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Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
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Canberra ACT 2600

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Dear Committee,

**RE: CURRENT AND PROPOSED CONSENT LAWS IN AUSTRALIA**

We thank you for providing the Queensland Sexual Assault Network (QSAN) an opportunity to provide feedback on this important topic of the consideration of consent laws in Australia.

**About QSAN**

QSAN is the peak body for sexual violence prevention and support organisations in Queensland. We have 23 member services, including specialist services for Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, women with intellectual disability, young women, men and children and our membership are located throughout Queensland, including in rural and regional locations.

Our network of non-Government services is funded to provide specialist sexual assault counselling, support, and prevention programs in Queensland. QSAN is committed to working towards ensuring all Queenslanders who experience sexual violence recently or historically, regardless of age, gender, sexual orientation, cultural background receive a high-quality response in line with best practice, client-centred principles. Our work and analysis of sexual violence is from a feminist perspective and addressed within a “trauma-informed framework”.

We are committed to engaging with government and other bodies to raise systemic issues of concern and to ensure the voices and experiences of victims of sexual violence are considered in the formulation of policy and legislation that impacts on sexual violence victims in Queensland.

**Thematic reflections**

Our network has observed a significant increase in service demand over the last decade. There are also changing patterns of demand with not only more clients presenting to specialist services but services are seeing an increase in the number of young people seeking support, and the violence used is more extreme. This may be for the following reasons:

- The increase in access and at a younger age to pornography, including violent pornography.
- The lack of broad-based and quality sex education in schools. Historically, education has been abstinence and heteronormative focused instead of a harm minimisation approach.
- The rise in the use of dating apps which increases an ability of those with predatory behaviour to access victims.
- The lack of accountability for sexual violence in the criminal justice system.

### How are sexual violence prevention services different from domestic and family violence services?

In our experience, many decision makers are familiar with the work of domestic and family violence services but less with the work of sexual violence prevention services and many believe we do the same work. Though we work closely with the DFV sector, there are key differences.

We thought it might be helpful to explain these further.

A key difference from domestic and family violence services is that sexual violence support services respond to abuse in a wide range of relationships and over the course of a person's lifetime. Sexual violence services support a large number of clients who have experienced sexual violence outside of familial and intimate relationships whilst DFV services are geared towards crisis which occurs around separation. Sexual violence support services also respond to clients in crisis for example, following a recent rape but they also provide long-term counselling and support to help people heal from violence and abuse. People impacted by sexual violence can access QSAN services at any time in their lives. Victim-survivors may dip in and out of services throughout their lives to support their healing journey. Specialist sexual violence counselling and support services work with clients to address the deep impacts of trauma.

Trauma informed counselling delivered by QSAN services is client centred. Counselling focuses on emotional safety and stabilisation, trauma processing, addressing the impacts of sexual violence, resourcing people with coping mechanisms and developing and enhancing client support networks.

QSAN services also assist victim-survivors with practical issues including with housing, reporting to police, medical referral and support, assistance with relevant applications, including financial applications and referrals to appropriate services. When resources permit, the services support clients to participate in criminal court processes and trials, which can be a retraumatising process for many victim-survivors.

The work of a sexual violence prevention service is specialised and complex. The counsellors are experts in their field, have extensive experience and many have post graduate degrees. The work is demanding and requires a high level of skill to respond appropriately to highly vulnerable and traumatised clients, especially where there is increasing client demand and limited resources.

In relation to the specific terms of reference we provide the following responses:

#### **a. inconsistencies in consent laws across different jurisdictions**

The sexual violence system in Queensland is currently on the cusp of transformative change after the Women's Safety and Justice Taskforce Report 2 of *Hear Her Voice* made 92 recommendations for changes to the sexual violence response in Queensland including changes to the laws (including mistake of fact and consent), service delivery and other matters. All recommendations were accepted by the Queensland Government in December 2022, and plans are underway for implementation.

Particularly pertinent to this Inquiry the Taskforce is Recommendation 43:

*43. The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence amend sections 348 (Meaning of consent) and 348A (Mistake of fact in relation to consent) to provide that: a) consent must be freely and voluntarily 'agreed' rather than 'given' b) the non-exhaustive list of circumstances in which consent cannot be freely and voluntarily agreed at section 348(2) be expanded to reflect the circumstances set out in section 61HJ of the Crimes Act 1900 (NSW) c) if the person who alleges the sexual violence has suffered resulting grievous bodily harm, those injuries must be taken to be evidence of a lack of consent unless the accused person can prove otherwise d) no regard must be had to the voluntary intoxication of an accused person when considering whether they had a mistaken belief about consent to sexual activity e) an accused person's belief about consent to sexual activity is not reasonable if the accused person did not, within a reasonable time*

*before or at the time of the sexual activity, say or do anything to find out whether the other person consented to the sexual activity f) the requirement in (e) above does not apply if the accused person can show, on the balance of probabilities, that they have a cognitive impairment, mental impairment or another type of impairment that impacted on the accused person's ability to communicate and that impairment was a substantial cause of the person not doing or saying anything.*

Essentially, this recommendation adopts an affirmative approach to consent in Queensland and limits the Mistake of Fact excuse to cases where there is proven cognitive impairment, mental impairment or other type of impairment that impacted on the accused ability to communicate and that it was a substantial cause of the lack of communication about consent to the other party. It also importantly changes the law in Queensland to ensure the Mistake of Fact excuse cannot be used to excuse behaviour in circumstances of voluntary intoxication.

After the implementation of these changes, the entire eastern seaboard of Australia will have affirmative consent laws and limitations around the use of the excuse of Mistake of Fact in sexual violence trials.

**b. the operation of consent laws in each jurisdiction.**

We are unable to comment on the operation of consent laws in other jurisdictions only to know that the current Queensland laws are very archaic and work in favour of perpetrators. We are therefore looking forward to the implementation of the Taskforce recommendations.

**c. any benefits of national harmonisation.**

Our population is highly mobile, and it makes sense that there should not be differences to the laws about sexual violence across Australia. Variation causes confusion and is unjust for complainants who live in jurisdictions who have not updated their laws.

**d. how consent laws impact survivor experience of the justice system.**

The operation of the consent laws and decisions by the courts have a direct impact on police responses and attitudes towards victim-survivors when they are reporting sexual violence. Victim-survivors also choose not to, or not to continue a report because of the current archaic consent laws in Queensland.

Please see below an excerpt from the Executive Summary of the findings from the Commission of Inquiry into Queensland Police Service responses to domestic and family violence and, note the findings of sexism and misogyny being a significant issue and one that can drive police decision making.

[commission-of-inquiry-dpsdfv-report-part-1.pdf \(qpsdvinquiry.qld.gov.au\)](https://www.qpsdvinquiry.qld.gov.au/commission-of-inquiry-dpsdfv-report-part-1.pdf)

***The Commission found evidence that sexism and misogyny is a significant problem in the QPS. For many women this starts at the Academy. So much so that a female trainer at the Academy has, for the last ten years, been speaking to female recruits about how to maintain their reputation and credibility in the organisation. Female recruits are warned that while most male officers are respectful, some are occasionally predatory. Police officers told the Commission about incidents of sexist language and behaviours, sexual harassment, assaults and even, in a small number of cases, rape by male officers against their female colleagues. In addition, there is a strong perception among police officers that women are not treated fairly when it comes to job opportunities and promotions within the QPS. The Commission identified that there is under-reporting of conduct which stems from sexism and misogyny because of the culture of fear and silence in the organisation. That culture of fear silences officers who experience the negative conduct as well as those who witness it. Where complaints of such conduct have been made and substantiated, the Commission found that, often, such conduct results in minimal action for the police officer who engaged in the conduct. On occasion, there has also been significant adverse consequences for the officer who made the complaint. Officers who make complaints are often bullied and shunned or unsupported by the organisation and, in that way, the culture of silence continues.***

These misogynist and racist attitudes ultimately impact on report rates, dropout rates and the low rate of charge and prosecution in these cases.

**e. the efficacy of jury directions about consent.**

The Taskforce recommended new jury directions to be adopted in Queensland.

**f. impact of consent laws on consent education.**

Currently, consent education in Queensland is presented as an affirmative model of consent, as this is the most respectful approach and one in which we would want to promote in our community.

However, this is not consistent with the current law. The Taskforce recommendation for the adoption of affirmative consent in Queensland will provide better alignment between community attitudes, respect for women and the law.

**g. the findings of any relevant state or territory law reform commission review or other inquiry; and**

We have already mentioned the relevant reports, but the Committee might also find this report commissioned for the Taskforce and available on their website useful.

*Community Attitudes to Consent, Research Report Commissioned by the Women's Safety and Justice Taskforce.*

[PowerPoint Presentation \(womenstaskforce.qld.gov.au\)](https://www.womenstaskforce.qld.gov.au)

**h. any other relevant matters.**

**Funding of specialist sexual violence services**

QSAN services are chronically underfunded and QSAN services have had no substantive increase in core funding since 1996, 27 years ago.

At the same time, the prevalence rates of sexual violence in the community are increasing, as noted in the *National Plan to End Violence Against Women and Children*.

Reporting rates are also increasing – in Queensland the latest police statistics reveal there has been a 19% increase in reporting of sexual violence to police in the last year and an increase of 40% over 9 years.

Obviously, there has also been a substantial population increase in Queensland since 1996, and forecasts expect this to continue after Covid-19 with interstate migration and increased business activity because of the 2032 Olympics.

There are huge gaps in service delivery across the state and including in rural and regional areas, services for children, diverse genders, and men. Current QSAN waiting times of up to 12 – 18 months for counselling and some services are now limiting the number of appointments that are available because of demand pressures.

During the Covid-19 pandemic, QSAN services obtained federal one-off funding to respond to the increase in demand for service. Though appreciated this funding is short term and, even if maintained, is still insufficient for meeting the community demand on current QSAN services and addressing services gaps across Queensland.

We are concerned that the admirable goal to end violence against women and children in one generation will not be met, if we are unable to fund existing specialist sexual violence services to an adequate level, to meet current demand levels, let alone the expected increase in demand in the coming years.

We are grateful for the recent decision by the Queensland government to fund the QSAN Secretariat for a further 5 years.

#### **Coercive control:**

The imminent introduction of the criminalisation of coercive control in Queensland may provide other opportunities for victims of intimate partner sexual violence to obtain a level of justice in the legal system for the crimes they have been subjected to. Currently it can be difficult to establish a lack of consent in cases where there has been ongoing and sustained domestic violence in a relationship. We will obviously have to wait and see how this will impact in practice and how these laws will interact with the new sexual violence legal changes about to be introduced.

#### **Sexual Violence Legal Service**

The federal government is currently considering the funding of a pilot program for specialist legal services for victims of sexual violence. We fully support the establishment of these services and see many benefits to complainants having a specialist service who can respond to their legal needs that can include issues about defamation, publication of information about their case, protection order and family law matters, civil issues concerning compensation, victims of crime applications, counselling notes protections and criminal law procedures and processes.

#### **Children**

There is a lack of accessible services available to respond to children, especially under 12 years. This has been particularly apparent in the Greater Brisbane Region but really throughout Queensland. This is a travesty and there are large parts of Queensland with no service responses to this client group. Some of our services try to provide a service to under 12s by seeing their parents on a limited basis and providing support to them, for them to provide support to their children. This approach is wholly inadequate.

#### **Feedback from QSAN services to the Women's Safety and Justice Taskforce – April 2022**

We included the following information in QSAN's submission to the Women's Safety and Justice Taskforce and thought it might also be of interest to the Committee. It has been categorised under key themes and highlights the barriers and issues that QSAN clients experience in the system.

*QSAN consulted with its own specialist sexual violence member service who provides specialist responses to Aboriginal and Torres Strait Islander women, Murrigunyah and we provide the following insights:*

#### *Barriers to reporting:*

- *Murrigunyah works in a way to provide the women a choice about reporting.*
- *Many of the women will say what's the point in reporting as the process is so lengthy and he may only get a slap on the wrist anyway, if he is found guilty and they will be victim blamed through the process.*
- *The caseload involves a lot of sexual abuse by partners and the women are worried if they report their children will be taken from them.*
- *Any if they do report there is no support, and the women worry about confidentiality and where the story will go and who will support them after the process has finalised.*

- *The way the system is now, many women choose to just do the counselling. They come into the service for the cultural healing.*
- *Many are also worried about racial discrimination from the police if they report.*
- *Some women have reported about other issues and because of the lack of support including court support, then the women do not want to report again. They give up and say, "been down the road, been to police, gets nowhere".*
- *Women report no trust in the system.*
- *The service can help woman report as they have strong relationship with police liaison, but they just don't want to do it because of the way the system is now.*

***When women do report – the experience is not good***

- *A woman reported her own rape to a male detective, and they told her to go back home (to the perpetrator) and record a conversation with him admitting he committed the rape on a recording device. The woman interpreted this as the detectives not caring as they wanted her to return to an unsafe situation. They did not offer to help her with the reported rape or the proposed recording of the admission. The matter never proceeded.*
- *Murrigunyah report that his approach of the police asking the woman to go back into an unsafe situation and 'get the necessary evidence' is not uncommon.*
- *A mother reported the rape of her 11 yo child. Her daughter was interviewed, and a statement taken with two male police officers in a room for 3 hours. This was traumatising for the child and unacceptable.*
- *There is a need for more female trained police officers to be visible in the community to report sexual violence crimes.*
- *Police communication is sporadic with the women about the investigation and court process.*
- *Police take too long to act which gives time for the perpetrators to get threaten the complainants before the police act.*
- *Victims can get scared and may not act against the perpetrator but then blame themselves if others are hurt by the same perpetrator. However, the inaccessibility of the system has really failed them.*
- *Complex issues and can involve inter-generational perpetrators in the one family with failures to act by a range of authorities.*
- *Some women have complex trauma histories and have been sexually assaulted by multiple perpetrators with no action has been taken against any of them.*
- *Police promised support to the woman when she reported but the police never provided any. The woman reached out to Murrigunyah herself.*
- *Women and girls are sitting with their trauma for years as the process takes so long. It is not healthy for them.*
- *A young girl can't access the therapy she needs because counselling notes will be used in the court case against her. She is suffering ptsd, has anger outbursts, blackouts, can't sleep, must have the lights on, is constantly on edge and can't go to shopping centres as she sees the face of the perpetrator in other men. This child wants justice and wants the perpetrator jailed but has lost faith herself in the justice system. As the case drags on through the system her healing is not being adequately addressed because the court system won't allow this.*
- *The failure of the justice system means that families may take "justice" into their own hands.*
- *The workers who have worked at Murrigunyah between 8 and 11 years have had no experience of clients going through the criminal courts to a trial stage.*

### **Family Court – downstream impacts of a failed response**

- *When there is a failure in the criminal justice system to respond to child sexual abuse there are downstream impacts in the family law system.*
- *A case example, Murrigunyah assisted two children who were young teenagers who had raped their whole life by father. Mother escaped and the father started family court proceedings for overnight contact. He would rape the mother in front of the children. Very violent and had kidnapped the children previously. Younger child was made to go on contact, but the older child refused. When court ordered contact recommenced, the father groomed the child for first few months and then raped her again. This time contact was stopped. The criminal matter is still on foot.*
- *The family court will ask the families what is going on with the police investigation, but the families often do not know. There is no police communication.*

### **What improvements are needed?**

- *Murrigunyah agrees with the idea of women's police station for reporting sexual violence and domestic violence. Needs to be easily accessible on the train line. Women would come forward for the support. Current police stations can be confronting. The women are worried about reporting at police stations because of the likelihood of a friend or someone coming in for bail and seeing them. The idea of a women's police station solely focussed on women is appealing.*
- *It was suggested by a survivor that it would need to be a safe house otherwise perpetrators will know and will wait and stalk the women.*
- *Funding for Murrigunyah is very limited in what support can be provided – 3 fulltime workers so they can only provide very limited help with women reporting and court processes.*
- *If women had more confidence in the system, they would use the system to hold the perpetrators accountable.*
- *Redress scheme has encouraged elders to come forward –The community will come forward when they get the 'wrap around' support.*
- *Very high demand for Murrigunyah's service– only ATSI specific service for sexual assault in Queensland.*
- *More female police presence is required. Have more on the front lines and women will feel safer to come forward. Have female detectives come to the services and build trust and rapport with the women.*

### **Lack of trauma informed practice and failure to follow OPMs, interagency guidelines**

- *Little to no trauma informed approaches in the sexual violence system response in Queensland.*
- *The experiences of QSAN services in general is that CIB do not provide updates or information, won't say if they dropped case, if services or the woman follows up for an update, they may get a short response that they are not proceeding with the matter and the reason that is provided is "not enough evidence".*
- *There is little transparency around decision making to not proceed.*
- *If support worker rings – CIB don't work in an integrated way – "who are you?"*
- *They do not follow their own OPMs or interagency guidelines or Victim's Charter to keep the victim informed every step of the way and work in a trauma informed way.*
- *Women are discouraged at every step of the way – even from reporting. "Don't take a statement", the police officer said to the woman "don't bother, your case isn't that serious".*
- *A woman had difficulty in understanding the police during the interview, nonverbal, couldn't understand the Auslan interpreter, assumptions were made by the police around disability. An intermediary would have been helpful in this matter.*
- *A woman with intellectual disability was at court a number of times. She was to give evidence, but it kept getting adjourned. On each occasion she had to watch her video of giving the Section 93A statement*

*several times (which took 4 hours), before she was cross examined and the constant adjournments and reliving the assault had a big impact on her mental health.*

- *An example of poor trauma informed practice – sexually assaulted and told her psychologist who reported to the police. Police visited the woman at home by two male officers. She had complex ptsd and dissociative amnesia, she was not sure why she was being interviewed, the police got her to sign thing despite her literacy not being good, also got her to sign a domestic violence order and didn't know what it was for. The woman was not given any choice as it wasn't her that reported to the police. Caused further trauma for her.*
- *Police turning up – woman had gone to hospital and discussed sexual assault and social worker helped with online report. Next thing the police turned up on the doorstep and the woman was very shocked by this.*
- *Woman went into a Gold Coast station and VPU said she needed to undertake a 93A, she couldn't remember if she had done a statement, she had literacy issues. She couldn't remember doing the statement. The woman was very confused and unsure what had occurred.*
- *The women may be discouraged from proceeding but at other times the police can want to proceed, and the police can then be very coercive – threatened perjury.*
- *In another case a young woman was groomed, sexually assaulted, fell pregnant and police said, "if you don't make a statement, we will report you to child safety".*
- *In another case a young woman reported, and the police turned up at 9pm at night on a Sunday to take a statement unannounced. This was very intimidating, and she had not prepared herself for this.*

#### **Why do women withdraw their complaints or not report?**

- *Pressure from family.*
- *Taking too long.*
- *Perpetrator convinces them it is their fault*
- *Social pressure of not being believed.*
- *Too hard.*
- *Threatened to lose accommodation, support – if the family has money.*
- *Judgement and victim blaming from investigating officer.*
- *Impact on stress and mental health and how stressful it is.*
- *Judgement on her mental health and not want to proceed.*
- *Never report again after being cross examined.*
- *The police talk women out of reporting – if not so many delays.*
- *They said it's your word against his and not anything you can do.*
- *Grooming – hold affection for the perpetrator – send them messages – you went on a date afterwards – how are the police going to prosecute?*
- *Police will say how it will be perceived badly in court with actions the woman has taken or not taken. Eg. Judgement from the police because the victim didn't change her number.*
- *A victim-survivor with an intellectual disability kept meeting with him – misunderstanding– not understanding her to cut off contact.*
- *Shame, unknown legal and justice system, being judged, unsure of the system. Different country and unsure of the system.*
- *One of four girls in a CALD family, rape, did not report because it would reflect poorly on family, perceptions that it would harm her chances of marriage in the future.*
- *Thinks that they won't be believed or don't have enough evidence.*



### **CALD women's experience of DFV and intimate partner sexual violence**

- 80 to 85% of IWSS domestic and family violence clients report to the service experiences of intimate partner sexual violence. Very few of them report these experiences.
- For example, a woman has experienced intense DV and IPSV, self-referral to IWSS, some of the incidents witnessed by a young child, very precarious visa situation and if escalated concerns about being deported and not seeing her child. The client obtained a DVO but it did not mention IPSV which is quite common as the women don't want to reveal sexual assault in court documents.

### **Victim blaming, not believed, assumptions made about 'certain women'.**

- Women react to subtle messaging from police and victim blaming "are you sure you want to proceed".
- Another international student – assaulted by friend, did not report to medical practitioner however, her sister was a medical practitioner and she collected evidence. When the woman reported the police said, "Do you want to proceed this would harm your reputation?" – After this response from the police the woman did not proceed.
- Feedback from a service that responds to young women is that the response of police to their clients is poor as the police play into myths and is especially poor if the sexual experience involved intimate partner violence or dating violence.
- Police will ask the worker who is supporting the young woman – "Does she know the difference between rape and just regretting sex?"
- "Buyer's remorse" – There is an immediate reaction from police that she probably got drunk, she probably consented and now she regrets her decision to have sex and is reporting rape.
- Police will ask – "Are they reliable?" and young women after such encounters and attitudes are dissuaded from proceeding.
- Women are left feeling that "their words are not enough".
- They will not proceed generally if women have been criminalised or mental health issues, even more reason not to proceed.
- Very different police response for women who have been attacked in public place, one off incident, physical trauma, and evidence. Very poor response to women with a history of criminalisation, mental health history, drug usage, Aboriginal and Torres Strait Islander or CALD women.
- Very poor prosecutors as well. A young girl alleged rape by two older men in their twenties. The defence were alleging she was into "kinky sex". The prosecutors allowed the line of questioning to continue without any interference in it. Highly distressing to the young girl. There were two separate trials for the two defendants, and he was found not guilty. The other man pleaded guilty.
- Mixed responses from the police mean it is very difficult to give accurate advice to women about their likely experience of reporting.
- Powerful messages are sent to woman by the police when they do not proceed. They say to the woman "there is not enough evidence" but the woman thinks I have failed. "I didn't do enough; it is my fault". The police may lecture women about online safety and give the impression of blaming the victim.
- Police also do not make referrals when they could be of assistance.
- Police can say things like it isn't that serious when she is reporting. In other circumstances they say to women "you aren't willing to mediate or hear him out" – this was workplace sexual harassment.
- A client reported sexual assault in childhood – police were good, but police called the sexual assault worker to ask if she was telling the truth? The police said to the worker "it was very long time without telling someone" And she presented to the police whilst giving the statement as "very agitated". These officers were in the VPU.

- *If she made a statement previously but withdrew it the police assume she must have been lying about the assault rather than considering the whole range of circumstances, why she might have withdrawn a statement.*
- *Also, a woman with an intellectual disability may report to the police, not understand the question at the time and she agrees with the proposition being put to her. Later on, she talks to her support worker and then understands the question better – police can jump to the conclusion she is lying. However, it does not mean she is lying if she changes her answer. She just didn't understand the question at the time.*
- *Police threatened to charge a client with an intellectual disability with nuisance because of frequent calls to the police.*
- *The online reporting form currently used by police and which they encourage the use of –has a question that asks what clothes were they wearing?*
- *A Detective told a woman with disability that she shouldn't be dating because of her mental health issues.*
- *A woman with a speech impediment reported a sexual assault – police said in front of the client she is not very bright.*
- *Across the service sector people (police, psychologists, GPs, lawyers) with intellectual disability are not believed, assumed they are prone to fantasy, couldn't be credible in making a complaint.*
- *Community misunderstanding about grooming is – think a positive relationship rather than being targeted and displaying concerning behaviour.*
- *There is a community belief that people with intellectual disabilities are unable to have sexual lives.*
- *High level of inconsistency – one day say come down and then next day say no can't help.*

#### ***Women not told of the outcome of the investigation by police***

- *A CALD client reported to the police, the worker followed, waiting time was very stressful for client, followed up again with the police by a new worker but no information, no communication from the police. The service has now decided with the woman to not follow up any further as the client needs to move on with her life. It has been over a year and the woman has heard nothing.*
- *The women live throughout this time as they are waiting for the outcome with a heightened state of unknown and uncertainty, which is very debilitating.*
- *A CALD woman reported a sexual assault in 2018 and did not hear back from police. August 2021 – followed up – January 2022 – followed up again and the police said they will check with the local station – the service has closed the file.*
- *People with intellectual disability are more likely to be criminalised and women with disability at increased risk of sexual violence however their disclosures can be less likely to be taken seriously because they have a criminal history.*

#### ***Positive police responses***

- *Several services have reported that CPIU officers seem better trained and the responses in general are better for girls and children under 16 years old. The officers are more trauma informed, work in an integrated way with the support services and family (eg. they may arrange to interview the young woman and ensure the support worker is there), communicate in a more compassionate way, communicate more regularly, and keep the victim-survivor informed of where cases are up to.*
- *Many years ago, a young woman with an intellectual disability was sexually assaulted the night before, she reported and rang CPIU, told them and they said come down straight away to do the Section 93A interview, they believed her. This is a different experience from the "usual" experience of the service where they can be on the telephone and advocating for 3 hours. The woman was ready, and the statement was done, she did not have to wait and dwell on the issue for 3 weeks.*
- *Another time police said come down now and do Section 93A straight away.*

- *A young woman with an intellectual disability reported some abuse at school to the worker, and said she wanted to speak to the police. The service connected her to the CPIU. They were wonderful in explaining the process in a way she understood but not talking down to her and believed her. Ultimately the case did not proceed but the CPIU explained that because it was historical it was difficult to prove, explained how evidence works, advised the young woman if anything happened in the future she could rely on police. The woman felt validated by the experience. She had an issue about her boyfriend a few months later and rang and spoke to police office and again it was positive as the police officer sat with her and listened to what her concerns were about.*
- *Last year CPIU and CIB detective (young male) asked the client with an intellectual disability if she was okay with being in the room with a male? Giving the client the choice was very good for her.*
- *Two years ago, young person reporting a sexual assault to CPIU and family needed a lot of support. The police engaged in lots of long conversations with the family, also to support them with the process of being witnesses, did a tour of the police station with WWILD workers and the complainant to familiarise them with the surroundings. Always offered many options that were available, and this built their confidence over a period and even made sure the young person could have a WWILD worker in the room when they gave evidence. It was a supportive and trauma informed process the police offered.*
- *A service was working with a young woman who was involved in high levels of sexual violence, torture, trafficking, coercion, pimp the young woman out. Very vulnerable women, homeless and previous child sexual abuse. The Australian Federal Police were involved because it was a trafficking matter. The AFP seemed better resourced, more compassionate and displayed better consideration of the young woman's needs.*
- *When workers advocate it can go well however it should not take this and not every woman is linked in with a worker.*
- *SVLOs can be good but they are not 24/7. The other police push all SV onto the SVLOs rather than learning how they do it well and learning and applying this knowledge. This means the SVLOs are highly likely to get burnt out.*
- *Project Engage on the Gold Coast where female detectives work out of the Gold Coast Centre Against Sexual Violence every Thursday. It is a formal project with a Memorandum of Understanding signed by both parties and has been proving a positive experience both for the clients of the service, the police officers and also in improving relationships and understanding between the service and the police.*

### **Barriers**

- *The barriers to reporting can be different for historical cases and acute presentations. For historical matters there are the feelings of not being believed, "your word against his" and internalised rape myths.*
- *For acute cases the system's response can be the barrier. After reporting women can become disillusioned very quickly with the system. They are made to feel their case is not worthy and therefore they are not worthy.*
- *If a woman has existing mental health issues or develops them from the assault, her mental health issues are used at every stage of the process from reporting to court.*
- *QSAN can provide court support and does do this, but the services are not funded to do this. There are real capacity issues because of the time, delay, and intense nature of the work. Sometimes can take a woman 3 or more times to give a police statement. Often, they are called off by the police at the last minute. This is extremely frustrating because of all the wrap around support and work that has been undertaken by the service to get the woman to the stage of reporting.*
- *In court they put women in another room to give evidence. Often this can go against them as not facing the jury. However, why not put the perpetrator in the room and let her give evidence in front of the jury?*
- *In rural and regional Queensland court support is almost non-existent because of resourcing.*

- *A woman in a rural location reported an assault to the local police. She had a number of historical issues that she had worked on. Wanted to report the latest assault. She went to counter and advised a senior policeman who was still sitting and did not get up to greet her that she wanted to report an assault. He shouts out from the desk to her – “sexual, physical what? She had to say sexual assault. There were people in the police station behind her. He then went behind the panel and said to the police officers there – “I’ve got a sexual assault, lady want to report a sexual assault, who will do it?” The woman proceeded with the complaint only because she was linked in with a service who had prepared her that the police response may not be entirely positive, and she was able to speak to and get support from the worker after this experience.*

### **Complex trauma**

- *Many of our clients (disability sexual violence service) have been sexually assaulted numerous times – 3 times within a year – as far as looking like a reliable witness, the police response to the woman was “you have reported twice before and maybe you are just crying wolf”. She couldn’t give a clear timeline therefore it was assumed she was not telling the truth.*
- *Victims of multiple and compound trauma also have this used against them. Very challenging for DPP and police. A lot of advocacy by services to get them to take the matter seriously and proceed with charges. They believe the person is ‘crying wolf’, not believing her reports, the system thinks she is a ‘serial complainer’. No knowledge or expert understanding that these women can be the most vulnerable and can be the most vulnerable to further assaults.*

### **Interpreters**

- *Detectives have refused to use interpreters when a woman was reporting a sexual assault. She had conversational English but was traumatised and could not communicate well in the formal approach of a police interview. For example, she did not know what “penetrated” meant and the worker had to explain in another way for her to understand.*
- *Detectives who are not qualified to make the assessment of whether an interpreter is required or not routinely makes these assessments.*
- *Police can say bring a friend. Friends can be judgemental in the interviews and say to the women “don’t say that”.*
- *Police sometimes use PLO (police liaison officers) – again, they are not interpreters. They can also be judgemental of women as their job is to be a friend to the community and to have relationships with community leaders who are generally men.*
- *Court process also don’t engage interpreters –the magistrate can also say “just use a friend”.*
- *There has been no change in the uptake of interpreters despite the community constantly raising the issue, it being recommended by countless reports and inquiries and being part of OPMs and good practice guidelines.*

### **Court experience**

- *At the moment some DPP will allow badgering of the women as they think it might work out well for the client. Clients go through badgering and intimidating cross examination but still end with not guilty.*
- *Cross examination is akin to character assassination. Her entire history is “fair game” for cross examination, but his history is completely protected by the court process.*
- *In relation to phone calls and sms messages – in one case he admitted the sexual assault via a sms message to her, but the defence then had access to her phone, photos (drug taking) and when she smsed him back and this was all used against her. He was found not guilty.*

- *Zig Zag supported two young CALD woman right through the court process – both times the men were found not guilty. Women were ostracised from their community, family, became homeless because of the sexual violence perpetrated against them.*
- *Workers want women to come forward but don't want to put them in a process that invalidates them and their experience.*
- *A matter involving child sexual violence matter that had gone to committal hearing in North Queensland. Most don't go to committal so unsure why this was the case. Very aggressive cross examination of a 12 yo child. Luckily the child was robust, in another room, they were discussing an issue that occurred when she was 8yo. Defence was trying to trick her up, called her a liar. She was annoyed and got upset. The judge reprimanded the defence but did not stop the harassing and inappropriate cross examination of such a young child.*
- *In another case the defence cross examined her about her economic status and that she was doing this for money.*
- *Timelines are extreme. Timeline averages for trials in 3 to 7 years – standard is 3 to 4 years.*
- *Sexual violence matters should be considered a priority and get listed as a trial 1.*
- *Deliberate adjournments by defence – deliberate tactics.*
- *3 different prosecutors in a case, on the day one turns up that has never met victim and they clearly do not know the case. What chance do women have in these circumstances?*
- *DPP can drop the case without explanation to the victim.*
- *A woman wanted to explore restorative justice, but DPP said no to this. They said it must proceed to trial as we need to make a statement to the community that this was unacceptable – he was found not guilty. Its DPP decisions re restorative justice.*
- *Very difficult and time consuming for victim-survivors.*

We thank the Senate for establishing this Inquiry and please do not hesitate to contact us if further information is required.

