

DVCONNECT

Be heard. Be safe.



SUBMISSION

Queensland Sentencing Advisory Council

Review of sentencing for sexual violence offences and aggravating factor for domestic and family violence offences.

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DVConnect receives funding from the Queensland Government

DVConnect respectfully acknowledges and celebrates the Traditional Owners/Custodians throughout Australia and pays its respects to Elders, children and young people of past, current and future generations. We are committed to helping anyone experiencing domestic, family and/or sexual violence. This includes the LGBTIQ+ community, people of all ethnicities, religions, ages, abilities and pets.

For information about this Submission, please contact:





About DVConnect

DVConnect provides several national and state responses to people who have experienced violence and offer support and pathways to safety and healing.

Queensland wide DVConnect provides:

Domestic, family and sexual violence response services:

- DVConnect Womensline
- DVConnect Mensline
- Sexual Assault Helpline
- Pets in Crisis
- Bella's Sanctuary

Victims of crime service

- VictimConnect

Nationally DVConnect provides in partnership with Telstra Health:

- National Sexual Assault, Domestic & Family Violence Counselling Service, 1800RESPECT – specialist counselling services

DVConnect's driving ethos is respect and safety, the right of people to live without violence, in the home or in the community. We are a not-for-profit organisation, with primary funding streams from Department of Justice and Attorney General, Office for Women and Violence Prevention (Qld); Department of Justice and Attorney General, Victim Assist Queensland (Qld) and Department of Social Services (Aust).

DVConnect was established in 1980 and is Queensland's state-wide crisis response service for domestic, family and sexual violence. DVConnect helps Queenslanders find pathways to safety 24 hours a day, 7 days per week. Annually, DVConnect takes in excess of 100,000 calls across all lines and provides crisis intervention across a number of key services. Womensline receives one call for help every five minutes (across a 24-hour period). Crisis support is provided in the form of emergency telephone support, emergency crisis accommodation placement and transport for families affected by abusive relationship, counselling for men, women and victims of sexual assault, education and support for men, community education, and care for pets of families experiencing domestic and family violence. DVConnect also operates Bella's Sanctuary a 5-unit medium-term accommodation residence that exists to provide women and children with a safe housing option after leaving a shelter/refuge.

DVConnect provides the specialist counselling response that underpins Australia's national sexual assault, domestic and family violence support service, 1800RESPECT. This service provides information, referral and counselling 24 hours a day, 7 days per week. DVConnect's 1800RESPECT services are delivered in partnership with Telstra Health.



VictimConnect is the state-wide response for victims of crime that fall under the *Victim Of Crime Assistance Act 2019* (Qld). VictimConnect provides a state-wide 24/7 helpline and multi-session counselling and case management support service. Delivering this service expands DVConnect's capability to now include those who experience violent and personal crime across Queensland.

DVConnect operates from an intersectional feminist framework, acknowledging that domestic family and sexual violence (DFSV) is gender-based violence. This gendered analysis is supported by research, evidence and data, and indicates that DFSV is most often perpetrated by men against women, and that perpetrators of this violence are fully responsible for their actions. This framework acknowledges and responds to the intersectional experience of DFSV.

While the experience of those impacted by violent and personal crime is more broad reaching than DFSV, we build upon our intersectional, trauma-informed expertise to offer recovery-based counselling and case management.

The clinical services provided by DVConnect are inclusive and trauma-informed. We are guided by the diverse voices of survivors and recognise our clients as the expert in their own lives. The abilities, strengths, goals and needs of people living with disability are respected, as are individuals from culturally and linguistically diverse backgrounds. DVConnect acknowledge that Aboriginal and Torres Strait Islander people know best what their communities need and want. Importantly, the intersectional approach of DVConnect considers and responds to how overlapping forms of discrimination may impact a client's experience of DFSV and other violent and personal crime.

Through operating multiple state-wide services DVConnect has unique insight into the experience of both violence and relevant services systems across Queensland. This combines with our national program which furthers our appreciation and practice-based evidence about geographic diversity and its impact on how DFSV and ability to access safer and supports.



Opening Statement

DVConnect would like to acknowledge the Queensland Sentencing Advisory Council (the Council) taking carriage of this review and are encouraged by our inclusion in the consultation. These areas are of crucial importance to the community and specifically to many of the people that we work with. Many victim/survivors describe the justice process as ‘the second trauma’, with sentencing being a significant moment in that journey. We know that this is very important to victim/survivors for their sense of justice and recovery as well as their practical safety through incarceration of the perpetrator. We also know that sentencing forms part of the complex web of prevention, accountability and behaviour change for people that use DFSV.

Due to DVConnect’s service model, we have little direct involvement with sentencing. While many of our clients will have some contact with the justice system as a result of the DFSV they experience, our work across many of the services is focused on immediate risk and safety, practical support to safety, information and referral. Therefore, we have little consistent information and data to pull themes or statistics from, or to speak to the specific impacts that the Terms of Reference (TOR) is seeking consultation on. However, we offer the below from the expertise we have in working with victim/survivors of sexual violence and with victim/survivors and perpetrators of domestic and family violence across genders, population groups and the full spread of the state of Queensland. While not directly addressing the issues listed in the TOR, we wish to note them here as they remain important considerations for the Council.

Domestic and family violence and sexual violence are distinct

While domestic and family violence and sexual violence are often understood together due to the similarities of their interpersonal nature and gendered experience, one of the areas of most significant divergence between these two distinct types of violence, is in the criminal justice journey. The fact alone that acts of domestic and family violence are significantly in the domain of the magistrate court and have extensive civil underpinning, while those of sexual violence are often heard in the higher courts and are always managed as a criminal act, demonstrates that, what victim/survivors and the community, are seeking when engaging in the justice system, is not the same.

Recognising and responding to this must form part of this review in two ways. First, in the process of consultation, it will be important to consider feedback in this light. It is also important to consider who is consulted with, to ensure appropriate representation. Second, this sets the framework for progressing the conversation about differential responses for sentencing.

Signalling the community standard

As per the TOR, in the Council review of literature, the Council will surface significant statistics regarding the community’s attitude about the experience of sexual violence,



such and the National Community Attitudes Survey. The Council will also have access to data on the underreporting of sexual violence, as well as how few cases proceed to court and reasons why matters are not progressed. The Council will also become informed about the often-traumatic experience of the judicial process for victim/survivors. There is a current parliamentary committee review in play, to look at finally changing a law that allows sexual violence defendants greater protections than defendants of other major crimes. All of this is to say, there is a long way to go to progress the community to a place where victim/survivors are believed, and perpetrators are kept to account.

This gives context as to why sentencing has an important role in setting the standard of the Queensland community when it comes to sexual violence.

There are many narratives in the community that invalidate and undermine the victim/survivor experience and discourages the use of the judicial process to promote justice and accountability for the use of violence. Appropriate sentencing terms give concrete voice that the Queensland community rejects sexual violence, that sexual violence is seen as a major crime that causes significant harms and perpetrators will be held accountable for their actions.

Appropriate sentencing also supports the recovery experience of the victim/survivors. Enduring a complex, and hostile process to ensure perpetrators are held to account, must be validated by appropriate terms of sentencing.

On the whole, DVConnect has supported the increased focus on appropriate sentencing and the recognition of DFSV.

Listening to victim/survivors

A landscape review of the literature will give information that lacks significant nuance focused on the victim/survivor experience and perspective. Many people who experience DFSV rely on the judicial system for more than evidence of societal standards regarding the crime and the accountability of sentencing.

At times, the judicial system is engaged without the victim/survivors explicitly seeking the blunt outcomes that the system can provide. Sometimes justice responses (i.e. calling the police) is used to support immediate safety without understanding the fullness of the process and the potential outcomes. At other times, incarceration offers physical safety from violence, though it may prove an aggravating factor for the experience of DFSV as it continues to be perpetrated while a person is in prison, or explodes when the perpetrator exits prison, sometimes at unexpected or unknown times.

Further, **many victim/survivors do not want accountability to be provided through incarceration alone.** There needs to be exploration of how the justice system can achieve other outcomes at the point of sentencing, and these outcomes are directed by the voice of the victim/survivors.



There needs to be space made available for people with lived experience of the judicial system to provide feedback on what worked and what did not work about the sentencing. There also needs to be space made for those that do not engage with the system and therefore never have experience with sentencing, as there may be beliefs about sentencing that deter people using the justice response. While challenging to reach, this cohort may have invaluable insight about how current sentencing practices are failing them.

People who use violence

Sentencing is an important part of accountability for people who use DFSV. But the ultimate goal is future safety of victim/survivors and the community. Safety that can either be achieved through exclusion from society via incarceration or through behaviour and attitude change of the individual. To support that individual change, systems also must play a role in fostering safe behaviours and respect. While it is perhaps a long reach for this TOR and the scope of the Council, a balance of incarceration and reform is required. Further, what the victim/survivors wants should help inform how this balance is applied to each case. **Reform is not at the exclusion of accountability. Reform is about accountability.** Are there mechanisms that can be applied at sentencing that makes opportunities that should foster reform, such as parole, be more robust?

Intersectionality

Finally, the role of sentencing in the victim/survivors journey, as well as the impact on the perpetrator varies based on the intersectional experience of the victim/survivors and the perpetrator. Incarceration for a perpetrator with an intellectual or cognitive impairment will have a different outcome to a person without disability. This person's opportunity to change behaviours upon release will be impacted by the experience of incarceration. This is not to say a person with a cognitive impairment cannot be held accountable for their actions, but the role of incarceration in that accountability needs to be considered.

Similarly, the experience of the judicial system for First Nations people is dramatically different to a non-Indigenous population. Reports and data shows that systemic bias results in over and under policing and dramatic levels of incarceration. While the cause and effect of this intersectional experience is very challenging to unpack, it is imperative that the Council acknowledges and deeply considered this in this review. How does sentencing lean into this systemic bias? How can it do something to respond to this systemic bias? Too often we hear that justice is blind, and by the time the matter is at sentencing the judge is hamstrung in the limits of the sentencing. We would argue at every layer of the justice process there is an opportunity to see bias and respond to it. We would also argue that victim/survivors do not seek justice as they do not want to be part of the cycle of incarceration. This in turn means victim/survivors are yet again, failed by the larger system.

For this point on intersectionality, DVConnect supports the direction of the TOR to consult with a wide range of groups including priority populations. DVConnect would



encourage the Council to consider how to explore the insights of those with lived experience.

Conclusion

This is an important a timely opportunity to review sentencing. With many other reforms and reviews in play, there is an excellent opportunity to further systemic improvement across the entire response to DFSV.

While we have not been able to offer specific feedback on the elements about sentencing that the Council is exploring, we do encourage the Council to challenge itself in this review, to consider the impact of sentencing on diverse populations, to address systematic bias, and make space for victim/survivors to be heard.