identified different underlying causes of impunity for sexual crimes categorised by cultural, political, socioeconomic and historical causes.

At a cultural level, women identify white male privilege, colonisation, and structural violence against women as the common underlying causes. At political level, it is recognised that law enforces white privilege and there is a symbolic law that has no real impact on marginalised



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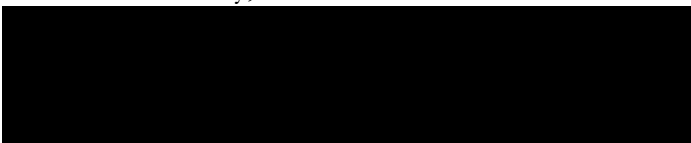
populations, with special emphasis on women and children of colour. Socioeconomically, women agreed that there is a racialized and class-biased application of the law.

### **Additional trends and reflections from working with sexual violence survivors**

- There are low sentencing rates for all sexual offences including child sexual abuse
- Perpetrators can be released and offend again within a very short time frame. This is not supportive of community or community safety. Named prevalence with childhood sexual violence experiences. Cases of which are underreported and can go undiscovered partially due to grooming and silencing tactics.
- The historic prevalence of non-custodial and/or suspended sentences because of the offender's standing in the community. This has also been relevant when sentencing will lead to deportation. The perpetrator's comfort and livelihood are put before victim-survivors and community.
- The reduction of offences, offence severity and offence counts because of guilty pleas
- The strong requirement of physical evidence to prove beyond a reasonable doubt.
- Increasing trends of historic & recent sexual violence perpetrated in the context of massages, doctors' appointments, ultrasound scans and when the victim-survivor was unconscious. Precedent for sentencing in these cases is gradually building, however, is lending itself more to minimal suspended sentences that do not match the seriousness of the crime & its impact on survivors.

If you require any further information or would like to discuss any of the feedback above further please contact us through [admin@brissc.org.au](mailto:admin@brissc.org.au)

Yours Sincerely,



Liz Dempsey (on behalf of the BRISSC collective)

Social Worker & Sexual Violence Support Worker