

# Women's Safety and Justice Taskforce

## Discussion Paper 2: Women and girls' experience of the criminal justice system

### Proposed Focus Areas

A wide-ranging review of the experience of  
women across the criminal justice system

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## Where to seek help

If you, or someone else is in immediate danger please contact police on Triple Zero (000). If you are in Queensland and your matter is non-urgent you can contact Policelink on 131 444 or by visiting the Queensland Police Service website <https://www.police.qld.gov.au/domestic-violence>

If you, or someone you know, need help, then the following services are available to assist.

- » DV Connect is a 24 hour Crisis Support line for anyone affected by domestic or family violence, and can be contacted on 1800 811 811 or [www.dvconnect.org](http://www.dvconnect.org)
- » Mensline Australia is a 24 hour counselling service for men, and can be contacted on 1300 78 99 78 or [www.menslineaus.org.au](http://www.menslineaus.org.au)
- » Lifeline is a 24 hour telephone counselling and referral service, and can be contacted on 13 11 14 or [www.lifeline.org.au](http://www.lifeline.org.au)
- » Kids Helpline is a 24 hour free counselling service for young people aged between 5 and 25, and can be contacted on 1800 55 1800 or [www.kidshelpline.com.au](http://www.kidshelpline.com.au)
- » Suicide Call Back Service can be contacted on 1300 659 467 or [www.suicidcallbackservice.org.au](http://www.suicidcallbackservice.org.au)
- » Beyondblue can be contacted on 1300 22 4636 or [www.beyondblue.org.au](http://www.beyondblue.org.au)

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## Foreword



The Women's Safety and Justice Taskforce's terms of reference provide a broad remit to examine the experience across the criminal justice system of women and girls, both as victims and offenders.

The Taskforce is to provide a report on its findings and recommendations to the Attorney-General on this part of its work by March 2022.

In undertaking this Amazonian task within the allotted time frame, we gratefully acknowledge and draw on the work already done by:

- The Taskforce on Women and the Criminal Code and its report in 2000
- The Aboriginal and Torres Strait Islander Women's Task Force on Violence and its report in 2000; and
- The Special Taskforce on Domestic and Family Violence in Queensland, which recognised that concerning issues raised during their community consultations about women's experience of the criminal justice system went beyond that Taskforce's scope.

In this our second discussion paper, we ask for your help in identifying the most pressing matters on which to concentrate as we complete this aspect of our work.

Building on our work already underway in relation to women as victim-survivors of coercive control and domestic and family violence (the focus of our first

discussion paper) we suggest the following possible focus areas for the second discussion part of our work:

- Women as victim-survivors of sexual offences, including obstacles to reporting and the woman's path through the criminal justice system; and
- Why women come into contact with the criminal justice system as offenders and their journey through it, including sentencing options and prison experiences.

Across both those focus areas we identify common shared themes, such as the over representation of First Nation women in the criminal justice system and the particular problems experienced by migrant and refugee, remote and regional, LGBTQIA+, and elderly women, as well as women with disability.

Many women, offenders as well as victim-survivors, are in need of a trauma-based response but the criminal justice system may not recognise or accommodate this.

Is there a need to consider alternative justice models?

Does the current system optimally balance the often competing human rights of victim-survivors and accused persons?

Would greater gender and cultural diversity amongst police, lawyers, judicial officers and corrective service staff make a difference?

This discussion paper touches on all these important matters and more.

Please tell us if you agree with the focus areas and themes we have identified. If not, why not?

And tell us if there are others we have missed and why they are important.

Submissions on this second discussion paper may be received up until **Friday 23 July 2021**.

A handwritten signature in black ink, which appears to read "Margaret McMurdo". The signature is written in a cursive, flowing style.

The Honourable Margaret McMurdo AC  
Chair – Women's Safety and Justice Taskforce

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## Introduction

### What is the Women’s Safety and Justice Taskforce?

The Women’s Safety and Justice Taskforce (the Taskforce) was established by the Queensland Government in March 2021. We are an independent, consultative taskforce with a remit to examine coercive control, review the need for a specific offence of commit domestic violence and examine the experience of women across the criminal justice system in Queensland.

#### What have we been asked to do?

We have been tasked with examining, and providing a report on our findings and recommendations in relation to:

1. how best to legislate against coercive control as a form of domestic and family violence and the need for a new offence of ‘commit domestic violence’; and
2. other areas of women’s experience in the criminal justice system.

Our [terms of reference](#) provide guidance on the scope of our inquiries and our guiding principles and considerations.

We are carrying out broad and wide-ranging consultation with the community to help us examine these issues. We’re listening to victims and survivors of domestic, family and sexual violence, women and girls who have first-hand experience of the criminal justice system and key stakeholders.

We have been asked to provide two reports to the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence. The first report, by October 2021, is about coercive control and the need for a standalone offence. The second, by March 2022, is about other areas of women’s experience of the criminal justice system.

On 27 May 2021, we released our first discussion paper about the *first part* of our terms of reference—the best way to legislate against coercive control and the need for a standalone domestic violence offence.

We are accepting submissions on that discussion paper until **Friday, 9 July 2021**. You can view the first discussion paper on [our website](#).

*This* discussion paper is seeking feedback on the proposed themes for the [second part](#) of our terms of reference about women’s experience of the criminal justice system.

#### How we will undertake this work

As part of our wide-ranging consultation with the community to help us examine our terms of reference:

- we are visiting different parts of Queensland to talk to stakeholders and members of the community
- we have asked for public submissions about our terms of reference, and specifically about the questions we asked in Discussion Paper 1.

As at 14 June 2021, we have received over 400 submissions through our website and by post.

The vast majority of these have been from people with lived experience of domestic, family and sexual violence.

We acknowledge the courage of those people who have taken the time to share their difficult experiences. We are reviewing every submission, and have identified issues from the submissions to develop the key themes for this paper. We will also use the submissions to help identify and assess options for reform.

We will draw on relevant existing literature, administrative data from a range of criminal justice and other agencies, and existing departmental policy, procedure and reforms.

We will also consider reforms made in other states and countries, and how well these reforms have worked.

#### Limitations

The scope of women and girls’ experiences in the justice system is considerable and our ability to consider the significant range of issues that fall under our terms of reference is limited by the time we have available.

Our limited timeframe also means we are unable to commission significant research to support our consideration of the issues. The data we do use is limited by the data collection methods used by individual agencies, and the ability to link data across systems.

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## What is the purpose of this Discussion Paper?

The purpose of this discussion paper is to seek feedback on the themes we should focus on when examining women and girls' experience of the criminal justice system in Queensland.

This is because we only have a limited time to examine these diverse and complex experiences.

We have identified proposed themes from the 400+ submissions we've received, from data about the Queensland criminal justice system and from academic research.

After receiving your input on this discussion paper, we will finalise the themes and seek specific feedback for each one.

All feedback will complement the many submissions we are already receiving from people with lived experiences, their loved ones, experts and the general public.

## Structure of this Discussion Paper

We have divided this paper in to two parts:

- Part 1 – Women and girls' experience of the criminal justice system **as victim-survivors**
- Part 2 – Women and girls' experience of the criminal justice system **as accused persons**

In each part, we suggest our proposed themes and outline the topics we could consider for each theme.

## How to make a submission

We'd like you to tell us if you agree—or disagree—with our proposed themes. We'd also like you to tell us if there are themes we should consider when examining women and girls' experiences in the criminal justice system that we haven't mentioned.

Individuals and organisations can make a submission (confidentially if desired) through our website – [www.womenstaskforce.qld.gov.au](http://www.womenstaskforce.qld.gov.au) or by mail at:

Women's Safety and Justice Taskforce  
GPO Box 149  
BRISBANE QLD 4001



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## The criminal justice journey for women and girls

Women and girls' experiences of the criminal justice system (as victims, survivors or as accused persons) differ from those of men and boys.

This is true in the types of offences that women and girls are most likely to be victims of, the types of crimes they are likely to be accused of, the factors that influence their help-seeking behaviours and the way they engage with criminal justice processes.

Women and girls in Queensland are significantly overrepresented as victims of sexual offences<sup>1</sup> (rape, attempted rape and other offences involving sexual violence). For that reason, this paper invites feedback on women and girls' experience of the Queensland criminal justice system as victims of sexual offences.

We'd also like to know what you think about our proposal to explore the experiences of women and girls who are accused and convicted of committing criminal offences in Queensland.

This includes how women and girls interact with the police, courts, the lawyers that represent and prosecute them, and how they are treated in jail and when released back into the community.

This paper does not cover issues relating to our consideration of how best to legislate against coercive control, or discuss the civil protection scheme under the *Domestic and Family Violence Protection Act 2012*. These issues are covered at length in our first discussion paper.

We acknowledge, however, that many of the women and girls who are involved in the criminal justice system as victim-survivors or as accused persons have lived experience of domestic and family violence and coercive control.

### Cross-cutting issues

There are a number of issues that cut across the themes presented in this paper. We will look at how each of these issues relates to each theme.

#### *Diversity*

We acknowledge that women and girls' experience of the criminal justice system is diverse and complex.

Those experiences may vary significantly if the woman or girl is an Aboriginal and Torres Strait Islander person, she is a person with disability, she is a member of the LGBTIQ+ community, she is from a culturally and linguistically diverse background or she lives in a regional or rural area of Queensland or an urban centre.

#### *Intersecting disadvantage*

Many people in our community experience multiple and overlapping forms of discrimination and disadvantage (sometimes called intersectionality).

For example, racism may intersect with gender inequality and the impacts of trauma, creating additional barriers and adverse outcomes for women and girls.

The impact of this compounding disadvantage can make a person less likely to report victimisation, may lead to difficulties in accessing support, and can impact the quality of support they receive<sup>2</sup>.

Other compounding factors include but are not limited to homelessness, drug and alcohol misuse, mental health issues and insecure visa status that can lead to experiences of sexual violence victimisation and exploitation.<sup>3</sup>

#### *Recognising and responding to trauma*

Trauma-informed care and practice recognises the prevalence of trauma and its impact on the emotional, psychological and social wellbeing of people and communities.<sup>4</sup>

Trauma-informed systems and processes are based on an understanding of, and responsiveness to, the impact of trauma. They emphasise physical, psychological, and emotional safety for victim-survivors, accused persons and people working in the system, to avoid re-traumatisation<sup>5</sup>. They create opportunities for victim-survivors to rebuild a sense of control and empowerment, which is vital for recovery.<sup>6</sup>

We are interested in examining if there are ways for the criminal justice system—and its broader service system—to be more trauma-informed.

#### *Overrepresentation of Aboriginal and Torres Strait Islander women and girls as victims of crime and as accused persons*

Research has consistently shown that Aboriginal and Torres Strait Islander women and girls are overrepresented as victims of crime and as accused persons<sup>7</sup>. Adverse childhood experiences,<sup>8</sup> high rates of disadvantage and childhood maltreatment,<sup>9</sup> ongoing



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repercussions of colonialization and dispossession and removal of children<sup>10</sup> are all associated with ongoing victimisation and offending rates within this cohort.

- *“While the vast majority of Aboriginal and Torres Strait Islander women and girls will never come into contact with the criminal justice system, those who do, are likely to have experienced multiple forms of disadvantage.”<sup>11</sup>*

Research examining Post-Traumatic Stress Disorder (PTSD) among Aboriginal and Torres Strait Islander people in custody in Australia found that First Nations Australians were 13 times more likely to be incarcerated than non-Indigenous Australians and to report higher levels of trauma and distress.<sup>12</sup> Of the cohort studied, females aged less than 30 years (71.4%) were more likely to experience PTSD than males (40.9%) and compared to women aged 40 years and over (9.5%).<sup>13</sup>

First Nations female offenders suffering PTSD from the sample had statistically significant experience of sexual and physical violence, including being threatened with a weapon or kidnapping when compared to those without PTSD diagnoses. They were also more likely to experience anxiety, depression, psychosis and drug use.<sup>14</sup>

Historically, Australian policing models were associated with oppressive and racist practices that ignored the unique experiences and culture of First Nations peoples.<sup>15</sup> Whilst policing practice in Australia has changed over the years<sup>16</sup> the ongoing impacts of historical policing practices influence continued over-policing, and criminalisation of, Aboriginal and Torres Strait Islander peoples.<sup>17</sup>

### *The nature and culture of the criminal justice system and alternative justice models*

Adversarial models of justice limit the ability for victims' voices to be heard, particularly in relation to interpersonal crimes such as sexual violence.<sup>18</sup> Reforms have been slow to progress and generally relate to reducing re-victimisation through the court process by way of victim support services and alternatives to physical court appearances.<sup>19</sup> Whilst improvements have been made, victims continue to be marginalised by the justice system with reports of continued disregard for the interests of the individual victim.<sup>20</sup>

Alternative justice models aimed at enhancing victim participation within the criminal justice process are available in specific circumstances, such as restorative justice practices, including conferencing.<sup>21</sup> Some advocates for alternative justice models argue that restorative justice provides greater support and flexibility to participants, enabling active participation by both victims and offenders with the aim of a mutually agreeable outcome.<sup>22</sup>

### *Protecting and promoting human rights and the need to achieve just outcomes by balancing the interests of victims and accused persons*

The Taskforce recognises the Queensland Government's obligation to respect, protect and promote the human rights of individuals when introducing legislation and delivering law enforcement and justice services to the community. In Queensland, this is not just a moral obligation, it is a legal obligation contained in the Human Rights Act 2019 (Qld).

The Blackstone ratio, that is, *'it is better that 10 guilty persons escape than that one innocent suffer'*, lies at the heart of moral and legal thought about the criminal justice system in most western jurisdictions with a common law tradition, including Queensland. This ideal underpins many important aspects of our criminal justice system such as the requirement that criminal offences be proved beyond reasonable doubt. However, this can also mean that often victims feel that they are treated as mere witnesses to a criminal act despite the violation of the victim's own human rights being the very reason the criminal justice system exists at all.<sup>23</sup>

Throughout the work we do on the final agreed themes, we will carefully balance a range of human rights—such as the right to a fair hearing<sup>24</sup>—and rights of the accused in criminal proceedings—such as the presumption of innocence<sup>25</sup>—with the right not to be treated or punished in a cruel, inhuman or degrading way<sup>26</sup>, the right to liberty and security<sup>27</sup> and every citizen's fundamental right to life itself.<sup>28</sup>



### Discussion question

Should we explore any other cross-cutting issues?

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

## A focus on sexual offending against women



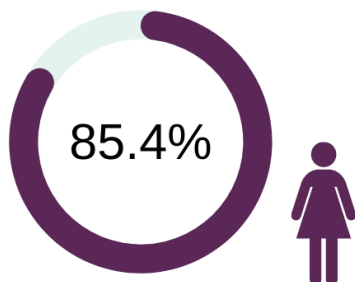
1 in 6 women in Australia have experienced at least 1 sexual assault since the age of 15



1 in 25 men have experienced at least 1 sexual assault since the age of 15

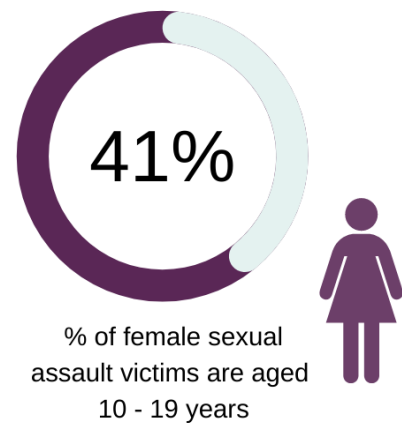
2016 Personal Safety Survey<sup>29</sup>

In Queensland, women and girls comprised 85.4% of recorded victims of sexual assaults in 2019-20<sup>30</sup>, slightly above the Australian average of 83%.<sup>31</sup>

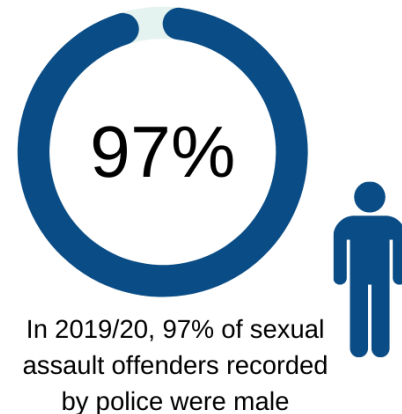


% of recorded sexual assault victims who are women and girls

- Of the 6,262 sexual offences reported in 2019-2020,<sup>32</sup> 70%<sup>33</sup> were cleared<sup>34</sup> by police
- Sexual assaults accounted for 14.7% of all reported victimisations in 2019-20 in Queensland<sup>35</sup>
- Females aged 10-19 years represented 41.6% of all victims of sexual offences in Queensland<sup>36</sup>



- During 2019-20, nearly all (96.7%) sexual assault offenders recorded by police were male<sup>37</sup>



- Aboriginal and Torres Strait Islander women and girls are overrepresented as victims of sexual assault (making up 12.9% of all reported victims of sexual assaults in Queensland in 2018)
- People with disability in Australia are four times more likely to experience sexual violence than the general population, with prevalence significantly under-reported for this cohort<sup>38</sup>

- in Australia, people with disability reported experiencing sexual violence at 1.7 times the rate experienced in the general population<sup>39</sup>
- people living in outback Queensland and Townsville experienced the highest rates of victimisation and at a greater level of severity than elsewhere in Queensland<sup>40</sup>

### What we propose

- **that we focus our examination on women and girls' experiences as victims of sexual offences in the criminal justice system**

This is because women and girls are disproportionately represented as victims of sexual violence.

We also believe it is likely that system reforms that respond to the needs of women and girls as victims of sexual offences will also benefit women and girls' experiences of the criminal justice system in other matters.

### Discussion question



Given rates of victimisation are highest for women and girls with respect to sexual offences, within the time available, do you support the Taskforce focusing inquiries on sexual offending against women? If not, why not and what other offence types should the Taskforce focus on?

## Theme 1: Community understanding of sexual offending and barriers to reporting

Proposed topics:

- community attitudes to sexual violence against women and girls and the adequacy of education and public information about consent and appropriate sexual behaviour
- actual or perceived barriers to reporting sexual offences against women and girls

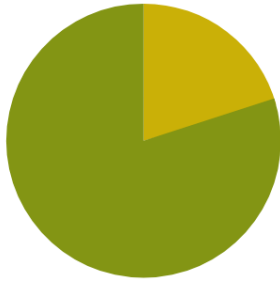
### Community attitudes to sexual violence against women and girls

Community attitudes that condone, justify, trivialise or downplay violence against women, contribute to the prevalence of violence against women.<sup>41</sup> These attitudes—from police, lawyers, judges and juries—also permeate criminal justice processes.

The cultural stigma associated with sexual violence may also influence the likelihood of a victim seeking help or reporting her experiences to police.<sup>42</sup>

Research tells us:

- 1 in 10 Australians surveyed in 2017 still believed that women were 'probably lying' if they did not report a sexual assault straightaway<sup>43</sup>
- in 2016, Australian women were four times more likely to be sexually assaulted by a person known to them than a stranger<sup>44</sup>



2 in 5 Australians agreed it was common for sexual assault allegations to be used to get back at men

45

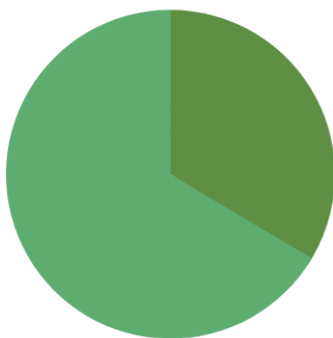


1 in 8 Australians believe a woman raped when drunk or affected by drugs is at least partly responsible

46

- in 2019-20, between 39.1% (non-Indigenous) and 47.4% (Indigenous) of sexual offences in Queensland against a female victim occurred within the context of a family or domestic relationship<sup>47</sup>

48.



In 2019, 1/3 of reported sexual assaults were domestic and family violence related

### What we propose

- that we consider 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

We may consider the impact of 'rape myths', the inaccurate understanding of the prevalence of sexual offences (for example, the belief that rape is usually perpetrated by a stranger in a public place) and the role the media and education can play in shifting attitudes and understanding.

We could also consider if the gender, racial and socio-economic makeup of the police, the legal profession and judicial officers has an impact on the culture of professionals who have most contact with victims of sexual offences.

### Education

In February 2021, a former Australian school student, Chantel Contos, started an online petition demanding a change in the way education about sex—and specifically education about sexual consent—is delivered in Australian schools.

Ms Contos' petition received testimonies from students from all over Australia, including those who attended public and independent schools in Queensland.<sup>49</sup> Young women's distressing stories of rape and sexual assault indicated an unacceptable culture of normalised sexual violence amongst Australian teenagers.<sup>50</sup>

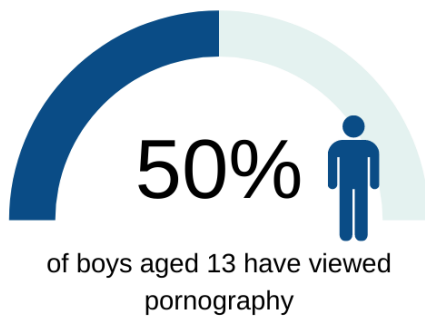
This year Victoria announced that education about sexual consent would become mandatory in all of its public schools.<sup>51</sup>

In March 2021, the Queensland Government announced an examination of whether existing education adequately addresses sexual consent and reporting.

### What we propose

- **that we consider the existing mechanisms in Queensland to improve community understanding of these issues, including 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**

### Online pornography



In 2016 nearly half of children in Australia between the ages of 9-16 years had experienced regular exposure to sexual images.<sup>52</sup>

In 2018, by the age of 13, nearly 50 percent of boys in Australia had viewed pornography.<sup>53</sup>

A 2015 content analysis of pornography found a high frequency of specific violent behaviours, largely directed at women, including gagging<sup>54</sup> and verbally abusive language, and the prevalent portrayal of male dominance and female submission.<sup>55</sup>

My partner had a private addiction to pornography and would demand unrealistic and degrading sexual standards from me...

He had no regard for whether or not this was reasonable, realistic, respectful, pleasurable or even sensual for a woman.

Pornography may strengthen attitudes supportive of sexual violence and violence against women<sup>56</sup> at a time when ideas and attitudes about gender roles, identities and relationships are being developed.<sup>57</sup>

There is anecdotal and some empirical evidence to suggest that dating apps are being used to facilitate the commission of sexual and violent offences.<sup>58</sup>

### What we propose

- **that we consider 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**

### Discussion question



Given the relevance to offending behaviours as well as reporting, do you support the Taskforce examining community attitudes to sexual offending against women and girls? If not, why?

### Actual or perceived barriers to reporting sexual offences against women and girls

Of those who experienced a sexual assault in Australia in 2019-20, only 30% reported the most recent incident to police (as opposed to 52% of people who experienced a physical assault).<sup>59</sup>

Common reasons for victims' non-reporting or delays in reporting or disclosure include:

- confusion, guilt, or shock about the assault<sup>60</sup>
- fear of the perpetrator<sup>61</sup> and consequences of reporting<sup>62</sup>
- fear that they will not be believed<sup>63</sup>
- rape myth acceptance, where victims do not recognise they have experienced sexual assault or blame themselves for what has occurred<sup>64</sup>

For females from culturally and linguistically diverse (CALD) backgrounds additional barriers specific to the criminal justice system can include:

- fear of not being understood, or experiencing racism
- fear of humiliation by police and the wider criminal justice system
- fear of deportation following reporting of the violence
- distrust of police and perceived police discrimination
- fear that the perpetrator would be released too soon
- not wanting to endure a long and traumatic court process and
- fear of losing confidentiality and privacy<sup>65</sup>

I was sexually assaulted (raped) by a family member, at home, at the age of 14. I was 16 before I was able to mentally understand what happened, and how to speak about it to my parents, let alone a judicial system. I had no evidence so never took legal action. He's got away with it.

Aboriginal and Torres Strait Islander women may not report offences to police due to:

- distrust of police
- fear of having children removed when the violence is reported
- the impact reporting an incident would have on their wider community
- the hidden nature of sexual violence in community<sup>66</sup>

Women and girls with disability may be deterred from reporting due to:

- an inability or unwillingness to give victims with disability a voice in the criminal justice process
- practices that disempower people with disability (such as communicating instead with intermediaries supporting the person with disability)<sup>67</sup>
- fear of reprisal or being blamed for the assault
- inability to verbalize the event
- lack of sexual knowledge and understanding of what constitutes an offence<sup>68</sup>
- fear of losing support when the abuser is a carer or because incidents occurring within institutional settings are seen as not requiring a justice response<sup>69</sup>

For older women who experience sexual violence, ageist beliefs and attitudes that view sexual violence in terms of desire, rather than as a form of control or manipulation, can present as barriers to reporting and receiving support.<sup>70</sup>

For many victims of sexual assault, the decision to report the incident to police is "*fraught with challenges, barriers and difficulties not encountered in other [crime] types*".<sup>71</sup>

These challenges result in a large number of sexual violence incidents never coming to the attention of police or other support services.<sup>72</sup>

Police are the gateway for victims into the criminal justice system in terms of detecting and responding to reports of sexual violence and other crimes.<sup>73</sup>

They also have the ability to impact future rates of reporting, not only in terms of revictimization but also within the broader social network of those who do report.

#### What we propose

- **that we examine, and seek community input about what prevents women and girls from reporting sexual offences to police and what can be changed to improve rates of reporting**

We could also consider what support is available to victims of sexual offences, and their supporters, and if engaging with these services makes it easier to make a police report.

We would also look at how mainstream service providers, such as health practitioners—including those that conduct forensic examinations—teachers, lawyers and colleagues, could play a role to support victims of sexual assault.

We would also consider the cross-cutting issue of trauma-informed approaches to responding to victims of sexual offences, and explore alternative options for reporting sexual offences.

#### Discussion question



Given under-reporting of sexual offences, do you support the Taskforce examining the barriers to reporting sexual offending against women and girls? If not, why?



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## Theme 2: Police response, investigation and charging of sexual offences

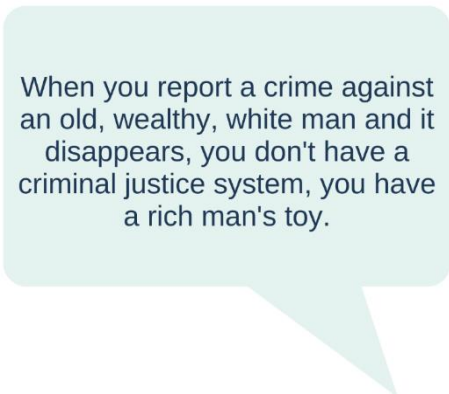
Proposed topics:

- police responses to initial reports of a sexual offence
- police investigation and decisions to charge for a sexual offence
- support provided to victims during the police investigation process
- the role of police prosecutors in supporting charges for sexual offences

### Police response to initial reports of a sexual offence

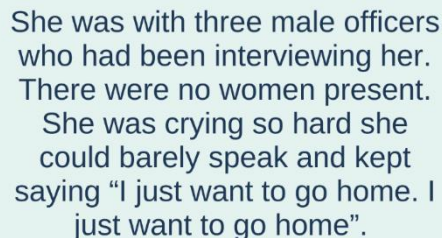
Research suggests that sexual offences have some of the lowest conviction and highest attrition rates when compared to other crime types, with only a small number of reported sexual offences leading to charges and/or court proceedings.<sup>74</sup>

Of Australian women who did report a sexual assault to police, only 27% reported that their perpetrator was charged.<sup>75</sup> (PSS 2016).



When you report a crime against an old, wealthy, white man and it disappears, you don't have a criminal justice system, you have a rich man's toy.

In Queensland, an estimated 75% of sexual assaults are never reported to police,<sup>76</sup> of those that were reported in 2019-2020 (5,162), only 52.7% resulted in police action (such as arrest, caution and notice to appear).<sup>77</sup>




She was with three male officers who had been interviewing her. There were no women present. She was crying so hard she could barely speak and kept saying "I just want to go home. I just want to go home".

Misconceptions about crimes such as sexual crimes may influence the decision making of some police officers, including decisions to proceed with a matter through the criminal justice system.<sup>78</sup>

Whilst there may be many police who treat victims appropriately some submissions reviewed by the Taskforce suggest that for some victims of sexual assault the response by individual police officers was poor.

This included victims sometimes being given incorrect information about the law and their legal rights when they reported a sexual assault to police.

One contributor told the police she was raped after having her drink spiked at a party:



The police explained it would be useless to press forward with a case as I wouldn't be able to say I didn't consent, I felt humiliated.

Another contributor described her experiences of reporting the crime to police:

I went to a police station and I spoke to a female police officer after telling her how I was sexually assaulted who said word for word, 'What do you expect, you were at a boy's house'?

The same contributor described that, after reporting the crime to a different station, a detective investigated the case eight months after the initial report:

My detective forced me to drop the case, even though I didn't want to, and made me sign a document saying he didn't force me to. He said this was because it was unlikely he would go to jail and so there wasn't any point.

#### What we propose

- **that we examine 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**

We would examine ongoing initiatives underway within the Queensland Police Service designed to address some of the issues described above. These initiatives include:

- development of a specialist sexual assault training program underpinned by a 'start by believing' mantra
- service wide cultural change designed to address attitudes and behaviours around gendered violence.

We would also examine alternative ways of reporting incidents of sexual violence with technology (for example the Sexual Assault Reporting Option or SARO in NSW and similar options in Queensland) and consideration of multi-disciplinary approaches in Queensland and other jurisdictions.

#### Discussion question



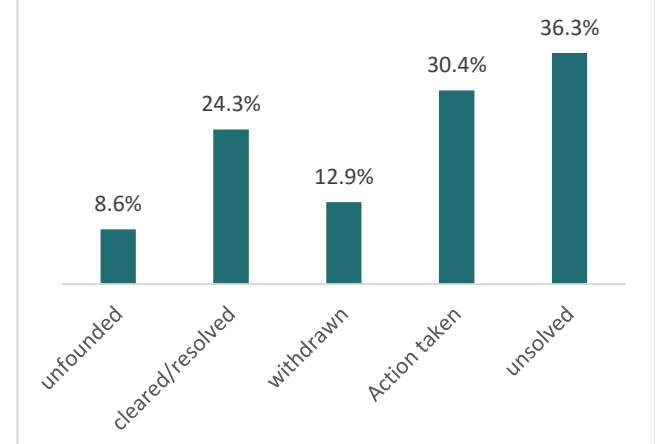
Given that police currently act as a gateway to the criminal justice system for sexual offences, do you support the Taskforce examining the initial police response to reports of sexual offending against women and girls? If not, why?

#### Police investigation and decision whether to lay a charge for a sexual offence

Between 2015-2016 and 2016-2017, the Queensland Police Service received 12,380 sexual offence reports, of which 73.8% were cleared<sup>79</sup> (for example resulted in a charge or withdrawal) in that same period.<sup>80</sup>

Of the 5,860 reported sexual offences to Queensland Police Service in 2016-2017, 40% resulted in some form of police action (such as arrest, caution, notice to appear.)<sup>81</sup>

Fig 1 - Estimated Rate of Sexual Violence Reports by Police Action, Australia, 2007 to 2017





Whilst national prevalence is difficult to determine based on differences in the way in which jurisdictions count and record offences, a recent media article reported by the Australian Broadcasting Corporation suggests that nation-wide, between 2007 and 2017 Australian police:

- received an estimated 140,000 sexual assault reports<sup>82</sup>
- only approximately 30% of these reports resulted in some form of police action including arrest, summons or other criminal justice actions (refer to Figure 1, p.16)<sup>83</sup>

Interactions with police are often the first step into the criminal justice system for victim-survivors and police have a high level of discretion when determining what action to take when a complaint is made about criminal behaviour.

#### What we propose

- **that we examine 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**

We could consider opportunities for victims to seek a review of the police decision not to charge an alleged perpetrator of sexual violence and how complaints about unsatisfactory behaviour by police are dealt with and responded to.

We could examine what is being done well and what police and other agencies—for instance health services conducting forensic examinations—can do to improve the experience of women and girls who are victims of sexual violence during this part of the criminal justice process, whilst not unjustly compromising the fairness of any future trial.

#### Discussion question



Given the role police play in investigating and charging sexual offences, do you support the Taskforce examining the police attitudes towards and decision to charge in relation to sexual offending against women and girls? If not, why?

#### Support provided to victims during the police investigation process

Community-based sexual violence support services can provide victims with immediate support following a sexual assault. They can also support victims to make an informed decision about reporting a matter to police and may be able to provide court support through the criminal justice process.

#### What we propose

- **that we consider 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**

We could consider how effectively these services integrate with other mainstream services such as health (including mental health), institutions like schools and universities and other workplaces—as well as specialist services for particular groups (for example, Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds or people with disability).

#### Discussion question

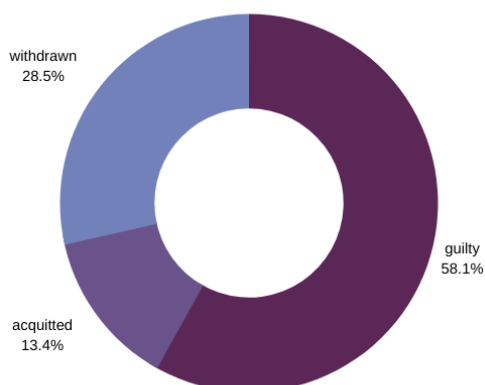


Given the role that specialist and mainstream services play, or could potentially play, in supporting victims and survivors of sexual violence offences, do you support the Taskforce examining the role and potential role of sexual violence and mainstream services? If not, why?

## Theme 3: Legal and court process for sexual offences

Community consultation conducted by the Queensland Government in 2018-19 in relation to sexual violence in Queensland indicated that “for many people who had experienced sexual violence, the process of seeking justice was lengthy and traumatic, with many victims and survivors feeling that they did not receive sufficient support to navigate and cope with the many different elements of the system, such as multiple types of court hearings and frequent delays.”<sup>84</sup>

The Australian Bureau of Statistics data indicates that, of 1,652 principal offences of sexual assault and related offences referred to and finalised in all Courts in Queensland in 2018-19 to 2019-20:



- 950 defendants (58%) were proven guilty
- 219 defendants were acquitted (13%)
- 467 cases (29%) were withdrawn by the prosecution<sup>85</sup>

### What we propose

- **that we 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**

### Adequacy of current sexual offences in Queensland

There has been considerable recent debate in Queensland and Australia about whether current legislation adequately reflects contemporary understanding of sexual offending.

In particular, discussions are taking place about the definition of consent, and how the defence of ‘mistake of fact’ is used in relation to questions of consent in sexual offences, and the appropriate level of criminal responsibility for sexual offending.

In Queensland, significant reform in this area followed recommendations made in the *Report of the Taskforce on Women and the Criminal Code* (2000). These included inserting a new definition of consent in the Criminal Code, where previously there was none.

Legislation passed in March 2021 implemented recommendations from the Queensland Law Reform Commission’s review of consent and the excuse of honest and reasonable mistake of fact,<sup>86</sup> including:

- silence alone does not amount to consent
- consent initially given can be withdrawn
- a defendant is not required to take any particular steps to ascertain consent but a jury can consider anything the defendant said or did (or did not say or do) when considering whether they had an honest and reasonable belief about consent

- voluntary intoxication of the defendant is irrelevant to the reasonableness of their belief about consent<sup>87</sup>

As acknowledged by the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence during the passage of the Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill 2020, there were “a range of views on this bill and its scope, including stakeholders that are concerned the reforms in the bill do not go far enough in reforming the law of consent and mistake of fact.”<sup>88</sup>

Some stakeholders provided submissions to the Queensland Law Reform Commission advocating for more extensive changes to give effect to an ‘affirmative consent’ model.<sup>89</sup>

Other submitters and commentators suggest that such changes are unnecessary, or would have undesirable consequences, including being incompatible with human rights.<sup>90</sup>

#### What we propose

- **that we consider whether additional legislative reform is desirable**

We would consider outcomes of investigations from other jurisdictions, such as the New South Wales Law Reform Commission (including the recent reforms to consent laws announced by the New South Wales Government<sup>91</sup>), and the Victorian Law Reform Commission, noting the underlying differences between these jurisdictions and Queensland’s criminal law framework.

We would also consider the adequacy of current sexual offences, including whether there is a need for additional offences or amendments to existing offences.

For instance, this topic could consider whether reform is required to respond to the practice of removing a condom without consent during intercourse (sometimes referred to as ‘stealthling’),<sup>92</sup> or if there is a need to update legislation in line with contemporary language, such as the use of the term ‘carnal knowledge’.

We could invite community members to consider the need for legislative reforms in relation to the definitions of sexual offences.

#### Discussion question:



Is it appropriate for the Taskforce to consider the adequacy of Queensland’s current sexual offences including provisions about consent and the operation of the excuse of honest and reasonable mistake of fact in the prosecution of sexual offences? If not, why?

#### The role of the Office of the Director of Public Prosecutions and its engagement with victims

This topic is proposed to cover the role of the Office of the Director of Public Prosecutions (ODPP) and its engagement with a victim of sexual violence.

#### What we propose

- **that we 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**

#### Discussion question:



Given the role that the ODPP plays in the prosecution of sexual violence offences, do you support the Taskforce examining the role of the ODPP and their engagement with victims during the process? If not, why?

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## The trial process and special measures for victims during the court process

Over past decades, considerable legal reform has taken place to better recognise and respond to the needs of victims in sexual offence matters. Queensland, like other Australian jurisdictions, has implemented legislation:

- to remove the requirement for corroboration warnings (a warning that evidence of a witness that was not supported by any other independent evidence could be unreliable),
- to limit the circumstances in which a victim of sexual offences can be cross-examined as to their sexual history,<sup>93</sup>
- to prevent an unrepresented defendant from cross-examining a complainant in person.<sup>94</sup>

Queensland has also implemented procedural reforms to respond to the special vulnerability of adult and child victims of sexual offences.

Section 21A of the *Evidence Act 1977* (Qld) defines a 'special witness' in criminal proceedings, to include a person against whom domestic violence<sup>95</sup> or a sexual offence<sup>96</sup> has been, or is alleged to have been, committed by another person; and who is to give evidence about the commission of an offence by the other person. Sections 21A(2)(a) – (f) outline special measures that *can* (but not must) be put in place when a special witness gives evidence. This includes the special witness giving their evidence in the courtroom and the person charged being obscured from their view with a screen; as well as the special witness giving evidence in a remote room to the courtroom, by closed-circuit television link.

On 1 December 2017, legislation was also introduced into the Evidence Act 1977 in relation to sexual assault counselling privilege.<sup>97</sup> The legislation makes counselling communications privileged where there is or has been an allegation of a sexual offence. The purpose of the legislation is to limit the disclosure of written or oral communications made in therapeutic circumstances, such as when a victim engages in a counselling process.

### What we propose

- **that we examine the nature and process of the trial for sexual offences, including committal processes, pre-trial procedures, sentencing and appeals**

As part of this theme, we would consider existing support mechanisms for victims, and opportunities for additional supports, to reduce trauma, maintain dignity and respect and provide better outcomes.

She was told that she would not need to be present in the court room...when the case was heard in court, she was present in the same room at the same time as her abuser.

We would consider:

- whether the provisions of the *Bail Act 1980* (Qld) sufficiently protects the safety of victims of sexual offences
- jury directions to combat 'rape myths' and achieve greater consistency in the conduct of sexual violence prosecutions
- modernising the rules of evidence for the admission of similar fact and propensity evidence in Queensland
- the appropriate use of police body worn camera footage as evidence in criminal proceedings;
- opportunities to learn from the family law system which has implemented restrictions on self-represented litigants cross-examining the victim in a matter involving allegations of violence and abuse
- the treatment of victims appearing as complainant witnesses by lawyers appearing for the accused perpetrator of sexual violence, judicial officers and prosecuting lawyers
- legal assistance and representation of victims appearing as complainant witnesses in prosecutions of sexual violence offences
- whether the legislative provisions should be amended to prescribe that victims who are special witnesses are entitled to give evidence in a remote room, unless the victim herself chooses to give evidence in the courtroom<sup>98</sup>

- whether the current legislation sufficiently addresses issues concerning privileged counselling communications where there is or has been an allegation of a sexual offence made by the victim
- whether recorded interviews with trained police officers should be admissible evidence for *all* victims of sexual assault. Currently, this procedure is limited to children and a person with an impairment of the mind<sup>99</sup>

She was taken to another room only when she requested it to the judge herself. In the other interview room she could hear her abuser through the speakers, yelling to her things such as 'Please don't do this. I love you'

#### Discussion question:



Do you support the Taskforce examining the trial process with a focus on the particular needs of victims while ensuring the accused person has a fair trial? If not, why?

#### Support for victims and ensuring their rights are protected

Queensland's Charter of Victims' Rights describes how a victim should be treated by Queensland Government agencies and non-government organisations.

The Charter includes the general right that a 'victim will be treated with courtesy, compassion, respect and dignity, taking into account the victim's needs'. It also contains rights relating to a victim's rights in the criminal justice system.

The rights in the Charter are not legally enforceable, however a victim may make a complaint to the relevant entity about a prescribed person (including government and non-government entities) who has

acted in a way that is inconsistent with the rights stated in the Charter.<sup>100</sup>

Following recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse, and in line with similar initiatives in Australia and elsewhere, Queensland will commence a trial of impartial intermediaries in Cairns and Brisbane in July 2021 to engage and assist vulnerable witnesses with communication difficulties. The intermediary will be able to assess a vulnerable witness and advise on specific communication needs. They will also provide practical strategies to police, lawyers and judges on how best to communicate with the witness to obtain the best evidence.<sup>101</sup> Although the pilot will be limited to people aged under 16 years, there is potential for the initiative to be rolled out more broadly.<sup>102</sup>

Victim Assist Queensland provides financial assistance to victims of crime in Queensland through the *Victims of Crime Assistance Act 2009*. The scheme provides grants for financial assistance to cover a range of expenses to assist victims of reported crime to recover.

A number of Australian jurisdictions have independent statutory officers appointed to support and advocate for the needs of victims in the criminal justice system. For instance, the Victims of Crime Commissioner established under Part 3 of the *Victims of Crime Commissioner Act 2015* (Vic) outlines the responsibilities of the Commissioner to monitor and report on implementation of the Victims' Charter principles.<sup>103</sup> Responsibilities include improving compliance with victim-oriented law and policy, strengthening complaint and accountability processes and developing a coherent legislative and policy framework to reflect victims entitlements and criminal justice agency obligations.<sup>104</sup>

Victims Support ACT supports victims of crime to communicate with criminal justice agencies, to remain updated on progress of criminal cases and to access counselling and financial assistance.<sup>105</sup> The Commissioner can also assist in investigating complaints, or report matters to the ACT Human Rights Commission for further review.<sup>106</sup>

The Australian Government recently released its Inquiry into family, domestic and sexual violence report with 88 recommendations on Australia's next National Plan to prevent and respond to family and sexual violence. Of interest to this paper is the recommendation of a new National Commissioner for the Prevention of Family, Domestic and Sexual Violence.<sup>107</sup>

We could examine whether it is appropriate for Queensland to establish a Victims Commission similar to other Australian jurisdictions or a specialist Domestic and Sexual Violence Commissioner with similar functions and powers to the Domestic Abuse Commissioner established in England and Wales in September 2019.<sup>108</sup>

In England and Wales the Domestic Abuse Commissioner is an independent, statutory officer whose role is to: encourage good practice in the prevention, identify and support people affected by domestic abuse as a victim, perpetrator or child; monitor and make recommendations on the provision of services and guide research; publish reports and hold government agencies to account.<sup>109</sup>

#### What we propose

- **that we consider whether there are other opportunities for addressing the needs of victims following the prosecution of sexual offences and whether establishing a Victims of Crime Commissioner or a Domestic and Sexual Violence Commissioner would better support victims in Queensland**

#### Discussion questions:



Do you support the Taskforce examining the needs of victims following the prosecution of a sexual offence and whether the establishment of a Victims of Crime Commissioner is appropriate for Queensland? If not, why?

#### The nature and culture of the court process and alternative justice models

There are suggestions victims of sexual assault should have more options to pursue justice— such as including restorative justice conferencing or developing specialist sexual offence courts.<sup>110</sup> Advocates suggest that these alternative approaches may better meet the needs of victims and make it more likely the victim will report and pursue their complaints—thereby holding more offenders to account.

#### What we propose

- **that we consider a range of alternatives such as restorative justice models and specialist court models**

#### Discussion question:



Do you support the Taskforce examining alternative ways of delivering justice for victims such as through the establishment of specialised courts or through restorative justice? If not, why?



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

Our terms of reference ask us to consider how best to improve capacity and capability across the criminal justice system to understand and respond to issues experienced by women as offenders.

This includes support and advocacy services, police, prosecutions, defence, courts and the judiciary. It also includes other policy, legislative or cultural reform relevant to women and girls' experiences as they engage with the criminal justice system.

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

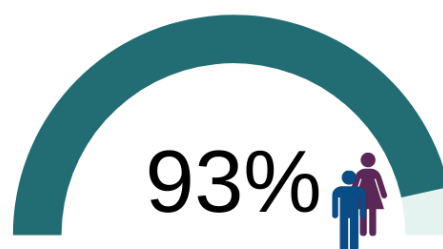
Proposed topics:

- underlying causes for women and girls coming into contact with the criminal justice system
- the policing of women and girls in Queensland
- women and girls' engagement with the legal system in Queensland as accused persons

### Underlying causes for women and girls coming into contact with the criminal justice system

Contact with the criminal justice system can be directly related to circumstances of poverty and disadvantage, such as homelessness.<sup>111</sup>

Up to 93% of youths within the juvenile justice system have experienced some form of trauma, a significant rate compared to between 25% to 34% of the general population.<sup>112</sup>



of youths within the juvenile justice system have experienced trauma

Australian studies examining youth offending in 2010-11 noted a high rate of disadvantage and maltreatment in childhood for Aboriginal and Torres Strait Islander people involved in the criminal justice system<sup>113</sup> with this cohort 18 times more likely to be held in custody than non-Indigenous young offenders.<sup>114</sup>

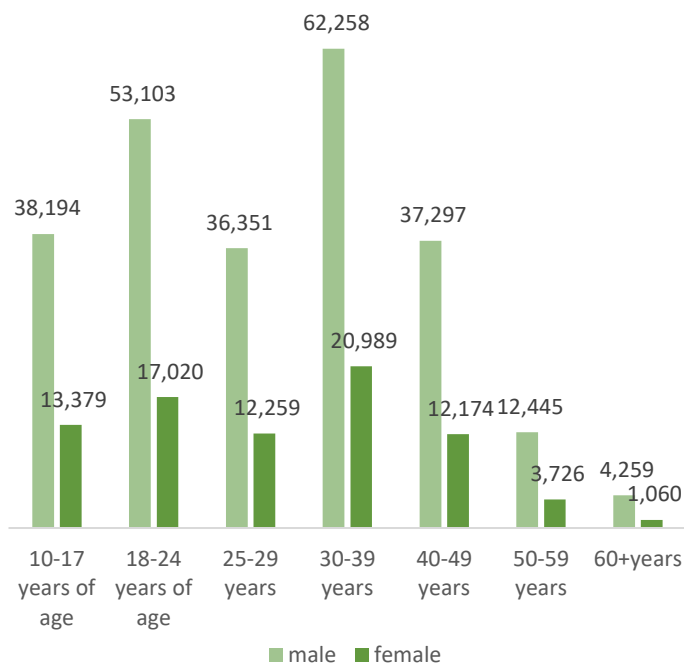
First Nations women are thought to be overrepresented due to over policing of the Aboriginal community.<sup>115</sup>

In Queensland:

- the number of female offenders in 2018-19 increased by 60.2% compared with 2010-11 (compared with an increase of male offenders of 32% in the same period). However, male offenders still accounted for 75% of all offenders in 2018-2019<sup>116</sup>
- the proportion of Aboriginal and Torres Strait Islander female offenders aged under 20 years (32.9%) in 2019-2020 was moderately higher than non-Indigenous female offenders (19.4%)<sup>117</sup>
- between 2009-10 and 2018-19 the number of non-Indigenous female offenders aged 10-17 decreased (down 7.8%) while at the same time the total number of Indigenous female offenders increased (up 46.2%).<sup>118</sup>

## Prevalence and characteristics of offending in Queensland

**Fig. 1 Offenders by age and sex, Queensland, 2019-2020 (QGSO Crime and Justice Reports, 2020)**



In 2019-2020, a total of 324,514 offences were reported or detected by the Queensland Police Service.

Males accounted for the majority of offences (75.2%) with females comprising almost one quarter (24.8%).<sup>119</sup>

Women aged between 30-39 years accounted for the largest percentage of female offenders (26.0%), followed by young women aged 18-24 years (21.1%).

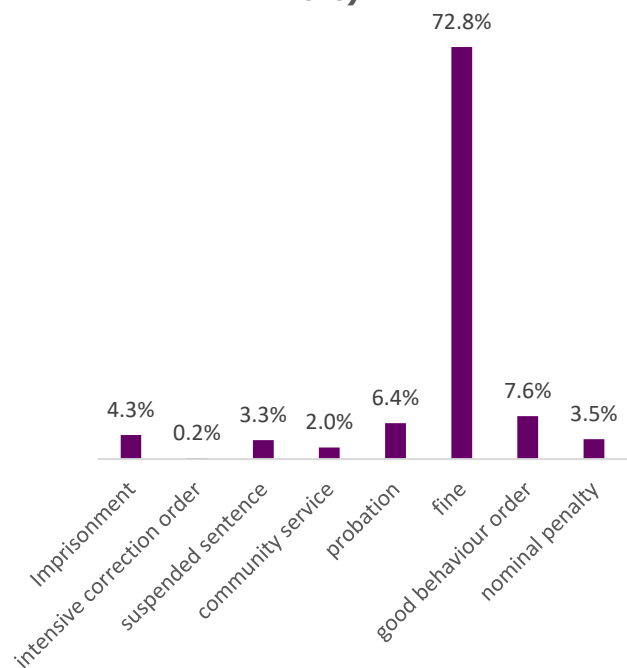
Women aged 50 years and over accounted for the lowest rates of offending across all female age groups (5.9%) and total offences (1.4%).<sup>120</sup>

A range of options are available when determining the most appropriate court outcome for women and girls progressing through the criminal justice system.

A review of court outcomes for all females entering the criminal justice system (inclusive of Supreme, District and Magistrate Courts) between 2010-11 and 2019-20 found the majority (72.8%) of penalties handed down were fines.

This was followed by good behaviour orders (7.6%) and probation (6.4%) (refer to Figure 2 for more details).

**Fig. 2 Percentage of Penalties by Penalty Type for Female Offenders in Queensland, 2010-11 to 2019-20 (QGSO Justice Report 2020)**



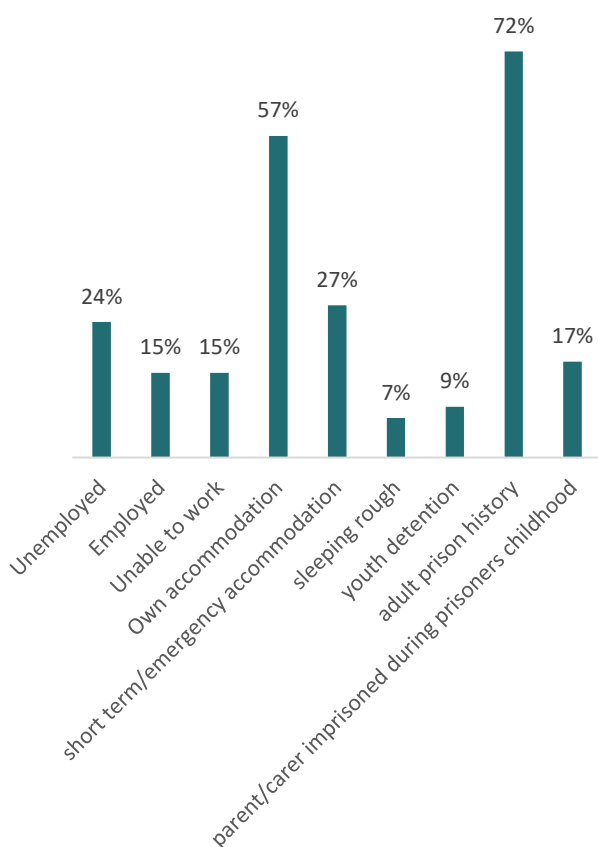
The profile of female offenders reviewed suggests females experience high levels of victimisation,<sup>121</sup> poor mental health and serious mental illness, substance misuse, unemployment, and low educational attainment.<sup>122</sup>

Research *does not* demonstrate a causal relationship between victimisation and offending.<sup>123</sup> However, a 'trifecta of factors' associated with the long-term consequences of trauma—mental illness/poor mental health, alcohol and substance dependency, histories of early interpersonal victimisation (particularly child sexual abuse)—have been consistently shown to characterise women within correctional system.<sup>124</sup>

Surveys of prison populations in Queensland show that women who enter prison often come from disadvantaged backgrounds. This may include a history of domestic violence, childhood trauma and social deprivation.<sup>125</sup> The women may be dealing with substance use, mental health issues and multiple and complex needs, which are often exacerbated by inadequate access to health care before entering prison.<sup>126</sup> The most common reasons for women in prison to visit the prison health clinic tend to be mental health-related.<sup>127</sup>



**Fig. 3 Characteristics of Australia's Female Inmate Population 2019**



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#### What we propose

- that we consider the complex underlying factors contributing to women and girls coming into contact with the criminal justice system, including examining the unique factors that impact on particular population groups

#### Discussion question:



Do you support the Taskforce focusing 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? If not, why?

#### The role of police in relation to women and girls accused of offences

Research shows that when police treat women fairly and provide them an opportunity to have a voice in the encounter, they are more likely to comply with police, even when the encounter results in a criminal justice response.<sup>129</sup>

In 2017, out of the 27 women murdered by an intimate partner in Queensland, 12 had previously been identified by the Queensland Police Service as the *perpetrator* in a domestic dispute.

A study involving participants (n=100) from the government and non-government sector sought to understand organisational factors that contribute to the misidentification of the person most in need of protection in domestic and family violence incidents. Findings suggest that some participants believed ongoing racist attitudes, coupled with poor community relationships, traditionally held patriarchal views and a predominantly male police service contributed to the misidentification of female victims as offenders.<sup>130</sup>

As the gatekeepers of the criminal justice system, police actions can have significant and long lasting implications for those victims police come across.<sup>131</sup>

#### What we propose

- that we consider 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

We would consider appropriate opportunities, such as co-response models, with a specific focus in our paper on how these models may divert women and girls from the criminal justice system.

This model could be similar to the existing mental health co-response model used by the Queensland Police Service, the Queensland Ambulance Service and Queensland Health to address needs of offenders experiencing a mental health crisis.<sup>132</sup>

Discussion question:



Do you support the Taskforce focusing on the role of the police in relation to women and girls accused of offences? If not, why?



## Women and girls' experience of the legal system as accused persons

### What we propose

- **that we consider the experience of women and girls who progress from initial contact with police through to formal contact with the legal system including courts**

We would consider:

- whether women and girls accused of committing offences have equal access to high quality legal advice and representation
- whether women and girls are treated fairly and with respect by their own defence lawyers, prosecuting lawyers, judicial officers and court staff
- the representation of women as professionals working in the criminal justice process
- cultural capability of agencies involved in the criminal justice process
- whether the sentencing options available to Queensland courts for women and girls are suitable and appropriate

Discussion question:



Do you support the Taskforce focusing on women and girls experiences in the legal system when they have been accused of committing offences? If not, why?

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

Proposed topics:

- women and girls' experience of being in prison (including on remand)
- women and girls' reintegration into the community upon release from prison

### Women and girls' experience of incarceration and release

While women and girls make up a very small proportion of the prison population, the female prison population is increasing at a much faster rate (64% from 2009-19) than the male prisoner population (45% for the same period).<sup>133</sup> Queensland data confirms this trend.<sup>134</sup>

In 2020, females in custody (33.3%) were more likely than males in custody (28.8%) to be unsentenced (that is, they have been charged and not convicted of an offence, sometimes referred to as being 'on remand').<sup>135</sup>

As at 30 June 2020, almost one-third (29.2%) of adults in custody in Queensland were unsentenced (that is, they have been charged and not convicted of an offence, sometimes referred to as being 'on remand'.)<sup>136</sup>

Almost all admissions to youth detention centres in Queensland in 2019-20 were of unsentenced children.<sup>137</sup>

In Australia, possible factors for increasing rates of female incarceration may include:

- changes in offending—such as the severity of crimes now being committed by females resulting in custodial sentences
- an increase in the number of women on remand
- women are now being sentenced to imprisonment for crimes that previously attracted community based orders or suspended sentences.<sup>138</sup>

In 2019, Aboriginal and Torres Strait Islander women were much more likely to be imprisoned than non-Indigenous women (453 compared to 24 per 100,000 people).<sup>139</sup>

In 2020, more than 7 in 10 (72%) of the female prison entrants surveyed had a history of incarceration in youth detention or adult prison.<sup>140</sup>

### What we propose

- **that we consider the reasons for the increasing incarceration rate for women and girls and their experience of incarceration**

We would consider:

- the nature of the custodial environment for women and girls with histories of victimisation
- the experience of pregnancy and motherhood for women and girls in prison
- opportunities for support and healing in the prison environment
- barriers experienced by women seeking release on parole while in prison
- transitional programs to support release
- community based programs post-release

We could also examine what progress has been made towards addressing or implementing the 46 recommendations contained in the Anti-Discrimination Commission Queensland report titled '*Women in Prison 2019*'. This report can be accessed on the website of the Queensland Human Rights Commission at: [Women in Prison Consultation Report \(qhrc.qld.gov.au\)](https://www.qhrc.qld.gov.au/reports/women-in-prison-2019)

### Discussion question:



Do you support the Taskforce focusing on women and girls' experience of incarceration and release and in particular the progress towards implementing the recommendations of *Women in Prison 2019*? If not, why?



## Next steps

The topic of women and girls' experiences of the criminal justice system is extensive, and we acknowledge that we may not be able to cover all of the issues being experienced by women and girls in the criminal justice system. That is why it is important that you tell us what issues are most important to the community and keeping women and girls safe so we can make the best use of our time and resources.

We encourage you to make a submission and tell us whether you agree with the themes we've set out in this discussion paper. Submissions in response to this discussion paper can be made until **Friday, 23 July 2021**.

We are carrying out broad and wide-ranging consultation with the community to help us examine our terms of reference. For more details on our consultation and engagement activities, please go to our website:

[www.womenstaskforce.qld.gov.au](http://www.womenstaskforce.qld.gov.au)

Submissions will inform our decisions about the themes of further work to fulfil our terms of reference. We will provide information about the agreed themes and areas of focus on our website.

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<sup>1</sup> [Crime Report Queensland 2019–20 \(qgso.qld.gov.au\)](https://www.qgso.qld.gov.au)

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