



Discussion Paper 2: Women and girls' experience of the criminal justice system Proposed Focus Areas

Submission to Women's Safety and Justice Taskforce
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Introduction

The Gold Coast Centre Against Sexual Violence Inc. (GCCASV) welcomes the opportunity to make a brief submission to the Women's Safety and Justice Taskforce in relation to the *Discussion Paper 2: Women and girls' experience of the criminal justice system Proposed Focus Areas*.

Our submission is based on GCCASV's collective knowledge and experience of counselling victim/survivors of domestic and family violence (DFV), and rape and sexual assault (SA) for over 30 years. During this time, we have provided support to complainants through the civil and criminal justice systems from seeking protection, reporting to police and progression through magistrates and district court. We support policy, practice and legal reform with positive consequences, that makes Queensland safer for the victims of sexual, domestic, and family violence and holds offenders accountable.

Our brief responses in this document follow the format of Issues Paper 2 and we look forward to providing more detailed information as thematic papers are released.

Summary of Sexual Violence in Queensland

Sadly, sexual violence is crime that exists in Queensland. Whilst holding offenders accountable and working towards the elimination of sexual violence; it is imperative that we develop a system that respects the experiences of victim/survivors rather than compound their distress, that we ensure that there is no place for secondary victimisation within the systems that we create.

Queensland's current criminal justice system response to sexual crimes is typified by low reporting rates, high attrition rates, experience of secondary trauma and low conviction rates. Despite legislative change over the past two decades, the process and outcomes for victim/survivors have not dramatically improved. The lack of information, lack of control, lack of support and lack of choice encountered throughout the system reinforces the victim/survivor's powerlessness.

In Queensland, sexual offence matters currently sit within the criminal justice framework. There is a strong argument for specialisation within current court system to exclusively deal with sexual offences in order to minimise secondary victimisation for the complainant and to maximise conviction rates. However, specialised courts alone cannot address all of the current issues in relation to sexual offences. The experiences of other jurisdictions show that specialised courts need to be set within a broader context of training, education and integrated responses to sexual violence by the criminal justice system and support services.

It is time for Queensland to re-think the way that sexual violence is prosecuted. Weston-Scheuber (2011, p.19) contends "How do we balance the need for fairness to the accused with the need for justice for the victim? Can the former continue to trump the latter so thoroughly and spectacularly? Or is it perhaps time to rebalance the scales?"

Gold Coast Centre Against Sexual Violence believes that all Queenslanders deserve to live in safety, that no one deserves to be sexually violated and that victims must have access to justice. We cannot build a safer community unless sexual offenders are held accountable for their crimes.

Agency information Gold Coast Centre Against Sexual Violence Inc.

GCCASV (formerly Gold Coast Sexual Assault Support Service) was founded on the Gold Coast in 1990. The agency is a feminist community based, not for profit, charitable organisation that has been providing free, confidential, specialist sexual violence intervention and prevention programs for more than 30 years.

Our vision is safe communities free from sexual, domestic, and family violence. GCCASV provides a safe, supportive, woman-centred environment in which sexual, domestic and family violence survivors can begin their healing journey.

The organisation also provides community education and training to the public, schools, and other professionals. Since 2018 GCCASV has also delivered specialist counselling to domestic violence victim/survivors who may not have experienced sexual violence.

GCCASV's professional and qualified counsellors work with women aged 14 years and over and therefore have an eclectic and client-centred approach, which means they acknowledge that there are a variety of interventions and different approaches that will work for different people.

GCCASV operates within a holistic, feminist framework, which means we always:

- Focus on the client's needs
- Work with them at their own pace to explore thoughts and feelings
- Provide a safe space to consider issues
- Respect individual coping strategies and help to find strategies not used before
- Provide choices and options when exploring any difficulties being experienced
- Help clients to gain control in your life
- Acknowledge power imbalances within society
- Acknowledge sexual violence as gender-based violence

RESPONSES TO DISCUSSION PAPER 2

FOCUS CROSS-CUTTING ISSUES:

GCCASV supports the focus on all of the following - diversity, intersecting disadvantage, recognising & responding to trauma, overrepresentation of ATSI women and girls as victims of crime, nature and culture of CJS and alternative models, human rights.

Other cross-cutting issues to include:

- Age in particular older women
- Domestic violence
- Elder abuse

FOCUS - WOMEN AND GIRLS' EXPERIENCES AS VICTIMS OF SEXUAL OFFENCES IN THE CRIMINAL JUSTICE SYSTEM

GCCASV supports the need to focus on women and girls' experiences as victims of sexual offences in the criminal justice system as evidenced by the high rates of sexual victimisation,

Other offence types for the Taskforce focus on should include:

Section 315A of the Criminal Code Choking, suffocation or strangulation. The lack of definition in black letter law and its current application is minimising and invisibilising women's experiences and serious impacts of this criminal behaviour.

Section 359E (Unlawful stalking) and its application to victim/survivors of Intimate Partner Sexual Violence

Bail Act 1980 (Qld) and safety of victim/survivors.

Part 1: Women and girls' experience of the criminal justice system as victim-survivors

THEME 1: Community understanding of sexual offending and barriers to reporting

GCCASV supports the Taskforce considering the need for cultural and attitudinal change across all sectors of society to improve women and girls' experience of the criminal justice system as victims of sexual offences

GCCASV supports the Taskforce considering the existing mechanisms in Queensland to improve community understanding of these issues, including curriculum and education about sexual consent in Queensland's schools and what can be done to change a culture amongst young people where sexual violence against women and girls has become normalised.

GCCASV supports the Taskforce considering the emerging societal factors such as pornography and dating apps that may be contributing to community attitudes and prevalence of sexual violence against women and girls. And that further consideration be given (under Theme 2) as to why many of these reports do not proceed through the CJS.

GCCASV does NOT support the examination of community attitudes to sexual offending against women and girls as part of the Taskforce mandate. We agree that this is an important piece of work and the Taskforce may be able to make a recommendation that this be undertaken. However, realistically, we believe that the Taskforce is not able to undertake this work given the current time restraints. It would be more appropriate to draw on the significant body of available research in this area including the National Community Attitudes Survey.

GCCASV supports the Taskforce examining and seeking community input about what prevents women and girls from reporting sexual offences to police and what can be changed to improve rates of reporting. Clearly there are significant barriers to accessing justice when only 10% of victim/survivors are reporting sexual offences.

THEME 2: Police response, investigation and charging of sexual offences

GCCASV supports the Taskforce examining the entire police process from the initial response to reports of sexual offences made to police, the ongoing police response and what processes are in place to support victims at this important stage of the process.

GCCASV supports the Taskforce examining police actions and attitudes when receiving a report, taking a statement, investigating and deciding what action is appropriate following the report of a sexual offence. Furthermore, that it is recognised how important it is to “Start by Believing”.

GCCASV supports the Taskforce consideration of the role of the sexual violence support service system, the level of coordination and collaboration that occurs across the specialist service system and criminal justice system and if there are any opportunities for improvement as well as any resource implications.

GCCASV further supports the examination of Queensland Police Service attitudes to sexual offending against women and girls.

Based on the experience of victim/survivors and support workers at GCCASV any focus on police process and practice should take into account the following:

- Access to interpreters
- Access to offenders devices eg operation Sierra Overland
- Advocate support at time of reporting
- ARO and online reporting of sexual offences
- Attrition
- Best practice trauma informed police investigation models
- Charging practices for breaches of DVOs where other criminal offences may have been committed
- Collaboration and integration
- Communication or lack thereof
- Complaints process - Sexual and DV Commissioner
- Education
- Low conviction rates
- Outreach and co-location of police at sexual assault services
- Oversight of decision making
- Recruitment, promotion, performance monitoring and handling of complaints against serving officers Secondary trauma and victim dissatisfaction
- Taking statements when and how
- Timing
- Training unsworn, uniform and detectives

THEME 3: Legal and court process for sexual offences

GCCASV supports the Taskforce proposal to consider: - the adequacy of sexual offences in Queensland - the role of the Office of the Director of Public Prosecutions and its engagement with victims - the trial process and laws of evidence including special measures for victims during the court process - avenues for victims to raise concerns with the process and support for victims - the nature and culture of the court process and alternative justice models.

GCCASV supports the Taskforce consideration of whether additional legislative reform is desirable, particularly in relation to

- Consent
- Mistake of fact
- Special Witness consideration
- Counselling notes Protect
- Bail Act
- Strangulation

GCCASV supports the Taskforce proposal to consider: - how much pre-trial engagement, information and support is given to victims of sexual violence - the level of consultation with victims of sexual violence about decisions not to proceed with certain charges or whether to accept pleas of guilty to alternative charges - opportunities for victims of sexual violence to seek a review of decisions made by a prosecuting lawyer or complain about a prosecuting lawyer's behaviour or general conduct of a matter

GCCASV supports the Taskforce examining the role of the ODPP and their engagement with victims during the process. That the Taskforce examines the nature and process of the trial for sexual offences, including committal processes, pre-trial procedures, sentencing and appeals

GCCASV supports the Taskforce proposal to consider examining the trial process with a focus on the particular needs of victims while ensuring the accused person has a fair trial.

GCCASV supports the Taskforce proposal to consider whether there are other opportunities for addressing the needs of victims following the prosecution of sexual offences.

GCCASV supports the Taskforce proposal to consider whether establishing a Victims of Crime Commissioner or a Domestic and Sexual Violence Commissioner would better support victims in Queensland. Our work with clients demonstrates that this would be an opportunity to streamline issues and complaints and be invaluable as a central touch point.

GCCASV supports the Taskforce examining a range of alternative ways of delivering justice for victims such as through the establishment of specialised courts or through restorative justice.

Based on the experience of victim/survivors and support workers at GCCASV any focus on court process and practice should take into account the following:

- Communication
- Complaints process - Sexual and DV Commissioner
- Delays and length of process
- Education of court workers and judiciary
- Expert witness
- Funded court support
- Lack of specialisation or dedicated courts
- Low conviction rates
- Reduction of sexual offences committed to trial
- Remote evidence
- Safety at court
- Secondary trauma and victim dissatisfaction
- Special witness consideration
- Technical issues with equipment
- Timing of conferencing
- Training

Part 2: Women and girls' experience of the criminal justice system as accused persons

GCCASV routine experience with the CJS is supporting women who are victims of sexual violence. However, we do have some experience in the area of women as accused. This usually unfolds when vulnerabilities intersect and women have been misidentified as perpetrators rather than victims of violence.

THEME 4: Why women and girls come into contact with the criminal justice system and their engagement with police and the legal system

GCCASV supports the proposal that the Taskforce focuses on the underlying factors that are contributing to the increasing levels of women and girls coming into contact with the criminal justice system with a particular focus on Aboriginal and Torres Strait Islander women and girls.

GCCASV supports proposal that the Taskforce considers the role and actions of police responding to criminal offending or alleged criminal offending by women and girls, including the impact of: - under representation of women as members of the Queensland Police Service - cultural capability within the Queensland Police Service - whether women and girls who are accused of committing offences in Queensland are subject to racism and misogyny alleged to exist within the Queensland Police Service

GCCASV supports the Taskforce focusing on the role of the police in relation to women and girls accused of offences, and that the experience of women and girls who progress from initial contact with police through to formal contact with the legal system including courts is considered.

GCCASV supports the Taskforce focusing on women and girls' experiences in the legal system when they have been accused of committing offences because women (particularly First Nations women) are often mis-identified as offenders.

THEME 5: Women and girls' experience of imprisonment and release into the community

GCCASV supports the Taskforce focusing on consideration of the reasons for the increasing incarceration rate for women and girls, their experience of incarceration and release.

Broader Women's safety issues

Sexual assault and the safety of women in the following environments:

- Psychiatric wards
- Taxis and in and around public transport
- Nightlife precincts