

22 April 2024

The Review Team
Queensland Sentencing Advisory Council
GPO Box 2360
Brisbane Qld 4001
Via email: submissions@sentencingcouncil.qld.gov.au

Dear Review Team

Thank you for the opportunity to provide feedback on the review of sentencing for sexual assault and rape offences. The Queensland Network of Alcohol and other Drugs Agencies (QNADA) submission is attached.

QNADA represents a dynamic and broad-reaching specialist network within the non-government alcohol and other drug (NGO AOD) sector across Queensland. We have more than 55 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA is pleased to provide further information or discuss any aspect of this submission. Please don't hesitate to contact me at [REDACTED] or by calling [REDACTED]

Yours sincerely



Rebecca Lang

CEO



Submission to the Review of sentencing for sexual assault and rape offences

April 2024

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). Its content is informed by consultation with QNADA member organisations providing alcohol and other drug treatment and harm reduction services across Queensland, as well as a review of relevant research and reports.

QNADA members currently support, and will continue to support, victims who have experienced or are experiencing domestic, family and sexual violence. This submission discusses a range of issues in relation to the sentencing of sexual assault and rape, including:

- victim/survivors of domestic, family and/or sexual violence who report are more likely to encounter (real or perceived) issues with respect to the credibility by services,
- contact with the criminal justice system for victim/survivors is often a result of current legislation and policing practices,
- relatively few drug trafficking offences are associated with any violence related offending, and drug offences should be removed from the serious violent offences (SVO) scheme.

The vast majority of people who use substances do not experience problematic use and never come into contact with services around their use. However, for those that do present because of domestic, family or sexual violence there are a number of areas where improved understanding could be beneficial.

For example, some perpetrators may use their partner's substance use as part of a pattern of controlling behaviour, especially where illicit drug use is present. This may include a perpetrator seeking to control their victims' access to substances and/or threatening to disclose their use to service providers (such as police or child safety services). These latter behaviours reduce the likelihood of their victim reporting abuse and where they do seek support, acts to diminish their credibility with services if the perpetrator does follow through with their threats.

More broadly, stigma and discrimination also impact women and girls who use substances and are engaged with the criminal justice system. In particular, for female victim/survivors it may result in a reluctance to report offences because of previous negative experiences with the criminal justice system and/or a fear of harmful consequences (particularly for those who use illicit drugs). Where victims who use substances do report, they are also more likely to encounter (real or perceived) issues with respect to the credibility of their statements which may impede the investigation or successful prosecution of offences.

For women and girls who use substances, there is an increased likelihood of entry into the criminal justice system for low harm, possession offences and greater complexities in negotiating their way through this system.

It is important to note that there is no direct causal relationship between alcohol and other drug (AOD) use and violence perpetration. This relationship is complex, and while most people in contact with the criminal justice system may use AOD in some form, contact is not always related to their substance use. With respect to offences charged, contact may be for AOD related offences (such as drug possession or supply), or other offences where AOD use is a presenting or underlying issue. This pattern was similarly represented in the broad scope of cases outlined in QSAC's *Analysis of sentencing and parole outcomes* (2021), which included a discussion on sentencing decisions for drug offences where a SVO declaration was made, as well as others in which drug use was discussed by the sentencing judge or appeals court as a contributing factor to the offending.

We note that drug trafficking convictions are most likely to result in a serious violent offender declaration, despite relatively few drug trafficking offences being associated with any violence. Most associated are other drug related offences, followed by property and traffic offences. People convicted for trafficking in dangerous drugs are also less likely to have prior sentences of imprisonment than most other offence categories¹. Of all offences where a SVO declaration was made, trafficking in dangerous drug offences were the most likely to be subject to an appeal, with over two-thirds (68.8%) of these cases appealed; with people convicted of drug trafficking also most likely to be granted parole (75.9%) and most likely to be released as soon as they become eligible for parole comparative to all other offence categories.

It seems strange to us that these declarations are more common for drug trafficking than for sexual offending. Not only are community attitudes changing, so is the evidence of what works in responding to AOD use and related harms. It is important that our legislative and policy responses continue to evolve alongside this shift in community expectations and the growing evidence base.

¹ Specifically, this was 13.7% for mandatory SVO declarations and 12.3% for those where no SVO declaration was made from between 2011-12 to 2018-19; second only to those convicted for maintaining a relationship with a child. By comparison the percentage of people with a prior sentence of imprisonment was: 63.6% for those convicted of malicious acts; 35% for attempted murder; and 35.1% for manslaughter.