

### **Zonta Club of Brisbane Inc**

### **Zonta District 22 Ltd**

## **Submission in response to Discussion Paper 3 – Women and girls’ experiences across the criminal justice system as victims-survivors of sexual violence and also as accused persons and offenders – April 2021**

### **WHO WE ARE**

Zonta International is a global organisation committed to empowering women and girls. Zonta envisions a world in which women’s rights are recognised as human rights, where every woman is able to achieve her full potential, have access to resources and decision-making positions on an equal basis with men and where no woman lives in fear of violence.

In keeping with this vision, since 1919, Zonta has implemented service and advocacy projects and educational programs to improve the legal, political, economic, educational and health status of women and girls. Zonta clubs around the world implement projects in their own communities and raise funds to support them. In addition, one third of monies raised is contributed to the Zonta International Foundation to support global activities. There are 1,100 Zonta Clubs in 63 countries, with global membership of approximately 28,000 Zontians.

Annually, from 25 November to 10 December, Zonta Clubs across the world undertake a campaign to raise awareness of violence against women, under the banner Zonta Says No.

These and other campaigns are a vital force for changing attitudes, beliefs and behaviours that contribute to violence against women.

In Queensland, Zonta International (ZI) is represented by 45 Zonta clubs approaching 1,000 members. This year marks the 51<sup>st</sup> anniversary of Zonta's first Queensland club - the Zonta Club of Brisbane which has been advocating against domestic violence from its beginnings.

In 2020 the Queensland Government honoured both Brisbane and Brisbane East Zonta Clubs with an entry to the Queensland Government Domestic and Family Violence Prevention Honour Roll.

We are particularly focused on the United Nations Sustainable Development Goal No 5 targets which include –

- Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation; and
- Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

In studying Discussion Paper 3 - Women and girls' experience across the criminal justice system as victims-survivors of sexual violence and also as accused persons and offenders, we have chosen to comment on several specific areas of discussion.

1. Education for police responding to domestic violence incidents;
2. The need for cost effective approaches and targeted investment in this area;
3. The value of expanding access to alternative justice models for sexual offences;
4. Education to combat rape myths;
5. Victim experiences of court processes;
6. Vicarious trauma and compassion fatigue for professionals involved in the justice system.

### **1. The Education of Police Officers Responding to Domestic Violence Incidents**

Gaslighting is one of several coercive and manipulative behaviours observed in violent domestic relationships. Members of the Zonta Club of Brisbane have become aware of instances where perpetrators of domestic violence have continued their manipulation tactics in

their interactions with police and in doing so, have used the justice system to cause further harm to their victims.

A person seeking the assistance of police because of domestic violence is often in a state of emotional distress. As a result, when police attend a location following a report of domestic violence, they can be met by a victim struggling to regulate their emotions or general presentation or communicate effectively. This presentation can be contrasted with a perpetrator who may be able to maintain a calm, non-violent demeanour. The situation has, at times, lead to the perpetrator claiming to be the victim of abuse and the victim being charged with domestic violence offences or subject to an application for a domestic violence order. In these situations, the victim's need for protection is overlooked because of her presentation. The Zonta Club of Brisbane supports investment in ongoing police training around the nuances and complexities of violent relationships. Armed with this knowledge, police can better assess these situations and take steps to protect people at risk of harm.

## **2. Resources, Investment and Value for Money**

It is accepted that the justice system is complex and costly. The Zonta Club of Brisbane calls for increased funding and an ongoing and effective evaluation of the cost efficiency of current models compared with innovative alternatives. The Discussion Paper refers to some novel approaches cited from reports of the Queensland and Australian Productivity Commissions.

We applaud an openness to evidence-informed decision making and a 'learning system' approach. These approaches rely on suitable funding and access to professionals with the skills to find and assess the evidence (for example, studies of interventions and new models) and relevant data to inform decisions. Much data may be aggregated at the state level and not be available by region or by gender and age group, or type of offence. Better data will help make better decision making but it requires political will to invest in establishing and or improving existing datasets. In many spheres (for instance health and education), there is more emphasis on 'front-line services' but there is increasing evidence that a proportional investment in having the right data will be a boon to efficient decision-making.

Reforms to the justice system must occur in collaboration with academics and other interested researchers. Refining existing economic evaluations and assessment frameworks

for innovative approaches will improve outcomes, especially for victims. The state needs to have an appropriate appetite for 'risk.' When trying new approaches, there must be an acceptance that not everything will work. It is sensible to see what is happening in similar jurisdictions and modify approaches and interventions based on their successes. An approach modelled on the UK Governments What Works Network should be considered ("The What Works Network uses evidence to improve the design and delivery of public services.")

<https://www.gov.uk/guidance/what-works-network>

The State will need to invest money to:

- a) research (with appropriate partners such as academics) more efficient ways (p27) such as alternatives to incarceration and justice reinvestment.
- b) collect and analyse data specific to women and girls as victims and offenders e.g. regional disparities, recidivism of women for domestic violence and sexual crimes.

We suggest that women and girls who are involved in the criminal justice system can be better supported to reduce recidivism and benefit the community by:

- insisting on timely processes within the criminal justice system;
- having a dedicated system to collect and analyse data to better inform policy and decision making;
- adopting a 'learning system' to test innovative models especially around alternatives to incarceration for non-violent offending; and
- ensuring a public health approach for prevention and early intervention, particularly for economically disadvantaged communities.

### **3. Alternative Justice Models**

The discussion paper raises the potential for restorative justice models for individuals charged with sexual offences in Queensland. The Zonta Club of Brisbane supports the increased use of alternative justice models to support women who are victim-survivors of domestic violence and sexual offences and increase their satisfaction with the criminal justice system.

Members of the Zonta Club of Brisbane with experience in this area report that restorative justice models are underutilised to the detriment of victim-survivors. At present, where justice mediation may be contemplated by Police Prosecutions or the Office of the Director of Public

Prosecutions, defence sends a submission to request that the matter be referred to justice mediation. Matters where justice mediation may be appropriate include where the complainant and defendant are known to one another, the offending took place in the context of a friendship or relationship, or it is known or suspected that the complainant wishes to resolve the conflict.

If the submission is successful, once the referral has been made, the complainant is contacted and asked whether they are interested in participating in the process. The matter then proceeds depending on the wishes of the complainant, although a mediation conference is common. Letters of apology can be provided, compensation can be paid and non-disclosure agreements can also be considered.

Members report that requests for justice mediation in sexual matters are commonly rejected due to the prosecutor's view that the matter is too serious. While certain matters will simply never be appropriate for justice mediation due to their violent nature or other considerations, it seems that the rejection often comes without consultation with the complainant or consideration of the strength of the crown case. The perceived futility of seeking access the program discourages defence from sending requests in future.

Delay, being cross examined at committal and/or giving evidence at trial all have the potential to re-traumatise victim-survivors. As a matter progresses, it follows that the complainant's attitude to the matter may also evolve. While a victim-survivor may have initially been disinterested in justice mediation, their stance may change. It seems that there is little, if any, thought to justice mediation beyond the request sent at a relatively early stage of a matter. Victim-survivors should be consulted when justice mediation is first suggested and advised that, should their position change, the matter can be revisited.

Where matters proceed to trial, there is the possibility that the defendant will be acquitted, a potentially distressing outcome for complainants. Justice mediation allows complainants to express their experiences to the defendant and engage with the defendant to the extent that they are comfortable. The benefits of this process are myriad. The interaction can be a hugely cathartic experience for the complainant and can have a lasting impact on the defendant, their understanding of the offending behaviour and their future conduct. Further, it can create a foundation for a workable relationship between the complainant and defendant on an ongoing

basis. This may be of great value where the complainant and defendant reside in a small community and will necessarily come into contact in the future.

Payment of compensation is often a component of justice mediation. The payment of compensation raises complex issues. There is a risk that women offered compensation may feel compelled to accept the offer due to their financial circumstances even though they would prefer that the matter proceed to trial. Further, it would not be in the interests of justice for defendants to be seen to be simply 'paying the victim out' where more serious penalties would be appropriate. Finally, some defendants, unable to make payment of compensation in lumpsums may require the assistance of SPER to pay compensation over an extended period of time. This would ensure that defendants are not precluded from taking part in the process by virtue of their economic circumstances.

Although there are complicated factors associated with the extension of justice mediation program, they are not insurmountable. The Zonta Club of Brisbane supports initiatives that promote greater satisfaction and engagement for women and girls in the justice system.

#### **4. Rape Myths**

The Zonta Club of Brisbane supports the taskforce's consideration of the interplay between rape myths and community attitudes to consent. The taskforce is urged to consider past and present campaigns around this issue. For instance, members have become aware that there is a pervasive myth amongst some groups of young people that a person must clearly indicate the withdrawal of consent during a sexual interaction by clearly saying 'no.' This understanding has led some victim-survivors to conclude that they have no recourse to the criminal justice system because they froze in fear during a sexual assault rather than responding with a clear 'no.' Rape myths such as these present significant barriers to victim reporting. Zonta supports initiatives that empower victim-survivors to access justice through the courts.

Zonta strongly supports ongoing professional, community and school level education campaigns that combat rape myths. Education focussed on positive and enthusiastic consent is necessary to prepare young people for healthy and safe relationships.

## **5. Victim's Experiences of the Court Process**

The Zonta Club of Brisbane is aware that victim-survivors of domestic and sexual violence face potentially difficult experiences as matters in which they are involved move through the court system. Victims can be required to wait in court waiting rooms for up to several hours before being required to give evidence or appear in court. These delays contribute to low victim satisfaction and can cause further physical and mental distress. Further, knowing that this is experience is likely to follow a report of a sexual offence or a domestic violence complaint can discourage victim-survivors from accessing justice. Providing certainty to victims regarding time of proceedings and an environment that supports their sense of safety may improve victim experiences. Increased presence of specific, in-court support services for Aboriginal and Torres Strait Islander women should be prioritised. More, the taskforce may consider additional court support options, to provide emotional support to victims while they are waiting or giving evidence during proceedings. This would arguably reduce anxiety and improve victims experience of court processes without jeopardising the fairness of proceedings for the accused.

## **6. Vicarious Trauma and Compassion Fatigue**

Zonta Club of Brisbane supports the inquiry into levels of vicarious trauma in lawyers, police, and judicial officers. The taskforce may consider the possibility of a discrepancy between the number officials trained in trauma informed practice and care, and the number of people who are willing/available to work in fields with high exposure to interpersonal violence. The pressures faced by these workers are exacerbated by staff shortages, limited resources and a high volume, quick turn over workload characterised by exposure to interpersonal violence matters. These factors may lead to loss of skilled practitioners, officers and staff and compromise the continuity and quality of service available to victim-survivors.

Although the Taskforce identifies that not much evidence is available, mitigation or reduction of vicarious trauma may be possible through the implementation, and enforcement of measures including but not limited to:

- Supervision programs as available in other fields where vicarious trauma is a life issue (e.g. psychology and social work);
- Capped number of case/workloads, limiting exposure and preventing over work;
- Increased funding;
- Periodic refresher training and support for recognising evolving stress and self-care activities;

- Subsidised or 100% covered counselling and therapy with psychologist of person's choice;
- Requiring professionals to take regularly scheduled paid time off (RDO schemes).

### **Concluding remarks**

This submission has highlighted issues that have come to the attention of club members in recent times. Although not specifically explored in this submission, the Zonta Club of Brisbane, consistent with the aims of Zonta International, welcomes initiatives focussed on protecting women and girls engaging in the justice system as both victim-survivors and as defendants. Although outside the experience of the contributors to this submission, it is acknowledged that Aboriginal and Torres Strait Islander women and girls are disproportionately affected by the issues raised in the discussion paper. Our club acknowledges that these issues are challenging and complex and that space must be made for indigenous leaders to speak to the experiences and challenges facing the women and girls in their communities. The Zonta Club of Brisbane calls for greater funding, research and decisive action to protect all women and girls.

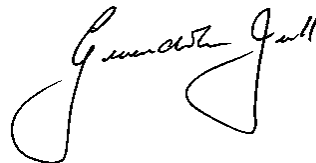


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