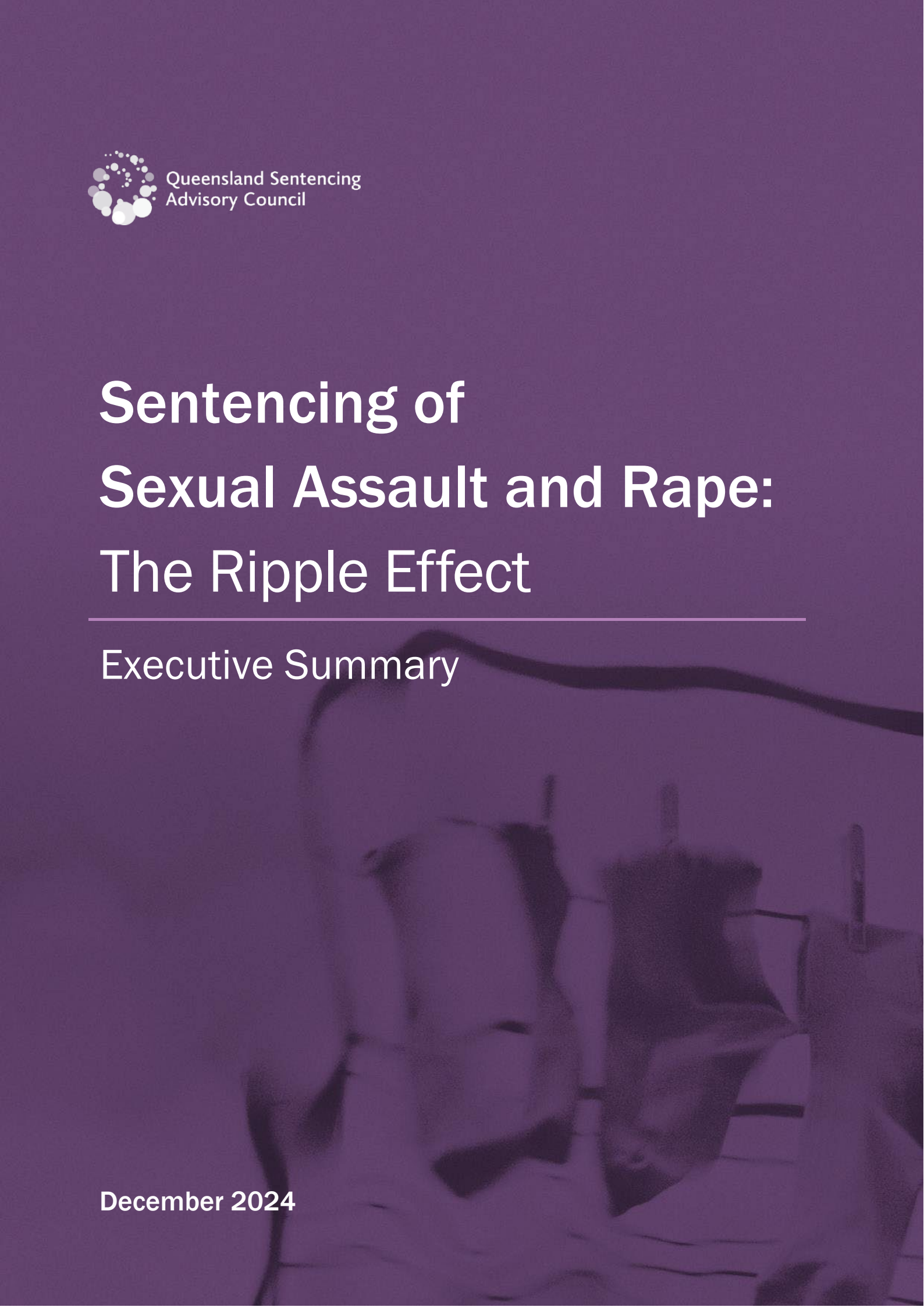
Queensland Sentencing Advisory Council

Sentencing of Sexual Assault and Rape: The Ripple Effect

Executive Summary



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Paper title

The ripple effect refers to the way in which a single action or event can have far reaching consequences. For a victim survivor of sexual violence, the impacts of the offending can be long lasting and extend beyond the direct immediate impacts of the offence, affecting their relationships, family dynamics and social networks, as well as impacting the community and wider society.

Effective responses to sexual violence require a whole-of-community approach, not only legal reform but challenging harmful beliefs through education and awareness. In doing so, we can work towards minimising the ripple effect of sexual violence.

Review artwork

Socks are a seemingly harmless, personal everyday item. However, to a victim-survivor of sexual violence, they can represent a pathway to a memory of the traumatic event. This concept is referenced in the novel *Time Shelter* by Georgi Gospodinov, which talks of normal, everyday things being 'potentially charged with hidden violence'. Socks can be used in many different ways in sexual violence cases – to control or restrain a victim, to block access to door, or to avoid detection. Victims may be forced to leave the scene of a sexual assault without their socks, shoes and other items of clothing – making them feel exposed, vulnerable and stripped of their dignity.

Disclaimer

The content of this paper presents the views of the Queensland Sentencing Advisory Council and does not represent Queensland Government policy. While all reasonable care has been taken in the preparation of this paper, no responsibility or liability is assumed for any errors or omissions or any loss, damage, or injury, financial or otherwise, suffered by any person acting or relying on information contained in or omitted from this publication. This paper follows the Melbourne University Law Review Association Inc, *Australian Guide to Legal Citation* (4th ed., 2018) and reflects the law as at 1 December 2024.

The Queensland Sentencing Advisory Council

The Queensland Sentencing Advisory Council is established by section 198 of the *Penalties and Sentences Act 1992* (Qld). The Council provides independent research and advice, seeks public views and promotes community understanding of sentencing matters. The Council's functions are detailed in section 199 of the Act.

Further information

Queensland Sentencing Advisory Council
GPO Box 2360, Brisbane Qld 4001
Tel: (07) 3738 9499
Email: info@sentencingcouncil.qld.gov.au

Warning to readers

This report contains subject matter that may be distressing to readers. Material describing serious violent offences, including case examples drawn from sentencing remarks and subject-matter expert interviews, and descriptions of the impact these offences can have on victims are included in this report. If you need to talk to someone, support is available:

DV Connect (24 hours): 1800 811 811

Lifeline Australia (24 hours): 13 11 14

Mensline (9.00 am - midnight, 7 days): 1800 600 636

Queensland Sexual Assault Helpline (7.30am - 11.30 pm, 7 days): 1800 010 120

VictimConnect (24 hours): 1300 318 940

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Preface

In 2022, the Women's Safety and Justice Taskforce delivered its second and final report to the Queensland Government following its landmark inquiry into women and girls' experiences across the Queensland criminal justice system.

The findings of the Taskforce were instrumental in the Council being asked to review current sentencing practices for sexual assault and rape and to advise whether these are adequate and appropriate and, if not, what reforms should be made. In conducting this review, we acknowledge that sexual offending affects people of all genders, ages, cultural and ethnic backgrounds, and sexual orientations.

While all references raise unique issues, this review has been particularly complex and challenging. It was limited to just two offences – sexual assault and rape – while covering a broad spectrum of issues, from sentencing levels and penalty types to legislative and non-legislative forms of sentencing guidance, and sentencing processes and procedures.

While challenging, we consider it a great privilege to have been given the opportunity through this review to assess how well current sentencing practices reflect the seriousness of these offences – and, more importantly, what can be improved for the benefit of victim survivors and the broader Queensland community.

Simply put, sexual offending often has significant, profound and devastating impacts on those who experience it. The impacts can be life-changing, and ripple out across families and the broader community.

For children, the impacts of sexual violence are compounded. The loss of a normal childhood and development represents a fundamental disruption to a child's life, including to their innate right to feel safe, their trust in others and their sense of bodily autonomy. This harm can be overcome, but it can never be repaired.

Sexual offending disproportionately impacts those members of our community who are particularly vulnerable or who experience disadvantage and discrimination when accessing justice processes, including women and children, people with disability, Aboriginal and Torres Strait Islander peoples, and people from other vulnerable and disadvantaged groups.

Sentencing comes at the end of an often long and protracted legal process. Only a small proportion of sexual offences are reported to police, with far fewer still resulting in prosecution, conviction and sentence. The New South Wales Bureau of Crime Statistics and Research has put the figure for successful prosecutions of reported sexual assaults in that state at as low as 7 per cent.[1]

[1] Bridget Gilbert, 'Attrition of sexual assaults from the New South Wales criminal justice system' (Crime and Justice Statistics Bureau Brief No 170, NSW Bureau of Crime Statistics and Research, May 2024) 16.

In the context of high attrition rates, sentencing assumes great significance. This is because a central purpose of the criminal law and sentencing is 'to publicly denounce the unlawful conduct of an offender',[2] thereby reinforcing important societal values and standards which we are all expected to observe. The imposition of sentence is one of the clearest ways the criminal justice system communicates the wrongfulness of the person's actions on behalf of the broader community. It also shows the community what the consequences are for those who decide to engage in this form of criminal conduct.

Sentences that are viewed as 'inadequate' or 'weak' can compromise the criminal justice system's ability to communicate this important message. Of equal concern, they can impact victim survivors' willingness to report these offences and go through the criminal justice system process.

Improving public perceptions of the adequacy of sentences therefore plays a pivotal role in the development of a safe society for all Queenslanders.

At the heart of this reference was the question: Are sentences for rape and sexual assault in Queensland adequate and appropriate, and do they reflect the views of the community regarding the seriousness of these crimes?

In the case of rape, our answer is a resounding 'no'. There are two reasons for this.

First, sentences imposed for the rape of a child are not commensurate with the gravity of the harm, or the perpetrator's degree of criminal responsibility. While they are generally higher than for similar conduct against adult victims, they do not sufficiently reflect the views of the Queensland community that this offending is more serious than the rape of an adult. Sexual violence against children often has lifelong and profound impacts and involves inherent wrongfulness by the offender. The Queensland Court of Appeal has previously provided clear guidance that an uplift in sentences directed by Parliament in relation to substantial reforms regarding child sexual offences is required, and 'judges are under a duty to give them effect'. The Court has also recognised that current sentencing practices with respect to sexual offences can 'depart from past practices by reason of changes in understanding about the long-term harm done to victims'.[3] However, we found that this guidance is not adequately reflected in current sentencing practices, so legislative reform is required.

Second, the community, the legal profession and the courts recognise that any rape, no matter the type of penetration, can have significant impacts for all victim survivors, irrespective of age. It is a matter of principle that that the seriousness of the offences of rape and sexual assault must be determined based on the individual circumstances of the case, acknowledging the impact this offending has on a victim survivor. The Queensland Court of Appeal has provided clear guidance to legal practitioners and sentencing courts that different forms of rape conduct should not be 'compartmentalised' based on penetration type and treated 'worse' or 'more serious' based on this fact alone. This guidance, in our view, is not sufficiently reflected in current sentencing practices and must be applied.

For sexual assault, the assessment of whether sentences are adequate and appropriate was more complex, taking into account the fact that this offence captures a broad range of conduct.

2 *Ryan v The Queen* (2001) 206 CLR 267, 302 [118] (Kirby J).
3 *R v Stable (a pseudonym)* [2020] QCA 270, [45] citing *R v Kilic* (2016) 259 CLR 256, [21].

We have identified that there has been a shift in sentencing patterns in recent years – in particular, for cases sentenced in the Magistrates Courts, increasing use of custodial sentences. This suggests that courts are treating these offences as involving a more serious form of offending than may have been the case previously.

There is always potential for unwanted forms of sexual touching to be trivialised, and for those who experience this form of harm to be labelled as 'over-sensitive' and as 'overreacting' to 'fun' or 'harmless' behaviour, or because those who perpetrate the harm (usually men) are 'misreading the signals'. For women and girls, and other vulnerable people who are commonly targeted by this form of unwanted sexual behaviour, the experience is anything but 'fun' or 'harmless'. It can cause significant distress and trauma, and can compromise that person's feelings of safety.

Sexual assault sends a message to the person subjected to this form of unwanted sexual behaviour that they are not equal, but an 'object' to be used by (usually) men and they have no power to make decisions about their own bodies. Fundamentally, these offences involve a total disregard of the victim survivor's human dignity and bodily autonomy.

Problems with how seriously this form of conduct is viewed reflect broader societal problems that can only be addressed through a commitment by government, criminal justice stakeholders and the courts to embrace change and to collectively act in a way that adequately recognises the impacts of these offences on victim survivors at sentence.

We have recommended reforms that will reinforce the seriousness of this conduct and provide members of the judiciary with the appropriate options to impose sentences that meet community expectations, and that are adequate and appropriate in all the circumstances, having regard to the rights and justice needs of all parties – particularly victim survivors.

Opportunities for perpetrators to be better supervised within the community and to have access to programs and other forms of interventions were seen as of critical importance, recognising that victim survivors often told us that they want to feel safe, and to know that these offences will not happen to them, or to anyone else, in the future. The courts must have the mechanisms to impose orders which allow a person to be detained where necessary, to have certainty of release where appropriate and to be supervised regardless of what type of order is made.

There are also some aspects of the sentencing process that we consider in urgent need of reform with respect to the use of 'good character' evidence and to improve victim survivors' experiences.

It can be particularly galling to a victim survivor to hear at the time of sentence that the person who perpetrated sexual harm on them is otherwise a 'good guy', a 'great father' or a model employee or citizen. It is even more upsetting when these statements are referred to uncritically by the sentencing judge and magistrate – even if in practice they may be given little weight.

It is understandably difficult for victim survivors to reconcile how the person who raped or sexually assaulted them can, at the same time, be called a generally 'good' person. The more serious the offence, the less weight any suggestion an offence was 'out of character' and deserves some degree of mitigation.

Equally it is important that those who perpetrate this form of harm are encouraged to take responsibility for their actions and believe they have the capacity to change.

This issue goes beyond a mere use of language and general misunderstanding of the use of this evidence. It is about the importance of providing clear guidance on how this evidence should be, and is being, used, and articulating this in a way that is understood by all victim survivors and the broader community.

In this report, we recommend reforms that will limit the use of some types of 'good character' evidence for sexual offences at sentence and to allow it to be relied upon only for specific defined purposes.

We have also found opportunities to recognise that victim survivors, their rights and their justice needs within the sentence context are not being promoted and should be enhanced, including through improved communication, trauma-informed sentencing practices and enhanced recognition within the sentence hearing.

Significant issues were raised with the victim impact statement regime, which was concerning for the Council, as this process is intended, in great part, to be therapeutic; in practice, however, it can result in further trauma. The victim impact statement process must be improved to ensure victim survivors do not leave the legal process feeling silenced and sidelined, and that the value of victim impact statements within the sentencing context is supported.

Our review comes at a time of significant reform to the criminal justice system in response to the findings of the Women's Safety and Justice Taskforce and we acknowledge that significant work is underway in response to improve the experience for victim survivors. Our recommendations should be viewed in the context of these broader reforms.

We are grateful to the victim survivors and support advocates who shared their sentencing experiences and stories with us. Their experiences reminded the Council that every victim survivor of rape or sexual assault is a real person with their own individual experiences. The impact of these offences was not forgotten in the Council's deliberations, and we thank them for their contributions, recognising how challenging this might have been.

We further extend our gratitude to members of the community who independently contributed to the review, as well as members of the judiciary, the legal profession and relevant justice agencies who participated in interviews with us or attended consultation events and shared their views. The information they provided was critical to our understanding of the issues as they arise in practice.

We would also like to recognise the continued invaluable expertise contributed to our work by members of our Aboriginal and Torres Strait Islander Advisory Panel, who informed our consideration of the criminal justice experiences of Aboriginal and Torres Strait Islander peoples. It is critical that our system is responsive to the needs of all Queenslanders and takes into account the disproportionate impacts our justice system has on some parts of our community. Importantly, Panel members told us that sexual violence has no place in Aboriginal and Torres Strait Islander culture and the barriers to victim survivors reporting this violence, which is perpetrated by both non-Indigenous and Indigenous people, are significant. Any impediments to creating a more culturally responsive and safe criminal justice system must be removed as a matter of priority.

Finally, we express our gratitude to the Council members who contributed to this review (including our former members), and to a shared vision of improved sentencing for rape and sexual assault offences in Queensland. We would like to particularly thank Julie Dick, SC, Matt Jackson, Jo Bryant and Debbie Kilroy OAM who, alongside us, have formed the project board for this review, and who have contributed tirelessly to its delivery.

Sentencing is also a complicated process. But we must embrace opportunities to listen to those who have participated in the system as victim survivors, legal and justice stakeholders and members of the community when they tell us there is a case for change, and to be bold in recommending reforms.

We appreciate that significant change will require resourcing to support enhanced communication and recognition of victim survivors. But we know that sentencing for rape and sexual assault offences can be better.

Together, we can make it so.

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The Honourable Ann Lyons AM

Chair

Queensland Sentencing Advisory Council

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Professor Elena Marchetti

Deputy Chair

Queensland Sentencing Advisory Council

Executive Summary

Introduction

In May 2023, the Sentencing Advisory Council received Terms of Reference to undertake a review of sentencing for sexual assault and rape offences in conjunction with a separate review of the aggravating factor for domestic and family violence offences.

This report presents the Council's findings and recommendations on the first part of its review of sentencing practices for sexual assault and rape offences.

In asking the Council to undertake this review, the Attorney-General referred to:

- amendments to the *Penalties and Sentences Act 1992* ('PSA') making domestic and family violence an aggravating factor at sentence;[4]
- the reports of the Women's Safety and Justice Taskforce[5] and the Special Taskforce on Domestic and Family Violence;[6]
- the maximum penalties for sexual assault and rape offences;
- commentary expressing that penalties currently imposed on sentences for sexual assault and rape offences may not always meet the Queensland community's expectations;
- Queensland community expectations that penalties imposed on offenders convicted of sexual assault and rape offences appropriately reflect the nature and seriousness of sexual violence;
- the need to protect victims from sexual violence;
- the need to hold sexual violence offenders to account;
- the sentencing principles and purposes of sentencing as outlined in the PSA;
- the need to maintain judicial discretion to impose a just and appropriate sentence in individual cases; and
- the need to promote public confidence in the criminal justice system.[7]

The Council's approach to this review

The Council conducted extensive research and consulted widely with legal and non-legal stakeholders, including sexual violence victim survivors and victim survivor support and advocacy organisations.

The Council undertook the review in 4 key stages.

The initial stage (May to July 2023) of the review called for preliminary feedback to help inform the Council's approach. We commissioned a literature review of sentencing practices for sexual assault and

4 The Terms of Reference contain a second, separate part to examine the operation of the aggravating factor in section 9(10A) of the *Penalties and Sentences Act 1992* (Qld) ('PSA') and the impact of the increase in maximum penalties for the contravention of a domestic violence order. Part 2 will be delivered to the Attorney-General by 30 December 2025.

5 Women's Safety Justice Taskforce, *Hear Her Voice, Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland* (2021); Women's Safety Justice Taskforce, *Hear Her Voice – Report Two: Women and Girls' Experiences Across the Criminal Justice System* (2022) (*'Hear Her Voice – Report Two'*).

6 Special Taskforce on Domestic and Family Violence in Queensland, *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland* (Report, February 2015).

7 Appendix 1, Terms of Reference.

rape offences. We also published a background paper on the Terms of Reference and an information sheet on sentencing for sexual assault and rape offences.

Stage 2 (May to October 2023) focused on preliminary research and overlapped with the initial phase. During this stage, the Council commissioned the Sexual Violence Research and Prevention Unit at the University of the Sunshine Coast ('UniSC') to undertake research on the views of the community on the importance of sentencing purposes and the seriousness of sexual assault and rape offences. The Council released a *Sentencing Spotlight on Sexual Assault*, an updated *Sentencing Spotlight on Rape* and the 28 preliminary submissions received.[8] We also commenced our preliminary legal research and analysis, began quantitative analysis of sentencing data, and scoped and developed research projects for the review, including a subject-matter expert interview ('SME') project with legal practitioners and judicial officers to better understand the current approach to sentencing for sexual assault and rape offence and related matters.

During Stage 3 (October 2023 to April 2024), the Council completed stakeholder consultation activities, including interviews with SMEs, meetings with victim survivors and holding 2 in-person and 2 online consultation events.

In March 2024, we released a consultation paper, *Sentencing of Sexual Assault and Rape: The Ripple Effect - Consultation Paper: Issues and Questions*, together with a more detailed background paper.[9] The Council invited written submissions in response to 25 questions. The Council also published the literature review[10] and the *Working Paper on the Development of the Queensland Crime Harm Index* prepared by the Griffith University Criminology Institute.[11]

During Stage 4 (April to December 2024), the Council finalised its consultation activities and developed its key findings and recommendations, which are presented in this report. We received 35 submissions in response to our Consultation Paper.[12] We sought input from the Aboriginal and Torres Strait Islander Advisory Panel and legal stakeholders on particular options we were considering. We received UniSC's final report on *Community Views on Rape and Sexual Assault Sentencing*.

The publication of this report, *Sentencing of Sexual Assault and Rape: The Ripple Effect - Final Report, marks the conclusion of the final stage of the review*.

The Council's approach to assessing adequacy and appropriateness

The Terms of Reference required the Council to 'review sentencing practices' for sexual assault and rape and to advise whether penalties currently imposed adequately reflect community views about the seriousness of this form of offending.[13]

8 A copy of these preliminary submissions was published on our website on 13 September 2023. Preliminary submissions were made in relation to both parts of the Terms of Reference.
9 Queensland Sentencing Advisory Council, *Sentencing of Sexual Assault and Rape: The Ripple Effect - Consultation Paper: Issues and Questions* (March 2024); Queensland Sentencing Advisory Council, *Sentencing of Sexual Assault and Rape: The Ripple Effect - Consultation Paper: Background* (March 2024).
10 Lacey Schaefer et al, *Sentencing Practices for Sexual Assault and Rape Offences* (Griffith University for Queensland Sentencing Advisory Council, Final Report, February 2024).
11 Janet Ransley and Kristina Murphy, *Working Paper on the Development of the Queensland Crime Harm Index* (March 2024).
12 These are available to read on the Council's website, with the exception of confidential and anonymous submissions.
13 Appendix 1, Terms of Reference.

The Council developed a set of measures against which to assess adequacy and appropriateness of current sentencing practices for sexual assault offences and rape. We adopted a mixed-methods approach, considering both qualitative and quantitative evidence.

1. Evidence of misalignment between current sentencing practices and community and stakeholder views:
    - Evidence from informed and structured consultation of community views on sentencing/seriousness of sexual assault and rape offences;
    - Evidence of Parliament's views on the seriousness of sexual assault and rape;
    - Evidence of alignment between sentencing outcomes and the community's and Parliament's views of offence seriousness;
    - Evidence of alignment between sentencing outcomes and the purposes of sentencing;
    - Evidence of Court of Appeal and/or District Court appeal decisions[14] statements or questioning of whether current sentencing levels, outcomes or guidance for sexual assault and/or rape are adequate and whether practices change following statements or questioning;
    - Evidence of sentencing outcomes for sexual assault and rape offences compared with other offence types of similar assessed levels of seriousness.
2. Evidence of inconsistencies or problems with the current approach to sentencing:
    - Evidence of the weight given to aggravating and mitigating factors;
    - Evidence of the categorisation of the objective seriousness of sexual assault and rape offences;
    - Evidence of the treatment of victim survivors of sexual assault and rape in the sentencing process;
    - Evidence of adequacy of information to inform sentencing of sexual assault and rape offences;
    - Evidence of the impact of systemic disadvantage on Aboriginal and Torres Strait Islander peoples, and human rights considerations pursuant to the *Human Rights Act 2019* (Qld).
3. Evidence of inconsistency of approach with other jurisdictions:
    - Evidence of the approach taken in other jurisdictions to sentencing for sexual assault and rape.

Sentencing of rape: key data findings

Over the 18-year data period (July 2005 to June 2023), 1,817 cases involving a rape offence as the most serious offence (MSO) sentenced were sentenced in the higher courts.

Almost all rape (MSO) cases sentenced resulted in a custodial penalty (98.7%). The median imprisonment sentence length was 6.5 years. The median custodial sentence length (including all forms of custodial

14 *Justices Act 1886* (Qld) s 222.

orders, not just imprisonment) has been stable over time, ranging between 5 and 6 years over the 18-year data period.[15]

Over one-third of sentenced rape (MSO) cases were also domestic violence offences (35.5%). For rape offences sentenced as a domestic violence offence, imprisonment, rather than a partly suspended sentence of imprisonment, was more likely, and the median custodial sentence length was also longer.

The total share of custodial sentences that were partially suspended prison sentences increased over time at the same time as sentences of imprisonment decreased. In the most recent 3-year period examined (July 2020 to June 2023), imprisonment sentences represented just under two-thirds of all penalties imposed for rape (64.7%), while just under one-third of cases resulted in a partially suspended prison sentence (30.7%).

We present detailed data findings on sentencing of rape in Appendix 4 of our report.

Sentencing of sexual assault: key data findings

Over the 18-year data period (July 2005 to June 2023), 1,904 cases involving a sexual assault offence as the MSO were sentenced in the higher and lower courts.

Almost all sexual assaults (MSO) sentenced are non-aggravated offences, which have a 10-year maximum penalty (95.4%, n=1,816). Just over half of these were sentenced in the Magistrates Courts (53.1%).

All cases involving circumstances of aggravation (14-year and life maximum penalties) were sentenced in the higher courts (n=88).

Magistrates Courts outcomes (non-aggravated sexual assault)

In the Magistrates Courts, wholly suspended prison sentences were the most common penalty type, being ordered in just over one-quarter of all cases with a median sentence length of 6 months (25.2%). Approximately 15 per cent of penalties in the Magistrates Courts were sentences of imprisonment (15.4%), with a median sentence length of 9 months. The use of imprisonment and wholly suspended prison sentences increased over the 18-year period, while the use of monetary penalties decreased.

Higher court outcomes

Just under half of non-aggravated sexual assault cases were sentenced in the higher courts (46.0%, n=852). Over one-third of cases of non-aggravated sexual assault (MSO) sentenced in the higher courts resulted in a wholly suspended prison sentence being imposed (37.4%). The median sentence length was 9 months.

The use of wholly suspended prison sentences for non-aggravated sexual assault in the higher courts has increased over time, while the use of imprisonment has decreased. However, there has been little change in proportion of sentences that are custodial, representing about 80 per cent of all penalties imposed over the 18-year data period, or the median or average custodial sentence length.

All cases involving circumstances of aggravation (14-year and life maximum penalties) were sentenced in the higher courts. Almost all aggravated sexual assaults received a custodial penalty: 95.1 per cent of sexual assault (aggravated) and 96.3 per cent of sexual assault (aggravated life) cases. The most

[15] This calculation excluded life sentences.

common penalties were partially suspended prison sentences and imprisonment. The median imprisonment sentence for sexual assault (aggravated life) was 3.0 years.

Domestic violence offences and co-sentenced order types

Very few sexual assaults (MSO) were committed in a domestic and family violence context (7.2%). Aggravated sexual assault offences were slightly more likely to be domestic violence offences.

Over half of all sexual assault cases (MSO, sentenced across all court levels) with a custodial penalty were sentenced for another offence at the same hearing (55.2%). In those cases, the person was more likely to receive a longer head sentence for the sexual assault offence (MSO).

It was more common to combine a suspended prison sentence with a probation order for additional sexual assault and other sexual offences, compared with other offence types.

We present detailed data findings on sentencing of sexual assault in Appendix 4 of this report.

The case for reform

The review identified a number of issues impacting the adequacy and appropriateness of sentences for sexual assault and rape offences in Queensland. Based on the evidence gathered, the Council concluded that there is a problem with sentencing outcomes across both offences.

We have made recommendations in response to the issues we found. Ultimately, the recommendations aim to ensure that:

- penalties imposed for sexual assault and rape adequately reflect community views about the seriousness of this form of offending and sentencing purposes, including just punishment, denunciation and community protection;
- the sentencing purposes and principles set out in the PSA provide a proper framework for the sentencing of sexual assault and rape offences; and
- the penalty and sentencing framework supports sentences being imposed for this form of offending that enable the person sentenced to have access to supervision, programs and treatment interventions, and allow Queensland Corrective Services to respond better than they can under the current orders available to issues of escalating risk.

Penalties imposed for rape are not adequate, particularly when the victim survivor is a child

We examined all rape (MSO) matters sentenced between July 2020 to June 2023 in more detail and found that sentencing outcomes varied considerably by type of penetrative conduct, as well as by victim age. The Council's analysis showed penile–vaginal and penile–anal rapes are commonly treated as more serious than acts of digital and oral rape.[16] This finding is supported by an analysis of sentencing submissions, stakeholder submissions and feedback received in SME interviews.

Our analysis found sentencing outcomes generally 'cluster' at different levels based on the type of penetration – digital–vaginal rape of an adult or a child both had medians of 3.0 years, while penile–vaginal rapes had a median of 6.0 years for adult victim survivors and 7.0 years for child victim survivors.

16 'Oral rape' was defined for the purposes of this analysis as including forced penile–mouth penetration and lingual–vaginal and lingual–anal rape.

Considering this evidence alongside other evidence gathered, the Council concluded that penalties imposed for the offence of rape do not reflect the objective seriousness of this form of offending and support important sentencing purposes, particularly with respect to offences against children. There are several main reasons for this:

- Courts place too much emphasis on the type of penetrative conduct when assessing offence seriousness rather than on issues of harm and perpetrator culpability. This is contrary to Court of Appeal guidance, which cautions against the 'compartmentalisation' of offending based on penetration type.[17]
- Sentencing practices for rape of a child do not adequately reflect community views of offence seriousness. The majority of participants in the UniSC's focus group research ranked the digital–vaginal rape of a child as being more serious than any of the adult rape scenarios presented based on the potential for significant and serious immediate and long-term harm regardless of penetration type. This included offences against adults involving penile-vaginal rape and penile-anal rape. The median sentence for the digital–vaginal rape of a child based on our analysis of sentencing outcomes over a 3-year period was 3.0 years (the same as for an adult victim) compared with 6.0 years for the penile–vaginal rape of an adult. This suggests current sentencing levels are inadequate.
- The increasing use of partially suspended prison sentences and the inability to combine a suspended prison sentence with probation or another form of community-based order when sentencing a person for a single offence mean a court has no ability to attach supervision, treatment and program conditions where the rape offence is the only offence sentenced. This may reduce the ability of the orders made to support the sentencing purposes of rehabilitation and community protection.
- There are limited opportunities for program engagement and completion prior to release or eligibility for release from custody due to the extended periods many people spend in pre-sentence custody and issues regarding accessing programs while on remand.

There are problems with sentencing practices for sexual assault offences

We also found evidence that sentencing outcomes for sexual assault offences do not reflect the seriousness of this offending.

We received significant feedback from victim survivors and the services that support them, indicating that the seriousness of this offending is not being reflected in the sentences imposed and that sentencing levels should increase.

Based on the evidence gathered and the Council's analysis, we have found there are problems with sentencing levels and penalty types for sexual assault due to:

- the objective seriousness of some forms of offending, including the nature of the offending and the harm caused being poorly understood;
- the current structure of the offence of sexual assault, including:

17 See, for example, *R v Wallace* [2023] QCA 22, [13] (Bowskill CJ); [44]–[45] (Dalton J); and *R v RBG* [2022] QCA 143, [4] (Dalton JA); *R v Smith* [2020] QCA 23, [37] (Morrison JA, Holmes CJ and McMurdo JA agreeing).

  - the breadth of conduct captured ranges significantly in terms of both seriousness and the type of acts captured;
  - the treatment of non-consensual fellatio performed by a perpetrator on a male victim as aggravated sexual assault, which has a 14-year maximum penalty, compared with penile-oral rape, which carries a maximum penalty of life imprisonment; this might be viewed as anomalous based on the approach in other jurisdictions; and
  - inconsistencies between the structuring of acts involving self-penetration or being forced to penetrate another person in Queensland and the approach in several jurisdictions, which makes this a separate offence;
- for offences of rape, the need to ensure that sexual assaults against children are treated more seriously than offences against adults and for this to be reflected in sentencing outcomes; and
- the significant use of suspended prison sentences that do not involve supervision, program and treatment conditions, as well as short prison sentences and fines, which may not be appropriate given the nature of this offending and the significant infringement of the rights of victim survivors.

The majority of community members who participated in the UniSC focus group research ranked the case example of non-aggravated sexual assault of an employee by their employer[18] as more serious than burglary (at night, no harm caused to the occupants), despite Queensland courts being more likely to impose a custodial sentence for burglary and median sentences for burglary being longer.

Legislative sentencing guidance is not adequate for sentencing sexual violence offences

The Terms of Reference also asked us to consider whether any legislative or other changes are required to ensure the imposition of appropriate sentences.

The Council identified several issues with current legislative guidance for sexual assault and rape, which may result in sentencing practices that are not adequate or appropriate.

The increased seriousness of sexual assault and rape offences committed against children needs to be recognised

Section 9 of the PSA recognises the increased vulnerability of children and the need for different sentencing principles and factors to apply. This includes a requirement under section 9(6) for a court, in sentencing a person for an offence of a sexual nature committed in relation to a child under 16 years, to have primary regard to factors, including:

- the effect of the offence on the child;
- the age of the child;
- the nature of the offence – including, for example, any physical harm or the threat of physical harm to the child; and
- any relationship between the offender and the child.

Despite the existence of this form of guidance, the increased level of harm inherent in this form of offending and the higher culpability of those who commit these offences are not being sufficiently reflected in the sentences imposed. This suggests a need for legislative reform.

18 The sexual assault was described as an offence involving an employer touching an employee's breasts over the top of her clothing without her consent.

The purposes of sentencing do not expressly recognise the harm caused to victim survivors

Victim survivors and the services that support them were strongly of the view that the harm caused by sexual assault and rape is not being adequately recognised and reflected in the sentences imposed for sexual assault and rape offences.

Section 9(2)(c) of the PSA requires a court to consider any harm done to a victim in sentencing for any offence, including for sexual assault and rape. Courts must also have primary regard to certain factors in sentencing a person for an offence involving the use of violence and when sentencing a person for an offence of a sexual nature committed against a child under 16 years, including the effect on, and personal circumstances of, the victim.[19]

While the current factors listed in section 9 encourage consideration of victim harm, the recognition of the harm caused to a victim is not identified among the purposes for which a sentence may be imposed in section 9(1). The Queensland position contrasts with many other jurisdictions, including the Australian Capital Territory, New South Wales, South Australia, Canada and New Zealand, where the harm caused to any victim and promotion of perpetrator accountability form an integral part of the purposes for which a sentence may be imposed.[20]

Section 9 of the PSA is lengthy, complex and applied inconsistently

As the primary source of sentencing guidance, section 9 of the PSA has been a convenient focus of law reform since it was first introduced in 1992. Over the past 32 years, the sentencing factors in this section have been amended, created, repealed or reintroduced on 29 separate occasions.

The frequency of amendments and volume of changes can make the law difficult to navigate and understand. This can create an unnecessary burden on the criminal justice system, impacting efficiency by causing delays or unnecessary appeals, and undermining public confidence.

Legal stakeholders told us that the length and complexity of section 9 is becoming increasingly problematic, and that any additional reforms would further complicate an already unwieldy section.

The Council identified the following problems with section 9:

- inconsistencies and anomalies in the way certain provisions are applied;
- the focus of the factors listed in section 9(3) on considerations that are most relevant to the sentencing of non-sexual forms of physical violence rather than to sentencing sexual violence offences; and
- the overall length and number of principles and factors listed in the various subsections.

These issues undermine two important overarching purposes of the Act, which are to promote consistency of approach in the sentencing of offenders and to promote public understanding of sentencing practices and procedures.[21]

Certain types of 'good character' evidence are problematic

The use of 'good character' evidence is contentious and divisive, attracting the most submissions to this review from victim survivor support and advocacy organisations calling for reform.

Many victim survivors and advocacy and support organisations are strongly opposed to the use of 'good character' evidence for sexual offences, calling for its restriction or abolition in sentencing sexual violence.

19 See PSA (n 4) ss 9(3), (6).
20 For a summary of these provisions, see Appendix 14.
21 PSA (n 4) ss 3(d), (h).

In contrast, some legal stakeholders did not advocate for any changes, given that there is already a provision preventing the use of 'good character' for offences of a sexual nature committed against a child under 16 years if 'good character' was of assistance in the commission of the offence.[22] They reiterated to the Council that evidence of 'good character' is already given little weight based on the circumstances of the case, that it is important to maintain judicial discretion and that the sentencing courts should be able to recognise the lack of a prior criminal history.

The Council was told by victim survivor and advocacy groups' stakeholders that character references can be deeply distressing and retraumatising for victim survivors and undermine the sentencing purposes of denunciation. This stakeholder cohort was concerned that these references are accepted – seemingly without question – and appear to be given mitigating weight, despite the very serious nature of the offending involved.

The Council's analysis suggests problematic types of 'good character' evidence are:

- evidence in the form of a **character reference** that often contain subjective and a non-professional opinions about a sentenced person's personality traits;
- evidence of a person's **standing in the community**; and
- evidence of **contributions to the community**.

From a review of sentencing remarks of 131 rape (MSO) cases sentenced from July 2022 to June 2023 in the District Court, we found the following:

- 'Good character' evidence was referred to in 91.6 per cent of cases.
- A character reference was used in over one-third of cases (35.9%) and was most commonly provided by a family member.
- 'Good character' appeared to be given 'a lot of weight' in over a quarter of cases (28.2%).
- The most commonly mentioned type of 'good character' evidence was having good employment prospects, and this was considered mitigating in one-fifth of cases (21.3%).
- The 'good character' evidence most commonly treated as mitigating was behaviour described as being 'out of character', followed by 'of otherwise good character'.

The Council's review of sentencing remarks suggests that evidence of 'good character' is commonly referred to and, where it is mitigating, appears to be used by the court to determine the person's prospects of rehabilitation and risk of reoffending.

Evidence of 'good character' can have a legitimate role in the sentencing process; however, we observed numerous examples of problematic language being used, particularly when referring to character references. The use of character references and the language used in the context of sentencing for sexual assault and rape offences can be jarring, given the nature and seriousness of this offending. Describing a perpetrator as a 'good bloke' or as being a 'loving and kind father and friend' can be deeply distressing and retraumatising for victim survivors, particularly when said immediately following a description of the offending.

22 Ibid s 9(6A). See also s 9(7AA).

Sentencing options for sexual assault and rape are limited and contribute to inadequate sentences

An important principle that guided the review was that sentencing outcomes for sexual assault and rape offences should reflect the seriousness of these offences, including their impact on victims, while not resulting in unjust outcomes. We also recognise the importance of people serving a sentence in the community for a sexual offence having access to appropriate supervision.

Currently, there is a lack of flexibility in the mix and range of penalty options that negatively impacts the ability of sentences to meet these objectives.

Based on analysis of sentencing remarks, case law, stakeholder feedback and our SME interviews, the Council found evidence of the following problems:

- The exclusion of court ordered parole for sexual offences is contributing to the high use of suspended prison sentences for sexual assault and rape.
- Victim survivors are dissatisfied with the non-parole period that perpetrators are being ordered to serve before being eligible for parole.
- There are limited opportunities in custody for sex offender program engagement and completion prior to release or eligibility for release from custody.
- Current community-based orders lack flexibility and are limited in their ability to be tailored to individual circumstances.
- Some types of sentencing orders may not appropriately or adequately reflect the nature of the person's offending and its seriousness – for example, a fine may not reflect the nature of the infringement of human rights that sexual assault involves.

If implemented, many of the Council's previous recommendations made in our 2019 report on community-based sentencing orders, imprisonment and parole options[23] would address our concerns regarding the current lack of flexibility in sentencing and parole options and the impact this has on court sentencing practices. We remain of the view that expanding the range of penalty and parole options will lead to better tailored and appropriate sentencing outcomes consistent with principles of individualised justice.

Sentencing guidance is outdated and accessibility to relevant information should be improved

The Council found during this review that there is a need for non-legislative forms of sentencing guidance, including sentencing information systems, benchbooks and case summaries, to be updated and other resources to be developed and made available to legal practitioners and judicial officers in support of improved sentencing practices.

Illustrative of the need for these resources, the Council reviewed a selection of sentencing submissions for rape offences and found a tendency by prosecutors and defence practitioners to rely on comparative cases involving the same type of rape conduct rather than focusing on other factors relevant to the assessment of offence seriousness. This suggests that prosecutors and sentencing courts are not aware of relevant Court of Appeal guidance and how they should be applied.

23 Queensland Sentencing Advisory Council, *Community-based Sentencing Orders, Imprisonment and Parole Options: Final Report* (2019).

Some subject matter experts interviewed also raised concerns about a continued 'heavy reliance upon older cases that have a tendency to have much less serious penalties'.[24] This was substantiated by our review of a sample of sentencing submissions and remarks that found many of the case comparators relied on were dated and may not reflect contemporary sentencing practices or current community views of offence seriousness. A lack of relevant sentencing information and resources may be contributing to this.

Information provided to courts to inform sentencing decisions may be insufficient

The Council examined three specific aspects of the information provided to courts to inform sentencing: the role of professional medical, psychological and other professional reports; the use of pre-sentence reports ('PSR') and advice provided by Queensland Corrective Services officers; and the use of cultural reports and submissions.

The following are some of the problems identified by the Council:

- The availability of those with professional expertise regarding the drivers and impacts of sexual offending, including forensic psychiatrists and psychologists, is limited and there is currently insufficient funding and capacity to support the provision of expert psychiatric and psychological reports for all sentences.
- Preparing expert reports often causes delays, resulting in defendants spending a longer period of time on remand and matters taking longer, which means extended periods for victim survivors to get justice.
- PSRs prepared by Queensland Corrective Services are not often requested or made available, and may not address all important issues at sentence, including issues of risk and potential treatment options.
- Information provided by community justice groups (CJGs) (including cultural reports) is not routinely available in sexual violence matters and usually only at the Magistrates Courts level. The availability of this same type of information for people from other culturally and racially marginalised backgrounds is similarly limited.
- Judicial officers may not be provided with sufficient information to understand how the offending has impacted victim survivors, as the long-term impacts are often unknown at the time of sentence, few victim survivors have access to expert reports to document the harm or injury caused to them and/or they may not want the offending person to be aware of how the offending has impacted them by including this information in a victim impact statement.
- Risk-assessment tools may not be suitable for the Australian context or for assessing female or Aboriginal and Torres Strait Islander peoples.

The lack of information prior to sentence may limit the ability to ensure that the sentence, as structured, appropriately targets factors that might be important to reduce reoffending risks.

Many of these problems are exacerbated for Aboriginal and Torres Strait Islander peoples due to the impacts of systemic disadvantage and cultural issues, which may limit the ability of prosecutors and defence practitioners to put relevant information before the court.

24 SME Interview 15.

Victim survivors want better communication in relation to sentencing

There is increasing recognition of the importance of the criminal justice system being trauma-informed and operating in a way that does not cause further harm to participants.

The criminal justice system can operate in a way that is not trauma-informed and does not meet the justice needs of victim survivors, impacting their recovery and resulting in re-traumatisation.

From a victim survivor perspective, we were told that there is a widespread lack of confidence in the criminal justice process, including with respect to the investigation and prosecution decision-making process and sentencing outcomes; this contributes to high attrition rates in proceedings for these offences.

Victim survivors, victim survivor support organisations and advocacy services, and some legal stakeholders shared concerns that the current system does not protect victim survivors, adequately hold perpetrators to account or meet community expectations. This is concerning, as victim survivors' experiences have the potential to undermine their confidence that the criminal justice system as a whole can reliably deliver justice for Queensland.

Under the Charter of Victims' Rights, victim survivors must be kept informed of the progress of the criminal prosecution of the offender and be treated with respect, courtesy, compassion and dignity throughout the criminal sentencing process. However, despite these agency obligations, we have found that many victim survivors of sexual assault and rape remain dissatisfied with the sufficiency of information provided to them about the sentencing process and outcomes.

Victim survivors and victim survivor support advocates reported dissatisfaction with the information they received both before and after sentencing. This included information about how mitigating factors relating to the person being sentenced may be relied on, the courtroom layout and the likely sentence outcome, and explanations of the actual sentencing outcome and its implications. Within this context, we were told that victim survivors should be provided with a copy of the sentencing transcript as a matter of course to enhance their understanding of the outcome, as well as increasing post-sentencing conference opportunities.

The circumstances in which this information is provided and how it is conveyed were equally important to victim survivors. Currently, there is a strong impost on victim survivors to source this information themselves, or to 'opt in' to receiving it, which is not reflective of trauma-informed practice.

These issues are compounded when a victim survivor is a child, a person with disability or an Aboriginal and Torres Strait Islander person, or is otherwise vulnerable or disadvantaged.

Victim survivors want to be better supported in relation to sentencing

Support services in Queensland are fragmented. While there are multiple agencies that can, and do, provide support for victim survivors, there is a fundamental lack of understanding across victim survivors, support advocates and legal practitioners regarding agency roles and responsibilities. This can lead to challenges for victim survivors seeking to navigate these support services.

There are also challenges with the delivery of existing services, including limited resourcing and accessibility. Victim survivors who live in rural, regional or remote areas experience a lack of support hubs, and travel arrangements impose additional practical and financial barriers to attending sentencing proceedings.

Ensuring clear information about support agencies and their respective roles and responsibilities, as well as the provision of consistent support throughout the entire criminal justice process, is critical to the sentencing experience of all victim survivors, but also particularly for those who experience intersecting forms of disadvantage, which may impact their justice needs.

Problems with the victim impact statement regime and recognition of victim harm at sentence

The victim impact statement regime ('VIS') can serve two important functions within the sentencing context. First, it provides the sentencing court with direct information from a victim survivor about the harm they have suffered as a consequence of the offending, to be considered when assessing its impact. Second, it can have a therapeutic benefit for a victim survivor by providing them with an opportunity to tell the court, in their own words, about the impact of the offending on them. However, interviews with victim survivors, support advocates and legal professionals (including prosecutors, defence lawyers, magistrates and judges) revealed clear problems with the operation of this regime in Queensland.

Some of the issues we have identified include:

- a lack of clarity about the purpose of providing a VIS, including whether it is predominantly intended to serve an instrumental or expressive purpose, with corresponding implications for how it should be relied upon within the sentence hearing (including with respect to its intended impact on the sentence outcome);
- disappointment and frustration with procedural rules, which can restrict the victim survivor's voice in their VIS, such as with respect to the form, admissible content, redaction and timeframes for providing a VIS;
- confusion regarding which support services provide this support service, with potential consequences for the experiences of victim survivors who want to be supported through this process;
- limited resources to assist victim survivors (and support advocates) to understand how to prepare a VIS, including how it should be structured, what the process involves, what it will be used for (the purpose) and when they should provide it to the prosecution service;
- concerns that, if a VIS is not provided, the harm caused to a victim survivor will not be properly considered in assessing the impact of the offending, and that the sentence will therefore not be as significant as if a VIS had been provided.

Despite the opportunity to provide a VIS, victim survivors and support advocates told us that victim survivors feel sidelined in sentencing proceedings, and believe the impact of the offending on them is not heard or properly understood by the court, thereby diminishing their satisfaction with the sentencing outcome. For example, the mother of one victim survivor with whom we met told us that although they had submitted a VIS, the judge 'barely read it. And he just didn't care.'[25]

A VIS is necessarily limited as it is a point-in-time statement. For this reason, it cannot fully convey the harm – or future harm – that may be experienced by the victim survivor. This challenge is exacerbated for victim survivors who are children, or who are particularly vulnerable.

25 Victim survivor interview 1 – parent of victim survivor.

Some of our subject matter expert interview participants agreed that there is not sufficient focus on the victim survivor and acknowledgement of their experience within the sentencing process.[26] They also recognised that victim survivors might be frustrated if they attend a sentence and hear 'ad nauseam about the offender's background and antecedents', but do not see their experience and harm being called out or properly recognised.[27]

Queensland sentencing data is limited, making research, monitoring and evaluation of sexual assault and rape sentencing difficult

In undertaking our review, the Council identified that there are significant limitations associated with the quality and quantity of criminal justice data and information relevant to sentencing of sexual violence offences.

The nature of the information captured by administrative systems is for operational, rather than research, purposes. The accuracy of the available information reflects how administrative information is structured, entered, maintained and extracted. As a result, it is difficult for the Council to understand:

- case progression and attrition;
- offender and offence characteristics;
- victim survivor characteristics (e.g. identifying child victim survivors); and
- reasons for decisions.

The Council found that there is also a lack of integration between relevant justice administrative data systems, which limits the ability to undertake assessments without significant time and resources being invested. These challenges were particularly noted in relation to both administrative data and sentencing transcripts.

The Council's recommendations to reform sentencing for sexual assault and rape offences

On the basis of the issues identified above, the Council recommends a range of reforms to improve sentencing practices for sexual assault and rape, and to enhance victim survivor experiences of the sentencing process.

New aggravating factor for offences against children under 18 years

To increase sentences for sexual assault and rape offences committed against children, we recommend that a new aggravating factor for offences against children under 18 years should be introduced to section 9 of the PSA (**Recommendation 1**). We consider that this the best way to explicitly acknowledge that a victim under 18 years is more vulnerable, and the perpetrator more culpable, is to require a court to treat as aggravating the fact that an offence of rape or sexual assault was committed in relation to a child.

26 SME Interviews 15, 17.
27 SME Interview 17.

This will simultaneously achieve multiple objectives by:

- giving symbolic recognition to the higher level of objective seriousness of sexual violence offences committed against children;
- providing a statutory basis for courts to uplift sentencing levels for sexual assault and rape offences committed against child victims;
- limiting sentencing complexity by adopting a model that allows a court to balance the fact that the victim survivor was a child with other relevant and important factors and considerations in an individual case consistent with the principle of individualised justice, preserving judicial discretion; and
- adopting an approach that aligns with, and is complementary to, other existing statutory factors and principles, including other factors that a court must treat as aggravating.

We recommended that this amendment be progressed in the context of a broader review of section 9 (**Recommendation 3**).

Victim harm should be recognised as a new sentencing purpose

To ensure that victim harm is acknowledged in the sentencing process, we recommend that amendments be made to the purposes of sentencing under section 9(1) of the PSA to include recognition of victim harm (**Recommendation 2**). This will enhance the visibility of the recognition of the harm caused to the victim for both the judiciary and the community at large, and respond to concerns of victim survivors that harm is not acknowledged sufficiently in the sentencing process.

We acknowledge that this goes beyond sentencing purposes that apply to sexual assault and rape offences, but consider this change justified given the importance of recognition of victim harm in imposing sentence.

Section 9 of the PSA should be reviewed

Due to the complexity, inconsistencies and inadequacies of section 9 of the PSA, section 9 should be reviewed (**Recommendation 3**).

Structure of the sexual assault offences should be reviewed

The structure of section 352 should be examined in the review underway of Chapter 22 (Offences against Morality) and Chapter 32 (Rape and Sexual Assaults) of the *Criminal Code* (Qld) in response to recommendation 42 of the Women's Safety and Justice Taskforce *Hear Her Voice – Report Two* (**Recommendation 4**).

Certain types of 'good character' evidence should be limited for sexual offences and courts should have discretion to give no weight to this factor

A sentencing court should be informed by the best available evidence. Subjective opinion evidence from lay persons (without a professional expertise to give opinion evidence, such as a treating psychiatrist) purely attesting to the perceived or observed personality traits of the person being sentenced should be scrutinised with greater rigour by a court when sentencing a person for sexual assault and rape.

The PSA should be amended so that, despite section 11, in determining the character of an offender being sentenced for a sexual offence committed by an adult and where section 9(6A) does not apply, unless it is relevant to assessing the person's prospects of rehabilitation or risks of reoffending, a court must not take into account:

- evidence in the form of character references;
- evidence of a person's standing in the community; or
- evidence of significant contributions made to the community by the offender.

This will make clear that the person's reputation, previous employment and other aspects of character commonly relied upon at sentence do not in any way diminish the seriousness of the person's actions and the harm they have caused to the victim survivor as a consequence of their offending.

A legislative change will further direct courts and practitioners to link the use of this evidence to specific sentencing purposes rather than taking it into account 'in a general sense'.

In addition, we recommended that courts should be given legislative discretion to not mitigate a person's sentence in circumstances where they are assessed as being of 'otherwise good character' based on character references, their standing in or their contributions to the community. This discretion should be exercised with regard to the nature and seriousness of the offence, including the physical, mental or emotional harm done to a victim and the vulnerability of the victim (**Recommendation 5**).

In presenting these recommendations, we acknowledge that there are other reviews underway, which are likely to make recommendations regarding 'good character' evidence in sentencing,[28] and recognise the benefits of adopting a nationally harmonised approach.

Resources for courts and legal practitioners should be enhanced

There are opportunities for non-legislative forms of sentencing guidance to be enhanced, including benchbooks, other sentencing resources and resources to support trauma-informed practices to better respond to the needs of victim survivors (**Recommendations 6, 17, 18, 19** and **20**).

The development and enhancement of existing resources for prosecutors, defence practitioners and judicial officers is important to support these practice changes; this will ensure Court of Appeal guidance is more consistently applied, recent case law is relied upon to ensure submissions made on sentence reflect current sentencing practices, and sentencing hearings and remarks are conducted in a trauma-informed and culturally safe way.

Monitoring the impacts of these reforms

To assess whether sentencing levels have increased in response to these changes, the Council recommends that sentencing practices for sexual assault and rape be monitored within 5 years of the implementation of recommended reforms (**Recommendation 7**).

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28 Australian Law Reform Commission, *Justice Responses to Sexual Violence* (web page, 23 January 2024) <https://www.alrc.gov.au/inquiry/justice-responses-to-sexual-violence>; NSW Sentencing Council, *Good Character in Sentencing* (Consultation Paper, 17 September 2024) <https://sentencingcouncil.nsw.gov.au/our-work/current-projects/good-character-in-sentencing.html>.

Reforms to community-based sentencing orders and parole options

Current restrictions on the availability and use of orders, such as the exclusion of sexual offences from eligibility for court ordered parole and the inability to impose a suspended imprisonment order in combination with a community-based order when sentencing for a single offence, risk people sentenced for a sexual offence not being subject to appropriate supervision and support as part of their sentence. This lack of flexibility negatively impacts the ability of current sentences imposed to meet the objective of community protection.

The Council recommends that the government respond to and implement recommendations we made in our *Community-based Sentencing Orders, Imprisonment and Parole Options: Final Report*, with appropriate funding provided to support their effective implementation (**Recommendation 8**).

Reforms to the current range of sentencing options available to courts aim to improve and expand upon the options judges and magistrates have to punish offenders 'in a way that is just in all the circumstances' and to meet other intended purposes of sentencing, including denunciation, community protection and rehabilitation.

Allowing prisoners on remand access to programs

The former Queensland Productivity Commission, in its 2019 *Inquiry into Imprisonment and Recidivism: Final Report*, recommended reforms to ensure prisoners on remand can access suitable programs and other activities likely to aid their rehabilitation (**Recommendation 9**).

While the Commission's recommendation was not specific to sexual offending, the Council supports this recommendation and further suggests such programs and interventions should be made available, where practicable, in multiple correctional centre locations and provide for continuation of programs and interventions post-sentence, either in custody or in the community.

Reforming the serious violent offences scheme

The issues identified in our previous review of the serious violent offences ('SVO') scheme continue to impact sentencing practices for offences subject to the scheme, including sexual assault and rape. These include that discretionary SVO declarations are rarely made for sexual violence offences due to a focus by the court on physical violence when considering whether to make a declaration and the mandatory aspect of the scheme applying downward pressure on sentences around the 10-year mark.

The Council recommends that the government respond to and implement the recommendations we made in our *The '80 per cent Rule': The Serious Violent Offences Scheme in the Penalties and Sentences Act 1992 (Qld): Final Report* (**Recommendation 10**). Implementing those reforms, including making the scheme wholly presumptive and allowing courts discretion to set the non-parole period to between 50 and 80 per cent of the head sentence, will provide opportunity for higher head sentences for sentences of 10 years or more, as courts can better recognise mitigating factors.

Improving access to professional, specialist and cultural reports to inform sentencing orders

Based on our research and consultations, and submissions made to the review, we have concluded that the information available to courts to inform sentence may not be sufficient in some cases and could be improved. The Council has made several recommendations to improve accessibility of reports by professionals and specialists and cultural submissions in support of improved sentencing practices for

sexual offences (**Recommendations 11, 12 and 13**). Such reports and submissions should be available not only in relation to the person being sentenced but also to enable better understanding of the impacts of the offence and relevant considerations for victim survivors.

Enhancing communication with, and support for victim survivors to navigate the criminal justice system

Victim survivors do not feel like courts understand the harm caused by these offences, and confusion about sentencing outcomes was often expressed. The Council has made several recommendations designed to improve the experiences of victim survivors of sexual assault and rape, including trauma-informed and culturally safe communication and providing victim survivors with copies of their sentencing remarks (**Recommendations 14, 15, 17, 18, 19 and 20**).

We further recommend continuing to implement recommendations by the Women's Safety and Justice Taskforce to improve support for victim survivors of sexual assault and rape and the criminal justice system's capacity to respond to victims and perpetrators of sexual violence (**Recommendation 16**).

Enhancing understanding of sexual violence offending and its impact of victim survivors

It is important for victim survivors to have a voice within the sentence context and to have their experience validated by legal practitioners and the court. The primary mechanism for informing the court about the impact of sexual violence on a victim survivor is through the VIS.

There is strong dissatisfaction amongst victim survivors and members of the community with respect to the VIS regime. It became clear to the Council that the roles and responsibilities of different criminal justice agencies in relation to preparing VIS were poorly understood. It also became apparent to us that there are differing views on the purpose and use of VIS, and this impacts victim survivor satisfaction.

We have made several recommendations related to the VIS regime, including a holistic review of the regime for all offences (**Recommendation 21**), enhanced opportunities to encourage judicial acknowledgement of victim survivors and their VIS within the sentence hearing (**Recommendations 17 and 18**), clarifying agency roles and responsibilities to assist victim survivors to prepare a VIS (**Recommendation 22**) and amending section 179K(5) of the PSA to prescribe that a court must not draw any inference about the harm suffered by a victim survivor from the fact that a VIS has not been given to the court (**Recommendation 23**).

Review of guilty plea reductions

We consider that there is significant value in appropriately recognising a plea of guilty. However, the current approach may not be supporting the rights of victim survivors and may undermine victim survivor and community confidence in the justice system’s ability to respond to serious offending.

We consider that these concerns are best achieved through a review to assess whether the guilty plea discounts are meeting their objectives (**Recommendation 24**). A review would need to consider the approach in other jurisdictions, whether any reforms raise issues of unfairness and whether they potentially impact the voluntariness of a plea and the ability of a person charged with an offence to make an informed decision.

Alternative and complementary justice approaches

Complementary and alternative approaches to traditional criminal justice system responses, such as restorative or transformative justice, may offer an opportunity to better respond to the various justice needs of victim survivors. A new adult restorative justice program is being developed and the Council recommended a range of features as they apply to sexual assault and rape offences (**Recommendation 25**).

The Council was mindful of the current Australian Law Reform Commission inquiry into justice responses to sexual violence, and recommended that the government explore alternative approaches to traditional criminal justice responses to sexual violence offences to provide victim survivors with alternative avenues for healing and recovery, which also are effective in promoting perpetrator accountability (**Recommendation 26**).

Improving the evidence base for sentencing reform in Queensland

The Council recommends the Government respond to and implement recommendations we made in our *Community-based Sentencing Orders, Imprisonment and Parole Options: Final Report* in relation to improving administrative data for suspended imprisonment sentences and the evaluation of the effectiveness of parole (**Recommendation 27**).

The Council has also recommended ways to improve the evidence to support ongoing research, monitoring and evaluation of sentencing related reforms, including to better understand case progression and attrition, characteristics of cases and participants, and accessing transcripts (**Recommendation 28**).

Overview of chapters of this report

PART A – Context of the review and Council approach

Chapter 1 discusses the background to this review, the offences of sexual assault and rape and the Council's approach and relevant information. It also discusses the terminology used in this report.

Chapter 2 explores the nature and extent of sexual violence in Queensland and Australia and its relevance to sentencing. This chapter examines the prevalence of sexual violence in Australia and Queensland, including for specific communities. It explores the reasons why people are not reporting sexual offences to police and what we know about high attrition rates for sexual violence offences in the criminal justice system. It considers the mistaken beliefs surrounding sexual violence held by some members of the community and how these influence the criminal justice system and sentencing of these offences.

Finally, it explains many of the reviews and inquiries into improving responses of the criminal justice system to sexual violence that have taken place over the last 10 years in Queensland, Australia and overseas. One of these reviews – the Women's Safety and Justice Taskforce's ('WSJT') *Hear Her Voice – Report Two* – is particularly relevant to the Council's current review.

Chapter 3 sets out the framework applied by the Council to assess adequacy and appropriateness of sentencing outcomes for sexual assault and rape and the fundamental principles guiding this review.

The Council's review was informed and guided by a framework for assessing adequacy and appropriateness, which required us to consider community views regarding offence seriousness and the

purposes of sentencing, as well as broader considerations about what makes a sentence 'adequate' and 'appropriate'.

The Council developed 11 fundamental guiding principles that helped in creating and testing our key findings and recommendations. These 11 fundamental principles were drawn from:

- the Terms of Reference requirements;
- principles that have guided us in undertaking previous reviews;
- the WSJT's *Hear Her Voice – Report Two* and submissions made to that review; and
- views expressed by stakeholders in submissions to this review and during consultations.

Chapter 4 provides a high-level overview of the information sources used in this report, such as administrative data, sentencing remarks, submissions and consultation, interviews, legal research and commissioned research.

This chapter also sets out the methodologies used by the Council to undertake research for this review, such as thematic and content analyses of sentencing remarks for sexual assault and rape.

It provides an overview of the various information sources used in the report and includes discussion of gaps in existing evidence and the limitations that were encountered while building this evidence base, along with ways in which the Council attempted to overcome these limitations through other means of information-gathering. Where information was unable to be obtained, the Council acknowledges this.

PART B – Offence seriousness and adequacy of outcomes

Chapter 5 examines the importance of understanding and considering the community views of offence seriousness within the sentencing context. It provides an overview of previous research exploring community views about sentencing generally and for sexual offences, before considering the research commissioned by the Council to determine current community views in Queensland.

The chapter sets out consultation events and submissions made to our review, as well as interviews with victim survivors, highlighting the long-term harmful impacts that these offences can have as evidence of their seriousness. Concerns were raised by victim survivors and the services that support them that the harms caused, and their seriousness, are insufficiently recognised by courts in sentencing for these offences.

Chapter 6 considers the complex process undertaken by sentencing judges to assess offence seriousness when determining an appropriate sentence. This entails assessing the harm to the victim survivor and the offender's culpability.

The chapter sets out how courts currently assess offence seriousness in sexual assault and rape cases in Queensland and in other Australian and international jurisdictions, based on statutory and common law practices.

Chapter 7 presents the Council's findings from its assessment of whether current penalty types and current sentencing levels imposed on people convicted of sexual assault and rape appropriately reflect the seriousness of this offending.

This chapter sets out our assessments to the following criteria:

- community, consultation and Parliament views on offence seriousness;
- evidence of alignment between sentencing outcomes for sexual assault and rape and the community and Parliament's views of offence seriousness;
- how sentencing outcomes for sexual assault and rape compare with those for other offences;
- problems with the assessment of objective seriousness of sexual assault and rape offences;
- comparisons of sentencing outcomes with other jurisdictions; and
- evidence of alignment between penalty types and sentencing purposes.

PART C – Sentencing guidance

Chapter 8 examines the current approach in Queensland to the sentencing purposes, principles and factors under section 9 of the PSA, which provides courts with legislative guidance about how to approach sentencing for sexual assault and rape offences.

The chapter also considers other legislative forms of sentencing guidance in the PSA and in other jurisdictions in relation to sexual violence offences. This includes an overview of mandatory and presumptive sentencing schemes, the role of maximum penalties and stakeholders' views on these matters.

Chapter 9 examines the use of 'good character' evidence in sentencing for sexual offences, including the current approach to using this evidence in Queensland and in other jurisdictions, what we mean by 'good character' and how this evidence can be relevant to sentencing.

This chapter presents stakeholders' views about 'good character' evidence and contemporary research on the use of this evidence in sentencing sexual offences.

Chapter 10 considers other forms of sentencing guidance used by courts for sentencing sexual assault and rape offences including case law guidance on general sentencing principles and factors, sentencing 'ranges' and alternative approaches to sentencing guidance.

The chapter sets out the sentencing resources available to judicial officers and legal practitioners, such as benchbooks, sentencing manuals, practitioner guides, case summaries and schedules, and sentencing databases.

Part D – Sentencing options and processes

Chapter 11 examines the penalty and parole options in the PSA for offences of sexual assault and rape, whether they support adequate and appropriate sentencing outcomes by meeting the important purposes of sentencing. We also consider evidence about the effectiveness of different types of penalty options, what other jurisdictions do and past recommendations of the Council that are relevant to this review.

This chapter explores issues identified during this review in relation to suspended sentences of imprisonment, the setting of non-parole periods, availability of treatment programs for sexual offences, flexibility of current community-based orders and other issues such as the use of fines for sexual assault offences.

Chapter 12 considers the information available to courts to inform sentence enable proper consideration of the nature and circumstance of the offence, the personal circumstances of the person being sentenced, information about the types of interventions available to those in custody for members of the community and information that might reduce reoffending risk and the impacts of the offence/s on victim survivors.

In this chapter, we consider three specific aspects of the information provided to courts:

- the role of professional medical, psychological and other professional reports;
- the use of pre-sentence reports and advice; and
- the use of cultural reports and submissions.

Chapter 13 examines the impacts of sexual offences on victim survivors, their rights and role within the criminal justice system and their experiences engaging with the sentencing process.

We consider how current sentencing practices and processes operate in Queensland and other jurisdictions to respond to the rights and justice needs of victim survivors of sexual assault and rape, as well as relevant reforms currently underway. This chapter also sets out stakeholder views on issues impacting victim survivors' ability to navigate the criminal justice system.

Chapter 14 explores how the sentencing court acknowledges and recognises the impacts of sexual offences on victim survivors, including through consideration of a VIS.

The chapter sets out how Queensland sentencing courts receive evidence of the impacts of sexual offending on victim survivors, how the VIS regime operates in Queensland and other jurisdictions and what we know from earlier reviews of these processes. It also discusses stakeholder feedback on the operation of the VIS regime in Queensland, as well as how victim survivors (and the harm they have experienced) is being acknowledged within the sentencing court.

Chapter 15 considers other issues relevant to how courts sentence sexual assault and rape offences, including the reduction of sentence outcomes in recognition of a guilty plea, the difference between cumulative (one after the other) and concurrent (at the same time) sentences – particularly when there are multiple victims – and the impacts of language at sentence. These issues are relevant to sentencing of sexual assault and rape, but also have wider implications for sentencing of other offences.

Chapter 16 sets out alternative and complementary justice models, such as restorative and transformative justice, to better meet the justice needs of victim survivors.

This chapter considers current alternative justice models available in Queensland as well as models used in other jurisdictions. We also present our key finding and recommendations for reform to enable the use of restorative justice pathways for sexual assault and rape matters in Queensland.

PART E – Other considerations and enhancing the evidence base

Chapter 17 sets out the Council's assessment of compatibility with the HRA or disproportionate impact on Aboriginal and Torres Strait Islander persons, as well as any other issues under the PSA or other aspects of sentencing that are not part of a Council recommendation.

Chapter 18 examines some of the current gaps in the existing evidence base and the limitations that have impacted the Council's ability to fully understand current sentencing practices with respect to the offences of sexual assault and rape.

List of Key Findings

CHAPTER 6: COURTS' ASSESSMENT OF OFFENCE SERIOUSNESS	
1	**Rape and sexual assault are inherently violent and serious acts** Rape and indecent assaults are inherently violent and serious acts involving the exercise of dominion by one person over another person's body without their consent, in breach of the person's right to personal autonomy, bodily and sexual integrity and sexual identity. Engaging in unwanted sexual conduct involves a fundamental disregard of another person's dignity, right to equality, right to be free from violence and discrimination, right to be free from torture and cruel, inhuman or degrading treatment, and right to privacy. A lack of physical injury does not mean these offences have not caused substantial and ongoing harm, or that they should be treated as less serious than if physical injury had been caused. See **Recommendations 1 and 4.**
2	**Sexual offences against children are particularly serious** Due to the vulnerability of children, sexual offences committed against children are particularly serious, noting the inherently wrongful nature of the offending conduct and the profound ongoing harm these offences cause to children during their formative years. See **Recommendation 1.**
3	**The seriousness of rape should be assessed based on the circumstances of each case, not just penetration type** The seriousness of every rape offence must be determined based on the particular circumstances of each case. Sentences for rape should reflect that one form of sexual penetration is not inherently any more or less serious than another form of sexual penetration. See **Recommendations 18, 19 and 20**.
CHAPTER 7: ADEQUACY AND APPROPRIATENESS OF SENTENCING OUTCOMES	
4	**Penalties imposed for rape are not adequate** Penalties currently imposed on sentence for rape do not adequately reflect the seriousness of this form of offending and the purposes of sentencing, including punishment, denunciation and community protection – particularly as these relate to offences against children. See **Recommendations 1, 5, 6, 7, 8 and 10.**

5	**There is a potential problem with the structure of sexual assault** There is a potential problem with the current structure of the offence of sexual assault under section 352 of the *Criminal Code* (Qld), which impacts sentence outcomes, considering: • the breadth of conduct captured which ranges significantly in terms of both seriousness and the type of acts captured; • the anomalous treatment of fellatio performed by a perpetrator on a male victim as aggravated sexual assault, which has a 14-year maximum penalty, when compared with penile-oral rape, which has a maximum penalty of life imprisonment; and • the approach in some other jurisdictions, which separates acts involving self-penetration or being forced to penetrate another person as a separate offence. See **Recommendation 4**.
CHAPTER 8: LEGISLATIVE SENTENCING GUIDANCE	
6	**Legislative sentencing guidance is not adequate and requires enhancement** Existing forms of legislative sentencing guidance regarding principles and factors under the *Penalties and Sentences Act 1992* (Qld) are not adequate and require enhancement to: • reinforce that sexual violence offences committed against children are more serious due to the higher level of harm experienced by child victim survivors and the greater culpability of perpetrators in targeting a vulnerable victim; and • respond to issues identified in this report regarding the use of 'good character' evidence. See **Recommendations 1, 2 and 5.**
7	**Current sentencing purposes do not adequately recognise the harm caused to victim survivors** The current purposes of sentencing under section 9(1) of the *Penalties and Sentences Act 1992* (Qld), while broad, do not adequately recognise the need to hold the perpetrator accountable for harm done to the victim survivor and to promote in the perpetrator a sense of responsibility for, and acknowledgement of, that harm as an important aspect of sentencing. See **Recommendation 2**.
CHAPTER 9: EVIDENCE OF 'GOOD CHARACTER' IN SENTENCING FOR SEXUAL OFFENCES	
8	**There is a problem with certain types of 'good character' evidence** There is a problem with certain types of 'good character' evidence. Many victim survivors find the use of character references and comments made with respect to these references to be deeply distressing and retraumatising. See **Recommendation 5**.

CHAPTER 10: OTHER FORMS OF SENTENCING GUIDANCE

9 **Non-legislative forms of sentencing guidance need to be updated and enhanced**

Non-legislative forms of sentencing guidance need to be updated and enhanced. Agencies require appropriate resources to ensure these forms of guidance are updated on a regular basis and made more accessible.

See **Recommendations 6.**

CHAPTER 11: PENALTY AND PAROLE OPTIONS (AND OTHER ORDERS)

10 **Sentencing options available to courts in sentencing for rape and sexual assault need to be expanded**

The current range of sentencing options available to the courts is inadequate and needs to be expanded to increase the options that judges and magistrates have to punish offenders in a way that is 'just in all the circumstances' and to meet other intended purposes of sentencing, including denunciation, community protection and rehabilitation.

Current restrictions on the availability and use of orders, such as the exclusion of sexual offences from eligibility for court-ordered parole and the inability to impose a suspended imprisonment order in combination with a community-based order when sentencing for a single offence, puts people sentenced for a sexual offence at risk of not being subject to appropriate supervision and support as part of their sentence. This lack of flexibility impacts negatively on the ability of current sentences imposed to meet the objective of community protection.

See **Recommendation 8**.

CHAPTER 12: INFORMATION AVAILABLE TO COURTS TO INFORM SENTENCE

11 **Information available to courts to inform sentence may not be sufficient and could be improved**

It is important that sentencing courts be provided with information to enable the proper consideration of the nature and circumstance of the offence, the personal circumstances of the person being sentenced and the impacts of the offence/s on victim survivors.

There is a risk that judicial officers in Queensland are not being provided with sufficient information to inform the proper exercise of their sentencing discretion noting the following points:

- Criminal justice agencies and legal services operate under significant time and resourcing pressures.
- The availability of those with professional expertise regarding the drivers and impacts of sexual offending, including forensic psychiatrists and psychologists, is limited, and there is currently insufficient funding and capacity to support the provision of expert psychiatric and psychological reports for all sentences.
- Pre-sentence reports prepared by Queensland Corrective Services are not often requested or made available, and may not address all important issues at sentence, including regarding issues of risk and potential treatment options.
- Information provided by community justice groups (CJGs) (including cultural reports) is not routinely available in sexual violence matters, and usually only at the Magistrates Courts level. The availability of this same type of information for people from other culturally and racially marginalised backgrounds is similarly limited.

- Judicial officers may not be provided with sufficient information to understand how the offending has impacted victim survivors, as the long-term impacts are often unknown at the time of sentence, few victim survivors have access to expert reports to document the harm or injury caused to them and/or they may not want the offending person to be aware of how the offending has impacted them by including this information in a victim impact statement.

These issues are exacerbated for Aboriginal and Torres Strait Islander persons due to the impacts of systemic disadvantage and cultural issues, which may limit the ability of prosecutors and defence practitioners to put relevant information before the court.

See **Recommendations 11, 12 and 13**.

CHAPTER 13: UNDERSTANDING VICTIM HARM AND JUSTICE NEEDS

12 **Trauma-informed practices which recognise the rights of victim survivors should be encouraged, while maintaining principles of fairness for the person being sentenced**

Current sentencing practices and processes can operate in a way that is anti-therapeutic for victim survivors of rape and sexual assault, and that results in victim survivors' retraumatisation. While the focus of sentencing is necessarily on the person who is being sentenced and ensuring that principles of fairness are maintained, it is important for the sentencing process to operate in a way that respects the rights and interests of victim survivors – including those outlined in the Charter of Victims' Rights – and seeks to minimise any risks of retraumatisation.

See **Recommendations 14, 16, 17, 18, 21, 22 and 23**.

13 **Enhanced and trauma-informed communication with victim survivors is needed**

The Charter of Victims' Rights outlines the rights that victim survivors have within the criminal justice system, including the right to be kept informed. Despite these rights, many victim survivors of rape and sexual assault are dissatisfied with the sufficiency of information provided to them regarding the sentencing process, as well as their experiences engaging with the criminal sentencing process.

Improving communication with victim survivors, as well as their interactions with the sentencing process, will have corresponding positive impacts upon their sentencing experience more broadly. This communication should include the provision of regular, timely, effective, consistent and accessible information surrounding the progress of the criminal prosecution (provided by the prosecution service), as well as information about support to navigate the criminal justice system process (provided by an independent, victim survivor support service).

Improving communication between justice agencies (including the Queensland Police Service, the Office of the Director of Public Prosecutions, and Queensland Corrective Services, where relevant) will also ensure that victim survivors are provided with the right information, when they need it.

See **Recommendations 14, 15 and 16.**

14 **Sentencing processes and support services should be enhanced to ensure they are culturally safe for victim survivors**

There is a risk that sentencing processes and support services for victim survivors of sexual assault and rape are not currently culturally safe for Aboriginal and Torres Strait Islander peoples and are not meeting the needs of other victim survivors, such as LGBTIQA+ people, people with disability and people from culturally and racially marginalised groups, with a corresponding impact on their willingness to engage with, and their experience of, the criminal justice/sentencing process.

See **Recommendations 14, 16, 17, 18, 19 and 20**.

CHAPTER 14: VICTIM IMPACT STATEMENTS AND RECOGNITION OF HARM AT SENTENCE

15 **Appropriate and trauma-informed language should be used in the courtroom to support appropriate sentencing practices**

The language used by judicial officers, defence practitioners and prosecutors in rape and sexual assault sentence proceedings impacts how sentences are understood and viewed by victim survivors, perpetrators and the wider community.

Using appropriate and trauma-informed language in sentencing is essential to addressing long-standing systemic issues within the community relating to the understanding of sexual violence offences and the harm they cause. It is also an important aspect of ensuring sentences are adequate and appropriate.

Using inappropriate language that is not trauma-informed may:

- minimise the harm experienced by victim survivors;
- retraumatise victim survivors, impacting their long-term recovery;
- unfairly shift blame for the offending onto victim survivors; and
- minimise acknowledgment of the wrongfulness of the person's actions, thereby undermining the sentencing purpose of denunciation.

Language that is not trauma-informed or that is inappropriate may influence, or be perceived to influence, the way a judicial officer determines the seriousness of the offence for the purposes of sentencing and may retraumatise the victim survivor by appearing to minimise the seriousness of the rape or sexual assault.

It is critical that all justice agencies use trauma-informed language within the sentencing context, as language used by:

- legal practitioners and within professional expert reports may impact the language used by judicial officers during proceedings;
- judicial officers can impact both the person being sentenced and the victim survivor;
- the Court of Appeal (or accepted without comment) sets precedents for how sexual violence is understood and approached in future criminal proceedings.

See **Recommendations 17, 18, 19 and 20.**

16 **Victim impact statements require improvement within the sentencing process**

There is strong dissatisfaction among victim survivors and members of the community with respect to the victim impact statement regime. This dissatisfaction permeates all aspects of the process, including with respect to its purpose, content, form of presentation, arrangements for cross-examination, timeframes and degree of acknowledgement of the victim survivor and the harm they have suffered by the sentencing court:

- Agency roles and responsibilities regarding information and support for victim survivors of rape and sexual assault offences in the preparation of a victim impact statement are unclear, meaning victim survivors may not be provided with sufficient support when preparing a statement, and the information conveyed to the courts may be of limited utility.
- There is a pervasive lack of understanding of the purpose and use of victim impact statements in sentencing, which means stakeholders hold different (often unmet) expectations with respect to how a victim impact statement should be used.
- Victim survivors are dissatisfied with the process of redacting or 'content editing' victim impact statements by the prosecution service prior to sentence. The way this information must be provided to the court may not meet victim survivors' needs.
- Victim survivors may not be offered an opportunity to provide a statement prior to sentence due to concerns about this causing delays in the proceedings and matters being finalised.
- Victim survivors are often dissatisfied with the degree of acknowledgement by the sentencing court of the harm they have suffered as a consequence of the offending (as outlined in their victim impact statement).

See **Recommendations 21, 22 and 23**.

CHAPTER 15: OTHER ISSUES RELEVANT TO SENTENCE

17 **Sentencing reductions for a guilty plea are important and should continue, but there may be benefits in reviewing current practice**

There is value in courts continuing to have the ability to recognise the benefit of a plea of guilty in sentencing for offences of rape and sexual assault, such as through a reduction in the sentence that might otherwise have been imposed, or the fixing of an earlier parole eligibility date. The extent of any such discount, however, will always depend on the individual facts and circumstances of the case, including the context and circumstances in which the person's plea was entered and its timing.

The current approach in Queensland and other jurisdictions is not consistent. It is critical that the way a guilty plea is reflected in a sentence for rape and sexual assault achieves a proper balance between the benefits to the criminal justice system, ensuring just and appropriate punishment and promoting public confidence.

See **Recommendation 24**.

18 **No legislative changes are required to the current approach to concurrent and cumulative sentencing for multiple victim survivors of sexual violence**

No additional guidance is needed regarding the ordering of cumulative sentences when sentencing for sexual assault and rape offences involving multiple victim survivors.

CHAPTER 16: ALTERNATIVE AND COMPLEMENTARY JUSTICE MODELS	
19	**Complementary and alternative approaches to traditional criminal justice processes may offer opportunities to better respond to victim survivors' justice needs and should be explored** Complementary and alternative approaches to traditional criminal justice system responses, such as restorative or transformative justice, may offer an opportunity to better respond to the various justice needs of victim survivors. Provided victim survivors wish to participate, and these processes are appropriately managed, they may encourage healing and recovery within a safe environment that encourages perpetrators to take responsibility for their actions and enables victim survivors to have their voice heard and their experiences acknowledged and validated. See **Recommendations 25 and 26**.
CHAPTER 18: IMPROVING THE EVIDENCE BASE FOR SENTENCING REFORM IN QUEENSLAND	
20	**Sentencing data and information in Queensland is limited and can be enhanced** Sentencing information in Queensland is limited by both the quality of data available and a lack of integration between relevant justice administrative data systems. It is critical that Queensland takes a cohesive, whole-of-government approach to improving the quality of information being captured and shared by all relevant agencies. It is important to build the evidence base upon which reform decisions are made, which includes designing and implementing evaluation and monitoring frameworks alongside any reforms to enable agencies to monitor the impact and evaluate the success of the reforms, and whether further adjustments are required. See **Recommendations 27 and 28.**

List of Recommendations

CHAPTER 8: LEGISLATIVE SENTENCING GUIDANCE	
1	**Sentencing guidance reforms – new aggravating factor for offences against children under 18 years** The Attorney-General and Minister for Justice progress amendments to section 9 of the *Penalties and Sentences Act 1992* (Qld) to require a court to treat the fact an offence of rape or sexual assault was committed in relation to a child as aggravating. Such amendments should be progressed in the context of a broader review of section 9 (see **Recommendation 3**).
2	**Recognition of victim harm in the sentencing purposes** The Attorney-General and Minister for Justice progress amendments to section 9(1) of the *Penalties and Sentences Act 1992* (Qld) to include recognition of the harm done to victim survivors. Such amendments should be progressed in the context of a broader review of section 9 (see **Recommendation 3**).
3	**Review of section 9 of the *Penalties and Sentences Act 1992* (Qld)** The Attorney-General and Minister for Justice ask the Council, the Department of Justice or another appropriate entity to undertake a review of the principles and factors set out in section 9 of the *Penalties and Sentences Act 1992* (Qld) to ensure section 9 and related provisions of the Act provide a clear and coherent sentencing framework for courts and to promote community understanding of sentencing.
4	**Structure of the offence of sexual assault (Criminal Code (Qld) s 352)** The Attorney-General and Minister for Justice continue the review of Chapter 22 (Offences Against Morality) and Chapter 32 (Rape and Sexual Assaults) of the *Criminal Code* (Qld) in response to recommendation 42 of the Women's Safety and Justice Taskforce, *Hear Her Voice – Report Two: Women and Girls' Experiences Across the Criminal Justice System* (2022). The review should further include consideration of whether: • the structure of conduct captured within section 352(1) is too broad and should instead be structured in a way that better distinguishes different forms of non-aggravated sexual assault with the potential for graduated penalties to be applied; • the conduct under section 352(2) is appropriately categorised as a lesser form of aggravated offending, particularly with respect to male victims of what would otherwise constitute rape if the victim were forced to perform the same act (fellatio) on the perpetrator; and • conduct in section 352(3) involving self-penetration or being forced to penetrate another person should constitute a separate offence.

CHAPTER 9: EVIDENCE OF 'GOOD CHARACTER' IN SENTENCING FOR SEXUAL OFFENCES

5 Reforms to the use of 'good character' evidence

The Attorney-General and Minister for Justice progress amendments to the *Penalties and Sentences Act 1992* (Qld) to qualify the current position under the Act as to the treatment of 'good character' evidence.

Amendments should provide that, despite section 11 of the *Penalties and Sentences Act 1992* (Qld), in determining the character of an offender being sentenced for a sexual offence committed by an adult and where section 9(6A) does not apply, a court must not take into account:

- evidence in the form of character references;
- evidence of a person's standing in the community; or
- evidence of significant contributions made to the community by the offender

unless such evidence is relevant to assessing the person's prospects of rehabilitation or risks of reoffending (which is of direct relevance to sentencing purposes and factors listed under section 9(1) of the *Penalties and Sentences Act 1992* (Qld)).

In addition, courts should be provided with an express legislative discretion not to mitigate the sentence for the person's 'otherwise good character' based on character references, standing or contributions to the community. This discretion should be exercised having regard to the nature and seriousness of the offence, including the physical, mental or emotional harm done to a victim and the vulnerability of the victim.

CHAPTER 10: OTHER FORMS OF SENTENCING GUIDANCE

6 Resources for courts and legal practitioners

6.1 The Department of Justice consult with the Chief Justice and other Heads of Jurisdiction to allocate resources to support judicial officers and legal practitioners in sentencing for sexual assault and rape offences, and for other sexual violence offences.

The department also should explore alternative options for the development of resources for use by legal practitioners in consultation with relevant legal professional bodies, criminal justice agencies and victim survivor legal and support services.

Any resources developed might identify principles to be applied drawn from Queensland case law as well as relevant statements made by the High Court of Australia, and links to any useful resources – such as research relating to the impacts of childhood sexual abuse developed as part of the *Bugmy Bar Book*. Specific information relevant to the sentencing of offences against children, Aboriginal and Torres Strait Islander peoples and those from other culturally and racially marginalised groups, people with a mental illness or cognitive impairment (as victims and offenders), LGBTQIA+ people and people with disabilities should be included in any resources developed.

6.2 The Queensland Government ensures the Office of the Director of Public Prosecutions and Legal Aid Queensland are appropriately funded and resourced to ensure that relevant sentencing information and resources, such as the Appeal Register maintained by the Office of the Director of Public Prosecutions, are maintained and are able to be updated on a regular basis.

The Department of Justice should consult with Legal Aid Queensland and the Office of the Director of Public Prosecutions regarding what additional funding is required to make this information publicly accessible so it can be used by other legal practitioners and legal and policy decision-makers, as well as by researchers and other professionals [see, for example, the Comparative Sentencing Tables published by the WA Office of the Director of Public Prosecutions Sentencing (www.wa.gov.au) and information maintained by the NSW Public Defenders Office Resources (nsw.gov.au)].

See also **Recommendation 28** regarding QSIS enhancements.

7 **Monitoring the impacts of the recommended reforms**

The Attorney-General and Minister for Justice ask the Council, or other appropriate entity, to monitor and report on court sentencing practices for rape and sexual assault within 5 years of implementation of the recommended reforms to assess whether sentencing levels have increased in response to these changes, relevant Court of Appeal and High Court statements and community views about the seriousness of this form of offending. This review should consider:

- whether sentencing levels for offences of rape committed against children have increased relative to offences committed against adults, including for digital–vaginal, digital–anal and penile–oral rape assessed against the penile–vaginal and penile–anal rape of an adult;
- the extent to which sentencing practices are continuing to 'compartmentalise' rape conduct rather than assess offence seriousness based on the individual circumstances of the case; and
- sentencing levels for rapes occurring in an intimate partner or family relationship relative to those committed by strangers or acquaintances.

CHAPTER 11: PENALTY AND PAROLE OPTIONS (AND OTHER ORDERS)

8 **Reforms to community-based sentencing orders and parole options**

The Queensland Government should respond to and implement recommendations made by the Council in its 2019 *Community-based Sentencing Orders, Imprisonment and Parole Options: Final Report*, with appropriate funding provided to support their effective implementation, in particular:

a) Recommendation 9: The introduction of a new intermediate sanction – a 'community correction order' ('CCO') – which can be tailored through the conditions imposed to meet the various purposes of sentencing, while also responding to the individual factors contributing to offending.

b) Recommendations 17 and 37: Allowing courts to combine a suspended prison sentence with a CCO when sentencing a person for a single offence, and until such time as the CCO is fully operational, allowing a court to combine a suspended prison sentence with a probation order or community service order when sentencing a person for a single offence.

c) Recommendations 47 and 48: Establishing a dual discretion to set either a parole eligibility date or a parole release date when sentencing a person to 3 years' imprisonment or less for a sexual offence, and providing legislative guidance as to whether a parole release date or parole eligibility date should be set in such circumstances.

d) Recommendation 51: Subject to implementation of the Council's proposed reforms to community-based sentencing orders and parole, and the outcomes of a recommended review of the effectiveness of parole, the removal of parole for sentences of imprisonment of 6 months or less, with some legislated exceptions.

9 **Access to programs for prisoners on remand**

The Queensland Government respond to and implement recommendation 17 of the Queensland Productivity Commission's 2019 *Inquiry into Imprisonment and Recidivism: Final Report* to ensure that prisoners on remand, including those charged with a sexual violence offence, are able to access suitable programs and other activities likely to aid their rehabilitation.

Such programs should be made available, where practicable, in multiple correctional centre locations and provide for continuation of programs and interventions post-sentence either in custody or in the community.

10 **Reforms to Serious Violent Offences Scheme**

The Queensland Government respond to and implement recommendations made by the Council in its final report on the operation and efficacy of the serious violent offences scheme — *The '80 Per Cent Rule': The Serious Violent Offences Scheme in the Penalties and Sentences Act 1992 (Qld): Final Report* including:

a) The current serious violent offence scheme be replaced with a fully presumptive scheme to be retitled as the 'serious offences scheme' that requires a court to make a declaration when a person is sentenced to a term of imprisonment of more than 5 years for a listed offence unless the court determines it is in the interests of justice not to do so.

b) Once a declaration is made, to require parole eligibility to be set within a specified range between 50–80 per cent of the head sentence.

CHAPTER 12: INFORMATION AVAILABLE TO COURTS TO INFORM SENTENCE

11 **Legal Aid funding and guidelines in support of the preparation of specialist reports**

The Department of Justice consult with Legal Aid Queensland, other legal stakeholders and professional associations representing the interests of forensic psychologist and psychiatrists as a matter of priority to review the adequacy of funding available in support of the preparation of specialist reports for defendants charged with a sexual violence offence and current funding guidelines.

12 **Court-ordered professional reports and advice**

The Department of Justice, in consultation with the Heads of Jurisdiction, explore alternative models of professional advice to inform sentence. This investigation might include, for example, consideration of current arrangements for court-ordered reports and advice and the adequacy of this in supporting the court to both understand factors associated with a person's offending, as well as psychological and emotional harm caused to victim survivors.

13	**Cultural reports** Queensland Courts actively explore alternative models for the provision of cultural advice to courts in the case of sexual offences, such as rape and sexual assault, including through the engagement of professional report writers, consistent with the current model being trialled through the Australian Research Council-funded project on Indigenous Justice Reports. Consideration should be given not only to the preparation and use of these reports for defendants from an Aboriginal or Torres Strait Islander background or other cultural background, but also separate reports for victim survivors, to better articulate the harm caused and the broader impacts of the person's offending on them.
CHAPTER 13: UNDERSTANDING VICTIM HARM AND JUSTICE NEEDS	
14	**Office of the Director of Public Prosecutions and Queensland Police Service – improved communication with victim survivors of rape and sexual assault** Consistent with the rights recognised under the Charter of Victims' Rights – including the right to be kept informed, and to be treated with respect, courtesy, compassion and dignity throughout the criminal sentencing process – that relevant criminal justice agencies should provide victim survivors with regular, timely, effective, consistent and accessible information delivered in a trauma-informed way throughout the criminal justice process. This should include information regarding the progress of criminal proceedings and the sentencing process, as well as greater support navigating the criminal justice system process, such as with the assistance of a Victim Survivor Navigator. To ensure that this process is trauma-informed, victim survivors should have personal agency to decide how much information and support they would like to receive from justice agencies. Noting that the role of the Office of the Director of Public Prosecutions ('ODPP') and the Queensland Police Service ('QPS') does not currently extend to delivering therapeutic support to victim survivors, the ODPP and QPS should continue to review current communication practices, processes and training, and referral pathways, as required (including in support of promoting victims' rights recognised in the Charter of Victims' Rights) to ensure regular and effective communication occurs with victim survivors of rape and sexual assault. This should include an ongoing commitment to keeping victim survivors informed of key events (unless they have asked not to be kept informed), as well as the identification of roles and responsibilities of justice agencies, and consideration of improved communication processes between them (such as between the QPS, the ODPP and Queensland Corrective Services, where relevant) to address current gaps in the provision of consistent information.
15	**Sentencing remarks for victim survivors** The Department of Justice, in consultation with the Heads of Jurisdiction, consider processes to support the provision of sentencing remarks for matters involving rape (and possibly sexual assault) to victim survivors as a matter of course within a reasonable period after sentence to enhance their understanding of the sentencing process and outcome.

16 **Improving support for victim survivors of rape and sexual assault and the criminal justice system's capacity to respond to victim survivors and perpetrators of sexual violence**

The Queensland Government continues to commit funding and resources in support of the implementation of the following recommendations of the Women's Safety and Justice Taskforce *Hear Her Voice – Report Two: Women and Girls' Experiences Across the Criminal Justice System* (2022):

- Recommendations 5 and 96: The Queensland Police Service develop initiatives focused on improving its cultural capability, as well as its ability to respond to sexual violence cases.
- Recommendation 6: The Queensland Police Service improve the translation and interpretation services it uses for First Nations peoples.
- Recommendations 9 and 64: The Queensland Government develop and pilot a statewide professional victim advocate service, and the planned evaluation of this model, including consideration of whether there is a need for funded legal representation for victim survivors of sexual violence during criminal justice processes.
- Recommendation 11: The Queensland Government co-design, fund and implement a victim-centric, trauma-informed service model that responds to sexual violence.
- Recommendation 13: The Queensland Government embed a trauma-informed system of safe pathways for victim survivors of sexual violence across the sexual assault and criminal justice systems.
- Recommendation 19: The Queensland Government review the Charter of Victims' Rights in the *Victims of Crime Assistance Act 2009* and consider whether additional rights should be recognised or if existing rights should be expanded. Ideally, this review would be undertaken by the Victims' Commissioner (Recommendation 18).
- Recommendation 45: The Office of the Director of Public Prosecutions and the Queensland Police Service review, update and publish the memorandum of understanding relating to the investigation and prosecution of sexual violence cases.
- Recommendation 51: The Office of the Director of Public Prosecutions develop and implement a cultural capability plan to improve the cultural capability of staff.
- Recommendation 95: The Queensland Police Service develop a gender-responsive and trauma-informed approach for responding to women and girls in the criminal justice system.
- Recommendation 121: The Department of Justice undertake a review of the Murri Court model to consider how it can be strengthened and improved.

CHAPTER 14: VICTIM IMPACT STATEMENTS AND RECOGNITION OF HARM AT SENTENCE

17 **Resources to assist the courts to respond to the needs of victim survivors of rape and sexual assault within the courtroom**

The Department of Justice, in consultation with the Heads of Jurisdiction, and with reference to work being led by the Judicial College of Victoria, support the development and provision of practical information for courts about responding to the needs and interests of victim survivors of rape and sexual assault in criminal proceedings, including preferred ways to acknowledge victim survivors and the harm they have experienced.

18 **Resources and professional development for judicial officers**

Until such time as a Queensland Judicial Commission is established, the Queensland Government ensure appropriate funding and resources are provided to Queensland Courts to enable judicial officers to continue to participate in national judicial officer training programs focused on sexual violence and in support of the development of Queensland-based sentencing resources (see also **Recommendation 6.1**).

19 **Resources for prosecutors**

The Office of the Director of Public Prosecutions and the Queensland Police Service review guidance and training materials to ensure that prosecutors are employing trauma-informed practices, and that the language being used in the context of the prosecution of rape and sexual assault matters continues to promote recognition of the objective seriousness of this form of offending and the significant impacts it has on victim survivors.

20 **Resources for defence practitioners**

The Queensland Government consider making appropriate funding or resources available to Legal Aid Queensland, the Queensland Law Society and the Queensland Bar Association to enable similar resources and training to be made available to defence practitioners with respect to the importance of employing trauma-informed practices and language in the context of submissions made on sentence.

21 **Comprehensive review of the victim impact statement regime**

The Department of Justice or other appropriate entity undertake a comprehensive review of the victim impact statement regime under the *Penalties and Sentences Act 1992* (Qld), including with respect to the purpose of providing a victim impact statement, the content, form of presentation, arrangements for cross-examination, timeframes and degree of acknowledgement by the sentencing court of the victim survivor and the harm they have suffered as a result of the offending – ensuring that victim survivors who do not provide information about the specific harm caused to them, or who are limited in their ability to do so (including child victims), are not disadvantaged at sentence. This should include consideration of trauma-informed practice.

22 **Clarification surrounding the roles and responsibilities of agencies with respect to the preparation of victim impact statements**

As a matter of priority, the Department of Justice or other appropriate entity, such as the Office of the Victims' Commissioner, undertake work to map agency roles and responsibilities with respect to victim impact statements and to make this information available to all relevant agencies and services with a view to promoting better understanding and identification of current gaps in service provision.

On completion of this work, existing resources and information for victim survivors should be updated, or new resources developed, to provide clear advice to victim survivors about how to seek support when writing their victim impact statement and what can be included.

23 **Amendment to section 179K(5) of the *Penalties and Sentences Act 1992* (Qld)**

The Queensland Government amend section 179K(5) of the *Penalties and Sentences Act 1992* (Qld) to ensure a court does not draw any inference about whether the offence had little or no harm caused to the victim survivor from the fact that a victim impact statement was not given.

CHAPTER 15: OTHER ISSUES RELEVANT TO SENTENCE

24 **Review of guilty plea discounts**

The Attorney-General and Minister for Justice consider initiating a review of the current sentencing practice with respect to guilty plea discounts as this applies in Queensland and whether it is meeting its objectives. Such a review should consider the approaches in other Australian and international jurisdictions and any evidence about the impacts of these models (for example, regarding impacts on plea rates, victim survivor satisfaction and/or rates of reoffending) while noting the importance of retaining a Queensland-based approach, given differences as to relevant legislative frameworks and legal contexts.

CHAPTER 16: ALTERNATIVE AND COMPLEMENTARY JUSTICE MODELS

25 **Adult restorative justice program**

The new legislative framework and pilot adult restorative justice program, once established, should incorporate the following features as it applies to sexual assault and rape offences:

a) Restorative justice processes should be available at any stage of the criminal justice process, but should be victim-centred and prioritise the needs and interests of victim survivors while also responding to the needs of defendants.

b) Assuming a new legislative framework is established, a legislative model, such as exists under the *Crimes (Restorative Justice) Act 2004* (ACT), should be considered to allow for any outcomes of pre-sentence restorative justice processes to be taken into account at sentence.

c) At sentence, a court should not be permitted to take into account the fact that the person chose not to take part, or not to continue to take part, in a restorative justice process for the offence [see s 34(1)(h) of *Crimes (Sentencing) Act 2005* (ACT)].

d) Flexibility should be provided regarding the mode of delivery – for example, personal attendance at a conference, the exchange of letters, mediated communications between the complainant and the perpetrator or other suitable process.

e) Principles such as those that apply in New Zealand to restorative justice for sexual offences, and recommended by the Victorian Law Reform Commission in its report on improving the justice system response to sexual offences, should be developed to guide practice.

f) As recommended by the Women's Safety and Justice Taskforce in its report *Hear Her Voice - Report Two: Women and Girls' Experiences Across the Criminal Justice System* (2022) (recommendation 91), the legislative framework for adult restorative justice in Queensland should be co-designed with people with lived experience, Aboriginal and Torres Strait Islander peoples, and service and legal system stakeholders, adopting a victim-centric approach. Such framework should:

    i) articulate overarching principles for the use of restorative justice in adult criminal cases, with particular principles and safeguards for its use in relation to sexual offences and domestic and family violence-related offences;

    ii) set out operational processes, including a clear framework for referrals and suitability assessment processes set out how restorative justice interacts with the criminal justice system;

    iii) establish criteria and processes to assess the qualifications, expertise and suitability of convenors and provide for their functions and powers;

    iv) consider the diverse needs of victim survivors, including First Nations victim survivors, and how best to structure the framework to meet individual needs;

    v) provide adequate protections and safeguards for participants, underpinned by a gender-sensitive and trauma-informed approach.

26 **Alternative and complementary justice approaches**

Taking into account any outcomes of the Australian Law Reform Commission's current inquiry into justice responses to sexual violence, the Queensland Government consider exploring the merits and appropriate resourcing arrangements in support of alternative approaches to traditional criminal justice system responses to sexual violence offences to provide victim survivors with alternative avenues for healing and recovery, which also are effective in promoting perpetrator accountability.

Such approaches should be viewed as supplementary to existing criminal justice system responses and be victim survivor centred. They might include, for example, victim-centred approaches, including victim navigator schemes, victim survivor hubs, community-based restorative justice programs and transformative justice approaches.

CHAPTER 18: IMPROVING THE EVIDENCE BASE FOR SENTENCING REFORM IN QUEENSLAND

27 **Improved administrative data surrounding suspended imprisonment sentences, and the evaluation of the effectiveness of parole**

The Queensland Government consider and implement the following recommendations made by the Council with respect to data and research in the Council's 2019 *Community-based Sentencing Orders, Imprisonment and Parole Options: Final Report*:

- Recommendation 36: Improved administrative data capture relating to suspended imprisonment orders sentence to support reporting on breaches of orders and orders made on breach;
- Recommendation 49: An evaluation of the effectiveness of court ordered parole and Board ordered parole in Queensland, including an assessment of recidivism and completion rates.

28 **Improving the evidence base for sentencing reform**

In support of improving the evidence base for sentencing reform, the effective administration of justice and promoting community understanding of sentencing, the Queensland Government appropriately fund and prioritise work to ensure:

- **28.1**: The administrative systems used by Queensland Courts are updated to ensure each charge indicted in the higher courts is linked to the originating charge(s) (if any) that were committed in the lower courts. Consideration should be given to the digitisation of the transmission sheets that are attached to indictments as a mechanism for implementing this change.
- **28.2**: Work is led by the Queensland Police Service in conjunction with other criminal justice agencies, to ensure that any changes made to a Single Person Identifier (SPI) through merges, splits or other modifications is made available to downstream agencies – for example, via a concordance mapping – to allow for more accurate tracking of individuals through the criminal justice system.
- **28.3**: Data collection processes of criminal justice agencies are improved to capture enhanced information about the demographics of and nature of any relationship between the parties, the types of information being relied upon at sentence, and information to enable better understanding of the effectiveness of sentencing and sentence types.
- **28.4**: Access to sentencing remarks for the general public is enhanced, including through the publication of District Court remarks for rape and sexual assault, and access is facilitated for the purpose of research.
- **28.5**: Access to lower court transcripts and sentencing submission transcripts (for both the higher and lower courts), is improved for the purpose of research.
- **28.6**: The functionality of the current Queensland Sentencing Information System (QSIS) is updated and enhanced, including through enhanced search and display functions (with consideration of earlier versions).

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