



# Review of particular criminal defences

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Just, clear and modern: Reformed criminal defences for Queensland

## SUMMARY REPORT

December 2025

THE  
CRIMINAL CODE  
OF QUEENSLAND,

AND THE

PRACTICE RULES OF 1900.

*S. W. Griffiths*

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**Reference to legislation:**

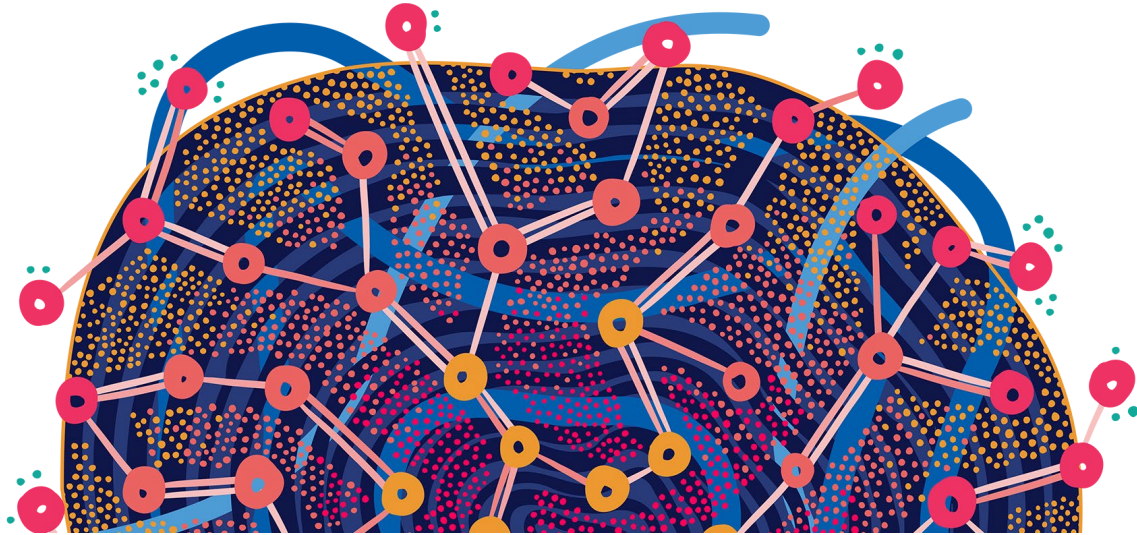
All references to legislation are to Queensland legislation, unless otherwise stated.

All references in recommendations to legislation are to provisions of the Criminal Code, unless otherwise stated.

This report reflects the law and information available to us at 1 November 2025.

# Acknowledgement of Country

The Queensland Law Reform Commission acknowledges and pays respect to Aboriginal peoples and Torres Strait Islander peoples and their Elders past and present. Particularly, we acknowledge the Jagera people and Turrbal people as the Traditional Custodians of Meanjin, the land on which our Brisbane office is located. We recognise the extraordinary knowledges and perspectives of Aboriginal peoples and Torres Strait Islander peoples throughout Queensland and would like to thank all those who have welcomed us on Country and connected with us in this review.



## Content warning

This report contains material that may be confronting and may cause sadness or distress, or trigger traumatic memories for people, particularly those who have experienced violence and abuse. For some people, this can feel overwhelming. If you need to talk to someone, please reach out to your own support network or contact any of the following support services:

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## Language used in this report

We understand the importance of language and acknowledge that what is the 'right language' will sometimes be contested.

For more information about the use of language see: **Just, clear and modern: Reformed criminal defences for Queensland – Final Report 1.**

## Abbreviations

Criminal Code                      Schedule 1 of the Criminal Code Act 1899 (Qld)

DFV                                      domestic and family violence

GBH                                      grievous bodily harm

LGBTQIA+                              People who identify as lesbian, gay, bisexual, transgender, queer or questioning, intersex or asexual

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# Overview

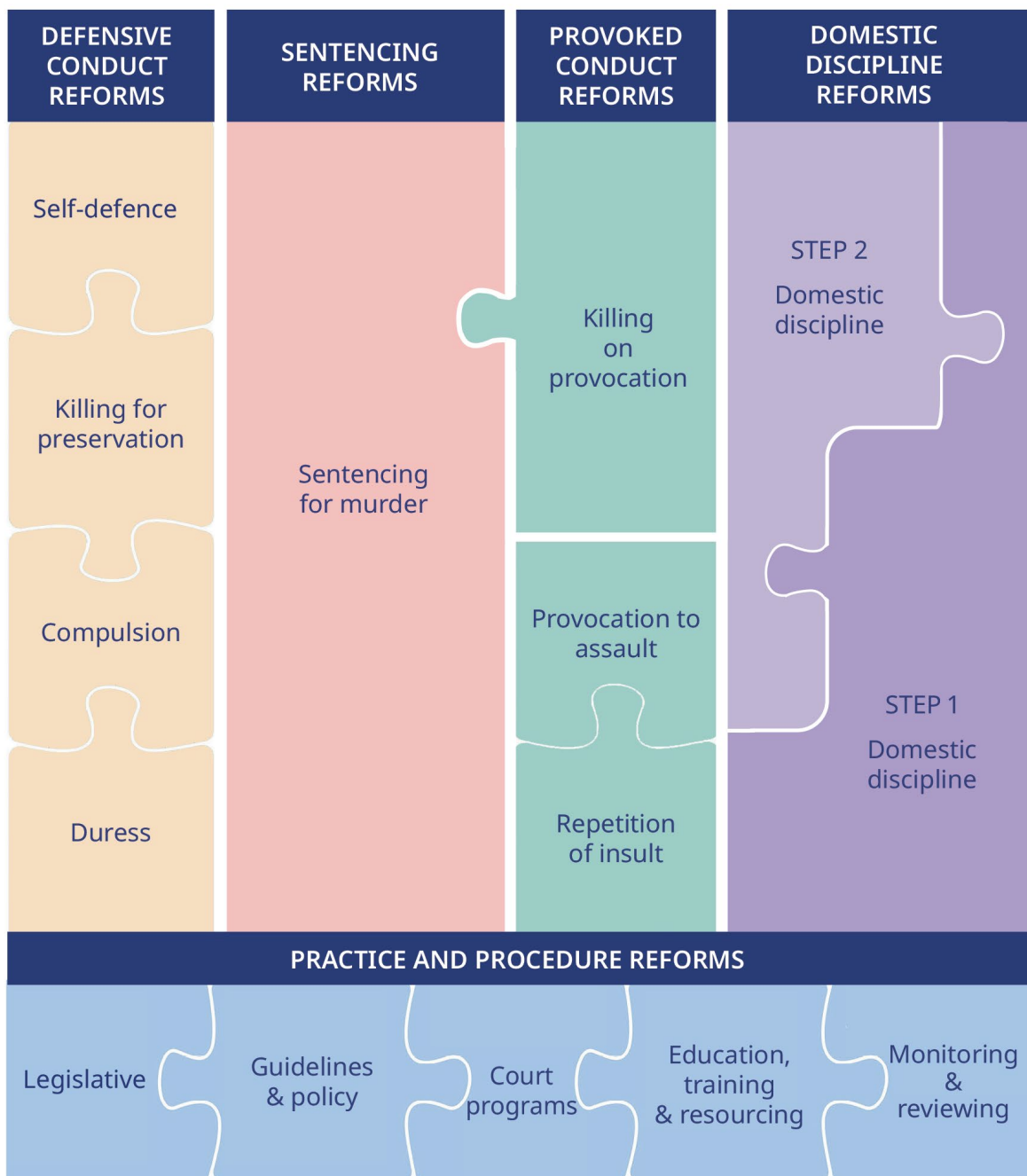
1. This is a summary of our report: **Just, clear and modern: Reformed criminal defences for Queensland – Final Report 1**.
2. On 15 November 2023, we received terms of reference from the Attorney-General asking us to examine the following defences and excuses in the Criminal Code:
  - self-defence (sections 271 and 272)
  - provocation to assault (sections 268 and 269) and killing on provocation (section 304)
  - killing for preservation in an abusive domestic relationship (section 304B)
  - domestic discipline (section 280).
3. We were also asked to consider:
  - the mandatory penalty of life imprisonment for the offence of murder, its impact on the operation of those defences and excuses and whether it should be removed
  - whether there is a need for reform of the law, practices or procedures relating to those defences or excuses
  - any other matters we consider relevant having regard to the issues relating to the referral.
4. Our review follows an inquiry and reports by the independent Women’s Safety and Justice Taskforce (‘Taskforce’), which examined a range of defences and excuses in the context of coercive control and DFV in Queensland.
5. The policy objectives to be achieved in this review come from our terms of reference, the Taskforce findings and recommendations, existing legal principles of criminal responsibility, Queensland’s developing human rights framework, contemporary criminal justice and sentencing frameworks and findings of recent reviews and inquiries, including by the Queensland Sentencing Advisory Council.
6. They are informed by evidence of current community attitudes towards violence relevant to the criminal defences we are reviewing and by the experience of victims, victim-survivors and their families in the criminal justice system.
7. They are also informed by the disproportionate adverse impacts of criminal laws on Aboriginal peoples and Torres Strait Islander peoples, who are over-represented in the prison system and as victims of violence.
8. In accordance with our terms of reference, to assist implementation of our recommendations, we have developed the Criminal Code (Defences and Excuses) Amendment Bill 2025 (‘QLRC Draft Bill’). The QLRC Draft Bill includes the substantive legal reforms we recommend. We have also developed a Guide that explains the QLRC Draft Bill and the rationale for the provisions. Volume 2 of our Final Report contains the QLRC Draft Bill and the Guide to the QLRC Draft Bill.
9. We have not drafted the legislation necessary to implement our practice and procedure reforms given their complex interaction with other laws, policies and practices.

# Our reforms

## A package of reforms

- We have carefully developed a package of reforms that work together to improve access to justice, centre community standards in decision-making and improve efficiency of processes within the criminal justice system. Some recommendations are linked and should not be implemented in isolation. Our recommendations aim to improve and clarify the interaction between the different defences and between the defences to homicide and just sentencing outcomes for murder. **Figure 1** shows the connections between our recommended reforms.

**Figure 1: Piecing the reforms together**



11. We recognise the public interest in increasing community safety, protecting victims of violent offending and ensuring that people who offend face appropriate consequences. Many of the laws we are reforming have been part of the Criminal Code, drafted by Sir Samuel Griffith in 1897, since it was enacted in 1901.<sup>1</sup> Many of the provisions are largely in their original form, although their interpretation by courts has developed over time.
12. We have sought to frame our reforms consistent with contemporary attitudes. We have sought to understand attitudes across Queensland through rigorous survey and focus group research and input from stakeholders in consultations and submissions. Many of the defences in our Criminal Code align with Queenslanders' innate sense of what is just and right.<sup>2</sup> Other defences, particularly those that privilege violent responses borne of anger and jealousy, are not consistent with community attitudes.<sup>3</sup> The community believes that appropriate responses, even violent responses, in fear and self-preservation are acceptable.<sup>4</sup> The community does, however, expect people to walk away when provoked to anger rather than respond with violence.<sup>5</sup> The community does not tolerate DFV or accept historical notions of private violence or family business.<sup>6</sup>
13. So that the defences are consistent with community attitudes, we have centred our reforms around the concept of reasonableness. Generally, people accused of crimes should have access to appropriate defences based on whether their actions are reasonable in the circumstances. This should allow juries to assess a defendant's response, supported by appropriate direction and guidance, without the need for elaborate jury directions. The laws should provide a simple, coherent framework for those working in the criminal justice system to consider any available defences, having regard to all the circumstances of a relevant case.
14. In the next section we present, in summary form, our recommendations. We present them in a different order in this report than in the full report for clarity and brevity.

## Self-defence

### Recommendation:

Self-defence (sections 271–273) should be amended so that it is available to a person:

- (a) who acts in the belief that they need to defend themselves or another person, or to free themselves or another person from being unlawfully deprived of their liberty ('necessity element'), and
- (b) whose actions are reasonable in the circumstances as they believe them to be ('reasonableness element').

**(Recommendation 1, Draft Bill cl 11)**

15. We recommend a new legislative test for self-defence. Self-defence involves the socially acceptable use of proportionate force to protect oneself or another.<sup>7</sup> It is a complete defence to all offences involving the use of force, including assault and homicide. Our reforms pare back the layers of legal complexity to the core elements of whether:
  - a person genuinely believed they needed to protect themselves or someone else
  - their actions were reasonable in the context of this belief.
16. Our reforms would make the law of self-defence simple and clear.



## Outcome:

- ✓ A self-defence test that is easier to understand and apply, assisting police, prosecutors, defence lawyers, judges and juries in decision-making about an alleged criminal offence.
- ✓ Just outcomes in Queensland.

## Duress

### Recommendation:

The defence of duress (section 31(1)(d)) should be expanded and modernised to apply where a person:

- (a) reasonably believes that a threat of harm will be carried out unless they commit the relevant criminal offence ('threat element')
- (b) reasonably believes that they need to commit the relevant criminal offence to avoid the threat being carried out ('necessity element'), and
- (c) their conduct is a reasonable response to the threat ('proportionality element').

(Recommendation 8, QLRC Draft Bill cl 6)

### Recommendation:

The defence of compulsion (section 31(1)(c)) should be repealed.

(Recommendation 7, QLRC Draft Bill cl 5)

17. We recommend a new defence of duress which replaces the existing defences of compulsion and duress. Duress arises where a person's will is overborne as a result of a credible threat to themselves or another and the only way to avoid the threat is by committing an offence. The defence recognises that people should not be expected to sacrifice themselves in response to a credible threat and that self-preservation responses can be reasonable regardless of the offence committed. The contemporary understanding of coercive control is that it removes agency and capacity to act voluntarily. This is the essence of the duress defence.
18. The new defence has three elements:
  - the defendant reasonably believes that a threat of harm or detriment has been made that will be carried out unless an offence is committed ('threat element')
  - the defendant reasonably believes that doing the act or making the omission is the only reasonable way that the threat can be avoided ('necessity element'), and
  - the act or omission is a reasonable response to the threat ('proportionality element').
19. The defence requires that the defendant's belief in the threat and the necessity to respond are reasonable. Unlike self-defence, duress does not excuse conduct based on a person's subjective belief about the circumstances they are responding in. This reflects the different policy intents underpinning duress and self-defence and the different forms of criminal responsibility they address.

### Outcome:

- ✓ Enhanced understanding of the important role of duress in excusing behaviour borne of fear and desperation, including by DFV victim-survivors who experience coercive control.
- ✓ Improved access to justice.
- ✓ Laws that are clear and easy to understand and apply.

## Provocation

### Recommendation:

The defences of provocation to assault (section 269), killing on provocation (section 304) and prevention of repetition of insult (section 270) should be repealed.

(Recommendation 12, QLRC Draft Bill cl 11, 14)

### Recommendation:

The Penalties and Sentences Act 1992 should be amended to require that provocation of an offender by their victim must be considered by the court in sentencing.

(Recommendation 13)

### Recommendation:

To promote awareness and effective and just implementation of the reforms:

- (a) The Government should develop and implement an education campaign that includes material that is culturally sensitive and suitable for persons with impaired capacity.
- (b) The Queensland Police Commissioner should amend the Queensland Police Service Operational Procedures Manual and the Director of Public Prosecutions should update the Director's Guidelines to require police and prosecutors to consider the extent, if any, to which an incident was the result of provocation when determining if a charge or prosecution is in the public interest.

(Recommendation 14)

20. We recommend reforms to the three defences in the Criminal Code based on the concept of provocation ('provocation defences'):
  - Killing on provocation (section 304) is a partial defence that reduces criminal liability from murder to manslaughter where a person is provoked to act without self-control, 'in the heat of passion'.<sup>8</sup>
  - Provocation to assault (section 269) is a complete defence to offences containing assault as an element, including common assault, assault occasioning bodily harm and serious assault.<sup>9</sup> It applies where a person is provoked to lose self-control and use violence 'on the sudden and before there is time for [their] passion to cool'.<sup>10</sup>

- Prevention of repetition of insult (section 270) is a complete defence to a wide range of offences, including manslaughter<sup>11</sup> and assault offences. It applies where a person responds with 'reasonably necessary' force, which is not intended or likely to cause death or GBH, to prevent repeated acts or insults which could amount to provocation for an assault.<sup>12</sup>
21. We recommend:
    - repealing the provocation defences
    - including provocation as a relevant factor in sentencing
    - an education campaign to promote awareness and understanding of these reforms
    - requiring police and prosecutors to consider provocation when determining if a charge or prosecution is in the public interest.
  22. The provocation defences operate in a gendered way. They excuse patterns of behaviour associated with male violence and power, both within and beyond the DFV context.<sup>13</sup> Men rely on provocation as a defence in circumstances where they assault or kill their intimate partner motivated by anger, jealousy or as part of a pattern of coercive control in the DFV context. This can lead to injustice.
  23. Provocation justifies or excuses violence as 'a concession to human frailty', recognising that a person's loss of self-control is less blameworthy than deliberate or calculated violence.<sup>14</sup> The defences are not consistent with modern community attitudes and standards and scientific understanding of human behaviour. Most people do not consider that violence should be justified or excused in these circumstances. As a community we expect people to control their emotions and not lash out violently.
  24. Scientific, medical and psychological evidence do not support retaining the defences. The defences can promote victim-blaming by directing the focus of an investigation and ensuing trial on the behaviour of the victim, rather than the defendant. If the circumstances of the offending do suggest an offender has lesser culpability, this can be taken into account in sentencing.

### Outcome:

- ✓ The law of Queensland no longer includes defences that privilege violent responses borne of anger and jealousy.
- ✓ Just outcomes consistent with community attitudes and acceptable norms of behaviour.
- ✓ Sentences for violent offences that reflect individual culpability.

## Self-defence and duress in murder cases

### Recommendation:

Self-defence should not be available as a defence to murder unless a person believes that the use of lethal force is necessary to prevent death or 'serious harm' to themselves or another person. 'Serious harm' should encompass harm, including its cumulative effect, that does or is likely to:

- (a) endanger a person's life, or

- (b) be significant and longstanding, including psychological harm or harm arising from a cause such as sexual assault.

(Recommendation 5, QLRC Draft Bill cl 11)

### Recommendation:

The defence of duress should be available as a defence to murder where the relevant threat (referred to in Recommendation 8) is death or 'serious harm'. 'Serious harm' should encompass harm, including its cumulative effect, that does or is likely to:

- (a) endanger a person's life, or
- (a) be significant and longstanding, including psychological harm or harm arising from a cause such as sexual assault.

(Recommendation 9, QLRC Draft Bill cl 6)

25. In murder cases, there are currently limits on when self-defence is available and the defence of duress is not available at all. We recommend that both self-defence and duress be available where a person is responding to a fear of death or serious harm. 'Serious harm' would be defined to include cumulative harm that:
- endangers, or is likely to endanger, a person's life, or
  - is, or is likely to be, significant and longstanding.
26. This definition of serious harm covers threats of serious sexual assault or serious psychological harm. The long-term psychological effects of both are significant, cumulative and potentially life-altering. Many female victims of sexual assault fear they will be killed. The proposed threshold also appropriately allows for evidence of the defendant's genuine fear of harm, which may be caused by DFV victimisation, to meet the threshold in appropriate cases.

### Outcome:

- ✓ Self-defence and duress are available as defences to murder in circumstances consistent with community attitudes and evidence of the impact of DFV on victim-survivors.

## Recognising the impact of DFV

### Reforms to self-defence

#### Recommendation:

The interaction between self-defence and DFV should be made explicit in the Criminal Code. If a person uses force in the context of a domestic relationship involving DFV, the necessity and reasonableness elements may be met even if the person:

- (a) is responding to non-imminent harm, or
- (b) uses force greater than the force or threat of force responded to.

(Recommendation 4, QLRC Draft Bill cl 11)

27. Self-defence is not always accessible to DFV victim-survivors who use resistive violence. This includes where the defendant:
  - is not an 'ideal victim'
  - was responding to a serious verbal threat or conduct that, when viewed in the context of the relationship as a whole, would cause reasonable apprehension of future violence
  - was acting pre-emptively or equipped themselves against a larger and stronger assailant, which is viewed as excessive force.
28. We recommend a new provision in the Criminal Code which explains that defendants who use force in the context of a domestic relationship involving DFV may satisfy the core elements of self-defence even if:
  - they are responding to a non-imminent threat of harm (for example, they are responding to threat of future financial, physical or emotional abuse)
  - their use of force is in excess of any force involved in the harm or threatened harm by the complainant/deceased (for example, the defendant uses a knife where the complainant/deceased is unarmed).

#### Outcome:

- ✓ DFV victim-survivors who kill their primary abuser in fear and desperation are not criminally liable. The law reflects understanding that a history of DFV is the leading lethality risk indicator in intimate partner homicide and is often relevant to self-defence.
- ✓ The test for self-defence responds to myths and misconceptions of self-defence in DFV contexts by clarifying that imminence and proportionality are not inherent requirements of self-defence.
- ✓ Legal practitioners understand how DFV may intersect with self-defence and, where appropriate, develop case theories focused on the cumulative effects of DFV.<sup>15</sup>
- ✓ Jury directions about self-defence dispel misconceptions and assumptions about self-defence and DFV.

## A reframed partial defence

### Recommendation:

The partial defence to murder of killing for preservation in an abusive domestic relationship (section 304B) should be integrated within self-defence as a partial defence which will apply if the defendant believes their actions are necessary in self-defence but their actions are not reasonable.

**(Recommendation 6, QLRC Draft Bill cl 11, 15)**

29. We recommend legislative reform to:
  - repeal the partial defence of killing for preservation in an abusive domestic relationship in section 304B
  - introduce a bespoke partial defence for abusive domestic relationships into the self-defence division in the Criminal Code.

30. The partial defence should be considered as an alternative to the complete defence of self-defence to murder where the defendant has used lethal defensive force but where the defendant's response to the threat was not reasonable.
31. The new partial defence would operate as an extension of self-defence. It would not require the jury to consider separate and distinct legal tests that blur or confuse the substantive issues in dispute. This reflects contemporary understanding of the nature and effects of DFV, particularly that it is a lethality indicator. DFV victim-survivors' fear of being killed is real<sup>16</sup> and reflected in the data.<sup>17</sup>

#### Outcome:

- ✓ The partial defence creates a safety net which allows DFV victim-survivors who kill their primary abuser in fear and desperation to raise self-defence.

## Self-defence and duress in particular circumstances

### Self-defence in response to lawful acts

#### Recommendation:

Self-defence should not be available to a person who uses force in response to a lawful act where there is no reasonable basis for believing the act is not lawful.

(Recommendation 2, QLRC Draft Bill cl 11)

32. We recommend introducing a discrete provision into the Criminal Code which would provide that self-defence does not apply if a person:
  - is responding to a lawful act, and
  - has no reasonable basis for believing the act is not lawful.
33. In the current legal framework, unlawfulness of the complainant/deceased's actions is an express or implied requirement under both sections 271 and 272.<sup>18</sup> Our recommended approach reflects the policy intent that the law should not condone use of force against known lawful conduct or permit self-defence to be used 'as a pretext to carry out a criminal purpose'.<sup>19</sup>

#### Outcome:

- ✓ Police and other public officers are protected from violent responses purportedly based on self-defence when lawfully executing their duties.

### Duress in the context of unlawful associations

#### Recommendation:

A person who voluntarily engages in an unlawful association should not be able to rely on the defence of duress.

(Recommendation 10, QLRC Draft Bill cl 6)

34. Duress is not currently available where a person has voluntarily entered into an unlawful association where threats of serious harm or detriment are likely to be made.<sup>20</sup> The policy reason behind this exclusion is that ‘the law ... must discourage association with known criminals’.<sup>21</sup> However, the current exclusion ‘has a capacity to operate harshly and to produce unjust results’ because it precludes defendants who should have known there was a risk of being subjected to any compulsion by threats of violence from accessing the defence.<sup>22</sup>
35. We recommend this exclusion be retained with amendments so that it applies where:
- the relationship was entered into for the purpose of carrying out unlawful conduct of the same kind as that demanded
  - the person was involved in the unlawful association at the relevant time
  - the threat of violence came from a person within the unlawful association.<sup>23</sup>

### Outcome:

- ✓ Duress is available in appropriate circumstances while those who associate with the intent of engaging in the unlawful conduct demanded cannot access the defence.

## The relevance of intoxication

### Recommendation:

The Criminal Code should be amended to make explicit how self-defence applies when a person is intoxicated:

- (a) If a person voluntarily consumes intoxicating substances, their intoxication is only relevant to the necessity element.
- (b) If a person involuntarily consumes intoxicating substances, their intoxication is relevant to the elements of necessity and reasonableness.

(Recommendation 3, QLRC Draft Bill cl 11)

### Recommendation:

The Criminal Code should be amended to make explicit how the defence of duress applies when a defendant is intoxicated:

- (a) If a person voluntarily consumes intoxicating substances, their intoxication is relevant to their belief for the threat element and their belief for the necessity element.
- (b) If a person involuntarily consumes intoxicating substances, their intoxication is relevant to the elements of threat, necessity and proportionality.

(Recommendation 11, QLRC Draft Bill cl 6)

36. Intoxication is particularly relevant in this review as drugs and alcohol are often associated with violence.<sup>24</sup> Roughly half of all homicides in Australia between 2000 and 2006 were classified as alcohol-related, 60% of which involved alcohol consumption by both the victim and offender.<sup>25</sup> The relationship between intoxication and violence is a complex interaction of personal, environmental and cultural factors.<sup>26</sup> Oversimplification of the relationship fuels

stigma and discrimination towards people who use drugs and alcohol without addressing these interconnected and complex factors.<sup>27</sup>

37. Presently, there is explicit legislative guidance about how evidence of intoxication is relevant to offences in the Criminal Code. However, there is less clarity about how intoxication interacts with the defences. Ideally, this would be addressed holistically so that there is a consistent approach to intoxication across all defences in the Criminal Code. Accordingly, we recommend that a future review consider intoxication and criminal responsibility in the Criminal Code as a whole.
38. In accordance with the terms of reference for this review, we limited our consideration of the relevance of intoxication to the defences of self-defence and duress.
39. In the context of self-defence:
- voluntary intoxication is:
    - relevant to the defendant's subjective belief in the necessity to act in self-defence (including, in murder cases, their belief in the necessity of acting to avoid death or serious harm)
    - relevant to the circumstances as the defendant believed them to be
    - irrelevant to the reasonableness of the defendant's response, with reasonableness assessed from the perspective of a sober person
  - involuntary intoxication is relevant to all elements of the test for self-defence.
40. This reflects a policy position that a person's voluntary decision to become intoxicated should not affect how the reasonableness of their response in self-defence is assessed. Where a defendant is involuntarily intoxicated (for example, where they have been drugged or unknowingly consumed a particular substance), it should be taken into account when considering the reasonableness of their response in self-defence.
41. In the context of duress:
- voluntary intoxication is
    - relevant to the defendant's subjective belief for the threat and necessity elements
    - not relevant to the reasonableness of the belief or the proportionality of the response
  - involuntary intoxication is relevant to all elements of duress.
42. This is consistent with our approach to self-defence. However, as the tests for self-defence and duress are different, the approaches differ in their application. For example, voluntary intoxication is relevant to assessing the person's subjective belief in the circumstances in which they are responding for self-defence but not for duress, which is an objective test. The test for duress is stricter as the victim may be an innocent third party.

### Outcome:

- ✓ Intoxication is appropriately considered when assessing a defendant's actions in self-defence or under duress.



# Sentencing for murder

## Legislative reforms to support just, evidence-based sentencing outcomes

### Recommendation:

The court should have some discretion to set a non-parole period for murder to reflect contextual factors and to impose a just, evidence-informed sentence. To give effect to this:

- (a) the minimum non-parole periods for murder (section 305; Corrective Services Act 2006 section 181) should be repealed and replaced with standard non-parole periods of equivalent lengths that represent the objective seriousness of the offence in the middle range, and
- (b) the court should have discretion to set the length of the non-parole period based on the circumstances of the offence and offender.

Based on these reforms, the mandatory sentence of life imprisonment for murder should not be removed.

**(Recommendation 15, QLRC Draft Bill cl 16, 21–30)**

43. Our recommendation:
  - retains the mandatory penalty of life imprisonment for murder
  - replaces the current minimum non-parole periods with standard non-parole periods while giving the court discretion to consider relevant contextual factors in sentencing.
44. Our recommendation recognises the sanctity of human life and the unique seriousness of the offence of murder. It also recognises the importance of just, evidence-based sentencing outcomes.
45. Presently, an offender who commits murder is subject to two mandatory sentencing components:
  - life imprisonment or an indefinite sentence<sup>28</sup>
  - a minimum non-parole period that an offender must serve before being eligible to apply for parole, being:
    - 30 years for an offender who commits multiple murders or has a previous conviction for murder
    - 25 years for the murder of a police officer
    - 20 years for any other murder.<sup>29</sup>
46. This means that, when sentencing for murder, the court cannot impose a sentence that is less than life imprisonment or order a non-parole period below 20 years.
47. Our reforms would require the sentencing judge to consider the standard non-parole period as a relevant factor in determining how long an offender should remain in custody before being eligible to apply for parole. This would enable the court to consider factors relevant to the offence and the offender in sentencing, using the relevant standard non-parole period as the objective middle ground. In determining the appropriate period in each case, the court would be guided by the usual factors relevant to sentencing.

### Outcome:

- ✓ All persons convicted of murder in Queensland continue to be sentenced to life imprisonment.
- ✓ The courts have discretion to set a parole eligibility date having regard to the circumstances of the offending.
- ✓ Offenders released on parole are supervised for the remainder of their life and at risk of returning to custody if they breach the conditions of parole.
- ✓ The number of pleas to murder, and the willingness of offenders to cooperate with police, should increase.
- ✓ Non-parole periods are just in all the circumstances.

## Domestic discipline

### Legislative reforms

#### Recommendation:

The defence of domestic discipline (section 280) should be renamed 'protection and management of a child' and reformed in two steps:

- Reform the defence to limit the lawful degree of force to common assault and to limit the persons who may rely on the defence to a parent or person exercising parental responsibilities.
- Three years later, further reform the defence to limit the lawful purpose to using force that is reasonable in the circumstances for the protection or management of a child.

(Recommendation 16, QLRC Draft Bill cl 12, 18–19)

#### Recommendation:

In consultation with stakeholders, the Government should design and legislate a court-based diversion scheme.

(Recommendation 17)

### Initiatives to protect children and support families

#### Recommendation:

The following measures should be implemented to support compliance with legislative reforms:

- The Government should provide State-wide evidence-based parenting and family support programs that are culturally responsive and trauma-informed and which are preventative, interventionist and treatment-based.
- The Queensland Human Rights Commission should promote community awareness and understanding of the reformed defence.

- (c) Legal Aid Queensland should develop and publish guidelines and fact sheets about the reformed defence and court-based diversion scheme.
- (d) The Queensland Police Commissioner should amend the Child Harm chapter of the Operational Procedures Manual to provide guidance to police on the operation of the reformed defence. This guidance should include factors that may be relevant to assessing whether a person's application of force, or attempt or threat to apply force, to a child was reasonable in the circumstances.
- (e) The Queensland Police Service should revise practices, procedures and training related to child harm and alternatives to prosecution.
- (f) The judiciary should develop guidelines to support effective consideration and application of the reformed defence and court-based diversion scheme.
- (g) The Government should, in collaboration with the relevant professional bodies, develop guidance and training for legal practitioners, education professionals, care workers, child safety officers, health professionals and social service workers in relation to the reformed defence.

**(Recommendation 18)**

## Monitoring and review

### Recommendation:

The Government should require the Queensland Police Service and the Office of the Director of Public Prosecutions to collect and report data in relation to the reformed defence.

**(Recommendation 19)**

### Recommendation:

The Attorney-General should review the operation of the reformed defence.

**(Recommendation 20, QLRC Draft Bill cl 20)**

- 48. We recommend a suite of reforms to the defence of domestic discipline to progressively narrow the defence over a seven-year period (in two stages) to increase the protection of children. Our reforms include initiatives to mitigate unintended consequences and support families.
- 49. The defence of domestic discipline (section 280) justifies a parent, person acting in the place of a parent, schoolteacher or master, who has care of a child, using force towards the child if it is for the purpose of discipline, correction, management or control and the force used is reasonable under the circumstances.
- 50. Our reforms would limit application of the defence to the offence of common assault (section 335) and make it no longer available to schoolteachers and masters. The defence would also be narrowed to confine the purposes for which force can be used, allowing reasonable use of force for management and protection and removing protection for physical punishment. Clarifying the scope of the defence would support access to, and consistent application of, the defence.

### Outcome:

- ✓ Children are protected from harm.
- ✓ Greater consistency in police decision-making when police exercise their discretion to charge a person who has applied force to a child.
- ✓ Effective, non-violent discipline can guide and teach a child self-discipline, boundaries and expectations, emotional maturity and acceptable and appropriate behaviours for participating in relationships and society.<sup>30</sup>

## Practice and procedure reforms

### Investigation and charging reforms

#### Recommendation:

The Queensland Police Commissioner should amend the Domestic Violence chapter of the Operational Procedures Manual to provide guidance to police in determining the person most in need of support and protection in a relationship where DFV is occurring.

**(Recommendation 21)**

#### Recommendation:

The Police Powers and Responsibilities Act 2000 should be amended to expand the nature and scope of protections available for people questioned for indictable offences. Safeguards should be available to all people who may experience additional barriers to justice, including:

- DFV victim-survivors
- Aboriginal peoples and Torres Strait Islander peoples
- people with disability and mental illness
- people from culturally and linguistically diverse backgrounds.

**(Recommendation 22)**

#### Recommendation:

The Director of Public Prosecutions should update the Director's Guidelines to include new chapters on prosecuting and obtaining evidence from DFV victim-survivors and Aboriginal persons and Torres Strait Islander persons. The chapters should be developed in consultation with DFV victim-survivors and experts, the First Nations Justice Office, Aboriginal peoples and Torres Strait Islander peoples and their communities and representative organisations.

**(Recommendation 23)**

### Recommendation:

The Queensland Police Commissioner should revise and supplement existing training programs for police regarding available defences.

(Recommendation 24)

## Pre-Trial reforms

### Recommendation:

The Office of the Director of Public Prosecutions should have carriage of all murder and manslaughter cases after the defendant's initial appearance before a Magistrate. The Government should ensure that the Office of the Director of Public Prosecutions and the Queensland Police Service are adequately resourced for this purpose. Legal Aid Queensland should also be adequately resourced to provide aid to facilitate early and appropriate defence involvement.

(Recommendation 25)

### Recommendation:

The disclosure provisions in the Criminal Code should be amended to allow a defendant:

- (a) charged with a domestic violence offence, to request access to the complainant's domestic violence history
- (b) in a criminal proceeding, to request other relevant domestic violence evidence.

The Government should provide adequate resources to the Office of the Director of Public Prosecutions and the Queensland Police Service to respond to the disclosure requests.

(Recommendation 26)

## Trial reforms

### Recommendation:

The special witness protections in the Evidence Act 1977 should be amended to:

- (a) allow a court to deem a defendant who is a DFV victim-survivor a special witness where they give evidence about their experience of DFV in connection with the offence, and
- (b) make explicit that a court can declare a person who identifies as an Aboriginal person and/or Torres Strait Islander person or a person from a culturally and linguistically diverse background a special witness where the court considers they may be disadvantaged as a witness.

(Recommendation 27)

### Recommendation:

The Queensland Intermediary Scheme should apply to witnesses to homicide and domestic violence offences. To support this, Court Services should promote awareness of the Intermediary Scheme to relevant stakeholders and develop and implement a cultural safety framework in consultation with DFV victim-survivors and experts.

**(Recommendation 28)**

### Recommendation:

The Government should establish a Domestic and Family Violence Expert Evidence Panel, modelled on the Sexual Offence Expert Evidence Panel.

**(Recommendation 29)**

### Recommendation:

The Evidence Act 1977 should be amended to allow courts to receive evidence of traditional laws and customs of Aboriginal peoples and Torres Strait Islander peoples, except where its admission would be unfair to the person charged. Where such evidence is admitted, the judge must direct the jury about how to treat the evidence.

**(Recommendation 30)**

### Recommendation:

The Evidence Act 1977 should be amended to require the judge to direct the jury:

- (a) about domestic violence generally, if the proceeding involves evidence of domestic violence
- (b) about self-defence in response to domestic violence if that is an issue in the proceeding
- (c) about duress in circumstances of domestic violence if that is an issue in the proceeding.

**(Recommendation 31)**

## Recommendation:

There should be a legislative requirement that, for jury trials:

- (a) Counsel for the parties must, at the close of the evidence, inform the judge of all matters they believe are in issue, including any defences upon which they rely and any specific directions they request the judge give the jury.
- (b) If the accused person is not legally represented, the judge must direct themselves as if the accused person informed the judge of all matters in issue and requested every direction be given to the jury that it was open to the accused to request.
- (c) The judge must:
  - i. give the jury all requested directions unless, after hearing from the parties, there are good reasons for not doing so
  - ii. not give the jury a direction not requested by a party unless, after hearing from the parties, there are substantial and compelling reasons for doing so.

**(Recommendation 32)**

## Training and resourcing reforms

### Recommendation:

There should be a comprehensive training framework about DFV, cultural capability and barriers to accessing justice faced by people from disadvantaged communities. The Government should:

- (a) improve training for the Queensland Police Service, the Office of the Director of Public Prosecutions and related criminal justice personnel
- (b) partner with the Queensland Law Society and the Bar Association of Queensland to improve training for legal practitioners
- (c) facilitate heads of jurisdiction of the Queensland courts to review and implement training opportunities for judicial officers.

**(Recommendation 33)**

### Recommendation:

The Government should increase funding for legal and advocacy services providing support to people who are parties to criminal justice proceedings. This should include specialist services for DFV victim-survivors and for people from disadvantaged communities who may experience barriers to accessing justice, including Aboriginal peoples and Torres Strait Islander peoples, people with disability, people from culturally and linguistically diverse backgrounds and people from the LGBTQIA+ community.

**(Recommendation 34)**

## Recommendation:

The Government should fund Community Justice Groups to provide submissions and court support services to Aboriginal peoples and Torres Strait Islander peoples in the Supreme and District Courts.

### (Recommendation 35)

51. 'Practice and procedure' are the rules and processes through which the criminal law is applied, set by laws, regulations, guidelines and policies. They include processes for investigating, charging, prosecuting and defending criminal cases, pre-trial and trial processes, sentencing procedures and appeals. They inform the exercise of discretion and protect and promote the rights of individuals in the criminal justice system.
52. Our aim is for improvements to benefit individuals interacting with criminal justice processes, key stakeholders with relevant roles and functions and the public interest in a fair, clear, contemporary and effective criminal justice system.
53. We recommend:
  - Reform of investigative and charging practices: These reforms are designed to promote gender-responsive and trauma-informed practice and improve evidence collection, charging and prosecution practices.
  - Reform of pre-trial practice and procedure: These reforms are designed to provide clarity in criminal justice processes and increase fairness and just outcomes, including for DFV victim-survivors.
  - Reform of criminal trial practice and procedure: The reforms aim to safeguard the rights of individuals engaged in criminal proceedings and improve the efficiency and effectiveness of criminal justice processes. Recommendations for evidence reform are designed to increase the protections for witnesses with recognised vulnerabilities and ensure appropriate evidence and information is available to juries to support just outcomes. Recommendations about jury directions are designed to ensure juries are properly directed about the relevance of DFV, including in relation to defences and their potential availability in the case before them.
  - Training and resourcing reforms: These non-legislative reforms are aimed at improving outcomes for DFV victim-survivors and addressing barriers to justice for people experiencing disadvantage. They are designed to improve service delivery by enhancing service providers' understanding of the needs of communities particularly vulnerable to DFV. Our recommendations increase the legal assistance sector's capacity to provide appropriate and targeted legal and advocacy services. This would support individuals and improve processes and outcomes. Our recommendations also address key factors relevant to the fair and effective application of the laws, including by expanding the Community Justice Group Program.

## Outcome:

- ✓ Increased access to justice and equality before the law.
- ✓ Safeguards against the legislative reforms having disproportionate or unintended consequences.



## Review of reforms

### Recommendation:

The Government should, no earlier than five years and no later than 10 years from the commencement of any reform recommended in this report, refer to the Queensland Law Reform Commission:

- (a) a review of the operation of reforms
- (b) a review of the partial defence of diminished responsibility and a review to clarify the role of intoxication in the Criminal Code.

### (Recommendation 36)

54. We recommend that the impact of our reforms be reviewed to ensure they operate as intended and their implementation does not result in unforeseen consequences. This would include assessing whether the reforms operate harmoniously as a package.
55. Review of implemented reforms would allow for issues not identified in the original terms of reference to be considered. Our review findings support a review of the partial defence to murder of diminished responsibility and the role of intoxication in the Criminal Code.

### Outcome:

- ✓ Ensuring the implemented reforms are working effectively in improving access to justice.
- ✓ Queensland's criminal defences are clear and effective and do not contain gaps or inconsistencies in their protection. The relevance of intoxication is clear and consistent across the defences.

## Guiding principles and human rights

56. We identified five guiding principles for our review. 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 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 DFV, including coercive control.
  - **Evidence-informed:** the defences and recommended reforms should be informed by evidence, including expert knowledge and lived experience.
57. These principles have informed our approach to the review. For example, we have conducted a significant body of empirical research to target gaps in existing knowledge and engaged broadly and extensively with a wide range of stakeholders to develop a strong evidence basis for our reforms. They have also informed development of our recommendations for reform.

For example, we have developed key recommendations to support just outcomes and to ensure the defences better reflect circumstances involving DFV.

58. As a 'public entity' under the Human Rights Act we must:
- properly consider relevant human rights when making decisions ('procedural obligation')
  - act and make decisions that are compatible with human rights ('substantive obligation').<sup>31</sup>
59. Human rights are fundamental rights and freedoms that apply to all human beings. The criminal law plays a crucial role in protecting human rights by safeguarding individual rights, ensuring fair trials, setting limits on law enforcement, promoting accountability and balancing community safety and individual security and liberty. In developing our recommendations, we sought to maximise protection and promotion of human rights and to strike the appropriate balance of these rights between different individuals.
60. Considered as a package, the proposed legislative reforms protect and promote human rights. Our reforms do not impose any limitations that are not reasonable or proportionate in the context of balancing different individual rights or that are inconsistent with a free and democratic society based on human dignity, equality and freedom.

## Our approach

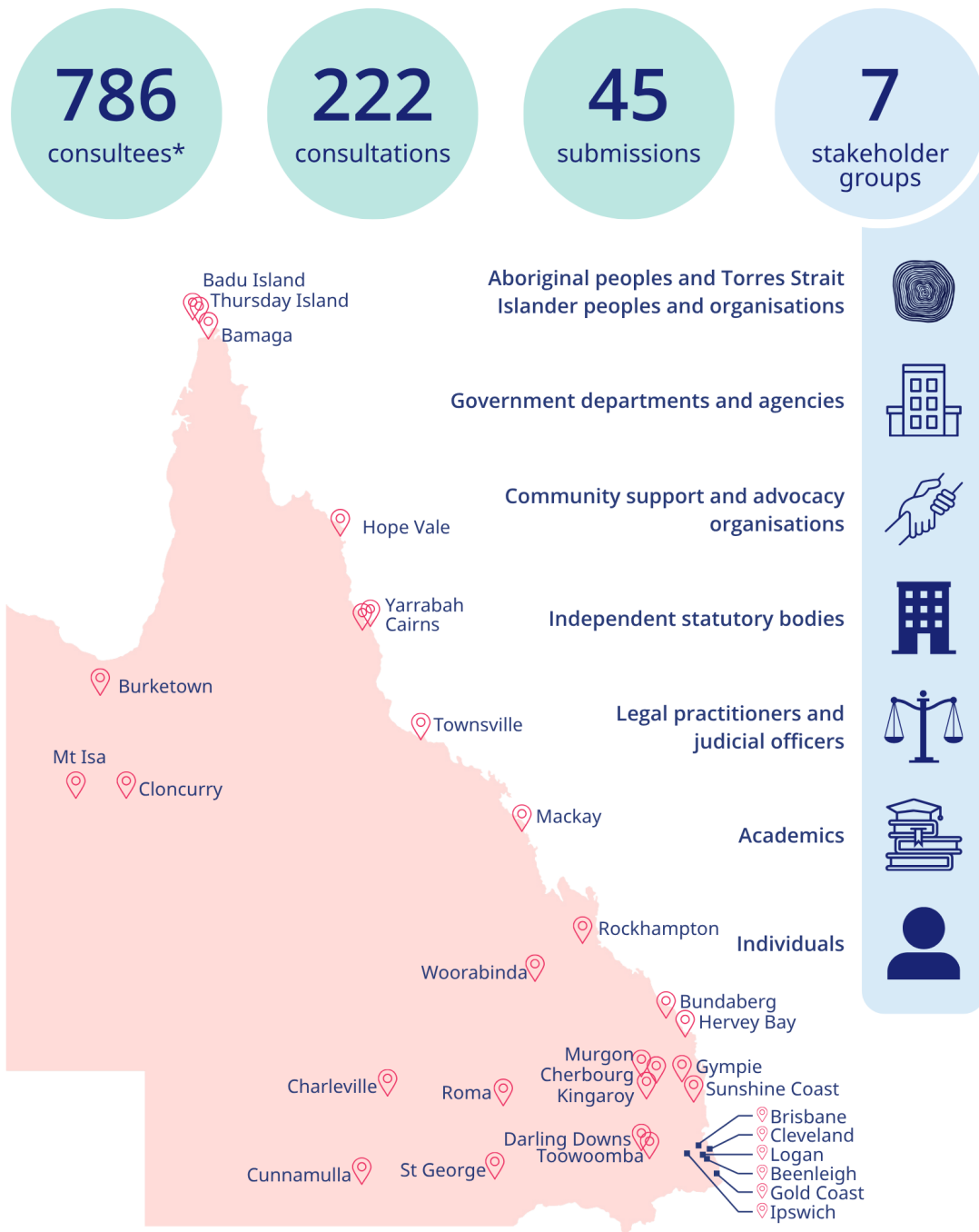
61. Our terms of reference shaped our approach to the review. Relevantly, we were asked to have regard to:
- the Taskforce findings and recommendations
  - the nature and impacts of DFV and criminal conduct on victims, victim-survivors and their families and their experiences in the criminal justice system
  - contemporary community standards
  - the views and research of relevant experts
  - recent developments, legislative reform and research in other Australian and international jurisdictions.
62. We used a mixed methods approach, which included:
- Doctrinal research, including analysing legislation, case law and academic publications from Queensland and other Australian and international jurisdictions.
  - Six original research projects, three of which we published as reports. See **Figure 2** for an overview of our research projects.
  - Consulting 786 stakeholders in meetings, forums, events and roundtables, throughout metropolitan, regional and remote areas of Queensland (see **Figure 3**, below). We engaged in consultation throughout the review, to identify key issues, formulate consultation proposals, develop recommendations for reform and explore potential implementation issues. Stakeholders included:
    - individuals with lived experience of the criminal justice system
    - community and advocacy organisations
    - DFV support services
    - Aboriginal peoples and Torres Strait Islander peoples and their communities

- legal practitioners and judicial officers
- academics
- Government agencies
- independent statutory bodies.<sup>32</sup>
- Inviting and analysing 45 stakeholder submissions (see Background Paper 4).

**Figure 2: Our research projects**



Figure 3: Map of stakeholder consultations



\* Where we consulted with a stakeholder on more than one occasion, we reflect each consultation in this figure.

63. We took a culturally responsive, trauma-informed approach to our review. We recognise that many people involved with the criminal justice system have experienced trauma, including from DFV. This trauma may be from a single event, or be multiple and repeated, and may lead to complex trauma and post-traumatic stress disorder. Aboriginal peoples, Torres Strait Islander peoples and people from culturally and linguistically diverse backgrounds who experience post-traumatic stress disorder may also experience intergenerational trauma, cultural dislocation and barriers to accessing culturally safe services. This understanding informed our approach to the review and our recommendations for reform.

# References

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- <sup>1</sup> Criminal Code Act 1899 (Qld) s 2 established the Criminal Code as the criminal law of Queensland on and from 1 January 1901.
- <sup>2</sup> See key findings 5, 6, 10: QLRC, Review of Particular Criminal Defences: Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report No 1, November 2024) 106–9, 113–16.
- <sup>3</sup> See key finding 8: QLRC, Review of Particular Criminal Defences: Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report No 1, November 2024) 110–12.
- <sup>4</sup> See key finding 5 and scenarios 1, 3 and 7: QLRC, Review of Particular Criminal Defences: Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report No 1, November 2024) 106–7.
- <sup>5</sup> See key finding 8 and scenarios 2, 8: QLRC, Review of Particular Criminal Defences: Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report No 1, November 2024) 110–11.
- <sup>6</sup> See key findings 1 and 8: QLRC, Review of Particular Criminal Defences: Community Attitudes to Defences and Sentences in Cases of Homicide and Assault in Queensland (Research Report No 1, November 2024) 99–100, 111.
- <sup>7</sup> Thomas Crofts and Danielle Tyson, ‘Homicide Law Reform in Australia: Improving Access to Defences for Women Who Kill Their Abusers’ (2013) 39(3) *Monash University Law Review* 864, 877–8.
- <sup>8</sup> Criminal Code (Qld) s 304.
- <sup>9</sup> Criminal Code (Qld) ss 335, 339–340. *R v Williams* [1971] Qd R 414, 424; *Kaporonovski v The Queen* (1973) 133 CLR 209, 218, 222.
- <sup>10</sup> Criminal Code (Qld) s 269(1); *R v Williams* [1971] Qd R 414, 424; *Kaporonovski v The Queen* (1973) 133 CLR 209, 218, 222.
- <sup>11</sup> *R v Major* [2015] 2 Qd R 307, [3], [20]–[33]; *R v Sleep* [1966] Qd R 47, 54; Andreas Schloenhardt, Joseph Lelliott and Carl Tessmann, *Criminal Law in Queensland: Principles, Offences, and Defences* (Thomson Reuters, 2nd ed, 2023) 488.
- <sup>12</sup> Criminal Code (Qld) s 270.
- <sup>13</sup> Taskforce on Women and the Criminal Code, Report of the Taskforce on Women and the Criminal Code (Report, February 2000) 176–89.
- <sup>14</sup> *R v Chhay* (1994) 72 A Crim R 1, 11; *Parker v The Queen* (1963) 111 CLR 610, 651–2; *McGhee v The Queen* (1995) 183 CLR 82, 106.
- <sup>15</sup> See for example: Heather Douglas, Stella Tarrant, and Julia Tolmie, ‘Social Entrapment Evidence: Understanding Its Role in Self-Defence Cases Involving Intimate Partner Violence’ (2021) 44(1) *University of New South Wales Law Journal* 326, 332–42.
- <sup>16</sup> Stella Tarrant, *Women Who Kill Their Spouse in a Context of Domestic Violence: An Opinion for the Law Reform Commission of Western Australia, Review of the Law of Homicide* (2006) 6–7.
- <sup>17</sup> See Domestic and Family Violence Death Review and Advisory Board, *Domestic and Family Violence Death Review and Advisory Board Annual Report 2020-21* (Report, 2021) 75–6; Felix Leung and Lily Trimboli, ‘Improving Police Risk Assessment of Intimate Partner Violence’ (Crime and Justice Bulletin No 244, NSW Bureau of Crime Statistics and Research, February 2022) observed that one of the most important predictors of risk of DFV re-victimisation was a victim’s self-perception of the risk they faced.
- <sup>18</sup> See further discussion about ss 271(1), 272(1) in Queensland Courts, 94A. *Self-Defence Against Unprovoked Assault: Section 271(1)* (Supreme and District Courts Criminal Directions Benchbook, May 2022) 1.
- <sup>19</sup> *Edmunds v The King* [2025] VSCA 31, [212].
- <sup>20</sup> Criminal Code (Qld) s 31(2).
- <sup>21</sup> *R v Hasan* [2005] 4 All ER 685, 702–3 [38].
- <sup>22</sup> *R v Quami & Ors* (No 64) [2016] NSWSC 1269, [70]–[71], where Hamill J discussed the interpretation of the exclusion in common law (not Queensland).

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- <sup>23</sup> R v Pain (2022) 12 QR 417, 426 [21].
- <sup>24</sup> See for example: Jack Dearden and Jason Payne, 'Alcohol and Homicide in Australia' (Trends and Issues in Crime and Criminal Justice No 372, July 2009) 5–6; Domestic and Family Violence Death Review and Advisory Board, Annual Report 2020–21 (Report, 2021) 11; Patrick Noonan, Annabel Taylor and Jackie Burke, Links Between Alcohol Consumption and Domestic and Sexual Violence Against Women: Key Findings and Future Directions (Research to Policy and Practice No 8, Australia's National Research Organisation for Women's Safety, November 2017) 3–5.
- <sup>25</sup> Jack Dearden and Jason Payne, 'Alcohol and Homicide in Australia' (Trends and Issues in Crime and Criminal Justice No 372, July 2009) 4–5.
- <sup>26</sup> Anthony Morgan and Amanda McAtamney, 'Key Issues in Alcohol-Related Violence' (Summary Paper No 4, Australian Institute of Criminology, December 2009) 4; Jack Dearden and Jason Payne, 'Alcohol and Homicide in Australia' (Trends and Issues in Crime and Criminal Justice No 372, July 2009) 1–2; Julia Quilter et al, The Significance of 'Intoxication' in Australian Criminal Law (Trends and Issues in Crime and Criminal Justice Report No 546, May 2018) 2.
- <sup>27</sup> Queensland Network of Alcohol and Other Drug Agencies, Submission 11.
- <sup>28</sup> Criminal Code (Qld) s 305(1).
- <sup>29</sup> Criminal Code (Qld) ss 305(2)–(4); Corrective Services Act 2006 (Qld) ss 181(1), (2)(a)–(c).
- <sup>30</sup> P Nieman et al, 'Effective Discipline for Children' (2004) 9(1) Paediatrics & Child Health 37, 37.
- <sup>31</sup> Human Rights Act 2019 (Qld) s 58(1).
- <sup>32</sup> The key stakeholder groups were identified having regard to the focus of our review and the non-exhaustive list of stakeholders in our terms of reference.

# Appendix: Terms of reference

## A review of the defences and excuses in the Criminal Code

### Background

The Criminal Code provides for a range of defences and excuses. Some generally apply to any offence against the statute law of Queensland, such as insanity and compulsion. Others are limited to particular types of offences, such as self-defence, provocation, and killing for preservation in an abusive relationship.

In March 2021, the Palaszczuk Government established the independent Women's Safety and Justice Taskforce (the Taskforce), chaired by the Honourable Margaret McMurdo AC. The first report released by the Taskforce in December 2021, was titled *Hear her voice: Report one, Addressing coercive control and domestic and family violence in Queensland* (the report).

The Taskforce examined a range of defences and excuses in the context of coercive control and domestic and family violence (DFV) in Queensland. The Taskforce recommended, at recommendation 71, that the Attorney-General refer the defences and excuses in the Criminal Code, for independent review. The recommendation states that the review should particularly consider the defences of provocation, self-defence, and killing for preservation in an abusive domestic relationship.

In making this recommendation, the Taskforce highlighted a number of issues with respect to the current operation of specific defences and excuses. For example, the Taskforce identified that the partial defence of killing for preservation in an abusive relationship had not been used successfully before a jury in any reported case. The Taskforce was also concerned that the partial defence of provocation 'is still being used by perpetrators of domestic violence to reduce their culpability at law for killing their partners in a jealous rage', citing the High Court decision in *Peniamina v R* (2020) 385 ALR 367. The Taskforce considered that the defence of provocation should be reviewed in conjunction with a review of the mandatory sentence of life imprisonment for murder, the existence of which is consistently used to justify retaining the defence.

The Queensland Government in principle supported this recommendation in its response to the report released on 10 May 2022.

As the Criminal Code defences and excuses apply to a very broad range of offending and offenders, the Taskforce acknowledged that any reform to the defences and excuses and the mandatory penalty of life imprisonment for murder will affect cases far beyond DFV.

### Terms of reference

[1] I, YVETTE MAREE D'ATH, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence (Attorney-General), refer to the Queensland Law Reform Commission (the Commission) pursuant to section 10 of the *Law Reform Commission Act 1968* for review and investigation, the operation of defences and excuses in the Criminal Code.

### Scope

[2] The Commission is asked to examine the following defences and excuses in the Criminal Code:

- (a) the defence of self-defence (sections 271 and 272), and specifically:
  - i. whether it should be clarified and simplified or expanded to cover circumstances when a victim of DFV (including of coercive control) acts reasonably to protect themselves from a perpetrator; and

- ii. whether the defence should distinguish between provoked and unprovoked assaults and whether it should be limited to circumstances of assault against a person.
  - (b) the excuse of provocation for an offence involving an assault (sections 268 and 269) and the partial defence to murder of provocation (section 304), and specifically whether either or both should be repealed or amended;
  - (c) the partial defence of killing for preservation in an abusive domestic relationship (section 304B); and
  - (d) the defence of domestic discipline (section 280).
- [3] The Commission is also asked to consider the mandatory penalty of life imprisonment for the offence of murder, its impact on the operation of those defences and excuses and whether it should be removed. The Commission is invited to collaborate with the Queensland Sentencing Advisory Council on this aspect of the review.
- [4] The Commission is not asked to examine or have regard to the age of criminal responsibility (section 29) or double jeopardy (section 17) as part of this referral.
- [5] The Commission is asked to make recommendations on:
- (a) whether there is a need for reform of the law, practices or procedures relating to those defence or excuses;
  - (b) whether the mandatory penalty of life imprisonment for the offence of murder should be removed; and
  - (c) any other matters the Commission considers relevant having regard to the issues relating to the referral.
- [6] If the Commission recommends reform of the relevant Criminal Code provisions, or other legislative reforms, the Commission is asked to prepare draft legislative provisions based on its recommendations, noting that the decision whether or not to progress those recommended reforms is a matter for the Queensland Government.
- [7] In making its recommendations on those defences and excuses, the Commission should have regard to:
- (a) the findings and recommendations of the Taskforce;
  - (b) the nature and impacts of DFV and criminal conduct on victims and survivors, and their families;
  - (c) existing legal principles of criminal responsibility;
  - (d) the need to ensure Queensland's criminal law reflects contemporary community standards;
  - (e) the need for Queensland's criminal law to ensure just outcomes by balancing the interests of victims and accused persons;
  - (f) the experiences of victims and survivors, and their families, in the criminal justice system;
  - (g) the views and research of relevant experts, including those with specialist expertise in relation to criminal law, DFV, and the experience of victims and survivors;
  - (h) recent developments, legislative reform, and research in other Australian and international jurisdictions;
  - (i) the compatibility of the recommendations with the *Human Rights Act 2019* (including balancing the rights of victims and accused persons); and



- (j) any other matters that the Commission considers relevant having regard to the issues relating to the referral.

[8] In conducting its review, the Commission should consult experts with specialist expertise in DFV and the impacts of criminal conduct on victims and survivors.

## **Consultation**

The Commission shall consult with:

- (a) legal stakeholders;
- (b) people who have experienced DFV or who have been the victim of other criminal conduct, and relevant bodies that work with or represent victims and survivors, or the family of victims, of DFV and other offences;
- (c) Aboriginal and Torres Strait Islander stakeholders;
- (d) the public generally; and
- (e) any group or individual, in or outside Queensland, the Commission considers relevant having regard to the issues relating to the referral.

## **Timeframe**

The Commission is to provide its final report, including any draft legislative provision/s and/or information required to give effect to its recommendations, to the Attorney-General no later than 1 December 2025.

Dated the 15<sup>th</sup> of November 2023.

## **YVETTE D'ATH MP**

Attorney-General and Minister for Justice and

Minister for the Prevention of Domestic and Family Violence

**Review of particular criminal defences**  
**Queensland Law Reform Commission**  
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