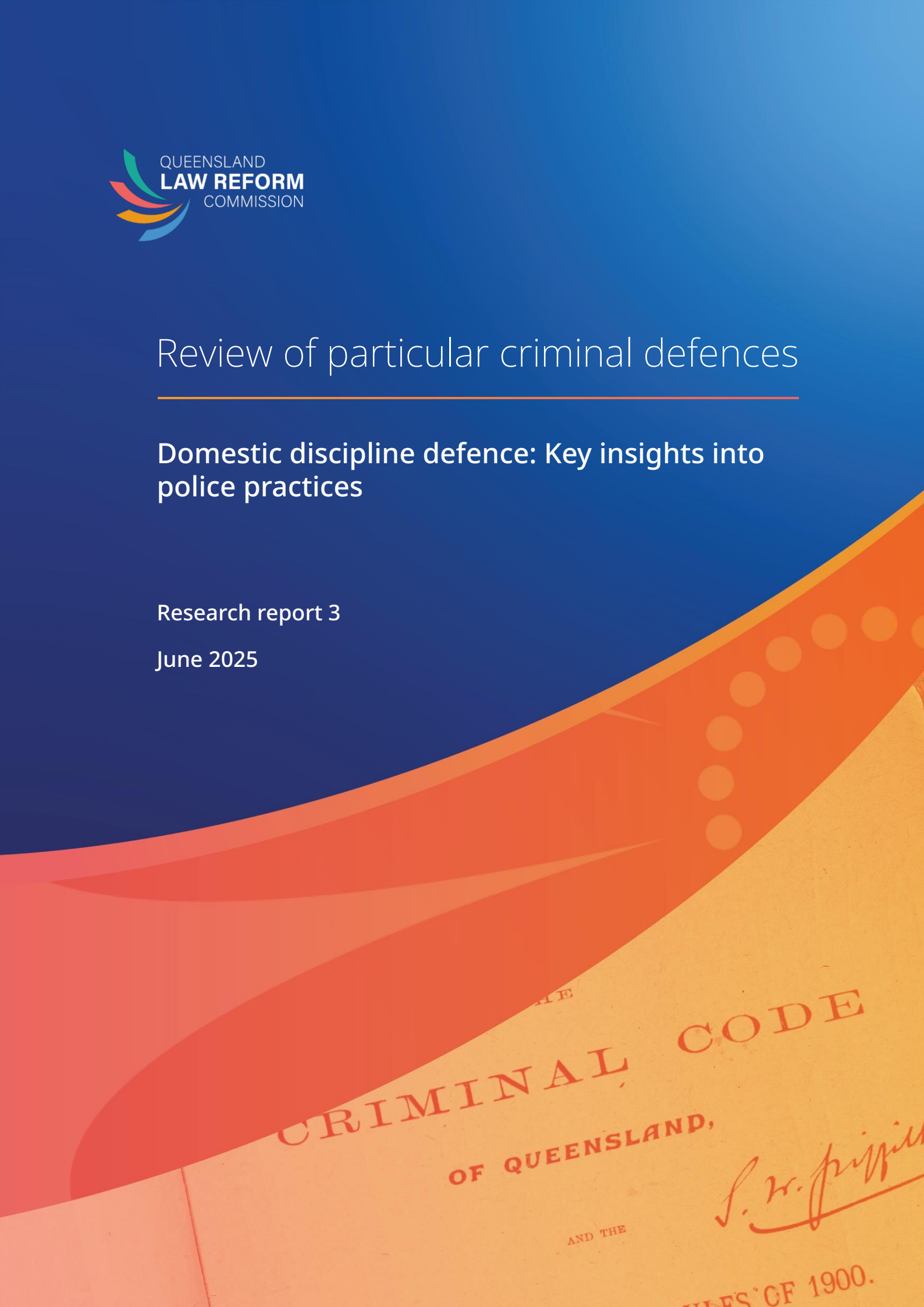
QUEENSLAND LAW REFORM COMMISSION

Review of particular criminal defences

Domestic discipline defence: Key insights into police practices

Research report 3

June 2025



Published by:

Queensland Law Reform Commission

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Website: www.qlrc.qld.gov.au

ISBN: 978-1-923274-93-8

Contents

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References to Aboriginal peoples and Torres Strait Islander peoples

In this paper, we use 'Aboriginal peoples' and 'Torres Strait Islander peoples' in reference to the Traditional Owners of Australia.

We use 'Indigenous peoples' and 'Indigenous communities' for clarity when we refer to publications or data sources that use this terminology.

We recognise the diversity of cultures, languages and communities throughout Queensland and Australia. We also recognise and respect the distinct cultural identities of Aboriginal peoples and Torres Strait Islander peoples.

We recognise that different language preferences exist. We use these terms with the utmost respect.

Acknowledgements

We thank the Queensland Police Service for providing access to data that forms the basis for this research. We are grateful to the Child Protection Investigation Unit officers who shared their time and insights about this topic.

Summary of key findings

Key finding 1

The defence of domestic discipline is relied on by QPS officers when deciding not to charge a parent for allegedly physically harming a child.

Key finding 2

When deciding not to charge a person based on s 280, QPS officers seek to justify their decision and senior officers provide oversight.

Key finding 3

QPS officers apply the s 280 defence in a range of circumstances and do so inconsistently. In considering and applying the defence, officers take into consideration the elements of the defence and broader public interest factors.

Key finding 4

The availability of the s 280 defence enables CPIU officers to not charge a parent and also to consider diversionary options as an alternative.

Introduction

1. In Queensland, it is unlawful to use force without consent against another person, including a child, unless it is 'authorised, justified or excused by law'.[1] The domestic discipline defence in s 280 of the Criminal Code provides a complete defence to the use of physical force against a child in certain circumstances.[2]
2. This research report examines whether, and if so how, the s 280 defence of domestic discipline influences police decision-making about whether to charge a parent, or person in place of a parent, in matters that involve the use of force against a child.
3. The information in this report will assist us to develop recommendations for reform of the defence of domestic discipline. As noted below, this research is one part of our work to develop recommendations for reform about this aspect of our review. We will continue to progress our research and to seek feedback in relation to appropriate reform in this area.

Our review

4. On 15 November 2023, the Queensland Government asked us to review and make recommendations about particular defences in the Criminal Code. This included recommendations, specifically, on whether there is a need for reform of the law, practices or procedures relating to the defence of domestic discipline in s 280 of the Criminal Code.
5. We are due to give our final report with recommendations and any draft legislation to the Queensland Government by 1 December 2025.

Guiding principles

6. We identified five guiding principles to help us to develop recommendations for reform. We discuss these guiding principles in detail in background paper 2. They are:
    - **justice**: the defences and penalty for murder should promote just outcomes and protect fundamental human rights, including rights in criminal proceedings
    - **fitness for purpose**: the defences in the review and the penalty for murder should reflect contemporary community standards and be fit for purpose
    - **clarity**: the defences should be clear and easy to understand
    - **domestic and family violence**: the defences should better reflect circumstances involving domestic and family violence, including coercive control
    - **evidence-informed**: the defences and recommended reforms should be informed by evidence, including expert knowledge and lived experience.
7. The research discussed in this report supports our final principle by providing evidence to inform our review.

Use of force against a child

We use the term 'use of force against a child', which reflects the language of s 280. We do not qualify this use of force as 'alleged' because police were satisfied that force was used, or they would have decided not to charge due to insufficient evidence. We also 'use the term physical harm against a child', which reflects the language of the QPS service manuals which guide policing.

Section 280, defence of domestic discipline

8. Section 280 of the Criminal Code provides that:

> It is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, discipline, management or control, towards a child or pupil, under the person's care such force as is reasonable under the circumstances.

9. It provides a complete defence to the use of physical force against a child where the use of force is:

- for a certain purpose: '**correction, discipline, management or control**'
- '**reasonable in the circumstances**'
- '**by a parent, a person in place of a parent, or schoolteacher or master**'.[3]

10. The focus of this report is the use of force against a child by a parent or person in place of a parent.

11. The Criminal Code does not define the elements of this defence, nor 'physical punishment' more broadly. The Committee on the Rights of the Child defines 'physical' or 'corporal' punishment as:

> any punishment in which physical force is used and is intended to cause some degree of pain or discomfort, however light. Most involves hitting ('smacking', 'slapping', 'spanking') children, with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon, etc.[4]

Physical punishment

We use the term 'physical punishment' to refer to punishment in which physical force is used and intended to cause some degree of pain or discomfort. We recognise that punishment is not a term used to describe a lawful purpose for which physical force can be used against a child in s 280. The term physical punishment encompasses conduct associated with the use of force against a child – such as smacking, slapping and spanking – that may be for a purpose stated in s 280 (correction, discipline, management or control).

12. In our consultation paper we presented two proposals for reform of the defence of domestic discipline, as a basis for consultation.

Proposals

Option 1: Repeal the defence and introduce diversion and other supporting measures

Repeal section 280 of the Criminal Code which provides the defence of domestic discipline. Police and court based diversionary options should be introduced to divert parents who use low level corporal punishment from the criminal justice system and support education and rehabilitation. The repeal should come into force two years after the initiation of a statewide community education and awareness campaign.

Option 2: Amend the domestic discipline offence

Amend section 280 of the Criminal Code in one or more of the following ways:

- limit the defence so it is only available as a defence to common assault

- provide legislative guidance as to factors relevant to the assessment of reasonableness or include deeming provisions about conduct that is unreasonable, or both
- limit the purposes for which domestic discipline may be used
- include definitions of 'parent', 'person in place of a parent', 'teacher' and 'master'.

13. We also presented preliminary research findings in our consultation paper which we explore further in this report.

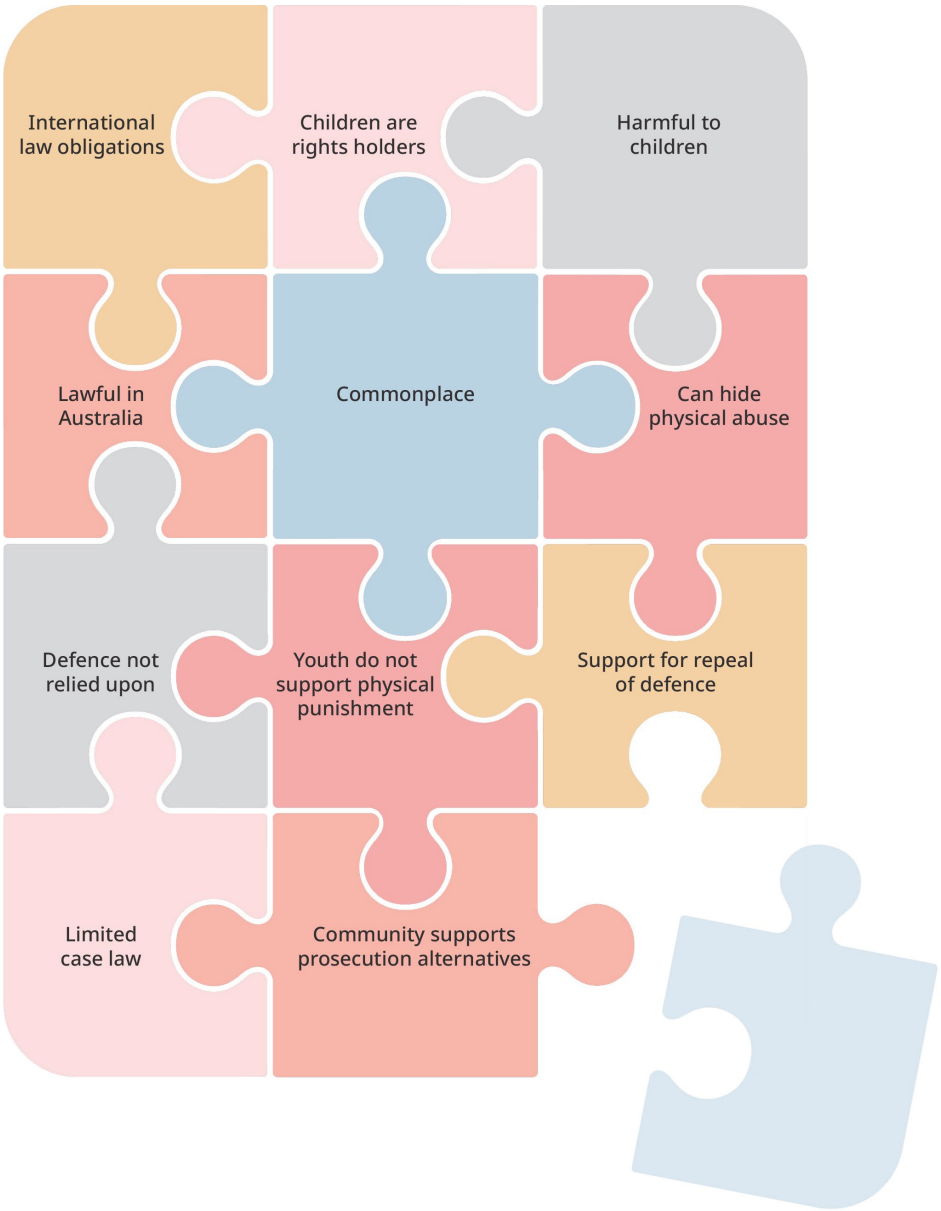
14. To date, we have used a wide range of approaches to review the s 280 defence of domestic discipline and to hear views about our proposals, including:

- consulting with key stakeholders in meetings, forums, events and roundtables, including:
  - Queensland Police Service
  - individuals with lived experience of the criminal justice system
  - community and advocacy organisations
  - domestic and family violence support services
  - Aboriginal peoples and Torres Strait Islander peoples and communities
  - legal practitioners and judicial officers
  - academics
  - Government agencies
  - independent statutory bodies
- surveying 2,500 people living in Queensland and speaking with adult (58 people) and youth (9 people) focus groups in Queensland about their attitudes towards the use of physical punishment
- inviting public submissions in a wide range of formats
- analysing case law on matters where s 280 was raised
- analysing relevant laws in comparative jurisdictions
- analysing relevant international and Queensland human rights laws
- reviewing government and academic publications that focus on domestic discipline.

15. These sources of data are helping us to build a picture of the effect of domestic discipline on children, community attitudes towards domestic discipline, the extent to which the defence is being used in court proceedings by parents who are accused of violent offending against their children and human rights frameworks that apply.

16. **Figure 1** provides a snapshot of what we know so far about domestic discipline.

Figure 1: Snapshot of what we know so far.



17. To expand on **Figure 1**, we know that:

- **International law obligations**: As a state party to the Convention on the Rights of the Child, Australia is obliged to take legislative, awareness raising and educational measures to prohibit and eliminate all corporal punishment of children.[5]
- **Children are rights holders**: In Queensland, every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests, because of being a child.[6]
- **Harmful to children**: Internationally, physical punishment is increasingly being understood as a form of violence that is harmful to children.[7]
- **Lawful in Australia**: Physical punishment of children remains lawful in all states and territories across Australia (to varying degrees) through statutory and common law defences.[8] Laws in New South Wales and the Northern Territory are more restrictive than the s 280 domestic discipline defence in Queensland.[9]

- **Commonplace**: Research published in 2024 indicates that physical punishment of children remains commonplace in Australia — approximately half of all parents surveyed (53.7%) had used physical punishment. This is even though 73.6% of Australians view physical punishment as not necessary in raising a child.[10]
- **Can hide physical abuse**: In its 2023–2024 Annual Report, the Child Death Review Board recognised that 'physical abuse of a child can happen under the guise of discipline or punishment'.[11] It can be difficult for child protection workers to determine whether a child is describing domestic discipline, which is lawful, or physical abuse.[12]
- **Community supports prosecution alternatives**: The Queensland community supports alternatives to criminal prosecution where parents use minimal force to discipline children.[13]
- **Youth do not support physical punishment**: Only 14.8% of people aged 16–24 believe that physical punishment is necessary to raise a child.[14] This is consistent with the findings from our youth focus group, where youth advocates did not believe that physical punishment should be used to raise a child. They did not support a criminal justice response for low-level use of physical punishment by a parent and preferred the use of alternatives such as parenting education. There was support for a criminal justice intervention where physical punishment was perceived to be more harmful.[15]
- **Support for repeal of defence:** In submissions made to the Commission, there was broad, but not unanimous, support for repeal of the defence of domestic discipline based on:
    - changes in societal attitudes towards physical punishment
    - the international trend of prohibiting physical punishment of children
    - incompatibility with the human rights of children who should have the same protection from violence as adults
    - the ineffectiveness of physical punishment and long-term harm to children and society
    - the use of the defence as a bar to prosecution in cases involving assault more serious that common assault.[16]
- **Limited case law**: There is limited case law on the defence of domestic discipline. The leading case in Australia is R v Terry,[17] a Victorian murder case concerning the death of a 19-month-old child, which found that lawful physical punishment should be subject to the following limits:
    - the punishment must be moderate and reasonable
    - it must have a proper relation to the age, physique and mentality of the child
    - it must be carried out with a reasonable means or instrument.

    These guiding principles have largely been adopted in Queensland in the interpretation of s 280. Yet the case law on what is a 'reasonable' use of force has been inconsistent, with Queensland courts finding blows to the head to be both reasonable and unreasonable.[18] There is even less guidance when it comes to the requirement that the force is for the purpose of 'correction, discipline, management or control'.[19] While there is case law to suggest that the defence does not cover actions arising out of 'spite, rage, fury, anger or ill-will'[20] and that the use of force must not be 'ill-disciplined',[21] there is no case law suggesting that the mere presence of anger or frustration can prevent the defence from applying.[22]

- **Defence not relied upon**: Research published in 2008 indicates that the domestic discipline defence is not relied on to a significant degree in criminal proceedings and does not operate to prevent the charging of parents who offend against their children.[23] This research reflects the scant case law on s 280.

18. There is an absence of research on how s 280 is considered by police in responding to, investigating and finalising matters that involve use of physical force against children. For example, the scope of a 2008 review of 198 cases involving parent-child assaults undertaken by the Queensland Department of Justice and Attorney-General did not include how the defence of domestic discipline impacted decisions by police about whether to charge a parent.[24]

19. Research presented in this report aims to address this research gap and provide insight into whether, and if so how, the s 280 defence is impacting police decision-making about whether to charge a parent, or person in place of a parent, in matters that involve the use of force against a child.

Police investigation of child harm

20. The Queensland Police Service ('QPS') is responsible for investigating all matters involving alleged criminal offences, including matters involving 'child harm'. Officers are required to consider the wellbeing of a child at every job they attend.[25]

21. The QPS Operational Procedures Manual specifies that the 'first response officers who attend instances of child harm will be supported by specialist investigators from the [Child Protection and Investigation Unit ('CPIU') or Criminal Investigation Branch ('CIB')]'.[26]

Child harm

'Harm' to a child is defined in s 9 of the Child Protection Act 1999 as 'any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing'. It is immaterial how the harm is caused. Harm can be caused by physical, psychological or emotional abuse or neglect or sexual abuse or exploitation. It can be a single act, omission or circumstance or a series or combination of acts.

22. The CPIU is a specialised unit within QPS made up of highly trained, skilled and professional detective investigators focused on child protection.[27] CPIU officers investigate a range of criminal matters against children, including sexual abuse, physical abuse and serious neglect where there is a suspected criminal offence.[28]

23. The local CPIU is responsible for investigating an allegation of a criminal offence against a child.[29] If no local CPIU is available, a local CIB will be responsible.[30] Alternatively, if neither a CPIU nor CIB are locally available, first response officers will begin an investigation with remote specialist assistance.[31]

24. Officers are required to follow the child harm referral process (an internal operational QPS document) if they hold concerns for a child's safety or wellbeing. They must submit a 'child harm report' incident in the Queensland Police Records Information Management Exchange ('QPRIME') system if they determine there are 'serious concerns for a child's wellbeing'.[32] A child harm report will be referred to and reviewed by a Suspected Child Abuse and Neglect ('SCAN') unit or the officer in charge of a CPIU.

25. QPS must also make a mandatory report to the Department of Families, Seniors, Disability Services and Child Safety ('Child Safety') where there is 'a reasonable suspicion a child has

suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse and may not have a parent willing and able to protect the child from harm'.[33] If the officer does not believe that the child has suffered significant harm or is at risk of significant harm but has serious concerns for the child's wellbeing, the officer may refer the matter directly to the relevant Family and Child Connect agency.[34] These agencies can provide support to families which consent to receiving that support.

26. The QPS Operational Procedures Manual sets out the process of investigating and finalising a report of harm to a child,[35] and specifies the details an officer should record in a QPRIME incident when reporting on child harm that alleges a criminal offence.

Police discretion

27. Not all matters reported to police will result in a person being charged with a crime. QPS officers exercise discretion, with oversight, in assessing and deciding whether to charge a suspect. When making this decision, police must consider if:

- there is **sufficient admissible evidence** to prove the charge against the person, and
- the **public interest** will be served in pursuing a prosecution.[36]

28. 'Sufficient evidence' means there must be a reasonable prospect of the person being found guilty of the offence beyond a reasonable doubt. QPS officers must make a detailed evaluation of the strength of the case, including by considering:

- the admissibility and reliability of the evidence
- the extent of any contradictory evidence
- the availability, competency, credibility and compellability of witnesses
- possible defences.[37]

29. The QPS Operational Procedures Manual also states that QPS officers are required to be satisfied any relevant defences can be disproven before taking action to respond to an offence.[38]

30. If QPS officers believe that a defence will likely apply, this may act as a 'bar to prosecution', which means the matter will not be prosecuted. In fulfilling the requirement to consider possible defences, s 280 may be considered in circumstances where a parent, or person in place of a parent, has used force against their child.

Bar to prosecution

All data obtained from QPS related to matters where police decided not to lay charges after considering s 280. The data makes specific reference to s 280 being applied as a 'bar to prosecution', meaning there was no charge laid. We use the term 'bar to prosecution' in this report to reflect, specifically, the way in which QPS reports the exercise of discretion by QPS officers.

31. Whether it is in the 'public interest' to prosecute will depend on the facts and surrounding circumstances of each case, which may include, for example:

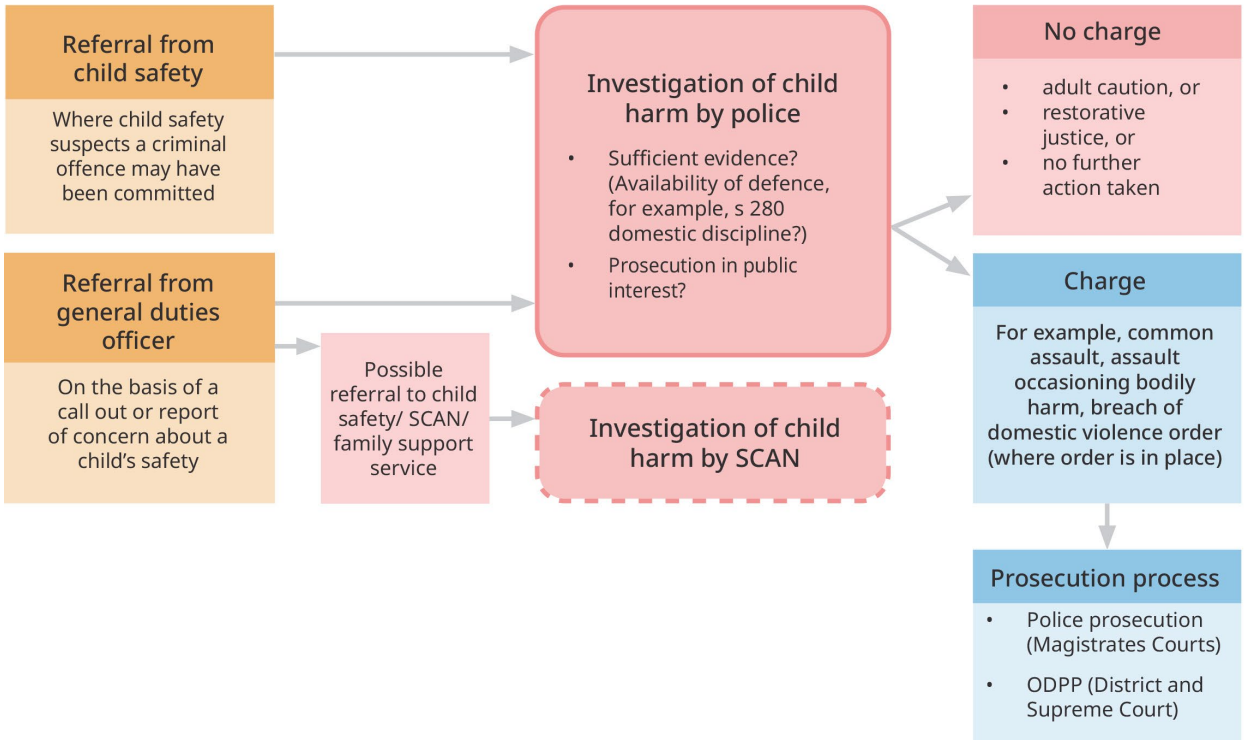
- the seriousness of the alleged offence
- the age of the victim
- the appropriateness, availability and effectiveness of alternatives to prosecution (for example, diversion)

- whether the prosecution will lead to hardship for any witnesses (including children).[39]

32. In circumstances where a parent, or person in place of a parent, has used force against a child, QPS officers may consider the appropriateness, availability and effectiveness of alternatives to prosecution, including diversionary measures, to avoid a criminal justice response and criminalisation. Diversionary measures consist of an 'adult caution' (a formal warning which can be issued to a person over 18 years old) or an 'adult restorative justice conference' (a face-to-face meeting between the offender and victim where they discuss the impact of the offender's actions and reach agreement on the appropriate reparation for the harm).[40]

33. **Figure 2** provides a high level overview of the process used by QPS officers, including CPIU officers, to receive and respond to allegations of physical harm to a child.

Figure 2: Investigation of child harm by QPS officers.



34. This report focuses on the discretion afforded to QPS officers to apply the s 280 defence of domestic discipline in their assessment and decision of whether to charge and prosecute matters where there is use of force against a child by a parent or person in place of a parent, resulting in a bar to prosecution (no charge).

Research aims and methods

35. This study aimed to address the following research questions:

1. Are QPS officers considering the domestic discipline defence (s 280) when investigating the use of force against a child by a parent or person in place of a parent?
2. If so, in what circumstances are decisions not to charge based on s 280?
3. How do QPS officers apply the defence?

36. We sought to answer these questions by analysing operational records generated by QPS and conducting structured interviews with CPIU officers.

QPS data

37. To investigate whether QPS officers are considering the s 280 defence of domestic discipline when investigating the use of force against a child by a parent or person in place of a parent, and if so, in what circumstances their decisions not to charge are based on s 280, we obtained two related data sets from QPS:

- **QPRIME data (spreadsheet):** 571 reported matters that occurred between January 2021 and December 2024 and were recorded in QPRIME, where all matters were not progressed to prosecution after police officers considered the available defence under s 280.[41] Initial findings presented in our consultation paper were based on this data set.
- **Full case reports:** 69 full case reports sampled from the 571 incidents recorded in QPRIME.[42]

38. We chose the QPRIME data set after discussion with QPS. The QPRIME data enabled us to examine those matters recorded by police as 'bar to prosecution' due to s 280. We use the term 'bar to prosecution' in this report to reflect, specifically, the way in which QPS reports the exercise of discretion by QPS officers. The QPRIME data does not include every matter where QPS officers considered s 280 when deciding not to charge a parent. For example, QPS officers may have recorded a matter as not proceeding due to insufficient evidence. Obtaining this data would have required manual searching by QPS.

39. We did not obtain data from QPS regarding the total number of matters charged which involved an assault of a child by a parent, or person in place of a parent, for the same period. As a result, we do not have a complete picture of how QPS officers consider s 280 in every relevant case, nor what proportion of matters involving the use of force against a child did not result in a parent being charged after consideration of the s 280 defence.

40. **Appendix 1** provides an explanation of each source of data, how we coded and analysed the data and the limitations of the data.

Structured interviews with CPIU officers

41. To understand how QPS officers apply the defence and in what circumstances, we conducted structured interviews with nine CPIU officers.

42. We worked with QPS to identify and select specialist QPS officers for interviews. QPS nominated 14 specialist officers as suitable interview participants because of their experience working with the CPIU and their locations across the Queensland regions. We invited all 14 specialist officers to express their interest in participating in our research and received positive responses from nine specialist officers.

43. **Appendix 1** provides an explanation of how we coded and analysed interview data and the limitations of the data. Interviews with CPIU officers were conducted online via Microsoft Teams. **Appendix 2** sets out the questions we asked in our interviews.

What does the QPS data tell us?

44. Our analysis of QPS data is based on 443 incidents recorded in QPRIME, taking place between January 2021 and December 2024, and 59 full case reports which are a sample of these incidents.

45. We refined the QPRIME and full case report data sets to avoid bias due to missing information or irrelevance. We excluded 128 incidents from the initial 571 as the circumstances of these incidents were not recorded. We excluded 10 full case reports from the 69 full case reports as they were finalised after consideration and application of another defence (not s 280) or for another reason. **Appendix 1** provides further explanation of why and how we refined our data sets.

46. The QPS data provides us with information about the suspect, the child, the nature of the incident and its context. This data paints an important picture of how the domestic discipline defence is applied in practice by police in Queensland.

Suspect

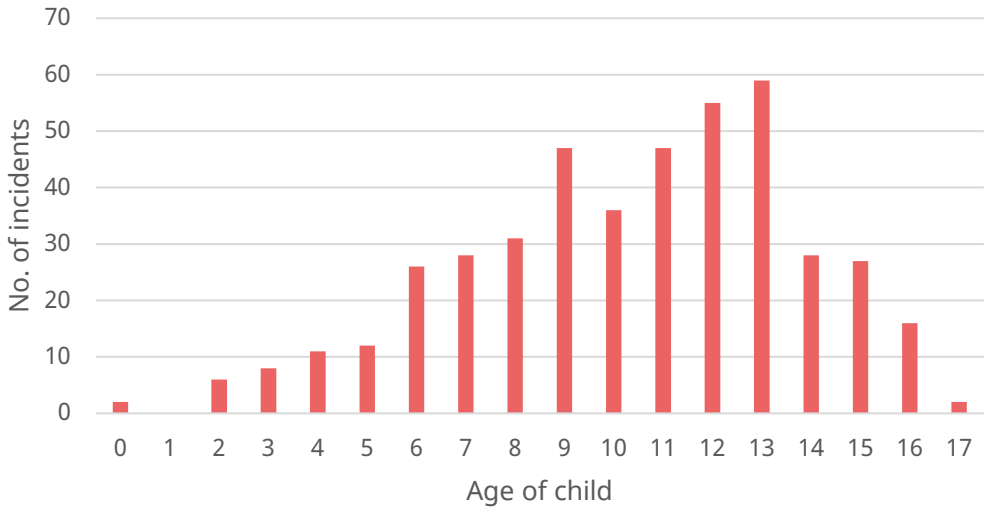
The QPS data we analysed relates incidents involving a suspicion of child harm. In their investigation of each incident, police were satisfied the actions of the person subject to investigation were lawful due to s 280. While the QPS data uses a variety of terms to refer to this person, we adopt the term 'suspect' to strike a balance between recognising the person was the subject of the investigation but was ultimately cleared and not charged in relation to their actions.

QPRIME data

Age and gender of suspect and child

47. The average age of suspects was 40 years, with ages ranging from 21 to 76 years. The average age of children was approximately 10 years (see **Figure 3)**. Two cases involved a child who was less than 12 months old, with one case involving a one-week-old infant.

Figure 3: Age of child (QPRIME data).



48. Over 32% (n=134) of cases involved children who were teenagers, aged 13–17 years, with 15% (n=20) of those involving children aged 16–17 years.

Key

n= means the number of cases

49. There were more male suspects (n=230, 52%) than female suspects (n=195, 44%). In 4% of cases, the gender of the suspect was not stated or was unknown. In contrast, the gender distribution of the children (n=448) was more balanced, with approximately 45% male and 47% female. In 37 incidents, the gender of the child could not be ascertained by the available information, which

explains the discrepancy in the data. In five incidents, multiple children were involved, further explaining the discrepancy between the total number of children and suspects.

Relationship between suspect and child

50. Suspects were most frequently parents (fathers (n=148) and mothers (n=145)), accounting for over 65% of cases. However, in more than 20% (n=90) of the cases analysed, the suspect's relationship to the child was not recorded.

Types of conduct

51. Cases recorded in the QPRIME data were categorised into four different incident types: common assault, other serious assault, assault occasioning bodily harm and grievous bodily harm. Neither of the two grievous bodily harm cases recorded in the QPRIME data were finalised through the application of the s 280 defence (see **Appendix 1**).

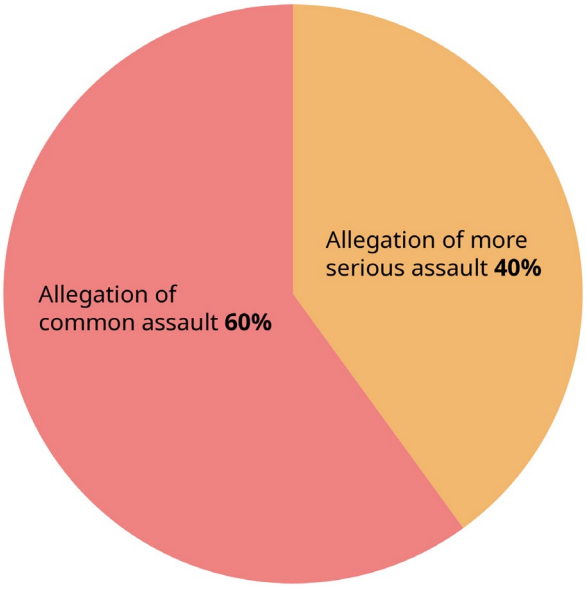
52. Our analysis of the 443 QPRIME cases identified that:

- approximately 60% of incidents were recorded as 'common assault'
- approximately 40% of incidents were, collectively, recorded as the incident types 'other serious assaults', 'assaults occasioning bodily harm' and 'grievous bodily harm' (see **Figure 4**).[43]

Incidents

The terms 'conduct' or 'offence' are not used in the QPS data we analysed. The term 'occurrence' is used, which can be understood as an incident. We use the term 'incident' broadly to refer to different types of incidents recorded in the QPS data we analysed. The incident types recorded in QPRIME are for administrative purposes and do not dictate the ultimate charge. For example, the incident type 'other serious assault' in the QPS data does not refer to s 340 serious assaults in the Criminal Code.

Figure 4: Gravity of conduct (QPRIME data).



Use of instruments

53. Analysis of the QPRIME data revealed that in over 70% (n=304) of cases, no instrument or weapon was used. Instead, bodily force was the primary method. Hands or fists were involved in more than half of all the cases (57%, n=253 out of 443 reports). Legs were used in four incidents, suggesting that kicking was far less common but still present.

54. The prevalence of hands-on force in reported incidents highlights the physical nature of these types of interactions.

55. In approximately 24% of the initial reports (n=106), an instrument or object was used. These items were broad ranging, often involving easily accessible everyday objects including cooking implements (for example, rolling pins, wooden spoons, spatulas), household items (for example, broomsticks, vacuum poles, power cords, hairbrushes) and gardening equipment (for example, hoses, rakes, sticks).

56. The most reported instrument overall was a belt, documented in 16 cases. Other clothing items included thongs (n=8) and shoes (n=6), which were used to hit or slap children.

57. In some cases, multiple objects were used in a single incident, for example, both a belt and a shoe.

58. While all of these objects have the potential to cause harm when used with force and/or violence, some carry a higher risk of producing long-term physical injury. For instance, one report described a child being burnt on the head with a cigarette and another involved hot water being tipped onto a child's hand. No weapons, such as knives, were reported in these incidents.

Injuries

59. Injuries were documented in over 46% of the initial reports (n=204). The most frequently recorded injury was bruising, noted in nearly 23% of cases (n=100). Bruising often appeared on multiple areas of the body, for example, on both arms and legs, or the back and limbs. It was also commonly accompanied by other injuries such as cuts, scratches and swelling.

60. More serious injuries were less common but included a broken arm (n=2), burns (n=1) and a cracked tooth (n=1).

61. In contrast, over 37% of the initial reports (n=166) indicated no injury or no visible injury. Specifically, in:

- 80 incidents (18%) no injuries were documented in the initial report
- 86 incidents (19%) no visible injury was evident at the time of reporting.

Purpose of the use of force

62. About 42% of the initial reports (n=188) did not include a recorded purpose for the force used.

63. Where a purpose was recorded, the most common justification was 'discipline/punishment', followed by 'management/control'. As well as recording the purpose, we also observed that 15% of cases (n=60) reported anger and/or frustration as a motivation for the use of force.

Full case reports

64. The full case reports enabled us to consider a smaller number of cases in more detail. Full analysis is presented in **Appendix 3** of:

- age and gender of suspect and child

- relationship between suspect and child
- types of conduct
- use of instruments
- injuries
- purpose of the use of force.

Indigenous status of suspect

65. The full case reports included the 'Indigenous status' of suspects (see **Table 1**). Aboriginal peoples and Torres Strait Islander peoples were over-represented as suspects.

Table 1: Indigenous status of suspects (full case reports).

Indigenous status	n (%)
No	45 (76%)
Yes	11 (19%)
Not stated	3 (5%)
Total	**59 (100%)**

Child maltreatment and children with a disability

66. The full case reports also included information about whether a child had a history of child maltreatment or a disability. Nineteen cases (32%) included references to child maltreatment (see **Table 2**) and 11 cases (19%) included references to children with a diagnosed or suspected cognitive or sensory disability (see **Table 3**). Most of the children identified as having a cognitive disability were identified as neurodivergent, with conditions such as autism spectrum disorder, attention deficit hyperactivity disorder ('ADHD') or oppositional defiant disorder. In addition, one child was recorded as being deaf.

Table 2: References to child maltreatment (full case reports).

Child maltreatment referenced	n (%)
No	40 (67.8%)
Yes	19 (32.2%)
Total	**59 (100%)**

Table 3: References to children with a disability (full case reports).

Child disability referenced	n (%)
No	48 (81.46%)
Yes	11 (18.64%)
Total	**59 (100%)**

Domestic and family violence and history of abuse

67. In some cases, the use of force against the child happened in the context of a broader domestic violence incident.

68. A current domestic violence order was in place for the suspect in seven cases.[44] In six of these, the reported offence resulted in a breach of the conditions of the existing domestic violence order. Where a breach was recorded:

- In at least four cases, the suspect had a prior history of breaches. Two of these individuals had a documented pattern of 'frequent' breaches of domestic violence orders.
- Two cases involved an individual charged with breach of a current domestic violence order.

69. Our analysis also found that in over 47% of cases (n=28) there was a prior history of either:

- use of force against the child (n=24), or
- domestic and family violence (n=4).

Key findings

70. Our key findings are based on our analysis of **59 full case reports** and **structured interviews** with 9 CPIU officers. They enable us to answer our three research questions (see **Figure 6**).

Key finding 1

The defence of domestic discipline is relied on by QPS officers when deciding not to charge a parent for the use of force against a child

QPS consideration and application of s 280 in deciding not to charge

71. Analysis of the 59 full case reports demonstrates that QPS officers are considering and applying the s 280 defence of domestic discipline when deciding not to charge a parent in cases involving allegations of physical harm to a child. This is evidenced in the express consideration of s 280 in remarks made by QPS officers in the reports, and in case finalisation remarks that state that a case was 'solved' based on s 280 being a 'statutory bar preventing prosecution'. One example states:

> As per above, the matter appears to fall into the scope of s.280 Domestic discipline of the Criminal Code and there will be no chance of a successful prosecution.[45]

72. As outlined above, due to limitations with the data, we are not able to report how frequently police decided not to charge a parent.

73. Nevertheless, one CPIU officer noted that domestic discipline 'is right up front for all of us'.[46] The same officer also stated that 'you would find you could walk into this CPIU office with 52 investigators and ask about [section] 280, and they would tell you about [section] 280'.[47] Another CPIU officer stated that these officers take s 280 into consideration every time they investigate a physical assault of a child.[48]

74. The CPIU officers we interviewed demonstrated knowledge about the s 280 defence of domestic discipline. It was clear that they considered and applied s 280 routinely in triage and investigation of allegations of physical harm against children by parents, persons in place of a parent and teachers.

75. All CPIU officers we interviewed were able to identify and demonstrate a sound knowledge of the three elements of the defence, which are represented in **Figure 5.**

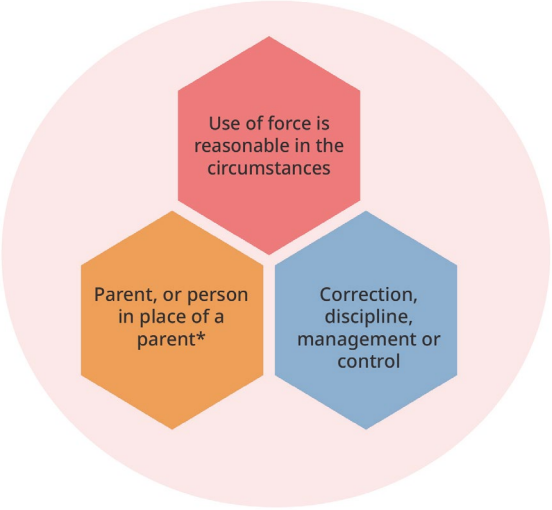


Figure 5: Elements of s 280

*schoolteachers and masters omitted

Key finding 2

When deciding not to charge a person based on s 280, QPS officers seek to justify their decision and senior officers provide oversight.

Discretion, decision justification and oversight

Exercise of discretion

76. Section 280 is considered by QPS officers when deciding whether to further investigate or charge. That decision is an exercise of police discretion within the requirement to consider the applicability of a possible defence before progressing a matter. This requirement is stated at paragraph 3.4.3 of the QPS Operational Procedures Manual and forms part of the 'sufficient evidence' test a QPS officer must use to evaluate the strength of a case.[49]

77. Factors QPS officers are considering when exercising this discretion are discussed below (see **Key finding 3**).

Decision justification

78. Our interviews with CPIU officers revealed that an investigator's decision not to charge due to the domestic discipline defence requires justification and oversight from senior officers.

79. The extent to which a QPS officer is required to justify the application of a defence in deciding not to charge is not clear from the QPS Operational Procedures Manual. Our interviews with CPIU officers demonstrated that these officers are aware of a need (and expectation) to justify their application of the s 280 defence.

80. One CPIU officer noted that it was 'important to articulate your rationale for action or inaction'.[50] Another officer explained that 'I no longer so much explain why I did something, I go to greater effort to explain why I didn't do something'.[51] Most officers we interviewed said

they would clearly explain in QPRIME if a notification or investigation did not progress to a criminal charge because of the domestic discipline defence.

81. Along with justifying their decisions internally, police may be challenged by the community as to why they have not proceeded with a charge. For this reason, one CPIU officer said, '[w]e want an accurate record of that as to what were the considerations for going through that process of, you know, not just gathering information, but also considering the defences. As to why we did a certain action or didn't do a certain action'.[52]

82. The CPIU officers we interviewed explained that if an investigator was unsure about whether to proceed with charges, they would be guided by a senior officer or the officer in charge of the CPIU.

Oversight

83. Officers explained that where a CPIU officer decided not to charge, including when considering the applicability of the s 280 defence, a sergeant or senior sergeant was required to oversee and file the matter. One officer also spoke about the matter being reviewed by the manager of the CIB.[53] The full case reports also provide evidence that this was the process followed. In one report, it was clear that the QPS officer completing the report did not consider the s 280 defence to apply because of their statement that the use of force against a child fell outside the scope of the defence (it was not considered reasonable in the circumstances).[54] Additional information in the report showed that the matter was finalised on the basis that s 280 applied after it was reviewed by an officer in charge of a CPIU.[55]

84. We identified three other cases where an initial assessment was made that the application of force appeared to exceed what was 'reasonable' under s 280. After these cases were reviewed by a senior officer, s 280 was applied to justify no charge.[56]

Key finding 3

QPS officers apply the s 280 defence in a range of circumstances and do so inconsistently. In considering and applying the defence, officers take into consideration the elements of the defence and broader public interest factors.

Circumstances relevant to exercise of discretion in decision-making

85. A recurring theme in our interviews with CPIU officers was the importance of assessing all the circumstances of each case, including the broader context, before deciding on a course of action.

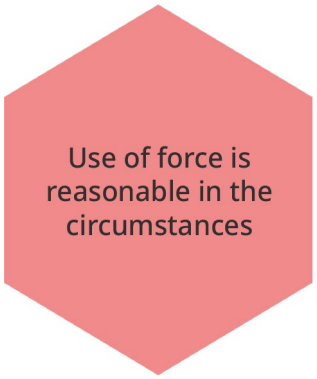
86. Many of the circumstances considered can be understood as elements of the s 280 defence (which goes towards an assessment of the 'sufficient evidence' test) and 'public interest' factors that QPS officers must consider when assessing whether the public interest will be served in pursuing a prosecution.[57]

87. For example, the types of circumstances QPS officers considered in their decision-making included the age of the child, child's relationship to the suspect, degree of force used, purpose of the use of force, use of an instrument, whether an injury was caused, any child maltreatment or disability and whether there is a context of domestic and family violence.

88. While community expectations may align with most of the circumstances in which QPS officers applied the defence, including where there was minimal use of force, no instrument used and no injury,[58] the defence was also applied in other circumstances. These included circumstances where:

- the incident type recorded indicated a more serious type of assault
- an instrument was used
- the use of force resulted in injury
- anger or frustration was used to justify the use of force
- the suspect was not a parent or person in place of a parent
- the child involved was less than 12 months old
- the child may have been suffering maltreatment
- there was a context of domestic and family violence, including where the child was a named person on a protection order.

More serious assaults and assessment of 'reasonableness'



89. Approximately 46% of cases we examined involved incidents recorded as more serious types of assault (other serious assaults, assaults occasioning bodily harm) (see **Appendix 3**).[59]

90. The QPS Operational Procedures Manual requires QPS officers to consider the seriousness of an alleged offence when assessing whether the public interest will be served in pursuing a prosecution.[60]

91. The s 280 defence requires the use of force against a child to be reasonable under the circumstances. In determining whether the use of force is 'reasonable', all the circumstances of a case must be considered. This assessment is not limited to a decision about whether the degree of force used is acceptable. Perhaps, for this reason, s 280 does not specify the degree of force that is acceptable.

92. In the absence of clear statutory or policy guidance, some CPIU officers cited the Victorian case, R v Terry,[61] as providing some guidance on the types of factors they should consider in assessing whether the use of force was reasonableness in the circumstances.[62] The full case reports also document several examples of QPS officers citing R v Terry when applying the defence.[63]

93. CPIU officers told us they consider a wide range of factors when assessing whether the use of force was reasonable under the circumstances, including injuries sustained by the child, the relationship between the suspect and child, use of an instrument, age of the child, cognitive ability of the child, child's conduct and family dynamics and history. Analysis of the full case reports shows that these factors are sometimes inconsistently or inadequately considered, as discussed further below.

94. While an assessment of reasonableness is an objective test, CPIU officers we interviewed pointed to the subjectivity that QPS officers may bring to their consideration of what is a reasonable use of force in the circumstances. One officer stated:

> we all have our experience of that and history of that and which sometimes forms our beliefs and understanding or what we believe is accepted and not....[64]

95. Another CPIU officer recounted their own personal experience of domestic discipline to reflect on changing community standards about what might be considered reasonable, stating:

> it's still a subjective element. You know, so and I like to sort of think that I separate my own experience as a child growing up in the 70s, disciplinary standards have changed somewhat. So, getting wrapped around the legs by a 4x2 is not appropriate anymore, for example. Whereas an open an open hand application of well below the neck is more broadly accepted.[65]

96. Both examples show that 'reasonableness' is being interpreted by some CPIU officers as what might be considered 'acceptable' to them personally, or what they consider to be acceptable within society more broadly.

97. The full case reports reflected differing views between QPS officers about what is considered 'reasonable'. In one case, the QPS officer advised a suspect that 'any strikes to the head or any discipline causing injuries were not appropriate'.[66] In another case, the QPS officer stated, 'hitting in the head area is not unreasonable in the event that it causes no injury' and relied on case law to note that the presence of bruising does not render the use of force unreasonable.

98. Section 280 is applied in cases where it is not clear that the use of force by a parent or person in place of a parent is reasonable under the circumstances. For example, in one case, s 280 was applied where a father kicked his eight-year-old son in the ribs while shouting verbal abuse. This included threats to kill his son's pet dog. QPS officers assessed that while the conduct was possibly inappropriate, it did not defeat the defence of domestic discipline.[67] In another case, a father used a belt to strike his two children after he believed one of them had been stealing from his coin jar and neither confessed. A domestic violence order was in place at the time. A QPS officer noted that, in their opinion, the conduct and subsequent injuries were excessive and could not reasonably be expected to constitute 'domestic discipline'. The defence under s 280 was ultimately applied.[68]

99. Consideration and application of s 280 does not appear to align with community expectations. Our research on community attitudes towards the domestic discipline defence indicates that community acceptance or tolerance of the use of physical punishment decreased as the level of force used increased.[69] Similarly, findings from our youth focus group show that youth advocates support a criminal justice intervention where physical punishment is perceived to be more harmful.[70]

Use of an instrument

100. An instrument was used in 36% of the cases we analysed (see **Appendix 3**).[71]

101. The full case reports indicated that QPS officers are considering the use of an instrument alongside all the circumstances of a case, including:

- the number of times a child was struck
- how hard they were struck with the instrument
- whether use of the instrument caused an injury and if so, the type of injury
- the conduct of the child.

102. Some initial assessment made and recorded in the reports by QPS officers indicated that the use of an instrument (causing injury) was considered not reasonable in the circumstances and outside the scope of s 280.[72] Ultimately, it was decided that s 280 applied.

103. One CPIU officer we interviewed cautioned against narrowing the s 280 defence to exclude the use of instruments, stating:

> I could have someone who doesn't use an implement but uses a fist or a hand and can cause more damage than what an implement could be. It's all about the level of force that's used and the reason it's used in the in the circumstance you know you can't just put a blanket rule.[73]

104. Our research on community attitudes to domestic discipline showed that participants were more likely to say a parent should be found guilty of assault if the perceived or potential harm to the child involved the use of an implement.[74]

Injury

105. The full case reports indicated that QPS officers considered injury to be a primary factor in assessing whether s 280 applied.

106. The observation of 'no injury' was frequently a factor in support of an assessment that the use of force was reasonable. The presence of injuries did not necessarily preclude the defence from applying, with injuries being documented in 42% of cases where the defence was applied (see **Appendix 3**).[75] The most common injury was bruising. In some instances, the child sustained an injury to the face or head (for example, bloody nose, black eyes, cuts, abrasions, cracked tooth).

107. Consideration of the association between the use of an instrument and injury caused by the instrument was also evident. In one case where a belt was used on a child, the matter did not result in charges because the child was hit once and the injury was small. In another case, a different QPS officer considered that the use of a belt to strike a child, causing injury, was excessive and beyond the scope of s 280. Ultimately, s 280 was applied and there was no charge after the case was reviewed by an officer in charge of the CPIU.[76] The quotes below demonstrate the different perspectives of the two investigating QPS officers who considered the use of a belt causing injury.

> 'While hitting a child with a belt is not ideal, the victim child was only hit once on his leg, causing a small bruise. This would still fit within the scope of domestic discipline'.[78]

> 'In my opinion the striking of the children with a belt and subsequent injuries is excessive and beyond what could reasonably be expected for any type of "domestic discipline"'.[77]

108. Our interviews with CPIU officers also provided insight into how injury might be considered alongside other factors to assess whether the use or force was reasonable in the circumstances. When presented with scenario 1 (see **Appendix 2**), one CPIU officer stated:

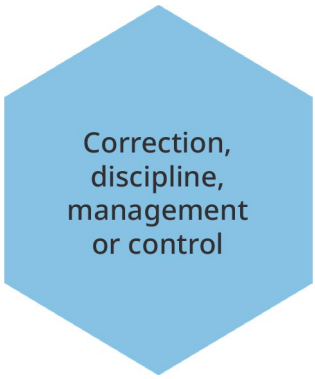
> The slap was not to the thigh, but to the face. Again, it depends on the level of force. If the slap was to the face and it knocked Vicky across the room. Yeah, it would be seriously looking at that, but also be looking at what injuries that she might have. Just because it's up to her face doesn't automatically make it more serious. However, it's, it's getting closer to the line, so I probably want to know a little bit a lot more about exactly what went on.[79]

109. Similarly to views expressed in relation to the use of an instrument, community attitudes research participants said they were more likely to consider a parent should be found guilty of assault if the perceived or potential harm to the child caused an injury.[80]

Child's conduct

110. When assessing reasonableness, CPIU officers said they consider the child's conduct and whether the use of force was proportionate to that conduct.[81] The full case reports show that conduct of a child was not considered consistently by QPS officers when applying s 280, with QPS officers tending to focus on the degree of force used.[82] The use of force against a child was deemed reasonable in circumstances where the child made a mistake or where age-appropriate behaviour was being displayed. For example, this included bed wetting,[83] playing a piece on the piano incorrectly[84] and a 16-year-old getting a nose piercing.[85]

Purpose of the use of force



111. The s 280 defence requires that the use of force against a child is for a particular purpose — correction, discipline, management or control. These purposes are not defined in legislation. Historically, the common law recognised that actions arising out of 'spite, rage, fury, anger or ill-will' could not be covered by a defence of domestic discipline.[86]

112. In almost half of the cases we examined, the use of force was framed as a form of behavioural control, with reports citing 'correction', 'discipline', or 'discipline/punishment' as the purpose for the use of force. 'Anger' or 'frustration' were commonly cited alongside these purposes in the full case reports (see **Appendix 3**).

113. These reports show there are emotional drivers behind allegations of use of force against a child. The purpose for the use of force can be complex and multifaceted, often lacking a singular reason for its application.

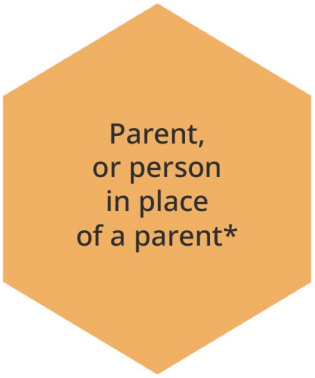
114. QPS officers also applied the s 280 defence in cases where there was no clear purpose for the use of force except anger or frustration. In almost a quarter of the cases we analysed, no purpose for the use of force was stated other than anger or frustration (see **Appendix 3**).

115. Our interviews with CPIU officers revealed that officers are not always clear on the meaning of each purpose. It was not clear from the interviews that all officers understood the types of conduct captured under each allowable purpose. A few officers commented that they used an internet search or dictionary to look up the definition of each purpose.[87] One officer said:

> they've all got very, very similar definitions .... But I think you know, they just they just mean the same kind of thing.[88]

116. In general, the CPIU officers grouped together 'discipline' and 'correction' for domestic discipline incidents and 'management' and 'control' for parenting that may have involved some physical restraint of a child.

Suspect not a parent or person in place of a parent



117. Section 280 applies to a 'parent or a person in the place of a parent' (or to a schoolteacher or master).

118. Most of the cases we examined involved instances where a parent had used force against a child. The defence was applied by QPS officers in a few circumstances where the person who used force against a child was not clearly a parent or person in place of a parent. For example, this included a care worker and grandparent. There were also cases where the suspect was a step-parent (see **Appendix 3**).

119. Our interviews with CPIU officers reflected an ad hoc approach in deciding who may be a 'person in the place of a parent'. Some officers examined whether the parent had delegated responsibility to a person acting in their place. For example, one officer suggested a need for 'some sort of evidence of a transfer of caregiving responsibilities to that person' or 'some clear acknowledgement' of that delegation.[89]

120. In exercising their discretion to apply s 280, some CPIU officers said they took into consideration practices that were customary or accepted by certain cultural groups and different family dynamics.[90] One officer said:

> First Nations is always difficult because you've got the extended, you know, so cousin, brother, auntie, whatever else, it probably looks. We probably look at it more from the perspective of it is that person in a position where the use of that punishment is legally defensible, like if it. If it's an auntie, it gives a kid a smack on the backside.[91]

121. Another officer said:

> You need to look at the whole picture. You need to have that understanding about what, how this family functions, what you know, what was the actual situation and what's the history behind it.[92]

122. With limited guidance on how they might understand who is a 'person in the place of a parent', another officer said they considered the 'circumstances and whether or not it's defensible because of that actual relationship'.[93]

Child involved under 12 months old

123. The QPS Operational Procedures Manual requires QPS officers to consider the age of a victim when assessing whether the public interest will be served in pursuing a prosecution.[94]

124. The CPIU officers we interviewed indicated that they consider the age of the child when assessing whether to apply the s 280 defence. They did not elaborate on their consideration of this factor, other than noting it as a factor considered in relation to whether the use of force was reasonable in the circumstances. One CPIU officer stated, 'baby shakes are never, never considered for domestic discipline'.[95]

125. When analysing the full case reports, we found that one case finalised under s 280 involved a one-week-old infant as the victim.[96] The victim's mother initially advised police that the victim's father had picked up the victim under the arms and shaken her, roughly, three times to stop her from crying. QPS officers noted concern about the potential for shaken baby syndrome and advised the victim's mother to have the victim assessed by a paediatrician. In response to this initial report by the victim's mother, QPS officers took out a police protection notice, noting the victim as a named person with mandatory conditions. The report later references

the infant being assessed by a general practitioner, with the finding of no injury. The report noted that the victim's mother revised her statement to police as a very minor quick shake that did not cause the victim any injury. The report recorded that the victim's father was not charged due to s 280 on the basis that the victim had not sustained any injuries.[97]

Child maltreatment

126. Almost one-third of cases we analysed referred to child maltreatment. This means that QPS officers were applying s 280 and not charging where there was a backdrop of child neglect, and/or physical, sexual or emotional abuse.

127. This may indicate that QPS officers are considering the use of force against a child by a parent or person in place of a parent in isolation and not in the context of other types of abusive behaviour, resulting in serious cases of ongoing abuse being dismissed by police. It may also indicate that physical abuse of children is being hidden by the application of the domestic discipline defence, which is a concern raised by the Child Death Review Board.[98]

128. There was no indication from the reports we analysed that any potential cumulative harm to children, from the use of force against a child and known maltreatment, was being considered by QPS officers as a factor towards the application of the s 280 defence. We did not ask the CPIU officers we interviewed about this issue as it came to light through the full case reports we obtained after conducting the interviews. Given this gap in knowledge and the gravity of the potential harm to children, research into the cumulative harm to children from domestic discipline and maltreatment is warranted.

Context of domestic and family violence

129. The cases we analysed showed that the defence of domestic discipline is being considered in cases where there is a history of domestic violence and abuse, including cases where there is a current domestic violence order in place[99] and where the incident took place as part of a larger domestic violence incident.[100] In some cases, suspects had a history of breaching domestic violence orders[101] and children were named persons on the order.[102] Crucially, children cannot take out a domestic violence order against a parent or adult generally. They can only be a named person.

130. In two of the cases we examined, the suspect was charged for breach of a domestic violence order[103] but not for assault of a child.

131. Further research is needed on the intersection of domestic discipline and domestic and family violence to explore whether the availability of the domestic discipline defence is contributing to systemic use of violence in a domestic and family context.

Key finding 4

The availability of the s 280 defence enables CPIU officers to not charge a parent and also to consider diversionary options as an alternative.

Alternative responses to charging

Cautions and referral to support services

132. The QPS Operational Procedures Manual requires QPS officers to consider the appropriateness, availability and effectiveness of alternatives to prosecution (for example, diversion) when assessing whether the public interest will be served in pursuing a prosecution.[104]

133. CPIU officers identified that in some regions, there is a growing trend towards the use of diversionary options for low-level domestic matters that are not charged based on s 280. One officer said that these options appear to work best for 'matters that just aren't black and white'.[105]

134. Another officer outlined how police may use cautioning:

> We'd start off with an adult caution where we caution the parent. That then enables us to actually have a conversation with them, give them some fairly firm advice in relation to their conduct moving forward and what the consequences are happening again. Because if we get a second occurrence, then we'll have no issues about charging. So, you've been given an opportunity before. You haven't ameliorated your behaviours. You've done it again. We're going to prosecute you.[106]

135. This officer considered cautions an effective deterrent given that he and other officers rarely saw a return of people following a caution (approximately 3–4% of people cautioned).[107] He noted that recent amendments to the QPS Operational Procedures Manual had expanded the use of adult cautioning.[108] The officer explained that adult cautions do not require any admissions or consent on the part of the defendant.[109]

136. Additionally, interviews revealed the importance of inter-agency collaboration. The CPIU officers we interviewed often referred families to external support services to address underlying issues that may contribute to isolated incidents of domestic discipline. This finding was reflected in cases we analysed which showed that QPS officers were making referrals to support services in 37% of instances.

137. Based on our interviews with CPIU officers, it appears that cautions and other diversionary options are not used consistently throughout Queensland. In relation to the use of diversionary options, a CPIU officer from a different region stated, 'we either charge them or we don't'.[110]

Motivations for using alternative responses to charging

138. Our interviews with CPIU officers also provided insight into the rationale for cautioning instead of charging. Officers considered the potential trauma and distress that prosecution may cause a family, especially the child. One officer stated that charging a parent was 'going to affect the ongoing balance within that family and those relationships without a doubt'.[111]

139. The CPIU officers we interviewed were aware of the impact of the criminal justice system on communities, particularly Aboriginal peoples and Torres Strait Islander peoples and their

communities. One officer said, ‘we know that [I]ndigenous communities already feel marginalised and they already feel that we're too intrusive’.[112]

Next steps

140. The terms of reference for our review of defences and excuses in the Criminal Code ask us to make recommendations on whether there is a need for reform of the law, practices or procedures relating to the defence of domestic discipline in s 280 of the Criminal Code. We will consider our research findings in developing any recommendations to reform the law or practices and procedures related to the defence of domestic discipline.

141. We are continuing to work with QPS to obtain further data that clarifies the prevalence of the use of the s 280 defence by QPS officers in deciding not to charge, in the broader context of alleged assaults that are reported. In developing our recommendations, we will consider any further data obtained from QPS, further information obtained through consultations and submissions and information derived from other sources noted in the introduction.

Appendix 1

Research method and limitations

QPRIME data

1. All reports made to QPS (including all 000 calls to a Policelink operator and in-person reports) are recorded in QPRIME. While QPRIME was originally intended as a tasking system, it has become a general purpose database for managing matters.
2. When a report is made about an incident, it is logged in QPRIME where it receives an 'occurrence' number. The initial data recorded in QPRIME about an incident is typically the:
    - **'modus operandi'**: the initial report recorded by a Policelink operator or an officer, and
    - **general report**: a summary of the initial actions taken by officers.
3. We obtained a spreadsheet from QPS with 571 initial QPRIME incidents. The reports for each incident were free text entries made by QPS officers. Key details such as the relationship between the suspect and victim, nature of injuries and context surrounding the offending were not always provided.
4. Any steps taken by officers in relation to an incident are typically recorded as supplementary reports and added to the initial QPRIME incident.
5. If formal charges are laid and a matter proceeds to prosecution, a case file will be created. A single case file may be linked to multiple incidents as there may have been multiple reports relating to the same incident or related incidents.

Full case reports

6. A full case report contains all information logged in QPRIME in relation to an occurrence number. This includes the modus operandi and general report, as well as supplementary reports outlining any other steps taken by officers in relation to an incident. These supplementary reports can include summaries of statements from the suspect, victim and any relevant witnesses and information received from other agencies such as Child Safety.
7. Where a QPRIME incident is finalised as 'bar to prosecution', a supplementary report is added, outlining why the matter has been finalised in this manner.

Coding and analysis of QPS data

8. Our analysis of data obtained from QPS involved:
    - quantitative and qualitative analysis of 571 initial QPRIME incidents
    - quantitative and qualitative analysis of 69 full case reports (sampled from the 571 initial QPRIME incidents).
9. Data was coded and analysed using NVivo 14 Software. NVivo's case classification facility was used to review the QPRIME data and full case reports. A set of codes was developed to support content analysis of the QPRIME data and full case reports. For the initial QPRIME incidents, we coded descriptive information for each case, including the offence type and conduct, gender

and age of the suspect and child, the relationship between the suspect and child, the reason for the use of force and the types of injuries sustained by the child. For the full case reports, we also coded additional information, including evidence of a history of child maltreatment, disability status of the child, and whether the child was afraid the suspect. We then used NVivo to conduct a qualitative analysis of the cases represented in the data. We also coded quotes from the data (free text) that provided insights about the understanding and use of s 280 by QPS officers.

Limitations of QPS data

10. The original QPRIME data set consists of 571 incidents taking place between January 2021 and December 2024, which identify child assaults occurring within the family that were not progressed to prosecution (not charged) after QPS officers considered the s 280 defence of domestic discipline.

11. Only a small number of incidents (n=24, 4%) explicitly recorded that the s 280 defence provided a bar to prosecution. In the remaining cases, domestic discipline may have been considered alongside other factors such as insufficient evidence or other possible defences. For this reason, there was a reliance on the Section 10.2 Authority, issued by the Assistant Commissioner, Crime and Intelligence Command, to presume that all 571 incidents in the QPRIME data set related to QPS officer consideration of the operation of s 280.

12. In a preliminary review of the QPRIME data, we identified that information relating to the circumstance of the incident type was missing for 22% (n=128) of incidents. This was either because no report was provided (n=97, 16%) or the matter was finalised as a domestic violence incident (n=31, 5%).[113] To ensure consistency in the data set and avoid bias due to missing information, we excluded these 128 incidents.

13. The final analytical sample consisted of 443 incidents involving allegations of physical harm to a child. The findings presented in this report are based on this sample.

14. We identified some 'red flags' (for example, matters that involved allegations of grievous bodily harm) which led us to ask whether all incidents were finalised under s 280. As a result, we requested full case reports for a sample of 69 incidents.[114]

15. Our analysis of the 69 full case reports showed that 10 incidents were finalised after consideration and application of another defence, or for another reason.[115] This included the two cases that involved an allegation of grievous bodily harm. This left us with 59 full case reports where s 280 was considered or applied in circumstances that related to our research.[116]

16. These anomalies reflect the operational and administrative nature of the data recorded in QPRIME and justify our approach to focus our analysis on the 59 full case reports. Demographic insights from this sample should be interpreted with caution, as the sample is limited.

17. There was insufficient detail in the QPRIME data, when examined alone, to gain insight into QPS officer consideration of the s 280 defence in deciding whether to charge. To gain a holistic understanding of how QPS officers consider the s 280 defence, we also conducted structured interviews with CPIU officers.

Coding and analysis of structured interviews with CPIU officers

18. We analysed the transcriptions of the interviews with CPIU officers.

19. We used the case classification function in NVivo to record demographic information about each participant. Information such as gender, role description, rank and QPS district and region was classified.

20. The case classification function in NVivo was further used to code responses to the hypothetical scenarios and the associated variances, allowing a quantitative analysis of responses. A set of codes (codebook) was developed based on the interview questions, enabling a content analysis of interview transcripts. Additional codes identified through the coding process were added to the codebook. NVivo was then used to analyse and produce qualitative insights from the interview data.

21. We draw out these qualitative insights in the key findings section of the report.

Limitations of interview data

22. Findings we present can only be attributed to the practices of the CPIU officers we interviewed. The officers interviewed have specialist training and experience in investigating matters that are specific to youth victimisation and youth offending. Findings cannot be generalised to the knowledge or use of the s 280 defence by general duty officers.

23. While the CPIU officers we interviewed are engaging, soundly, with the defence of domestic discipline as a tool to guide their decision-making on whether to charge a person with a crime, this engagement should be considered alongside other factors. In the interviews, we did not ask CPIU officers what other policies and procedures guided their decision-making. For example, we did not ask whether they consider guidance in the QPS Operational Procedures Manual. Caution needs to be taken in drawing conclusions that the s 280 defence is the primary consideration in their decision-making about whether to charge.

24. Our sample did not capture all QPS regions of operation. This means certain regional practices may be missing from our data.

Appendix 2

Structured interviews with CPIU officers – interview questions and hypothetical scenarios

Q1 Under section 280 of the Criminal Code Queensland, it is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, discipline, management or control, towards a child or pupil, under the person's care such force as is reasonable under the circumstances.

In your own words, how would you explain this defence?

Q2 What sort of people have you thought the defence might apply to (parent, teacher, other – eg, babysitter, parent's friend, aunt/uncle, sibling)? What do you understand by a person in the place of a parent? Are cultural considerations relevant in determining who could be a 'person in the place of a parent'? If yes, what are those cultural considerations and how are they relevant?

Q3 How would you describe what conduct is captured by each of:

- Correction
- Discipline
- Management
- Control

[If further prompting is required – ask them perhaps to provide examples of cases that they can think of that would fall under each of the categories]

Investigations

Q4 We understand that, generally, child harm criminal investigations fall into the broad categories of:

- sexual abuse
- physical abuse, and
- serious neglect where there is a suspected criminal offence.

In your experience, in which of these broad categories of child harm would this defence generally be raised?

Q5 In your experience, how do these types of matters come to the attention of police for investigation?

[Examples might include Contact/information received from school teachers or principals, family members of the child, other community members, Child Safety notification, SCAN referral, other mandatory reporters such as medical professionals – doctor/nurse or a child advocate under the Public Guardian Act]

Q6 How would you usually conduct a criminal investigation into child harm?

[For example, who is spoken to, what information is gathered, do police photograph injuries, does SCAN play a role]

Q7 Would you always speak to the victim child about the alleged harm? Why/why not? If you speak to the victim child, do you always obtain a section 93A statement from the child? Why/why not?

Q8 In what circumstances would you seek to have the child medically examined (eg, what type of injuries)?

Charging

Q9 What consideration do you give to potential defences in deciding whether to charge a suspect?

Q10 What consideration have you given to this defence in deciding whether to charge a suspect?

Q11 If you have considered the defence in deciding whether to charge, have you considered whether any application of force to the child was reasonable? If yes, what sort of factors do you take into account in deciding whether the application of force to a child was/was not reasonable?

[Examples might include the age of the child, the use of implements, the presence of visible injuries]

Q12 Have you ever considered whether there are cultural differences as to the use of force on children (for discipline etc)? Has this ever impacted on your decision to charge or not charge?

Q13 Have you ever decided not to charge any offence (or decided to charge a different offence) because of the existence of this defence? Why/why not?

Q14 Do you think there are particular offences to which this defence cannot/should not apply?

Q15 Can you tell us about any experience of charging teachers with offences that could involve this defence?

Q16 When deciding not to proceed with a charge, would you state in the QPRIME occurrence that the suspect had the defence of domestic discipline?

[QPS OPM Chapter 7 Child Harm - Appendix 7.2 Sample wording for QPRIME occurrence provides sample wording when a prosecution is not commenced]

Q17 Do you consider alternatives to charging suspects in these matters? If so, what types of alternatives have you used and what factors impacted your decision to proceed this way?

[Examples of alternatives may include cautioning, referral to Adult Restorative Justice Conferencing, referral to educational programs, such as parenting programs.]

Q18 Are you aware of any particular policy/practice within the QPS generally or within any particular area/region/station that impacts on when or whether you will/will not proceed with a charge to which this defence may apply?

Hypothetical scenarios

Scenario 1:

Vicky is 11 years old and lives with her Mum and Dad. One of the rules in Vicky's family is that kids cannot have their mobile phones in their bedroom after 8 p.m. One evening, Vicky was in her room watching a video on her phone – she has been doing this a lot lately, despite her parents repeated requests not to. At 8 p.m. Vicky's parents told her to hand over the phone. Vicky refused and swore at them. To punish Vicky, Dora, Vicky's mum, slapped Vicky once on the thigh.

Q19 Would you charge Dora? Why/why not?

Q20 Would it make any difference to your decision to charge Dora (and why/why not) if:

- the slap to the thigh caused a bruise

- the slap was not to the thigh but to the face
- the punishment involved hitting Vicky on the thigh with a wooden spoon
- Vicky had been previously diagnosed with ADHD
- Vicky was an older child (say 16 years)
- Vicky was a much younger child (say under 2 years)
- Instead of doing anything to punish Vicky, Dora grabbed Vicky's hand tightly and removed the phone

Scenario 2

Vicky is 11-years old and is in year 5 at school. Vicky's school has a rule that students must not use their mobile phones during class. During class one day, Vicky was holding her phone and watching a video which was distracting the whole class. Vicky ignored the teacher who continually asked her to put the phone away. Vicky swore at the teacher. To control the situation, the teacher grabbed Vicky's hand tightly to remove the phone and put the phone out of reach.

Q21 Would you charge the teacher? Why/why not?

Prosecution

Q22 Can you tell us about any experience as an arresting officer where, once charged, offence/s have been discontinued or amended on the basis of domestic discipline?

Q23 Can you tell us about any matters that you are aware of where domestic discipline has been raised by a defendant at a trial? What was the relationship involved (ie, parent, teacher, other)? Was the defence successful? Why/why not?

Observations

Q24 Have you noticed any patterns/or is there anything else you want to mention about these types of matters (eg, about the age of the victim child, the relationship between the suspect and the child, the nature of the conduct alleged, the charges that are laid)?

Appendix 3

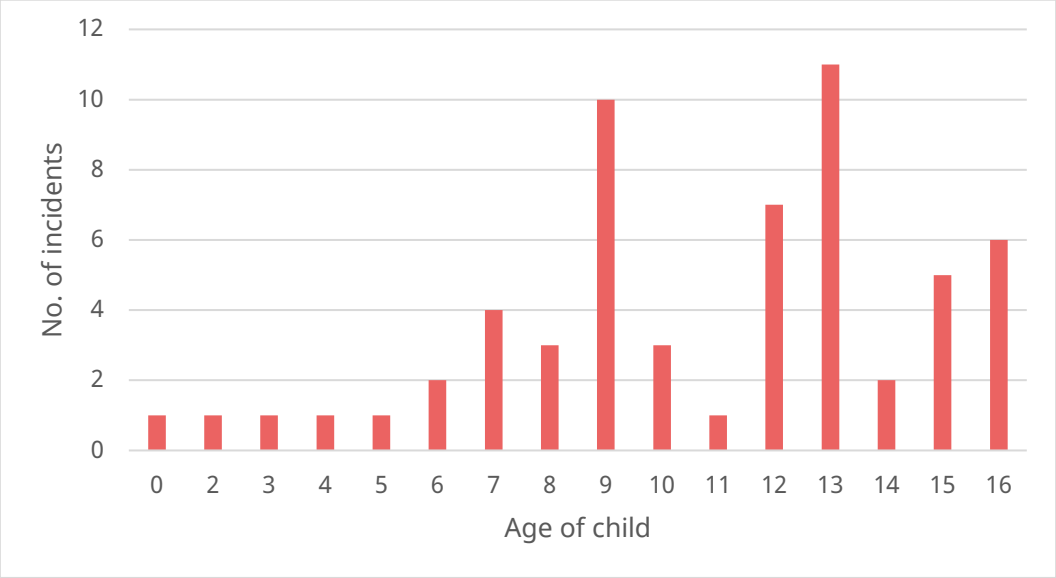
Additional data from full case reports

1. We obtained full case reports from QPS to provide us with a more detailed picture of how police are applying s 280. The data analysed and presented below is drawn from 59 full case reports obtained from QPS. In **Appendix 1,** we explain why and how we refined this data set from 69 down to 59 full case reports. Our analysis of the 59 full case reports is relied upon, in conjunction with data from our structured interviews with CPIU officers, in our discussion of **key findings**.

Age and gender of the suspect and child

2. Our analysis of the 59 full case reports showed that the average age of suspects was 40 years, with ages ranging from 24 to 73 years. The average age of the children was approximately 11 years, being slightly higher than the QPRIME data. One case involved a one-week-old infant (see **Figure 6**). The full case reports revealed that a second case recorded in the QPRIME data, which involved an infant, was not finalised after consideration of s 280. Instead, the suspect was charged for the offence of cruelty to children under the age of 16.

Figure 6: Age of child (full case reports).



3. Thirty incidents involved teenagers aged 13–17 years, nine incidents involving teenagers aged 16–17 years.

4. Of the suspects, 40 were male and 29 were female. In contrast, among the children involved, gender distribution was the reverse, with 39 being female and 29 being male.[117]

Relationship between suspect and child

5. Together, fathers (n=35) and mothers (n=26) made up over 88% of suspects. Persons other than parents were also recorded as a suspect (see **Table 1**).

Table 1: Child-suspect relationship (full case reports).

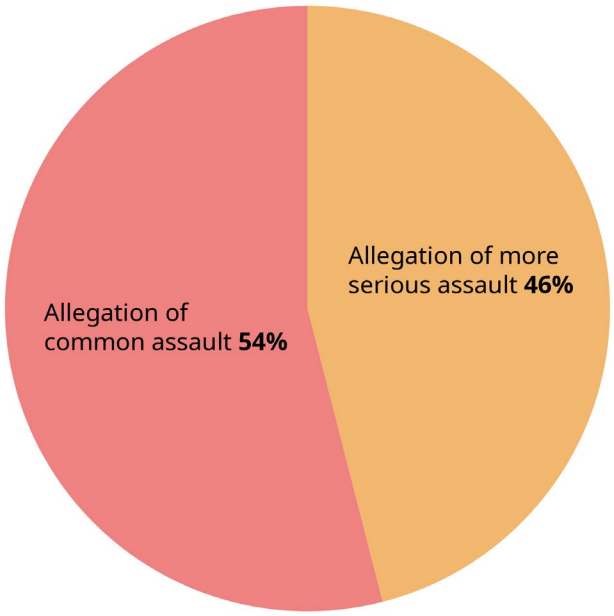
Relationship to child	n (%)
Care worker	1 (1.69%)
Father	30 (50.85%)
Foster mother	1 (1.69%)
Grandfather	1 (1.69%)
Mother	25 (42.37%)
Stepmother	1 (1.69%)
Total	**59 (100%)**

Types of conduct

6. Analysis of the 59 full case reports showed that:

- 32 incidents were recorded as the incident type 'common assault'
- 25 incidents were recorded as the incident type 'assault occasioning bodily harm'
- 2 incidents were recorded as the incident type 'other serious assault' (see **Figure 7**).

Figure 7: Gravity of conduct (full case reports).



7. This distribution generally reflects the results of our analysis of initial QPRIME data. When we reviewed the full case reports, we identified that information contained in the QPRIME data set did not always align with these more complete records. The full case reports for the two incidents initially recorded as grievous bodily harm in the QPRIME data showed that although the matters were finalised on the basis of a bar to prosecution, they were not concluded due to the application of the s 280 defence.

Use of instruments

8. Our analysis found that 31 incidents did not involve use of an instrument or weapon. Instead, the use of force against a child was carried out using bodily force. Hands, used in 22 of the 59 incidents, and fists, used in 6 of the 59 incidents, were the primary modes. In two incidents, hands were used in combination with either fists or feet.

9. In 21 incidents, an instrument was used to inflict harm. The most commonly used instrument was a broom, followed by a belt. Other items used included a power cord, rolling pin, wooden spoon, thongs and sticks. Condiments such as pepper and chili sauce were used in some cases to cause pain or discomfort.

Injuries

10. Injuries were documented in over 42% (n=25) of full case reports. The most frequently recorded injury was bruising, which appeared in approximately 34% of all cases. Bruising was often accompanied by other injuries, including scratches and welts. Injuries to the face or head, such as a bloody nose, black eyes, cuts, or abrasions to the face and, in one instance, a cracked tooth, accounted for almost 7% of cases. An additional case involved a burn. There were instances where facial injuries occurred alongside bruising.

11. No injury, or no visible injury, was documented in over 57% (n=34) of cases. We identified:

    - 7 cases where QPS officers noted that no injuries were observed.
    - 27 cases where the term ‘no visible injury’ was used by QPS officers. This classification referred to situations where the attending police officer did not observe any visible signs of injury and no further medical assessment of the child was conducted.

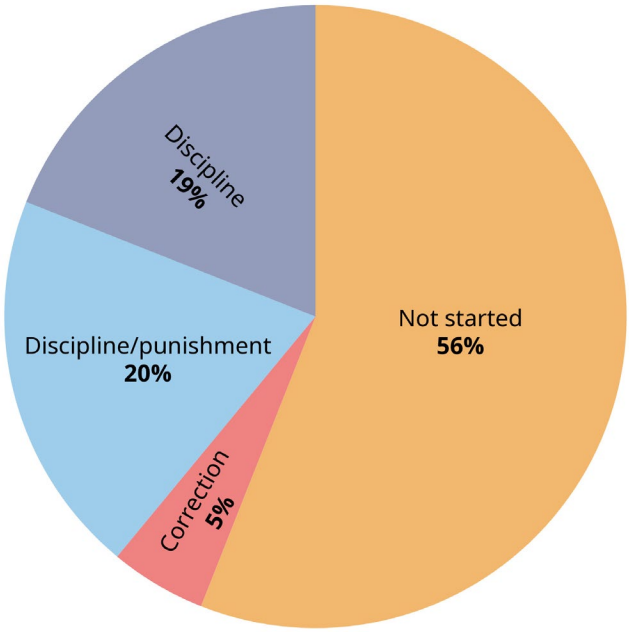
12. The distinction between ‘no injury’ and ‘no visible injury’ is important, as the latter may still involve harm that is not apparent or was not investigated further.

13. Consideration of injury by QPS officers, as documented in the full case reports, was a primary factor taken into account in assessing whether s 280 might apply.

Purpose of the use of force

14. Where a purpose for the force was recorded, the most common justification was ‘discipline/punishment’, followed by ‘discipline’ and ‘correction’. This suggests that in nearly 44% of cases, the use of force was framed as a form of behavioural control (see **Figure 8**). No purpose was recorded in over half of the 59 full case reports (56%, n=33).

Figure 8: Stated purpose for the use of force (full case reports).



15. As well as recording the purpose, some QPS officers recorded what might be described as a motivation for the use of force. We examined whether the use of force was motivated by anger and/or frustration and found that:

- 31 cases stated anger and/or frustration as a motivating factor (or purpose) for the use of physical force.
- In 15 cases, anger and/or frustration could be reasonably inferred from the context and descriptions written by QPS officers in the full case reports.

16. Anger and/or frustration was recorded in 46 of the full case reports. In one, it was noted that the child involved had stated that 'her father was angry at one of the other children and he hit her because she was standing close by'.[118] No other explanation for the use of force was provided in this report.

17. Qualitative analysis of the full case reports indicates that in some instances, the use of force may have been initially intended for discipline and escalated into an expression of anger or frustration. This is distinct from other incidents which started with anger or frustration.

References

1 Criminal Code (Qld) ss 245–246.

2 A complete defence entitles the person to be found not guilty (acquitted) of the charge.

3 Criminal Code (Qld) s 280.

4 Committee on the Rights of the Child, General Comment No 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts 19; 28, para 2; and 37, inter alia), UN Doc No RCR/C/GC/8* (2 March 2007, 42nd sess) [11] 4. In its assessments of Australia's response to its obligations under the Convention on the Rights of the Child, the Committee has consistently recommended and urged Australia to prohibit corporal punishment in all settings, including in the home and in schools, and repeal the defence of domestic discipline ('reasonable chastisement'). See, for example, Committee on the Rights of the Child, Second and third periodic reports of Australia: Concluding observations, UN Doc No CRC/C/15/Add.268 (20 October 2005, 40th sess) [36] 7; Committee on the Rights of the Child, Fifth and sixth periodic reports of Australia: Concluding observations, UN Doc No CRC/C/AUS/CO/5-6 (1 November 2019, 82nd sess) [28] 7.

5 Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990); Committee on the Rights of the Child, General Comment No 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts 19; 28, para 2; and 37, inter alia), UN Doc No RCR/C/GC/8* (2 March 2007, 42nd sess) [2] 3.

6 Human Rights Act 2019 (Qld) s 26(2).

7 See, Anja Heilmann et al, 'Physical punishment and child outcomes: a narrative review of prospective studies' (2021) 398(10,297) The Lancet 355; E. T. Gershoff et al, 'The strength of the causal evidence against physical punishment of children and its implications for parents, psychologists, and policymakers' (2018) 73(5) American Psychologist 626; Elizabeth T Gershoff and Andrew Grogan-Kaylor, 'Spanking and Child Outcomes: Old Controversies and New Meta-Analyses' (2016) 30(4) Journal of Family Psychology 453.

8 See, Australian Institute of Family Studies, Australian Government, Physical punishment legislation (CFCA Resource sheet, August 2021) 3 <https://aifs.gov.au/sites/default/files/publication-documents/2107_physical_punishment_resource_sheet_0.pdf>.

9 Crimes Act 1900 (NSW) s 61AA; Criminal Code Act 1983 (NT) sch 1 ('Criminal Code of the Northern Territory of Australia') s 11.

10 Divna Haslam, et al, 'The prevalence of corporal punishment in Australia: Findings from a nationally representative survey' (2024) 59(3) Australian Journal of Social Issues 580, 580.

11 Child Death Review Board, Annual Report 2023-2024 (Report, 31 October 2024) 113.

12 Child Death Review Board, Annual Report 2023-2024 (Report, 31 October 2024) 113.

13 Queensland Law Reform Commission, Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report 1, November 2024) xv.

14 Queensland Family and Child Commission and Divna Haslam, Corporal Punishment (Research Review, February 2025) 4–5.

15 Further insights from our round table discussion with nine youth advocates in Queensland will be published in our forthcoming background paper summarising what we heard through submissions and consultations.

16 Our background paper summarising what we heard through submissions and consultations is forthcoming. Submissions made to the Commission can be found at: https://www.qlrc.qld.gov.au/reviews/review-of-particular-criminal-defences/submissions.

17 R v Terry [1955] VLR 114.

18 White v Weller; Ex parte White [1959] Qd R 192 at 196, 198–9.

19 The words 'discipline, management or control' were inserted by the Criminal Law Amendment Act 1997 (Qld) s 43. The term 'correction' was considered by the Queensland Court of Appeal to extend to directing and leading children in a certain direction: Horan v Ferguson [1995] 2 Qd R 490 at 499–501.

20 R v Terry [1955] VLR 114.

21 R v H; Ex parte Attorney-General [2001] QCA 174, [6]–[7].

22 In Canada, the Supreme Court has found that the equivalent defence only applies to 'sober, reasoned uses of force that address the actual behaviour of the child and are designed to restrain, control or express some symbolic disapproval of his or her behaviour': Canadian Foundation for Children, Youth and the Law v Canada (Attorney General) [2004] 1 SCR 76, [24].

23 Department of Justice and Attorney-General (Qld), Summary of Review of Section 280 of the Criminal Code (Review, November 2008) 4.

24 Department of Justice and Attorney-General (Qld), Summary of Review of section 280 of the Criminal Code (Review, November 2008) 1–2.

25 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 635 [7.3.1].

26 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 635 [7.3.1].

27 In addition to standard detective training and other compulsory courses, CPIU officers undertake a CPIU workshop comprised of two weeks of academy training focused on child protection matters and juvenile justice, one week of ICARE training focused on obtaining statements from child witnesses, two weeks of specialist training focused on sexual based offences and providing a victim-centred response, training on administering cautions to juvenile offenders, and three days of DFTIC training focused on specialist computer-based offences.

28 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 635 [7.3.1].

29 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 638 [7.3.3].

30 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 638 [7.3.3].

31 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 635 [7.3.1].

32 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 635 [7.3.1]. 'Serious concerns for a child's wellbeing' is defined as 'concerns that do not amount to "significant child harm" requiring the CSSD intervention but a member earnestly and sincerely requires a community-based support agency having contact with a family to offer support to address the serious concerns identified': Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 633 [7.1].

33 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 635–6 [7.3.1]. 'Significant child harm' equates to 'a child in need of care and protection by the DFSDSCS': Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 633 [7.1].

34 The relevant family and child connect agency will depend on the family's background and needs. For example, the Aboriginal and Torres Strait Islander Family Wellbeing Service will likely be best suited to Aboriginal and Torres Strait Islander clients. Families which require more serious intervention would be more suited to Intensive Family Wellbeing.

35 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 638–40 [7.4.3]–[7.3.9].

36 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 376–7 [3.4.3].

37 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 376 [3.4.3].

38 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 369 [3.1.1].

39 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 376–7 [3.4.3].

40 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 369–75 [3.2]–[3.3].

41 The disclosure of data by QPS was authorised pursuant to the Police Service Administration Act 1990 (Qld) s 10.2; Letter from Brian Connors to Queensland Law Reform Commission, 24 January 2025.

42 The disclosure of data by QPS was authorised pursuant to the Police Service Administration Act 1990 (Qld) s 10.2; Letter from Brian Connors to Queensland Law Reform Commission, 8 April 2025; Letter from Brian Connors to Queensland Law Reform Commission, 14 May 2025.

43 Analysis conduct on the full sample of 571 incidents yielded the same distribution of offence types.

44 For information about domestic violence orders, see: 'Domestic Violence Orders', Queensland Government (Web Page, 17 January 2018) <https://www.qld.gov.au/law/crime-and-police/abuse-family-matters-and-protection-orders/domestic-violence-orders>.

45 Case-282.

46 CPIU-2.

47 CPIU-2.

48 CPIU-1.

49 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 376 [3.4.3].

50 CPIU-3.

51 CPIU-8.

52 CPIU-4.

53 CPIU-1.

54 Case-007.

55 Case-007.

56 Case-006; Case-189; Case-392.

57 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 376–7 [3.4.3].

58 Queensland Law Reform Commission, Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report, November 2024) xvii.

59 Analysis of the QPRIME data revealed a similar finding — that in 40% of cases where s 280 was applied, the matter involved a more serious allegation of assault.

60 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 376 [3.4.3].

61 R v Terry [1955] VLR 114.

62 CPIU-2; CPIU-5; CPIU-8.

63 Case-011; Case-037; Case-101; Case-392.

64 CPIU-4.

65 CPIU-8.

66 Case-034.

67 Case-006.

68 Case-007.

69 Queensland Law Reform Commission, Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report, November 2024) xii, xvii.

70 Further insights from our roundtable discussion with nine youth advocates in Queensland will be published in our forthcoming background paper summarising what we heard through submissions and consultations.

71 Analysis of the QPRIME data revealed an instrument or object was used in approximately 24% of the initial reports.

72 Case-007; Case-006; Case-189; Case-392.
73 CPIU-4.
74 Queensland Law Reform Commission, Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report, November 2024) xii, xvii.
75 This was similar to our finding with the QPRIME data, where injuries were documented in over 46% of the initial reports.
76 Case-007.
77 Case-007.
78 Case-070.
79 CPIU-4.
80 Queensland Law Reform Commission, Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report, November 2024) xii, xvii.
81 CPIU-3; CPIU-4; CPIU-7.
82 Case-006; Case-010; Case-021; Case-221.
83 Case-392.
84 Case-561.
85 Case-036.
86 See, for example, R v Terry [1955] VLR 114.
87 CPIU-1; CPIU-8.
88 CPIU-1.
89 CPIU-2.
90 CPIU-4; CPIU-5.
91 CPIU-5.
92 CPIU-4.
93 CPIU-5.
94 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 376 [3.4.3].
95 CPIU-6,
96 Case-335.
97 For more about police protection notices, see: Domestic and Family Violence Protection Act 2012 (Qld) pt 4 div 2.
98 Child Death Review Board, Annual Report 2023–2024 (Report, 31 October 2024) 113.
99 Case-013; Case-022; Case-033; Case-039; Case-041; Case-134; Case-494.
100 Case-335.
101 Case-041; Case-039; Case-022; Case-494.
102 Case-022.
103 Case-221; Case-134.
104 Queensland Police Service, Operational Procedures Manual: Issue 105.1 Public Edition (Manual, 1 May 2025) 376–7 [3.4.3].
105 CPIU-2.
106 CPIU-5.
107 CPIU-5.
108 CPIU-5.
109 CPIU-5.
110 CPIU-9.
111 CPIU-4.
112 CPIU-3.

[113] Specifically, as Domestic Violence – Other Action [1374] (n=24), Domestic Violence – No DV [1375] (n=3), or Domestic Violence - PPN [1372] (n=4).

[114] This sample of 69 full case reports included seven specific incidents which raised 'red flags' and a stratified random sample of a further 62 incidents. This sample represented approximately 10% of each incident type reflected in the QPRIME data (common assault, other serious assaults, and assault occasioning bodily harm). An additional 3 full case reports were requested for 'other serious assaults', as there were only 10 recorded incidents of this incident type in the QPRIME data.

[115] Other defences included s 269 provocation, s 271 self-defence, s 272 self-defence, s 273 aiding in self-defence, s 277(2) defence of premises against trespassers, s 266 prevention of crimes. A single case proceeded under a different charge of cruelty to child under 16. While in another case the child victim did not want to proceed.

[116] Within this sample of 59 full case reports, three incidents were finalised based on s 280 in combination with another defence, such as self-defence.

[117] There was one instance where we were unable to ascertain the gender of the child from the incident report, explaining the discrepancy between the total number of children and the sample size.

[118] Case-021.

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