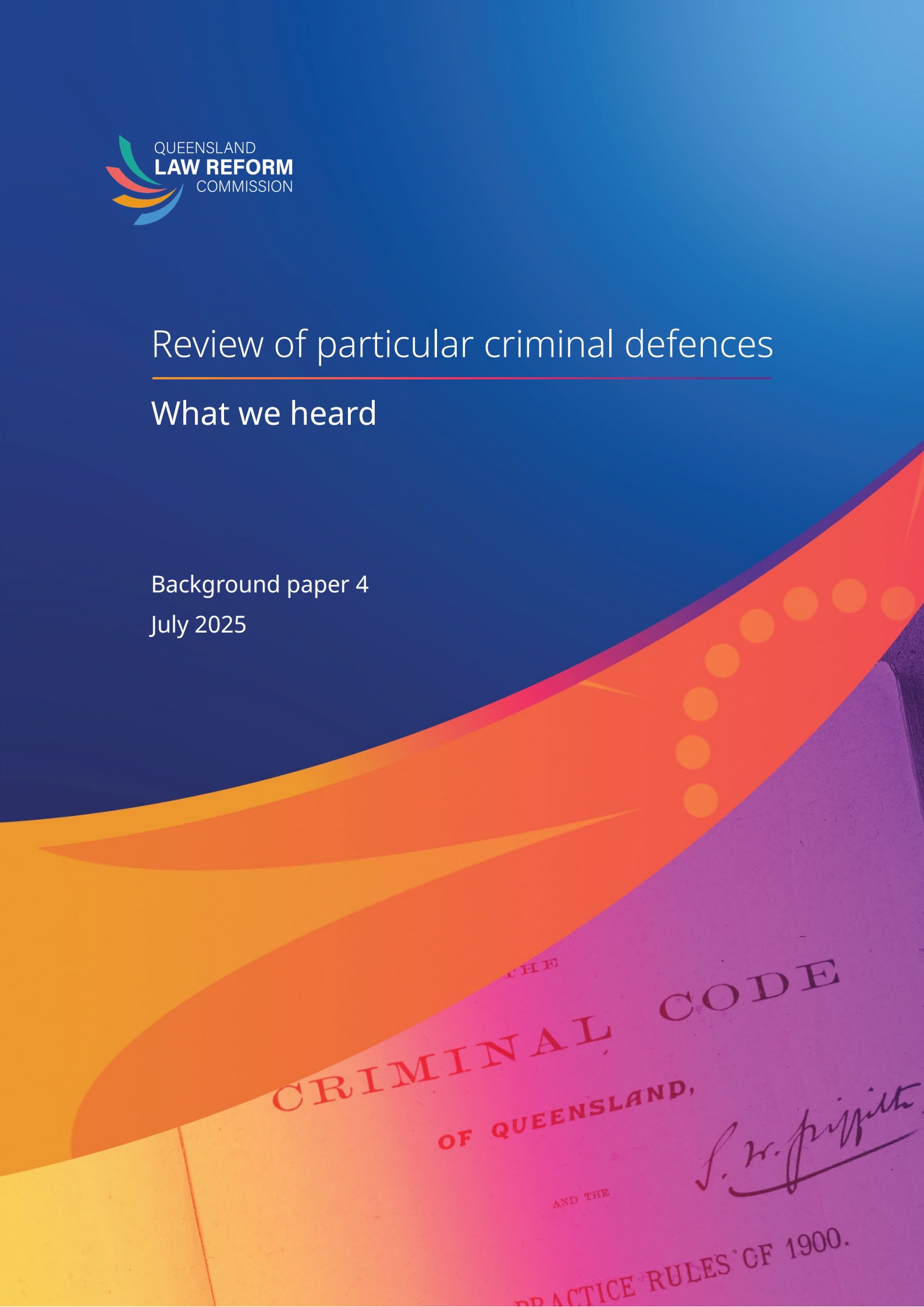
QUEENSLAND LAW REFORM COMMISSION

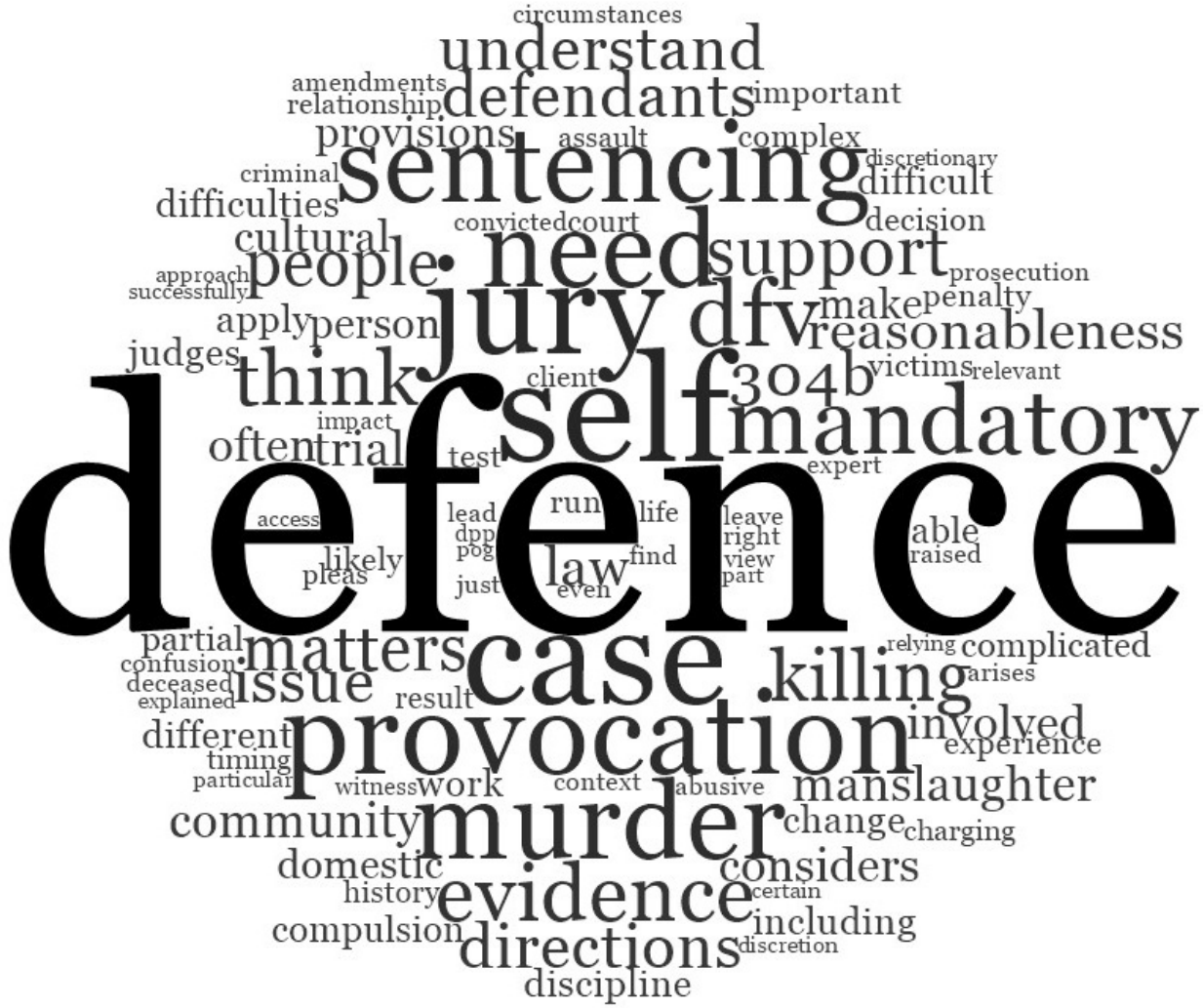
# Review of particular criminal defences

## What we heard

Background paper 4

July 2025






Word cloud created from interview transcripts with Queensland legal professionals.

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The QLRC is an independent Queensland Government statutory body constituted under the Law Reform Commission Act 1968.

**Legislation:**

Legislation referred to applies to Queensland, unless otherwise indicated.

This paper reflects the law and information available to us at 27 June 2025.

# Contents

# Acknowledgements

We thank all who have generously given their time to share views and stories with us. Your insights are critical in helping us develop practical, innovative and just recommendations for reform.

We acknowledge the:

- young people who participated in our focus group on domestic discipline
- legal professionals and members of the judiciary we interviewed
- people and organisations who attended our meetings, roundtables, forums and events
- people and organisations who made submissions.

We also thank the Queensland Family and Child Commission for collaborating with us to convene and facilitate the focus group with youth advocates and young people.

# Introduction

1. We are reviewing the following defences in the Criminal Code:
   - self-defence
   - provocation as a partial defence to murder
   - the partial defence of killing for preservation in an abusive domestic relationship
   - provocation as a defence to assault
   - domestic discipline.
2. We are also reviewing:
   - the mandatory penalty of life imprisonment for murder and its impact on the operation of these defences
   - practice and procedure for these defences.
3. Our review started on 15 November 2023. Our terms of reference ask us to consider:
   - the experiences of victim-survivors and their families in the criminal justice system
   - the views and research of relevant experts, including those with specialist expertise in relation to criminal law and domestic and family violence (DFV).
4. Feedback from stakeholders throughout Queensland, including diverse and disadvantaged communities, is critical. It has assisted us to understand strengths and weaknesses of the current framework and develop options for reform. It will inform development of our recommendations for reform.
5. Our consultation paper discussed seven proposals for reform and asked questions designed to prompt feedback.
6. This paper summarises what we have heard following the release of our consultation paper. It reflects feedback provided to us in consultations, interviews, focus groups and submissions. It:
   - outlines our approach to obtaining and presenting feedback
   - presents key themes identified from feedback
   - summarises feedback on the particular defences, the mandatory penalty for murder and relevant practices and procedures.
7. We are grateful to all who have shared their views. We encourage you to continue to share your feedback with us throughout our review.

## Our approach to obtaining feedback

8. Our approach to obtaining feedback included four key research methods (in addition to legal research): consultations, submissions, interviews and a focus group.
9. We invited feedback broadly and specifically sought feedback from the following stakeholder groups:[1]
   - individuals, including those with lived experience of the criminal justice system
   - community support and advocacy organisations, including DFV support services
   - Aboriginal peoples and Torres Strait Islander peoples and organisations
   - legal practitioners and judicial officers

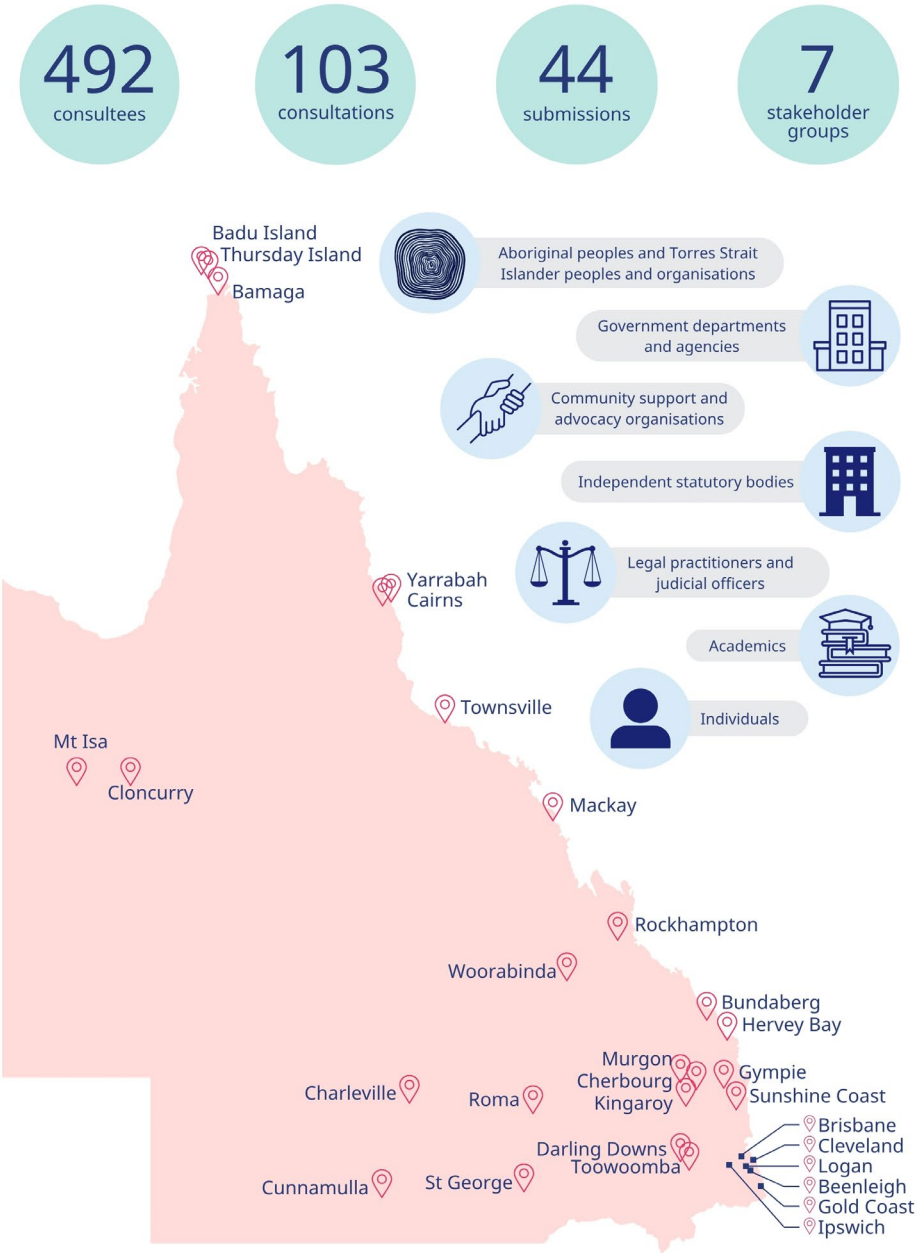
- academics
- Government departments and agencies
- independent statutory bodies.

10. We also used a survey and focus groups run by academics from the Australian National University to generate feedback on community attitudes to defences and sentences in cases of homicide and assault. The findings of this independent research are separately discussed in research report 1.

## Consultations

11. We consulted with 492 stakeholders in meetings, forums, events and roundtables throughout metropolitan, regional and remote areas of Queensland. Figure 1 shows the locations of our stakeholder consultations.

**Figure 1: Map of stakeholder consultations**



12. Figure 2 shows our consultations grouped by stakeholder type. Appendix A lists them grouped by consultation type.

**Figure 2: Stakeholder consultations**


13. We ran consultations under Chatham House Rules to encourage free and open exchange of ideas. We are not attributing specific statements to individual consultees for this reason.[2]

14. We consulted with relevant Government departments and statutory authorities directly involved in the administration of laws and processes under review. These consultations enhanced our understanding of relevant operational factors and provided us with insight into key issues, including implementation considerations. Given their focus on operational matters, we have not reflected the content of these discussions in this paper.

## Submissions

15. We received 44 submissions from the stakeholder groups listed below.

16. We invited submissions in a range of formats, including in writing, audio and visual recordings and artwork. All submissions are published on our website, subject to our submissions policy and the submitter's consent. Appendix B lists the submissions we received.

17. Figure 3 shows submissions grouped by stakeholder type. For organisations, these categories reflect their stated mission, values and choice of descriptor by reference to the inclusive list of stakeholders in the terms of reference for our review. We recognise that many organisations perform multiple functions and represent multiple interests.

**Figure 3: Stakeholder submissions**


18. Many submissions were made by peak bodies representing the views of a significant membership base. For example:

- the Bar Association of Queensland is the professional body representing the interests of members of the Bar practising in Queensland, with 1,469 members[3]

- the Queensland Law Society is the peak representative body for the Queensland legal profession, with 12,741 members[4]
- the Queensland Aboriginal and Torres Strait Islander Child Protection Peak is the peak body for youth justice and child protection in Queensland, with 35 member organisations[5]
- the Queensland Homicide Victims' Support Group is a peak body providing education, advocacy and support through the aftermath of homicide. To inform their submission, they surveyed 165 individual respondents[6]
- PeakCare is a not-for-profit peak body for child and family services in Queensland representing the interests of over 100 members[7]
- the Queensland Network of Alcohol and Other Drugs Agencies Ltd has over 55 member organisations, representing the majority of specialist non-government alcohol and other drug organisations[8]
- the Queensland Catholic Education Commission is the peak body for Catholic schooling in Queensland, representing 313 Catholic schools through five Diocesan Catholic school authorities and 17 Religious Institutes and other incorporated bodies[9]
- the submission by Haslam and the Consortium is a joint submission by a consortium of 32 agencies and research centres, endorsed by over 100 multidisciplinary clinical and scientific experts[10]
- the Queensland Teachers' Union of Employees is the professional and industrial voice of Queensland's teachers and school leaders, with over 48,000 members.[11]

### Interviews

19. We conducted 32 semi-structured interviews with legal professionals to gain insight into their perspectives and experiences.

20. We interviewed:

- Supreme Court Judges
- District Court Judges
- Magistrates (including a Coroner)
- Defence Counsel
- Crown Prosecutors.

32

interviews with members of the Queensland legal profession

21. Appendix C lists the interviews we conducted with Queensland legal professionals.

### Focus group

22. In collaboration with the Queensland Family and Child Commission, we held a focus group with nine youth advocates and young people aged 14 to 17 years to hear their experiences, perspectives and opinions about the defence of domestic discipline.

## Our approach to presenting feedback

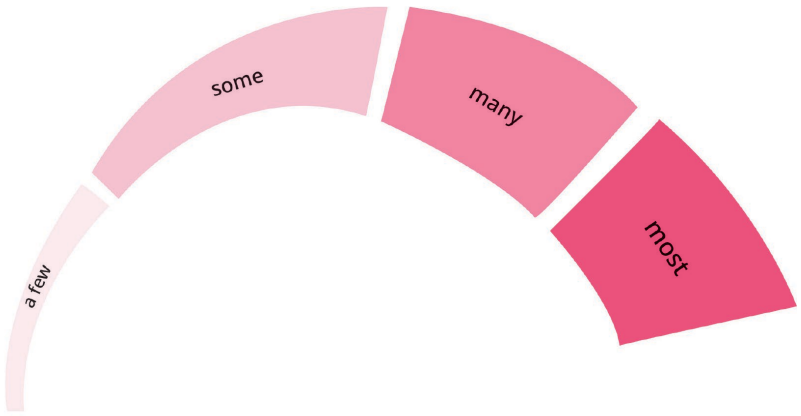
23. This paper provides a summary of the feedback we received and does not reflect all individual views.

24. It includes direct quotations from submissions, consultations and interviews that provide a sample of the many different views expressed to us.

25. Analysis of our records of submissions, consultations and interviews reveals general consensus by many stakeholders on some issues and options and divergence on others.

26. Figure 4 shows our approach to representing the weight of stakeholder sentiment on a particular topic. We characterise stakeholder sentiment based on the representation of the perspective in the context of the total feedback on the relevant topic. We recognise that this may not represent overall community or stakeholder sentiment on a particular issue.

**Figure 4: Quantifying stakeholder sentiment**




# Our guiding principles

27. We identified five guiding principles to help us 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 DFV, including coercive control.
- **Evidence-informed**: the defences and recommended reforms should be informed by evidence, including expert knowledge and lived experience.

28. The research discussed in this report supports our final principle by providing evidence to inform our review, including expert knowledge and lived experience.

# Overview of feedback

29. **The law of self-defence should be clear, simple and just:**
    - The current test is complex and difficult to apply. The test should include objective and subjective elements (some people support more objectivity).
    - It should protect DFV victim-survivors using defensive force against their primary abuser. Reforms should recognise cumulative harm and social entrapment and ensure the courts can consider evidence of DFV.
    - Self-defence should not be limited where a person's belief that their actions were reasonable and necessary was substantially affected by self-induced intoxication.

30. **Judges should have discretion when sentencing for murder:**
    - Sentencing should reflect contextual factors relevant to culpability, including the gravity of the crime, the offender's background, circumstances and relationship with the victim and the offender's response to the charge.
    - Reforms to the minimum non-parole period could support just outcomes.
    - Homicide victims' families generally did not support judicial discretion.

31. **Partial defences to murder are critical given the mandatory penalty and non-parole periods:**
    - They are an important safeguard for DFV victim-survivors. They can play a beneficial role in plea negotiations, although they can increase pleas of guilty to manslaughter where a person could be acquitted by a complete defence.
    - **Killing for preservation in an abusive domestic relationship** would be redundant with the proposed reforms to self-defence. It should only be repealed as part of a package of reforms that introduce sentencing discretion.
    - **Killing on provocation** is not consistent with contemporary attitudes and beliefs. It can be abused by DFV perpetrators, condones gender-based violence and provides limited protection for retaliatory violence by the person most in need of protection.
    - A new **trauma-based partial defence** may support a victim-centred approach but could pose challenges in correctly identifying the person most in need of protection. A trauma-informed criminal legal system is preferable to a bespoke defence.
    - **Excessive self-defence** could complement an expanded defence of self-defence.

32. **Provocation as a defence to assault** is not consistent with contemporary attitudes, though it can be relevant for violent responses to racial harassment or vilification.

33. **The defence of domestic discipline should be limited or repealed:**
    - It does not reflect children's rights or the connection between childhood experiences of violence and adult perpetration of violence.
    - Repeal or reform may affect teachers and vulnerable communities.

34. **Practice and procedure reforms are needed:** to improve access to defences and access to justice for DFV victim-survivors and Aboriginal peoples and Torres Strait Islander peoples.

35. **Broader issues with the criminal justice system affect operation of the defences:**
    - Over-representation of Aboriginal peoples and Torres Strait Islander peoples.
    - Access to justice issues, particularly for disadvantaged communities.
    - Delay in the criminal justice system.

# Feedback on key topics

## Self-defence

36. In our consultation paper, we considered the laws of self-defence in Queensland and proposed simplifying the test and improving its application in the DFV context.

37. Stakeholders generally considered that:

- the legislative test for self-defence should be simplified and clarified
- the test should include both objective and subjective limbs
- care must be taken in reformulating the new test to cover DFV victim-survivors using defensive force against their primary abuser
- self-defence should not be limited where the person's beliefs were affected by self-induced intoxication.

### A new legislative test for self-defence

38. Proposal 1 for reforming self-defence was to repeal and replace the self-defence provisions in the Criminal Code with a test that a person acts in self-defence if:

- the person believes that their conduct was necessary
  - in self-defence or in defence of another or
  - to prevent or terminate the unlawful deprivation of liberty of themselves or another and
- the conduct is a reasonable response in the circumstances as the person perceives them.[12]

39. We also proposed additional limitations on self-defence, so it would only be available as a defence to murder where the person believes their conduct is necessary to defend themselves or another from death or serious injury.[13]

40. Most stakeholders broadly supported Proposal 1.

41. Many stakeholders supported reducing the self-defence test to a single provision of the Criminal Code.[14]

42. The Queensland Law Society noted the difficulties applying the multiple limbs of the current self-defence test to a single set of facts, which increases when other defences are relevant.[15] Some interview participants also expressed this sentiment.[16] One District Court Judge said:[17]

> My experience as a judge particularly is that the self-defence provisions are difficult. They're complicated. They are difficult in terms of determining when they apply and when they don't apply. And then they are difficult in terms of directing on because of the very prescriptive nature of the provisions that we presently have. So generally speaking, I can say that for a long time going right back to earlier involvement in cases, particularly taking them through to appeal [in] the very early days, I've held a view that there should be some simplification of the provisions... [It's] just a question of how to achieve.

43. Some interview participants noted that the multiple limbs of the test create difficulties directing or addressing juries regarding how self-defence may operate, especially when other defences were also relied on.[18] The Australian National University Law Reform and Social Justice Research Hub stated in their written submission that the existing provisions:[19]

> [H]ave been confusing in application, sustain an anachronistic distinction between provoked and unprovoked self-defensive action, and are inconsistent with approaches to self-defence in both common law and other Australian and international jurisdictions.

44. Some stakeholders also noted the benefit of the Queensland test being made consistent with most other Australian jurisdictions.[20]

45. The Queensland Council of Social Service also identified the following benefit of the mixed subjective-objective test:[21]

> QCOSS also supports requiring a jury to consider the 'circumstances as the person perceives them,' to ensure the defendant's personal circumstances are appropriately considered. Without this direction, the current weight afforded to proportionality potentially criminalises women who may be defending themselves against coercive control, particularly if a weapon is used.

46. Some stakeholders, while expressing broad support for the proposed reforms, noted the need for greater objectivity in the core elements of self-defence. Three main views were expressed:

- A purely subjective test for necessity may allow people who hold wholly unreasonable beliefs to rely on self-defence. For example, a person's racist, homophobic or other prejudiced views may inform their belief that they needed to act in self-defence, even though such views are unreasonable. This may limit the right to equality under the Human Rights Act 2019.[22]
- Emphasising the accused person's state of mind at the time of the alleged offending may 'have the unintended effect of forcing [them] to give evidence to establish the defence, rather than being able to rely upon evidence raised in the Crown case to support the application of the defence'.[23] Placing the onus on the Crown to disprove any applicable defence – rather than on the accused to prove the defence – is an important access to justice principle.[24]
- As self-defence provides a complete acquittal and, in cases of homicide, the other key witness has died, there is merit in a purely objective test on public policy grounds. A mixed subjective and objective test is also more complex and creates challenges for instructing juries.[25]

47. Proponents of increased objectivity suggested alternative legislative tests for self-defence.[26]

48. Stakeholders also expressed divergent views about the scope of self-defence in murder cases. They generally supported maintaining a limitation on self-defence to circumstances where the defendant believed their actions were necessary to defend themselves or another from death or other serious consequence. They expressed different views about the term that should be used to define the scope.

49. Stakeholder sentiments on this issue included:

- as Queensland's criminal law is codified, clear and defined terms used consistently across the Criminal Code and related legislation is essential[27]
- 'other serious consequence' should cover fear of sexual violence[28]
- 'other serious consequence' should cover the possibility of psychological injury.[29]

50. Stakeholders provided various justifications for these alternative terms. For some, the term 'injury' risked the assumption that physical harm was required.[30] Some stakeholders noted that 'serious injury' is defined similarly to grievous bodily harm in the Criminal Code and that, in comparison, there is greater legal certainty regarding grievous bodily harm.[31] They suggested maintaining the limitation to grievous bodily harm and/or nominating additional specific offences that meet the requirement.[32]

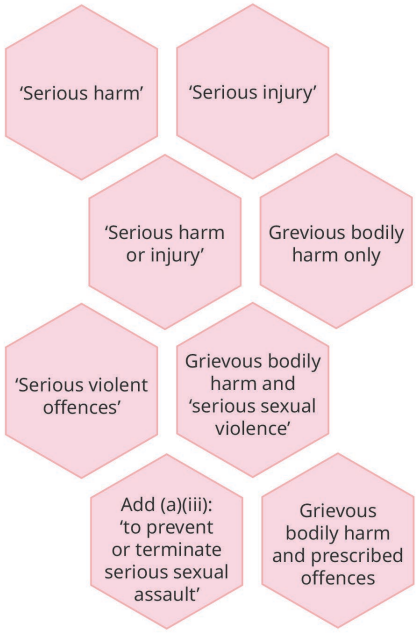
51. The Bar Association of Queensland proposed using 'serious harm', provided a non-exhaustive definition or non-exhaustive list of examples that includes serious sexual assault is used.[33]

52. Queensland Sexual Assault Network and Red Rose Foundation both expressed concerns about the legislation providing an excuse for homophobic violence (or the 'gay panic defence') and submitted that sexual advances alone should not be sufficient to meet the limitation.[34]

53. The Queensland Law Society proposed a specific definition for 'serious injury':[35]

> [A]n injury that causes significant harm, requires immediate medical attention or has long term or permanent consequences. It must be more than a minor inconvenience and has the potential for a lasting impact on a person's health or wellbeing.

**Figure 5: Alternative terms proposed**




54. Figure 5 reflects various alternative terms proposed.

55. Opponents of limiting self-defence in murder cases pointed to difficulties defining 'other serious consequence' clearly and inclusively[36] and that Victoria and Queensland are the only Australian jurisdictions with the limitation.[37] The Australian National University Law Reform and Social Justice Research Hub further noted:[38]

> The complex and nuanced ways in which coercive control and social entrapment escalate to violence will make it difficult for victim-survivors to adduce evidence which demonstrates that they feared death or serious injury. Therefore, this proposed limitation on self-defence may make it more difficult for victim-survivors who kill their abusers to access self-defence.

56. As an alternative to limiting self-defence, Rathus proposed including a third subsection to the necessity limb: 'to prevent or terminate serious sexual assault' where 'serious sexual assault' is defined as 'having the potential to cause long-term physical and/or psychological and emotional harm'.[39]

57. Many stakeholders were generally supportive of including a non-exhaustive list of factors for reasonableness.[40] Hemming noted that codified criminal law should be as comprehensive and provide as much guidance as possible about Parliament's intention.[41] We heard during regional consultations that a non-exhaustive list may help educate police and prosecutors about applying the legislation.

58. Stakeholders identified specific factors, or categories of factors, that they considered should be included. These ranged from more traditional common law factors like proportionality and decline or retreat by the accused, to more contemporary factors informed by social entrapment theory.[42]

59. A few stakeholders cautioned that a list focused on traditional common law factors may create a risk for DFV victim-survivors seeking to access the defence as they contradicted the proposed removal of the imminence requirement (see Proposal 2, below).[43] They suggested further consultation with relevant experts to explore this concern.[44]

60. Legal practitioner and academic stakeholders who did not support a non-exhaustive list of factors noted concerns about it being given undue emphasis and narrowly interpreted by juries and decision-makers.[45] Legal Aid Queensland proposed other means of providing guidance, such as the development of a benchbook direction, stating:[46]

> [I]nclusion of a non-exhaustive list of factors is counterintuitive, particularly given the proposed reforms aim to simplify the law as it relates to self-defence. Such a list … risks the jury wrongly applying such a list of matters in an exhaustive way. It is also inconsistent with the position in other Australian jurisdictions.

## Recognising the impact of DFV

61. Proposal 2 for reforming self-defence focused on improving access to self-defence for DFV victim-survivors. We proposed that:

- evidence that the defendant experienced DFV[47] is relevant to assessing self-defence
- the person may believe their conduct is necessary in self-defence, and the conduct may be a reasonable response in the circumstances as the person perceives them, even if:
  - the person is responding to a non-imminent threat of harm or
  - the use of force is in excess of the force involved in the harm or threatened harm.

62. Many stakeholders supported Proposal 2. Three main themes emerged from the feedback:

- the proposed reforms would assist DFV victim-survivors
- cumulative harm and social entrapment must be properly considered
- the defence must be clearly drafted to ensure its operation is clear.

63. Many stakeholders noted the need to recognise the specific context of DFV in self-defence cases. They highlighted specific barriers DFV victim-survivors experience in accessing the defence due to lack of understanding of DFV within the criminal justice system.[48] Some stakeholders noted the need for particular care in framing reforms to ensure self-defence is available to DFV victim-survivors using defensive force against their primary abuser.[49] Dioso-Villa and Nash stated:[50]

> Women often kill in non-confrontational circumstances—due to physical disparities or prolonged abuse—and may rely on weapons to defend themselves against stronger partners. Yet these actions are frequently deemed unreasonable, even when their actions are a direct response to years of abuse and ongoing danger.

64. Stakeholders highlighted the particular challenges Aboriginal and Torres Strait Islander women experience in the criminal justice system. The Queensland Human Rights Commission noted that '[u]nderstanding and accommodating the dynamics of domestic violence in cases is necessary to uphold the right to equality'.[51]

65. Many stakeholders highlighted the importance of social framework evidence.[52] The Office of the Victims' Commissioner stated:[53]

> A social entrapment lens supports an understanding of the cumulative impacts of abuse contributing to the state of mind of a defendant, and their perceptions of threat against themselves and others.

66. DFV roundtable participants similarly reflected that coercion, control and long-term effects of abuse must be adequately considered so the justice system does not further punish a person who has already suffered significant harm.

67. Respect Inc submitted that Proposal 2 should extend beyond the DFV victim-survivor context to include sex worker-client relationships where coercive and controlling behaviours may be present.[54]

68. Stakeholders also identified the need, recognised in social entrapment theory, for 'accompanied paradigm changes'[55] such as proper training and guidance for legal practitioners, police and judicial officers.[56] For some stakeholders, practice and procedure

reforms, including training, clear jury directions and proper admission of evidence in trials, were more important than legislative reform.[57]

69. Those who did not support Proposal 2 considered that Proposal 1 captured the matters in Proposal 2[58] or expressed concerns about the practical application of the proposal.[59] One interview participant noted that current self-defence provisions are sufficiently broad and defendant-focussed to accommodate appropriate consideration of DFV.[60] The Bar Association of Queensland raised for consideration:[61]

- whether the proposed reforms will place the onus of proof on the defendant to establish that the complainant/deceased was the primary perpetrator of DFV so that they can access Proposal 2
- whether the defendant's experience of DFV must have been at the hands of the complainant/deceased or whether prior experience would be sufficient to access Proposal 2
- whether Proposal 2 should apply to a broader category of situations and defendants (for example, a defendant experiencing ongoing physical or sexual abuse by a neighbour or teacher acting in self-defence against the perpetrator).

## Self-defence and intoxication

70. Proposal 3 of our consultation paper is that the new self-defence provision should provide that self-defence is not available where the person's belief that their actions were necessary and reasonable was substantially affected by self-induced intoxication.

71. A few stakeholders expressed support for Proposal 3 on the basis that voluntary intoxication should not provide an excuse for morally unjustifiable behaviour.[62]

72. Many stakeholders and some legal professionals we interviewed did not support the proposal, for three key reasons:

- It is overly punitive or is too broad in circumstances where voluntary intoxication is a complex issue.[63] The Bar Association of Queensland noted that voluntary intoxication, including in a public place, is not a criminal offence and a person should be able to rely on self-defence in circumstances where a non-intoxicated person would also rely on it.[64] The Queensland Network of Alcohol and Other Drug Agencies noted the 'significant role of institutional stigma and discrimination towards drug users in current legal and criminal justice settings'.[65] Issues with the term, 'substantially affected', especially in the context of intoxication, were also raised.[66]
- It would disproportionately affect many vulnerable people, including DFV victim-survivors and Aboriginal peoples and Torres Strait Islander peoples, who suffer alcohol and substance misuse issues (including substance use as a method of coercive control and self-medication due to DFV and trauma).[67] Legal Aid Queensland cautioned that this could effectively 'punish a victim-survivor for responses that could be understandable or objectively reasonable, just because they happen to also be substantially intoxicated' and that the experience of DFV can cause sustained psychological trauma and fear which can 'significantly influence' a victim-survivor's perception of both their threat and an appropriate response.[68]
- Reasonableness provides a sufficient safeguard as it is ordinarily assessed from the perspective of a sober person, making Proposal 3 unnecessary.[69]

73. To address the competing concerns, Lelliott and Wallis proposed a provision similar to section 348(2) of the Criminal Code:[70]

> In deciding whether a person's conduct was a reasonable response in the circumstances as the person perceived them to be, regard may not be had to voluntary intoxication of the person caused by alcohol, a drug or another substance.

## Compulsion and duress

74. In our consultation paper, we also explored whether the proposed reforms to self-defence warranted changes to compulsion and duress. There was limited engagement on this topic.

75. Few stakeholders supported repeal of s 31(1)(c) of the Criminal Code (compulsion).[71] Many noted the continuing role for compulsion for threats of violence to commit an offence against an innocent third party (such as drug, property or fraud offences) that do not meet the 'serious harm or detriment' requirement in s 31(1)(d) of the Criminal Code (duress).[72] However, some stakeholders noted that their position may change depending on how duress is redrafted.[73]

76. Many stakeholders supported retaining the duress provision,[74] with some supporting reform aimed at simplification,[75] to 'reflect the reality of social entrapment and coercive control',[76] or to maintain the express link between DFV and duress.[77] Rathus stated:

> The defence of duress has been vital to some women victims of DFV who have killed / seriously injured others under the influence of their violent partner… I believe it is important to retain a defence of duress that will apply to women acting under the duress of an abusive partner. That may require changes to the existing duress law which are consistent with the kinds of changes suggested for self-defence – clarifying the position of a victim of DFV… Victoria has enacted a provision specifically regarding duress and DFV. It is worthy of consideration.

77. Many submitters, as well as a Magistrate we interviewed, supported removing the current exclusion of compulsion and duress from murder or where grievous bodily harm (or intention to cause grievous bodily harm) is an element.[78] The Bar Association of Queensland stated:[79]

> Making compulsion and duress available to murder does not make killing permissible. It simply excuses it in the rare situation of duress. Excluding murder asks too much of a reasonable person who is in a situation of such gravity that their conduct meets the criteria for the defence of duress. For good reason, several other jurisdictions permit application of the defence of duress to murder, including the Commonwealth, Victoria, Western Australia and the Australian Capital Territory.

78. The Bar Association of Queensland also suggested revising the exclusion in s 31(2) relating to unlawful associations and conspiracies because the present wording is too broad.[80]

# Mandatory sentencing for murder

79. Our consultation paper summarised our understanding of strengths and problems with the mandatory penalty of life imprisonment for murder (the head sentence) and associated minimum non-parole periods. It explored potential options for reform of both the head sentence and minimum non-parole periods and different ways these reforms could be achieved and invited feedback.

80. Many stakeholders provided feedback on this topic in written submissions, consultations and interviews. We identified the following themes from this feedback:

- Most stakeholders do not support mandatory sentencing for murder. While there is limited support for retaining the mandatory penalty of life imprisonment for murder, most stakeholders support the introduction of discretion in the sentencing process, with many considering that this should be introduced by reforms to minimum non-parole periods.
- Sentencing for murder should reflect key contextual factors. This is consistent with:

    - sentencing principles and purposes
    - a human rights-based approach
    - community expectations
    - sentencing practices in other jurisdictions.
- Contextual factors include the:
    - gravity of the individual crime, including parity between co-offenders
    - offender's background and circumstances, including their relationship with the victim
    - offender's response to the charge.
- Key systemic implications of the current sentencing framework include:
    - reduced rates of guilty pleas to murder
    - increased rates of guilty pleas to manslaughter, including in circumstances where a complete defence to murder may be available
    - an unnecessarily complex legal framework where partial defences that reduce murder to manslaughter, permitting judicial discretion in sentencing, are relied on to mitigate the impact of mandatory sentencing
    - disproportionate adverse impacts on people from disadvantaged groups.

81. We present the feedback thematically below to reflect the cross-cutting nature of these themes and stakeholders' approach to considering reform in this area. We also discuss stakeholders' suggestions on consequential reforms.

## Views on the mandatory penalty

82. Most stakeholders that addressed this topic expressed the view that the mandatory sentence of life imprisonment for murder should be repealed. They considered an individualised approach to the use of lethal violence more appropriate.[81] None of the stakeholders expressed support for the mandatory sentence of life imprisonment for murder being only applicable to some types or categories of murder.

83. Lelliott and Wallis noted:

> The need to review and amend the mandatory penalty for murder is paramount. It is, without a doubt, the single issue in the Code which most urgently requires change.[82]

84. Some stakeholders who supported removing the mandatory sentence expressed views on whether there should be reforms to the head sentence, minimum non-parole period or both. Of these stakeholders, many suggested that the minimum non-parole periods, rather than the head sentence, should be reformed.

85. While some interview participants expressed support for retaining the current sentencing framework, many considered that the mandatory penalty inappropriately limits judicial discretion and affects 'individualised justice'. One judicial participant reflected:

> I've done many murder cases, but I just found that outcome [in one case discussed] so traumatic on so many different levels. [It] was a complete failure of the criminal justice system, I think. And if nothing else, it's the greatest advertisement you could have for getting rid of mandatory life sentences.[83]

86. A contrasting view was expressed on behalf of those with lived experience of homicide. The Queensland Homicide Victims' Support group undertook a survey with members who have lost one or more loved ones to homicide in Queensland and received 165 anonymous responses.[84]

In reporting their finding that 75% of respondents did not support repeal of mandatory sentencing, they stated:

> Let's not forget the fact that Murder is the worst crime imaginable. It is not financial fraud case; it is not defamation case. It is the taking of someone's life that creates intergenerational trauma. It must be treated differently…[85]

87. Speaking at the public launch of our review, the Director of Public Prosecutions reflected that the appropriate penalty for murder is a policy decision by Parliament that recognises the taking of a life and that, irrespective of potential disparities between killings:

> [T]here is still somebody who's dead. And so, the question then becomes about the moral culpability of the actions of the person.[86]

88. Stakeholders and legal professionals we interviewed generally expressed the view that judges should have discretion in sentencing. Justifications included that exercising discretion to determine an appropriate sentence is the judicial role, in which judges have expertise, and the separation of powers.[87] One Supreme Court Judge we interviewed reflected:

> [R]estriction of the judicial discretion is always likely to cause injustice, and most persons experienced in the criminal law (including myself) have been involved in cases where injustice has been done by mandatory sentencing regimes.[88]

## The relevance of context in sentencing

89. Stakeholders expressed the view that the sentencing process should support adequate consideration of key contextual factors. Reasons offered include alignment with sentencing principles and purposes (notably just punishment, proportionality and parity between co-offenders), community expectations about sentencing and appropriateness when compared with sentencing practices in other jurisdictions.

90. Some stakeholders said mandatory sentencing was not effectively balancing or achieving sentencing principles,[89] contradicting 'the core principles of proportionality and imprisonment as a last resort in Australia's criminal justice system'.[90]

91. The mandatory penalty's restriction on the ability to provide just outcomes was a strong theme of the submissions, consultations and interviews. The Queensland Law Society framed this in terms of allowing for the imposition of a sentence 'that is just in all the circumstances'.[91] Legal Aid Queensland noted that just sentencing outcomes require consideration of mitigating and aggravating factors – the 'treatment of like cases alike and different cases differently'.[92]

92. Lelliott and Wallis stated:

> Removing the mandatory penalty will permit sentencing courts to properly take into account the blameworthiness of individual offenders and to craft an appropriate sentence on that basis. We stress that we do not recommend this because we think murder requires lower sentences. Rather, we argue that a mandatory life sentence distorts a 'just desserts' model of punishment, which undermines any expression of retributive punishment as well as failing to allow for individualised justice.[93]

93. Stakeholders also said there is little evidence that mandatory sentencing is an effective deterrent.[94]

94. One stakeholder expressed the view that it is 'perverse' that sentencing for attempted murder can take mitigating factors into account while sentencing for murder cannot, given that the difference between murder and attempted murder is typically luck rather than the intention of the offender.

95. Some stakeholders considered the human rights implications of the mandatory penalty. The Queensland Human Rights Commission stated:

> It operates arbitrarily by applying uniform penalties regardless of moral culpability, distorts the framing of the criminal law and trial processes through inappropriate plea incentives, and magnifies existing discrimination affecting First Nations peoples and domestic violence survivors.[95]

96. They identified adverse human rights impacts not only for offenders but also for victims and their families, stating:

> By distorting the criminal justice process, mandatory life sentences may impose more trauma on victims' families, subjecting them to a trial that might not otherwise have proceeded (limiting their right to security of the person and privacy).[96]

97. A few submitters reflected on the specific impacts of mandatory sentencing for children, citing its inconsistency with international and Queensland law.[97]

98. Some stakeholders considered the extent to which mandatory sentencing reflects contemporary community attitudes and sentiments. A few stakeholders considered that it does, with the Queensland Homicide Victims' Support Group stating:

> Sentencing for manslaughter is an ongoing failure and in no ways meets community expectation for justice. Leaving the sentencing to the judiciary discretion is problematic as the community do not hold trust and lack the confidence that there will be appropriate sentences and community protection.[98]

99. Similarly, one Supreme Court Judge we interviewed reflected:

> If you have a mandatory sentence of life imprisonment for murder, it makes it clear that the community regards human life as sacrosanct.[99]

100. However, most stakeholders considered that the community expects tailored sentencing outcomes for murder.[100]

101. A few stakeholders noted that Queensland's sentencing framework for murder is not consistent with practices in other comparable jurisdictions.[101] Legal Aid Queensland stated:

> Queensland's sentence regime for murder is the most restrictive. It is also the harshest, before even considering how it applies to children.[102]

102. One submission highlighted the interjurisdictional differences in outcomes by a case study:[103]

> After trial [Payne] was found guilty of murder but her circumstances were so unique and the family violence she was exposed to so horrific that despite the running of a trial, her sentence was an objectively 'good' one. The sentencing remarks of the learned judge make it clear, in my view, that her Honour went 'as low as possible' without infringing sentencing principles... the Victorian Court of Appeal nonetheless reduced her sentence significantly... That such a sentence is possible in Victoria, which properly and necessarily reflects critical mitigating factors and principles like mercy, but not in Queensland is indicative of how contrary to community standards mandatory sentencing for homicide offences is in Queensland.

## Key contextual factors

103. Stakeholders identified a range of relevant mitigating and aggravating factors. Relevant factors were identified to include, firstly, the gravity of the individual offence, including parity between any co-offenders.[104]

104. Stakeholders also noted the relevance of considering the offender's background and circumstances in sentencing, including:

- childhood trauma and disadvantage, such as a profoundly deprived upbringing or disadvantages experienced growing up in a remote community
- DFV, including coercive control and social entrapment
- psychiatric diagnoses

- very young age
- cumulative harm and trauma.[105]

105. Stakeholders also said that the offender's response to the charge, including cooperation with police and court processes and pleas of guilty, should be considered.[106]

## Systemic implications

106. Many stakeholders noted significant systemic implications of the current sentencing framework. Submissions, consultations and interviews highlighted the following key issues:

- reduced rates of guilty pleas to murder, in the absence of incentivising this through the possibility of a reduced sentence
- increased rates of guilty pleas to manslaughter, including in circumstances where a complete defence to murder may be available, particularly by female DFV victim-survivors
- necessitating an unnecessarily complex legal framework where partial defences that reduce murder to manslaughter, permitting judicial discretion in sentencing, are relied on to mitigate the impact of mandatory sentencing
- disproportionate impact on groups already facing disadvantage, notably Aboriginal peoples and Torres Strait Islander peoples.

107. Legal Aid Queensland stated:

> [T]he ability to achieve a penalty less than life imprisonment will enable real discounts for early pleas of guilty, likely causing a significantly greater number of pleas of guilty to murder and reduction in the number of murder trials. LAQ's experience is that the mandatory sentence of life imprisonment, along with a lengthy non-parole period, is a matter that appears to influence advice from lawyers to clients and the decision of some defendants to proceed to trial. A discretionary penalty will result in significant cost-savings to the justice system and achieve quicker resolutions for victims' families and friends.[107]

108. Some stakeholders noted that mandatory sentencing adversely affects the administration of justice, causing delay and protracted hearings.[108] The Office of the Victims' Commissioner said:[109]

> Such delays cause a significant ongoing burden which manifest in financial, legal and personal costs to victim-survivors of domestic and family violence who have resorted to lethal violence, children who have been directly affected, and deceased persons' families and friends, who can wait years before achieving any sense of closure and be retraumatised by the process.

109. The other way the mandatory sentence impacts plea rates is by increasing the rate of guilty pleas to manslaughter, despite the potential availability of complete defences in the relevant case, due to concerns about being sentenced to the mandatory penalty.[110] This was highlighted as disproportionately impacting female DFV victim-survivors and failing to account for the gendered and intersectional impacts of their experiences.[111]

110. As Dioso-Villa and Nash state:[112]

> The mandatory life sentence for murder in Queensland exerts a powerful coercive effect on plea negotiations. Women may feel pressured or are often advised to plead guilty to manslaughter—even when they have a viable self-defence claim—because the risk of a murder conviction is too great. This dynamic contributes to wrongful convictions and undermines the integrity of the justice system.

111. Many stakeholders noted that partial defences are used to mitigate the mandatory sentence.[113] Interview participants reflected that partial defences are necessary because there is no sentencing discretion for murder. Legal professionals in one regional consultation described

partial defences as a 'backwards' way of obtaining appropriately tailored sentencing outcomes. This not only impacts just outcomes in individual cases but also increases the complexity and length of murder and manslaughter trials.

112. Overall, this can result in perverse outcomes. As legal professionals discussed during one regional roundtable, it can lead defendants unlikely to have an available defence with nothing to lose pleading not guilty and running matters to trial while those with a valid complete defence make a pragmatic decision to plead guilty to manslaughter.

113. Some stakeholders highlighted the disproportionate impact of the mandatory penalty on Aboriginal peoples and Torres Strait Islander peoples, in the context of institutional racism and their over-representation within the criminal justice system.[114] Stakeholders also noted higher rates of misidentification and barriers accessing defences as key factors driving inequity in sentencing outcomes.[115] As Red Rose Foundation explained:

> [W]e note that retaining mandatory life sentences risks the continuation of perpetuating systemic inequities, particularly for Aboriginal and Torres Strait Islander women victim-survivors of DFV, who face higher rates of misidentification as perpetrators, institutional racism and barriers to accessing defences.[116]

114. Legal Aid Queensland noted that reforms to the head sentence are particularly critical, as parole conditions may prevent a person from returning to their community and force them to live in a larger regional centre, stating:

> This exposes those persons to greater policing and the criminal justice system for minor offences such as committing a public nuisance or possessing a small amount of cannabis, and thus raises the possibility of further sentences of imprisonment and/or suspension of their parole. Reforms that only affect the non-parole period for the offence of murder are likely to still significantly disadvantage low-income and First Nations people, as their exposure to these circumstances remains for life.[117]

### Consequential reforms

115. Some stakeholders considered consequential reforms that would be required to accompany any reforms to the mandatory penalty. They identified safeguards to support consistency in sentencing, such as court guidelines, judicial training and funding for legal assistance services to address access to justice issues.[118]

116. Some legal stakeholders said it would be appropriate for murder to be included as a scheduled offence within the Serious Violent Offences scheme if the mandatory penalty is repealed,[119] notwithstanding that it would fetter the courts' sentencing discretion.[120]

## Partial defences

117. Our consultation paper included proposals and questions about the role of partial defences to murder, including options for reforming existing partial defences and introducing new partial defences. Below, we discuss feedback on these proposals. We also identify common thematic findings across all proposals, including:

- how the reduced culpability of victim-survivors of DFV who kill their abuser should be reflected in the law[121]
- the interconnectedness of the partial defences, mandatory sentencing and self-defence
- the role and risks of plea negotiations.

## Acknowledging reduced culpability in DFV settings

118. Stakeholders described the partial defences as providing a 'safeguard' or 'safety net' for DFV victim-survivors.[122] Legal Aid Queensland submitted:

> There is an important role for a partial defence to murder for those who kill in response to a history of serious abuse by another person. The defence properly mitigates culpability when a person kills their long-term abuser.[123]

119. Feedback referred to findings in the Community Attitudes Survey Research Report that demonstrated strong community support for partial and complete defences to adequately consider the DFV history of people who kill their abuser.[124]

120. Other stakeholders expressed concern that partial defences could be misused, or changes implemented in a way that defeats the original purpose of ensuring just outcomes.[125]

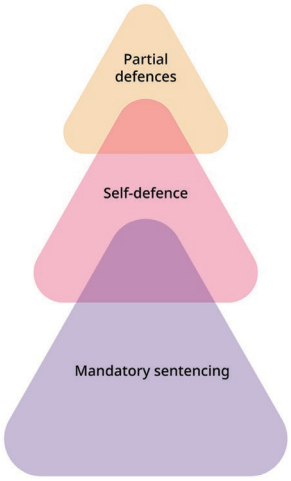
121. The 'protection' offered by some partial defences was considered necessary because of the mandatory sentencing regime:

> Most critically, the mandatory life sentence for murder must be reconsidered. If it is not removed, then complementary reforms … are essential to ensure that women are not unjustly penalised for actions take in the context of prolonged abuse. Without these safeguards, the risk of wrongful convictions and disproportionate sentencing will persist.[126]

## Relationships between partial defences, mandatory sentencing and self-defence

122. Many stakeholders discussed proposals about partial defences alongside other features of criminal law, such as the mandatory penalty for murder and self-defence provisions. This finding, interpreted in Figure 6, shows that amendments to partial defences are highly dependent on other changes. This is reflected in almost all stakeholder feedback. For instance, the Queensland Human Rights Commission supported the repeal of the partial defence of killing on provocation 'as part of the overall package of reforms'.[127] The Bar Association of Queensland did not support the repeal of the partial defence of killing for preservation until an expanded self-defence provision was successfully evaluated, or while there was still mandatory sentencing.[128]

**Figure 6: The relationship between the mandatory penalty, self-defence and the partial defences**




123. Alternative partial defences were also discussed in the context of other features of criminal law. Some feedback drew comparisons between the existing and alternative partial defences. Hemming submitted that the trauma-based partial defence was very similar to the partial defence of diminished responsibility (which is not part of our review so is not discussed in our consultation paper) and the partial defence of killing for preservation.[129]

## Partial defences influencing plea negotiations

124. Another common cross-cutting finding was that partial defences influence plea negotiations. Stakeholders identified that partial defences may aid in negotiating the resolution of proceedings.[130] Dioso-Villa and Nash acknowledged that partial defences may 'dilute full self-defence claims', but that the principle of partial defences remains 'vital for capturing the complex realities of abuse'.[131]

125. Other stakeholders observed how partial defences influenced defendants to plead guilty to manslaughter even where they had good prospects of relying on a complete defence. The Australian National University Law Reform and Social Justice Research Hub referred to Victorian research about criminal defences that 'recognised the trend of plea deals resulting in victim-survivors of DFV pleading guilty to lesser offences where acquittal through self-defence might have been available'.[132]

126. One legal practitioner we interviewed spoke of how a partial defence affects advice to clients:

> It's really scary to forgo the potential of a manslaughter plea and run a murder trial. Like if there's manslaughter on the table, it's really hard to advise your client to just go for it and plead not guilty to murder. You know, a lot of women will already. They want to get it over and done with. They'll want to get back to their family.[133]

## Existing partial defences to murder

127. Our consultation paper proposed repealing two partial defences that reduce murder to manslaughter:

- killing for preservation in an abusive domestic relationship (Proposal 4)
- killing on provocation (Proposal 5).

## Killing for preservation in an abusive domestic relationship

128. Of the stakeholders that considered Proposal 4 to repeal the partial defence of killing for preservation in an abusive domestic relationship, many expressed support. In addition to the above general findings, we identified the following common themes for this proposal:

- the killing for preservation partial defence is rarely used in court
- the killing for preservation partial defence has limitations which affect its availability for people experiencing DFV.

129. Diverging views correlated with the support (or lack of support) for the proposal. Those who did not support repealing the partial defence emphasised its value for vulnerable defendants, particularly women. They favoured retaining the provision and addressing any shortfalls through amendments.

130. Stakeholders who favoured repeal observed that the partial defence would not be necessary if other proposals were implemented and that a full defence may be more appropriate for defendants who have experienced DFV. A few observed that siloing DFV considerations to bespoke partial defences is problematic and creates technical challenges.

131. These thematic findings are discussed further below.

### The killing for preservation partial defence is rarely used

132. A common thematic finding across all stakeholders was that the killing for preservation partial defence is rarely used. During consultations, legal practitioners shared that they rarely had cases that involved this defence. This is consistent with sentiments expressed by legal practitioners we interviewed. A few suggested that this defence is rarely raised because defendants plead guilty to manslaughter instead.[134]

133. There were stakeholders that still considered the defence important.[135] The Queensland Law Society observed:

> [T]he more defences available to ensure just outcomes, the better. Just because the defence is raised infrequently (according to statistics), does not mean it is not important or significant to avoid injustice in those few circumstances in which it applies.[136]

134. Others suggested the fact that it is not used indicates deficiencies supporting its repeal.[137]

### There are internal limitations to the partial defence

135. Stakeholders were generally united in their view that the defence had limitations, irrespective of whether they supported its repeal. Academics noted the defence created 'procedural and strategic complexity,'[138] with the Australian National University Law Reform and Social Justice Research Hub noting its limitations for defendants who enable or aid a killing.[139]

136. Those who supported its repeal tended to identify the limitations at a higher level. For example, Women's Legal Service Queensland noted that having partial or complete defences based on DFV circumstances introduces 'further complexity for both victims and the administration of justice'.[140] These and similar sentiments are discussed further below.

### Retaining the killing for preservation partial defence

137. Some stakeholders did not support repealing the killing for preservation partial defence. The main reason for this is the relevance of the defence in protecting DFV victim-survivors in the context of the mandatory penalty for murder.[141]

138. Some considered that an expanded self-defence provision had merit, but that it was premature to repeal the partial defence. The Red Rose Foundation and the Bar Association of Queensland suggested waiting until the expanded self-defence was implemented and had been evaluated.[142]

139. Stakeholders cited the importance of protecting vulnerable defendants as a key reason for retaining the defence while conceding its limitations. They proposed amendments to address these limitations, including that the defence should: [143]

- include threats made against a third party
- exclude the state of mind of the defendant
- expand the scenarios in which the defendant considered their act to be necessary.

### Repealing the killing for preservation partial defence

140. Many stakeholders supported repealing the partial defence, but only if repeal was part of a package of reform. Stakeholders identified a range of reform combinations that included implementation of all or most proposals (for example, removal of mandatory sentencing and expansion of self-defence) or single elements (for example, reform of self-defence or introduction of an alternative partial defence). [144]

141. We heard that a benefit of relying on an expanded self-defence provision was that it more appropriately reflected the experience of defendants who kill because of a DFV history.[145] Legal professionals we interviewed observed that the partial defence fails to connect the reduced moral culpability of an unlawful killing with the contextual DFV, because a defendant is sentenced on the basis they did not intend grievous bodily harm (manslaughter).[146] During consultations, a DFV practitioner also commented on how a partial defence for DFV scenarios spoke to the gendered nature of the criminal justice system that more readily accepts self-defence in the context of two men fighting, than women who experience violence in a domestic setting.

142. The Queensland Human Rights Commission also highlighted the defendant's right to equal protection, observing:

> [R]emoval of the partial defence will (in the absence of mandatory sentencing) reduce the incentive to plead or options for a compromise jury verdict where a full defence is available promoting equal protection of the law.[147]

143. Others identified the role of the partial defence in influencing guilty pleas to manslaughter as an indication the provision was not operating as intended.[148] This may be particularly pronounced where the defendant's experience of intersectional disadvantage increases their social vulnerability. One defence counsel, reflecting on a case example, highlighted how Aboriginal or Torres Islander defendants with criminal histories may plead guilty despite having good prospects of successfully relying on self-defence:

> She pleaded guilty to manslaughter on the basis of section 304B. And it just screamed self-defence. … What would we need in a defence to make sure it worked for these Aboriginal women, 'cause we know they're more likely to be killed … We know they're more likely to have a criminal history, usually as a result of being misidentified …

144. We heard that a bespoke partial defence that focussed on DFV evidence and context was problematic. Stakeholders noted the evidentiary challenges of proving DFV.[149] Women's Legal Service Queensland stated that, given the diverse ways DFV can occur, it would be difficult to establish a standard for a relevant DFV history.[150]

## Killing on provocation

145. There were mixed views on Proposal 5 to repeal the partial defence of killing on provocation. While many supported repeal, some opposed it. Stakeholders expressed different reasons for their views.

146. Stakeholders' justifications for repealing the defence include that provocation is not an appropriate or proportionate reason to kill, though it may be an appropriate sentencing consideration. Some of these stakeholders noted recent amendments limiting the defence as indicative of the attitudinal and policy shift away from accepting provocation as justifying reduced culpability. A few suggested that, despite these amendments, it was still producing undesirable outcomes.

147. Stakeholders' justifications for retaining the defence include that it provides a catchall for circumstances where a defendant's moral culpability is reduced because of provocation, particularly for vulnerable defendants and that other proposed changes would not provide sufficient safeguards in these circumstances.

### Reliance on the partial defence of killing on provocation

148. Some stakeholders considered the relevance of the defence for particular groups in justifying its retention or repeal. For example, Legal Aid Queensland argued the partial defence should be retained to protect marginalised groups including women, youth and people with prejudicial upbringings or cognitive impairment.[151]

149. Others suggested the partial defence is relied upon too often by men who kill women.[152] The Red Rose Foundation argued that the partial defence was an example of gendered misuse that 'historically allowed perpetrators of DFV to reduce murder charges to manslaughter' and this 'reinforces harmful stereotypes that excuse male violence'.[153]

150. Stakeholders reflected on examples where the defence had been relied on in court in considering the breadth of cases in which the defence was used.[154] Stakeholders noted that, while decisions like R v Peniamina were 'jarring', they represented a minority or outlier in terms of provocation matters generally and should not be taken as a direct justification for reform.[155] One defence counsel observed that focussing on types of cases misconstrued the partial defence:

> [L]et's not think of provocation as just being this grotesque kind of excuse for gross violence and excuse for … taking someone's life. It does operate in ways that we still need to cater for.

## Retaining the partial defence of killing on provocation

151. Some stakeholders did not support the proposal to repeal the partial defence of killing on provocation, noting that there would always be contextual circumstances of provocation that could reduce the moral culpability of the killing.[156] As discussed above, this could be particularly relevant for defendants who have experienced DFV. A District Court Judge we interviewed noted its relevance where the provocation was discriminatory.[157] Duffy suggested that provocation should be a factor to be considered in sentencing, along with other mitigating and aggravating factors, rather than a partial defence that reduces murder to manslaughter.[158]

152. The Queensland Law Society indicated that they may support repeal of the partial defence if mandatory sentencing was abolished.[159] The Bar Association of Queensland indicated that implementing other proposals — such as amending mandatory sentencing, expanding self-defence and introducing new partial defences — may not provide sufficient recognition of reduced culpability in circumstances of provocation.[160] For example, other defences that require consideration of DFV contexts may have evidentiary issues and be impacted by community misconceptions about DFV.[161]

153. Stakeholders raised concerns about the use of the partial defence by perpetrators of DFV in the wake of amendments to narrow the partial defence,[162] which the Bar Association of Queensland noted were unduly complex.[163] Stakeholders who supported retaining the defence suggested it could be clarified,[164] by:

- making explicit the circumstances in which the partial defence applies
- indicating what regard and recognition should be had when determining whether the conduct causing death occurred under provocation[165]
- considering provocation terms between sections 304 and 268 (assault provocation) to 'meaningfully modify and modernise'.[166]

## Repealing the partial defence of killing on provocation

154. Many stakeholders supported repealing the partial defence. The leading justification was that provocation did not justify killing. Hemming stated that, irrespective of the mandatory sentencing regime, 'the partial defence to murder of provocation is totally flawed and should be abolished'.[167] We heard that the mechanism by which moral culpability was reduced was through an 'exculpatory narrative of excuse for perpetrator's murderous anger and rage' that relied on blaming the victim for their own death, which a few stakeholders found difficult to accept.[168]

155. The Red Rose Foundation considered the partial defence inconsistent with contemporary understandings of DFV. Other stakeholders indicated that the partial defence condoned gendered violence[169] and could potentially excuse violence based on a person's LGBTQIA+[170] status.[171]

156. The Queensland Human Rights Commission, supporting the repeal of the partial defence, stated:

> [S]uch killings constitute arbitrary deprivation of life and the defence operates in gendered ways, contrary to the right to equality … Such killings do not meet the criteria for justified use of lethal force, making them arbitrary, and incompatible with the right to life.[172]

157. Stakeholders noted that the recent amendments to limit the partial defence suggest a diminishing rationale for its existence. Others expressed concern about how courts have interpreted provocation scenarios since the amendments commenced.[173]

158. During interviews, one Supreme Court Judge indicated that, notwithstanding its recent amendment, the defence was successfully applied where the defence relied on the assessment of an ordinary person in the position of the defendant, potentially due to culturally gendered norms:

> [W]e can do all we can to change the law. But if on the whole juries comprised of men and women think that women owe men certain things, and if they don't deliver, then they're right for whatever's dished out. I think that's not something the law can address.[174]

159. A public prosecutor also raised issue with a subjective element that imports cultural considerations, suggesting provocation could be more appropriately considered in sentencing than when assessing criminal liability.[175] A few other legal practitioners supported only considering provocation at sentencing, should discretion be permitted under an amended sentencing regime.[176]

## Proposed alternative partial defences to murder

160. Our consultation paper explored two new partial defences to murder:

- a trauma-based defence that applies when a victim-survivor of DFV kills their abuser
- a defence of excessive self-defence.

161. We sought views on whether these partial defences should be introduced and if so, how they should be framed and the circumstances in which they should apply.

## A trauma-based partial defence

162. A few stakeholders considered the potential role of a trauma-based partial defence. Many of those stakeholders did not support the proposal because of concerns about its potential implementation, rather than for substantive or policy reasons. Feedback included:

- the evidentiary challenge of correctly identifying the person most in need of protection and risks of misuse by perpetrators
- the preference of cultivating a trauma-based criminal legal system rather than an 'isolated' trauma-based partial defence
- preferences for other defences.

163. Stakeholders that supported a trauma-based partial defence gave reasons including valuing a victim-centred approach.

### Evidentiary challenges and correctly identifying the person most in need of protection

164. The Queensland Sexual Assault Network and Red Rose Foundation both identified the risks of DFV perpetrators exploiting a trauma-based partial defence.[177] The Queensland Sexual Assault Network noted 'it is a common tactic for perpetrators to obtain DVOs against the victim'.[178] The Red Rose Foundation added that 'perpetrators might weaponise trauma narratives to justify retaliatory violence or frame themselves as the person most in need' of protection.[179]

165. The Bar Association of Queensland provided similar feedback, adding that a partial defence would be difficult to apply to a defendant who was not an 'ideal victim'. The Association added that Aboriginal women and Torres Strait Islander women are typically misidentified as respondents in protection order applications. Establishing evidence of a history of DFV is also inherently challenging:

> Proof of particular circumstances in a relationship becomes even more challenging when one party is deceased. While it is acknowledged that police processes are likely to improve because of the recommendations of the Women's Safety and Justice Taskforce, police records of domestic and

family violence over past decades do not provide accurate evidence of domestic and family violence history. For example, records within QPRIME or similar databases will often provide a hearsay account, only, of an attending police officer's observation.[180]

166. During consultations, academics commented that a trauma-based partial defence would risk setting a case standard of 'victimhood'. This may present challenges for defendants given the variation in DFV settings.

### The role of trauma-informed practice and procedure

167. Stakeholders who did not support a trauma-based partial defence suggested trauma-informed principles could be better realised in practice and procedure reforms. Lelliott and Wallis suggested it would be more beneficial to prioritise 'embedding trauma-informed approaches into the practices of justice system actors, and to consider how this might factor into sentencing considerations (if the mandatory penalty is removed)'.[181]

168. Dioso-Villa and Nash similarly considered that trauma-informed principles should 'guide court processes and investigations more broadly'.[182] The Red Rose Foundation recommended mandatory judicial training, incorporating concepts of the 'person most in need of protection' definition from the Domestic and Family Violence Protection Act 2012 and developing guidelines in collaboration with the DFV sector.[183]

### Relationship with other defences

169. Stakeholders observed that, arguably, the trauma-based partial defence could be 'covered' by current partial defences, such as killing for preservation, and proposed changes to self-defence.[184] These stakeholders mostly discouraged repealing the partial defence of killing for preservation and replacing it with a similar alternative partial defence. The Queensland Law Society suggested that another approach could be to amend any deficiencies identified in the current partial defence of killing for preservation.[185]

170. During consultations, stakeholders also suggested that an expanded self-defence provision would effectively cover the objectives of a trauma-based partial defence.

### Defining the scope of a trauma-based partial defence

171. There were stakeholders that supported a trauma-based partial defence that also made suggestions on how it could be used.

172. Legal Aid Queensland and Respect Inc both said that the partial defence should not be limited to DFV settings. Legal Aid Queensland said it should apply to anyone who experienced prolonged, serious abuse in domestic or institutional settings.[186] Respect Inc cautioned against confining the partial defence, citing concerns about non-traditional relationships that 'fall outside legal protections'. They noted that sex workers who experience 'abusive dynamics' from clients would be excluded from this partial defence.[187]

173. We heard in consultations with sexual violence practitioners that cumulative impacts of trauma can be intergenerational and intersectional. Legal practitioners also queried how broad historical trauma should be defined, highlighting that identifying the relevant trauma history might require expert panels.

174. Other stakeholders advocated for a strict eligibility criterion for the partial defence that would exclude abusers from accessing the partial defence.[188]

## Excessive self-defence

175. A few stakeholders considered the proposal to introduce a partial defence of excessive self-defence, generally supporting its inclusion on the basis that:

- partial excessive self-defence may work well with expanded self-defence
- there are benefits of a combined subjective and objective test.

176. Many stakeholders preferred to avoid a partial defence limited to DFV contexts. Feedback about application of this partial defence mirrors some of the concerns raised about the proposal to introduce a trauma-based partial defence, including the:

- benefits and limitations of a tailored approach
- benefit of a broader partial defence that acknowledges other relationship settings.

### Self-defence and excessive self-defence

177. Stakeholders noted the expanded self-defence provision could operate well with a partial defence of excessive self-defence. Hemming proposed that self-defence could operate as a primary defence, with excessive self-defence the relevant 'go to' section where the proportionality test in self-defence is not met (particularly if other partial defences are repealed).[189]

178. The Bar Association of Queensland also endorsed the proposal, noting that holistic consideration of the elements of self-defence and excessive self-defence could make jury directions simpler.[190] The Association also supported excessive self-defence applying generally, reflecting the scope of the self-defence provision by supporting victim-survivors of DFV who kill but remaining available for other relationships if killing for preservation is repealed.[191]

179. The Red Rose Foundation observed that an excessive self-defence for DFV contexts complemented the expanded self-defence proposals which seek to 'integrate DFV dynamics into assessments of reasonableness'.[192]

### The subjective and objective test

180. Stakeholders suggested that the combined subjective and objective test in the partial defence of excessive self-defence appropriately characterises the reduced moral culpability of people who kill in certain situations.[193] Legal Aid Queensland emphasised this distinction between the partial defence and murder:

> [A]ny person who genuinely believes their conduct was necessary in self-defence or defence of another, but then acted excessively and caused death, is in a categorically different position to a person who intended to kill or cause GBH without such belief of necessity of defence.[194]

181. The consideration that the defendant believed their response was reasonable is particularly relevant in the context of 'trauma or social or systemic entrapment'.[195] Other stakeholders cautioned that subjective belief may need to be confined in some way, as it could include unconscious biases or discriminatory beliefs. The Bar Association of Queensland observed that whether the defendant had a reasonable subjective belief would be determined by a jury.[196]

### Tailoring partial defences to DFV contexts

182. We heard different perspectives on the benefits and limitations of a partial defence tailored to DFV contexts. Hemming submitted that the law is 'not a social solvent' and should not be tailored to create particular gender-based or context-specific legal outcomes because of the danger of unintended consequences.[197]

183. Other stakeholders recognised the risk of primary perpetrators of DFV misusing this partial defence but identified the benefits of a partial defence with a victim-centred approach.[198] The Red Rose Foundation supported a tailored approach and made suggestions on how to implement the partial defence, including:

- limiting the defence in accordance with the Domestic and Family Violence Protection Act 2012, in particular section 22A which defines a person most in need of protection
- allowing corroborating evidence of DFV from protection orders, police reports and witness testimony
- a mixed subjective and objective test that considers whether the subjective belief of the defendant's action was reasonable.[199]

### Excessive self-defence occurs in other settings and needs legal recognition

184. Many stakeholders told us that excessive self-defence should have a general application instead of applying only in DFV context if it is introduced.[200] This would acknowledge other relationships and contexts where a defendant uses excessive force but there are reasons that reduce their moral culpability.

## Provocation to assault and repetition of insult

185. Our consultation paper considered the defences of provocation to assault in section 269 and prevention of repetition of insult in section 270 of the Criminal Code. We asked stakeholders for their views on the following proposals:

- amending the defence of provocation to assault so that it does not apply to DFV offences (Proposal 6)[201]
- amending the defence of repetition of insult so that it only applies to offences of which assault is an element and does not apply to DFV offences (Proposal 7).[202]

186. We identified the following themes from feedback:

- some stakeholders consider the defence of provocation inconsistent with contemporary community attitudes and human rights principles
- many stakeholders consider the defences should not be available in the DFV context, raising concerns it can be used by perpetrators but not available for retaliatory violence by the person most in need of protection
- some stakeholders consider the defences play an important role in decisions by police and prosecution agencies about whether to charge or progress proceedings
- some stakeholders, including those who express qualified support for repeal of the defences, hold concerns about the disproportionate impact of repeal or reform on disadvantaged people and groups, notably Aboriginal peoples and Torres Strait Islander peoples.

187. We present this feedback thematically below.

## Community attitudes and human rights

188. Many stakeholders expressed a strong view that the defences are not appropriate, having regard to contemporary community attitudes and standards, principles of criminal responsibility and human rights.[203] Lelliott and Wallis commented:

> [A] defence of provocation communicates to the community that it is justifiable to attack and harm others if they cause anger, distress, or offence. It holds that in such cases liability for a potentially serious violent offence can be avoided and that any moral culpability or blameworthiness of an accused falls below the threshold that attracts the sanction of the criminal law. In modern society this position is fundamentally wrong.[204]

189. Duffy noted that Australian society has 'decreasing tolerance for those who respond with violence to the words and actions of others'. He stated:

> [A]n ordinary person does not lose their self-control, and kill their provocateur with the intention to kill or commit GBH. That response would be quite extraordinary, and modern-day Queenslanders expect more self-control from individuals who have been subject to serious provocation.[205]

190. Stakeholders noted that in having the defences, Queensland is 'out of step with other jurisdictions'.[206]

191. The Queensland Human Rights Commission commented:

> Provocation is not a legitimate justification for the use of violence. As noted in the Consultation Paper, there is no principled reason to recognise anger as removing culpability in cases of assault.[207]

192. However, the Bar Association of Queensland reflected that the requirement of both defences that the force used is proportionate or reasonably necessary is a safeguard ensuring contemporary community attitudes inform their practical application, as a jury will determine this test.[208] Participants at regional roundtables also expressed this view.

## Scope of the defences and the DFV context

193. Stakeholders expressed mixed views about amending the defences to not apply to DFV offences. In support of this limitation,[209] stakeholders noted firstly that the defences were not designed to protect conduct of this nature. Women's Legal Service Queensland stated:

> [T]he genesis of this defence is a situation dissimilar to a relationship characterised by a power imbalance and a use of violence to maintain it.[210]

194. Stakeholders also noted that the defences reinforce harmful stereotypes such as victim-blaming.[211] Red Rose Foundation commented:

> Provocation has historically allowed DFV perpetrators to avoid accountability by framing their violent reactions as justified responses to minor provocations (e.g., verbal disagreements or attempts to leave the relationship). This reinforces harmful stereotypes that blame victims for their abuse… [212]

195. Further, stakeholders considered that the defences operate in a gendered way.[213] The Australian National University Law Reform and Social Justice Research Hub explained:

> A sudden violent loss of self-control in response to a particular triggering act is seen to be the archetypal male response to provocative conduct. Despite changes that have been made over time, this test remains very difficult for women to use.[214]

196. Red Rose Foundation expressed concerns about misuse of the defence of repetition of insult in the DFV context to enable coercive control. They stated:

> In its current form, it allows for the application of force to prevent the repetition of provocative acts/insults, even in non-confrontational scenarios which risks enabling DFV perpetrators to excuse controlling or retaliatory violence under the guise of 'preventing insults,' particularly where coercive control exists.[215]

197. However, some stakeholders raised concerns that limiting the application of the defences where the offence is a DFV offence will mean they are not available for retaliatory violence by the person most in need of protection.[216] The Aboriginal and Torres Strait Islander Legal Service commented:

> An additional layer of complexity can be demonstrated by a common scenario that we see with our clients, particularly from Far North Queensland, where a woman who has been subjected to prolonged abuse from their partner, one day, having 'had enough', reacts by throwing a rock or flinging a mug at their partner. The woman is subsequently charged by police as being the perpetrator of a domestic violence offence.[217]

198. The Bar Association of Queensland expressed concerns about limiting the availability of the defences in cases where there has been 'contemporaneous or even historical misidentification of the person most in need of protection'. They stated:

> The Association acknowledges that domestic and family violence is a complex and, at times, poorly understood community problem and is concerned that proposals aimed at removing the defence from one perpetrator who, in one sense, appears to be undeserving of the provision will rob another in different circumstances that may amount to a deserving application, for example, a victim who finally snaps and uses retaliatory violence because of a history of domestic violence which may include coercive control such as repeated insults or vicious verbal abuse.[218]

199. Similarly, Legal Aid Queensland said that repealing provocation would potentially expose DFV victims to criminal liability without an appropriate defence.[219]

200. The Queensland Law Society and the Aboriginal and Torres Strait Islander Legal Service expressed concerns about the very broad spectrum of offending which may constitute a DFV offence, a concern also raised in consultations.[220] The Queensland Law Society stated:

> [Amending the defence so it does not apply to domestic and family violence offences] will almost certainly have the unintended consequence of depriving victims of domestic violence, who react to the behaviour of their abuser, from a defence that would otherwise excuse them of criminal liability for their conduct.[221]

201. The Aboriginal and Torres Strait Islander Legal Service provided the following examples to illustrate their point:

> [I]ncidents involving siblings, an uncle and nephew, or two grown men who are relatives engaging in an altercation; a father losing his cool with his son and his son, out of frustration, punching his father; a child that has constantly been put down by a parent, which has caused longlasting harm to the child, and one day reacts with violence.[222]

202. They suggested broadening the interpretation of provocation or insults within domestic relationships to capture insults founded on intimate knowledge of the offender's partner.[223]

203. There were mixed views about whether either or both defences should cover offences not including assault.[224]

204. Stakeholders suggested other contexts where the defence of provocation should not apply, including to:

- teachers, where a teacher has assaulted a student in a school setting[225]
- police officers or prison officers undertaking their professional duties.[226]

205. Participants at one regional roundtable discussed altering the balance so that the defence of provocation is only available where the provocative conduct is extreme and the response proportionately minimal.

## How the defences are used in practice

206. Some stakeholders noted that these defences, particularly prevention of repetition of insult, are not commonly raised at trial. One Crown Prosecutor we interviewed said:

> I have not seen assault provocation being raised in respect to domestic violence type cases…I think provocation…would not sit well with the jury, if you were arguing it as a defence counsel, which is probably why they don't.[227]

207. Duffy submitted that abolition of the defence of provocation would not create problematic consequences as the parameters in which it can operate following its amendment are 'exceptionally narrow'.[228]

208. Some consultation participants reflected on other ways the defences are used within the criminal justice process. They discussed how the defences play an important role in decisions by police and prosecution agencies, including whether to charge or discontinue proceedings.

209. They also noted the role of the defences in resolving matters in case conferencing and as a mitigating factor in sentencing.

## Potential implications for vulnerable groups

210. Our consultation paper noted concerns that repealing the defence of provocation to assault could increase criminalisation of Aboriginal peoples and Torres Strait Islander peoples, who are already significantly overcriminalised and over-represented in the criminal justice system. We also recognised that provocation can be a relevant defence in the context of racially driven abuse. The findings resonated with the feedback we received in consultations, with some participants noting that collective experiences of racism and harassment shape responses to harassment.

211. Some stakeholders expressed support in submissions, consultations and interviews for retaining the defence based on concern that Aboriginal peoples and Torres Strait Islander peoples would be disadvantaged by its repeal.[229] The Aboriginal and Torres Strait Islander Legal Service noted that they had identified the proposed reforms as potentially having 'unintended negative consequences' for Aboriginal peoples and Torres Strait Islander peoples, due to their heightened risk of being victims of DFV.[230] The Bar Association of Queensland raised similar concerns, noting the 'already significant over-representation' of Aboriginal peoples and Torres Strait Islander peoples in the criminal justice system.[231] The Queensland Council of Social Service expressed comparable sentiments.[232]

212. Some consultation participants reflected that, while they were generally not supportive of the defence of provocation, they supported its application in circumstances where an Aboriginal person or Torres Strait Islander person reacts to racial harassment or vilification. This is particularly relevant where the provocative behaviour disparages an Elder or family member who has passed. Some participants discussed the potential to introduce a tailored defence to cover these circumstances. Other stakeholders said that the defences should apply to everyone.[233]

213. Legal Aid Queensland commented:

> Of great concern is the impact this would have on Aboriginal and/or Torres Strait Islander DFV victim-survivors. There is Queensland research which reveals the increasing incarceration of Aboriginal and/or Torres Strait Islander women who are both victimised and criminalised, in the context of DVO contraventions, citing the tendency that they are more likely to use violence to protect themselves.[234]

214. However, other stakeholders questioned the likely impact of repeal or limitation of the defences for Aboriginal peoples and Torres Strait Islander peoples. Some stakeholders said the surrounding context and the relationship have significant impact in shaping responses.

215. The Queensland Human Rights Commission suggested a staged or limited approach to reform, noting both the human rights justifications for repeal of the defence of provocation and the potential consequences of repeal or reform:

> The defence of provocation is incompatible with the state's positive obligation to protect the security of the person, right to privacy, freedom from torture and other ill-treatment and equality. However, significant concerns about improper and disproportionate impacts of repeal on First Nations peoples may justify a staged or limited approach to reform… limiting the defence so that it does not apply to domestic violence offences may also disproportionately impact First Nations people due to the extended nature of family relationships in First Nations communities. This may limit the right to equality before the law.[235]

216. Some stakeholders considered potential implications of repeal or reform for other vulnerable groups or classes of people, including people from the LGBTQIA+ community, people from a culturally and linguistically diverse background, people from socio-economically disadvantaged backgrounds and people with disability.[236]

217. Some consultation participants expressed similar considerations. Stakeholders suggested the inclusion of specific safeguards to ensure the defences cannot be used to justify racial or homophobic violence.[237]

## Domestic discipline

218. Our consultation paper proposed three options for reform of the defence of domestic discipline (section 280 of the Criminal Code):

- option 1: repeal section 280
- option 2: limit the application of section 280
- option 3: some other approach.

219. Many stakeholders supported repealing the defence.

220. Stakeholders provided feedback about issues including:

- the need for a clear mandate for reform which includes signalling, through law reform, that violence is unacceptable, protecting children's rights, addressing inconsistency with other laws and aligning the law to contemporary understandings of child development and evolving community attitudes towards physical punishment
- concerns about potential impacts of repeal, including the criminalisation of parents for the use of minimal force against a child, disproportionate criminalisation of parents from Aboriginal, Torres Strait Islander and culturally and linguistically diverse backgrounds and professional implications for teachers
- the spectrum of behaviour potentially within the scope of the defence and the value of recognising caring responsibilities within Aboriginal communities, Torres Strait Islander communities and culturally and linguistically diverse communities
- the need to implement supportive measures alongside any law reforms and to monitor reforms.

221. These issues are discussed below.

### Mandate for reform

222. Stakeholders who supported repeal cited several reasons for this position:

- the law should set clear standards about appropriate attitudes and behaviours
- the defence infringes children's rights
- the defence is inconsistent with other laws prohibiting physical punishment of children
- the defence is inconsistent with contemporary understandings of child development and community attitudes
- childhood experience of violence is a driver of adult perpetration of violence.

223. Some stakeholders highlighted the important normative role of the law in shaping attitudes and behaviours, noting that repeal would signal to the community that violence against children is never acceptable.[238]

224. Some stakeholders considered the defence incompatible with children's rights,[239] with the Queensland Human Rights Commission outlining how they consider the defence unjustifiably limits rights.[240] Some submissions highlighted Australia's obligations under the Convention on the Rights of the Child, which include abolishing corporal punishment.[241] A few stakeholders noted a child's right to be free from all forms of violence.[242]

225. Haslam and the Consortium noted the importance of respecting '[c]hildren's dignity, rights and needs'.[243] PeakCare stated that 'every child deserves to grow up safe, supported, and free from violence' and that Queensland's laws 'must reflect this fundamental truth and uphold children's right to protection'.[244] The Parenting and Family Support Centre (University of Queensland) noted the Government's duty to 'protect children from all physical harm, and support adults to do so as well'.[245] Figure 7 shows a submission made by a child in art form, expressing her view that 'parents should not be allowed to smack kids because it hurts kids. Hitting is wrong'.[246]

**Figure 7: Eliana's art submission**


226. A few stakeholders highlighted the defence's inconsistency with other Queensland laws that prohibit the use of physical punishment to discipline a child.[247] The Office of the Victims' Commissioner submitted:

> The Child Protection Act 1999 (Qld), Youth Justice Regulation Act 2016 (Qld), and Education and Care Services National Law (Qld) prohibit the use of corporal punishment to discipline a child. The continued availability of section 280 stands in contradiction with existing legislation concerning the protection of children.[248]

227. Stakeholders referred to law reforms in other jurisdictions and a global trend to prohibit corporal punishment in supporting repeal of the defence.[249] They acknowledged the declining support for physical punishment in Australia, notwithstanding its common use.[250] The Parenting and Family Support Centre (University of Queensland) noted the opportunity to align Queensland law with contemporary attitudes and needs:

> The current legal status of corporal punishment does not align with the attitudes or needs of contemporary Australians... [T]he Australian Child Maltreatment Study (ACMS) found that 73.6% of Australians do not believe corporal punishment is necessary to raise children, with younger generations being particularly less supportive of its use.[251]

228. Some stakeholders considered the defence inconsistent with contemporary understandings of child development,[252] noting the ineffectiveness of physical punishment to modify behaviour.[253] The Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited submitted:

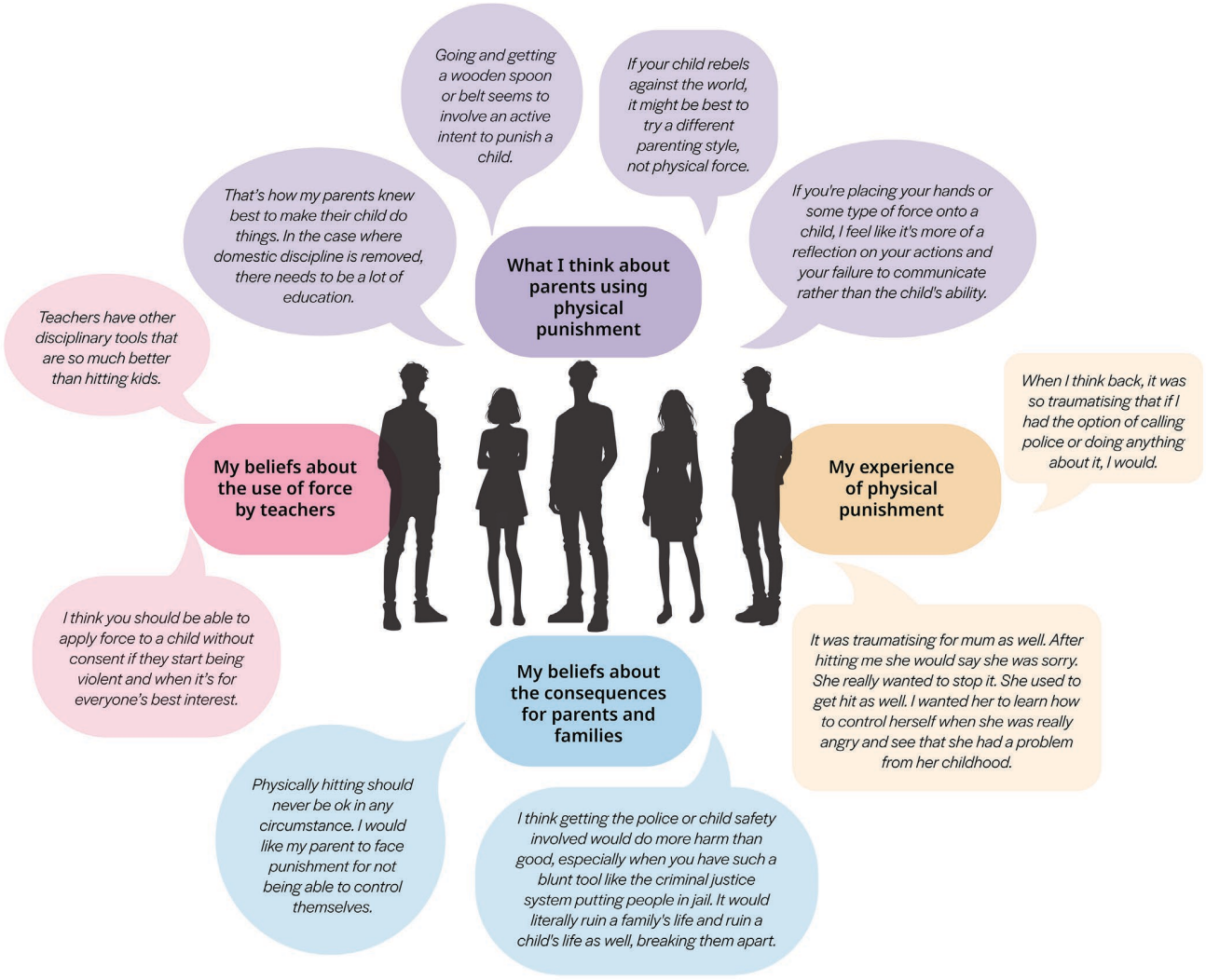
> Reform is essential to ensure that Queensland's legal framework reflects contemporary understandings of child development and upholds every child's right to grow up in an environment free from violence and fear.[254]

229. Stakeholders also noted the harmful effects of physical punishment.[255] They highlighted the link between a child's experience of physical punishment and their risk of maltreatment more

broadly, as well as their increased likelihood of violent behaviour at school and/or being a victim or perpetrator of DFV.[256] Others considered the defence important in respecting parents' ability to discipline and teach their child respect, which they linked to community safety.[257] A confidential submission reflected concerns from various communities about losing their ability to control the behaviour of their children.[258]

230. Many young people we spoke with in the youth focus group had experienced physical punishment, many on multiple occasions. Figure 8 provides insight into youth focus group perspectives about physical punishment and the domestic discipline defence.

### Figure 8: Young peoples' views




231. We also heard from the youth focus group that:

- physical punishment is harmful and should not be used to raise a child
- low level use of physical punishment by a parent should not justify a criminal justice response, with alternatives such as parenting education preferred
- criminal intervention is needed for physical punishment which is likely to be more harmful, involving the use of an implement or causing injury
- teachers should never physically punish a child.

## Potential impacts of repeal

232. Some stakeholders who supported repealing the defence nevertheless raised concerns about potential unintended consequences of repeal.[259] Other stakeholders did not support repeal due to their concern about potential impacts.[260]

233. The Queensland Teachers' Union cautioned against repeal of the defence for teachers, outlining the serious consequences for teachers charged with assaulting a student:

> When a teacher is criminally charged with unlawful assault of a student, it triggers regulatory action (in relation to a teacher's registration with the Queensland College of Teachers), employment disciplinary proceedings, and Blue Card processes. It may also give rise to civil claims for damages under the Personal Injuries Proceedings Act 2002 (Qld). Any such charge results in immediate suspension of the teacher's registration and employment without pay, even where the charge has not been proven to the relevant legal standard.[261]

234. The Queensland Catholic Education Commission stated:

> While this option may be suitable in relation to some actions of parents, it is not appropriate in respect of teachers. Teachers should not be subject to a court based diversionary scheme for fulfilling their responsibilities for the safe management and control of children.[262]

235. Other stakeholders also noted the need for appropriate legal protection for teachers.[263]

236. A few stakeholders cautioned that parents should not be criminalised for using minimal force, including for management and control.[264] The Bar Association of Queensland commented:

> [R]epealing the defence, entirely, would lead to criminalisation of corporal punishment which may be relied upon more in disadvantaged communities. Criminalisation would lead to further disadvantage to those communities and family units. … The Association does not favour a criminal justice response in cases involving minimal force .[265]

237. Some stakeholders expressed concern that repeal of the defence may criminalise and further disadvantage marginalised families and disproportionately impact parents or caregivers from Aboriginal, Torres Strait Islander and culturally and linguistically diverse communities.[266] The Aboriginal and Torres Strait Islander Legal Service submitted:

> [O]versurveillance of Aboriginal and Torres Strait Islander families continues to result in disproportionate scrutiny by police and child protection systems … [W]ith the reality of overcriminalisation of Aboriginal and Torres Strait Islander individuals, we would not be keen to support the repeal of a defence that could potentially assist a client in relevant circumstances.[267]

238. Legal stakeholders we consulted in regional areas expressed concern that repeal may result in increased criminalisation of women, particularly Aboriginal women and Torres Strait Islander women. They also expressed concerns about removal of children by the Department of Child Safety. Aboriginal and Torres Strait Islander stakeholders in several regions echoed these concerns. They described parents limiting their use of physical cultural parenting practices due to fear their children would be taken away. The Queensland Council of Social Service stated:

> There is immense and understandable fear amongst First Nations women, who continue to experience the intergenerational trauma of their children being taken away as part of the Stolen Generations, that this law could result in more children being taken from them. Historically, legislation that underpinned the Stolen Generations 'removed the right to parent freely' from Aboriginal and Torres Strait Islander parents. Therefore, any legislation or policy interfering in parenting matters is the source of great anxiety and fear for many Aboriginal and Torres Strait Islander People.[268]

239. Stakeholders in remote areas told us it was important for the 'law' to recognise 'lore' relevant to kinship and domestic discipline.[269] We heard that if the defence is repealed, mandatory cultural reports should be introduced to ensure 'lore' is relevantly considered. Stakeholders highlighted the tension that can exist between 'law' and 'lore' in this context.

240. Stakeholders told us that non-legal measures such as education, training and public health campaigns are critical to the success of law reform and mitigating unintended consequences, such as disproportionate impacts on marginalised communities.[270]

241. Acknowledging they regularly apply the defence in decision-making about whether to charge, Queensland Police Service (QPS) officers expressed concern that repeal of the defence may unnecessarily expose people to the criminal justice system and significantly increase police workload. A QPS officer in a regional location stated that if the defence were abolished, the police would be 'charging people all day, every day'. However, a few stakeholders provided examples from other jurisdictions where repeal did not result in overcriminalisation.[271]

## Retaining a defence for management and control

242. Some stakeholders supported retaining a limited defence for management and control. Mathews explained that this would ensure parents are not criminalised for '… the normatively acceptable range of required physical interactions between parents and children'.[272] The Aboriginal and Torres Strait Islander Legal Service considered this a way of mitigating criminalisation of Aboriginal peoples and Torres Strait Islander peoples. However, the Queensland Human Rights Commission, submitted that the use of force which may be required to protect children or others should already be accommodated by the general law.[273]

243. The Queensland Catholic Education Commission expressed a need to retain a defence permitting 'management and control' by teachers, to protect teachers and other students.[274] The Bar Association of Queensland supported teachers using 'very low levels of force for the purpose of management or control but not for the purposes of discipline or correction'.[275] Consultation participants noted that Department of Education policies and procedures regulate the use of restrictive practices on students in state schools (for example, planned restrictive practices may apply to a child with a history of engaging in dangerous behaviour).

244. Aboriginal Elders we spoke with in a regional area considered a limited defence a balance between protecting children and allowing parents to discipline them. A regional DFV support service noted concerns by Aboriginal peoples and Torres Strait Islander peoples about removal of their children in the absence of a defence for management or control.

## Lack of clarity on what is a 'reasonable' use of force

245. Most stakeholders, including QPS officers, legal practitioners, community justice groups and DFV support services, noted the lack of clarity about the 'reasonableness' test in section 280. We heard different views about what might be considered a 'reasonable' use of force and the conduct or charges to which the defence applied.

246. Some legal practitioners, QPS officers and community justice groups thought that choking should never be considered 'reasonable', while other QPS officers gave an example of a case where the court found that a teacher's use of chokeholds on students was 'reasonable under the circumstances'. One defence counsel shared a story about a recent case run by a colleague involving the strangulation of a 14-year-old by his father where the defence only ran the defence of domestic discipline and the father was acquitted. He described the case as 'disturbing', observing '…when you're strangling your child, you have lost control. You are not disciplining them. You have lost control'.[276]

247. Some QPS officers and DFV support services considered force to the neck or face outside its scope. A few stakeholders expressed the view that use of force to anywhere other than the bottom or back of the legs was excessive discipline or abuse.

248. Stakeholders noted the need for law reform to clarify 'reasonableness'. Some proposed a list of factors and matters to be considered.[277] Others favoured the courts clarifying the scope of the test,[278] including Legal Aid Queensland:

> Given that the role the common law plays in Queensland's criminal justice system is fundamental to establishing the scope of undefined terms within the Criminal Code, LAQ does not support amendments to the Code defining or limiting 'reasonable force' for section 280 at this stage. This is particularly in light of how contextual 'reasonableness' is to the circumstances in which force is applied.[279]

249. QPS officers and Legal Aid Queensland considered further guidance for QPS officers on the scope of 'reasonableness' would be beneficial.[280]

## Recognising cultural caring responsibilities

250. A few stakeholders expressed a need to clarify whether the definition of 'person in the place of a parent' encompasses people with caring responsibilities, as recognised in Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities.[281] Different stakeholders in one remote area told us it was important that the law recognises kinship ties and the ability of uncles and aunties to discipline children.

251. The Aboriginal and Torres Strait Islander Legal Service submitted, with respect to potential reform of section 280, that consideration be given to 'statutory recognition of traditional authority figures in child rearing roles within the cultural norms of Aboriginal and Torres Strait Islander communities'.[282] Mathews proposed that a limited defence could extend to a person 'recognised by the community to which the child belongs as being an appropriate person to exercise special responsibilities in relation to the child'.[283]

## The need for supportive measures

252. Many stakeholders identified the need to implement supportive measures alongside repeal[284] or limitation of section 280[285] or as standalone reforms.[286] The Queensland Human Rights Commission stated:

> Concerns about discriminatory outcomes and enforcement must … be taken seriously as they also have the potential to severely limit multiple rights, including the rights of the child. These concerns should be addressed through public education, culturally responsive community engagement, family support, and a strong emphasis on diversion from a criminal justice response, informed by successful domestic and international experiences.[287]

253. Stakeholders identified measures such as public education and awareness raising, public health campaigns, evidence-based parenting programs, culturally responsive support for families, support for marginalised families, training for professionals working with children and diversion.

254. A range of stakeholders supported our proposal to implement public education and awareness raising, including public health campaigns, alongside reforms.[288] They noted the need to ensure programs are:

- inclusive and culturally safe[289]
- community-led[290]
- evidence-based[291]
- tailored for parents with a background of trauma, family violence or disability.

255. The Queensland Human Rights Commission noted international examples that show 'the greatest change in community attitudes to physical punishment occurs when public education and law are consistent'.[292] Haslam and the Consortium reflected that the 'impact of legislative

change is enhanced when paired with strong educative public health education campaigns'.[293] Mathews, drawing on international examples, highlighted the need for accountability and proposed a ministerial duty to educate and raise awareness about changes in the law, accompanying reforms.[294] End Physical Punishment of Australian Children noted the importance of funding public education and information campaigns.[295]

256. Stakeholders also recognised the support needs of vulnerable families. They identified the need to address co-existing social issues, provide mental health support and access to stable housing alongside reforms. The Office of the Victims' Commissioner observed that '[d]omestic discipline is associated with economic hardship, with families of lower socio-economic situation more likely to use domestic discipline against their children' and cautioned:

> The criminalisation of domestic discipline could further disadvantage already marginalised families, with the possibility of separating parents from children. Imprisonment of a parent can have significant effects on multiple domains of a child's development, with children whose parents are incarcerated experiencing high sociodemographic risk.[296]

257. Some stakeholders called for training for educators, QPS officers, child safety officers and judicial officers to ensure a systems-wide understanding of law reforms and to ensure that practices are culturally safe.[297] A few stakeholders proposed guidance for QPS officers on how any changes in law may impact procedures.[298] The Queensland Human Rights Commission expressed the view that there should be '... clear guidance that discretion in relation to charging and prosecutions is to be exercised in the best interests of the child'.[299] The Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited stated:

> [T]raining [for people enforcing the law] must also include guidance on how the legislation intersects with the Child Protection Act, to ensure a consistent and informed approach that respects the rights and needs of Aboriginal and Torres Strait Islander families.[300]

## Diversion

258. Many stakeholders, irrespective of their views on the defence, supported implementation of diversion approaches, including to provide support, education and rehabilitation.[301] The National Children's Commissioner expressed the view that 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'.[302]

259. The Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited proposed the introduction of diversion 'to culturally safe parenting programs and support to foster the development of non-violent parenting skills' in cases where the defence might have otherwise applied, to 'ease pressure on the justice system and ensure that families most in need get the support and help they require.[303] Haslam and the Consortium noted international examples of positive outcomes from diversionary programs.[304]

260. Legal Aid Queensland was supportive of a diversion scheme, but cautioned:

> If a diversion scheme was to be created, care would need to be taken in devising the scheme to ensure that there are sufficient police resources to support the scheme, and legal advice is made available to anyone being offered a diversion. Guidelines for the scheme would need to be developed in consultation with the relevant stakeholders.[305]

261. Stakeholders expressed specific considerations about the appropriateness of diversion for teachers. Queensland Catholic Education Commission considered that it would not be appropriate for teachers to be subject to a court-based diversionary scheme for safe management and control.[306] The Queensland Education Union considered that any diversionary scheme must operate on a completely confidential basis to protect teachers' professional standing and livelihood.[307]

## Staging and monitoring reforms

262. Some stakeholders called for the staged implementation of reforms to help realise the aim of eliminating a culture of violence and to mitigate potential discriminatory outcomes.[308] The Office of the Victims' Commissioner recommended that repeal of the defence should follow limitation of the defence and a state-wide community education and awareness raising campaign.[309] The Bar Association of Queensland similarly recommended an approach that:

> ... allows a gradual movement to an eventual repeal of the defence in the future by, firstly, providing legislative guidance on factors relevant to the assessment of reasonableness and a pathway to diversion for education and rehabilitation by the courts where cases may fall outside what is considered reasonable.[310]

263. The National Children's Commissioner expressed a different view, stating that repeal should not be delayed:

> I do not support a time delay of two years before the changes come into force. ... A public education and awareness campaign about the changes to the law and alternatives to physical discipline should be run concurrently with repealing section 280 of the Criminal Code.[311]

264. A few stakeholders supported our proposal to monitor the effects of legislative changes.[312] The Queensland Council for Social Services highlighted the need to monitor potential unintended consequences for Aboriginal peoples and Torres Strait Islander peoples.[313] Haslam and the Consortium proposed monitoring the effects of a public health campaign and collection of data regarding diversion measures.[314]

## Practice and procedure reforms

265. In our consultation paper, we explored options for changing relevant practices and procedures to support improved outcomes, with a particular focus on addressing recognised barriers to justice faced by vulnerable groups. These reforms include measures designed to:

- improve access to defences for DFV victim-survivors
- support early identification of self-defence, early resolution and legal certainty
- facilitate admission of evidence of the nature and impact of DFV
- improve access to justice for Aboriginal peoples and Torres Strait Islander peoples.

266. We considered the risks associated with the possibility of compromise verdicts of manslaughter where there is a hung jury and explored three potential reform options.

267. Stakeholders generally expressed strong support for our suggestions for practice and procedure reform. They also generally agreed with our assessment of current challenges and barriers to accessing justice (discussed further below).

268. We will consider the extensive feedback provided through submissions, consultations and interviews in developing our recommendations for a range of practice and procedure reforms, which we will discuss in detail in our final report. In this paper, we focus on reflecting:

- key themes emerging from stakeholder feedback
- issues where stakeholders express diverging views
- stakeholder suggestions for additional reforms.

## Improving access to defences for victim-survivors

269. We identified five potential reforms to improve access to defences for DFV victim-survivors:


270. Stakeholders' strong support for improving access to defences for DFV victim-survivors and Aboriginal peoples and Torres Strait Islander peoples was a powerful theme emerging from the feedback. They expressed general support for improving access to justice and addressing the discriminatory impacts of the laws in this context. Most stakeholders expressed support for the potential reforms we identified,[315] for reasons including the significance of the power imbalance between a female accused and police,[316] DFV victim-survivors' current lack of confidence in the criminal justice system[317] and the need for systemic service and criminal justice system reform to accompany legislative change.[318]

271. Some stakeholders expressed reservations about aspects of certain proposals. A few stakeholders noted that the DFV 'show cause' provisions can increase the complexity of correctly identifying the person most in need of protection and create barriers to obtaining bail.[319] Some stakeholders considered that multi-disciplinary specialist teams that include specialised lawyers and support services,[320] or support for defence lawyers to develop and maintain broad experience,[321] more beneficial than specialist prosecutors and defence lawyers for women who kill. The Queensland Council of Social Service noted the need for training, education and resourcing tailored to the needs of DFV victim-survivors with disability, the LGBTQIA+ community and people from culturally and linguistically diverse backgrounds.[322]

272. Stakeholders offered the following suggestions for related reforms:

- ensuring DFV victim-survivors are aware of their right to seek independent legal advice before providing a statement to police[323]
- prohibiting 'aggressive questioning tactics' and ensuring breaks during police interviews[324]
- increasing resourcing and training for police, particularly in regional and remote areas, including training to embed understanding of trauma-informed interview techniques and challenge assumptions that can lead to misidentification[325]
- maintaining a roster of lawyers at police stations[326]

- requiring police to call an on-duty lawyer to support police interviews[327]
- requiring police to support or initiate contact with a DFV organisation[328]
- recording all contact with the police[329]
- ensuring the presence of a support person and excluding non-essential people from the court room[330]
- privileging DFV counselling communications[331]
- upgrading technological facilities in correctional centres to improve access to clients[332]
- training aimed at addressing misidentification, including in LGBTQIA+ relationships[333]
- increasing access to appropriate, culturally competent legal services.[334]

## Early identification of self-defence, early resolution and legal certainty

273. We identified six potential reforms to promote early resolution of matters, early identification of legal issues, legal certainty and access to defences:


274. While stakeholders broadly supported measures to increase early resolution of criminal prosecutions and to require prosecutorial guidelines to be updated to support decision-making about appropriate and just charges for DFV victim-survivors, they raised concerns about some of the other proposed reforms.[335]

275. Stakeholders generally did not support our proposal to require the defence to give notice of the defences they intend to rely on following presentation of an indictment, citing concerns about the impact on the right to a fair trial,[336] satisfaction with current disclosure requirements[337] and the potential for a requirement of this nature to disadvantage self-represented defendants without supporting earlier resolution of matters.[338] The Bar Association of Queensland raised concerns about the proposed introduction of pre-trial hearings to determine availability of defences on similar grounds.[339]

276. Some stakeholders expressed concerns about the potential cost and delay that may accompany introduction of interlocutory appeals.[340] The Queensland Council of Civil Liberties commented that it may 'fragment the trial process', effectively requiring cessation or abandonment of the trial and discharge of the jury.[341]

277. Stakeholders generally supported the proposal that the Office of the Department of Public Prosecutions (ODPP) take carriage of homicide matters prior to committal hearings to reduce delay, maximise efficiency and facilitate earlier pleas of guilty.[342] However, the Queensland Council for Civil Liberties noted that current practice in the ODPP is that committals are run by legal officers who lack the requisite experience or authority to facilitate early pleas, so in order to be effective, this reform will require a Crown Prosecutor to be allocated to a matter from the outset.[343]

278. Stakeholders provided differing views on whether a trial judge should still be required to direct a jury on all possible defences, including those contrary to a defendant's primary case. Legal Aid Queensland submitted that the defendant's right to a fair trial requires that the jury is left to consider all defences available on the facts, even if those defences are contrary to the defendant's case.[344] However, the Bar Association of Queensland supported the Victorian approach, where counsel are required to request the trial judge give or not give particular directions and trial judges are only required to give directions contrary to the parties' view where there is a substantial and compelling reason to do so.[345] When asked about this in an interview, a Supreme Court Judge expressed concern about the fettering of judicial discretion through such reforms, noting:

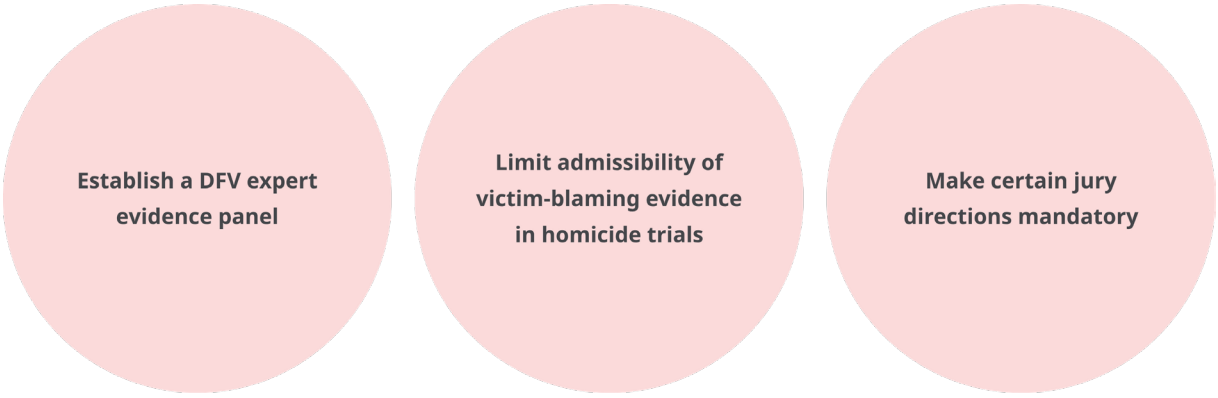
> How do you limit it that way? It's very much on a case-by-case basis that the judge should assess whether or not [a defence] arises reasonably … The judge's role … is to actually identify only so much of the law as the jury needs to know in order to resolve the real issues in the case.[346]

279. Stakeholders offered the following suggestions for related reforms:

- requiring the Office of the Director of Public Prosecutions to make transcripts of all legal arguments available to defence practitioners[347]
- requiring early disclosure of relevant information by police at the pre-committal stage, including material which may indicate a history of DFV[348]
- allowing defendants to cross-examine witnesses at committal hearings about the history of the relationship between the parties.[349]

## Evidence of the nature and impact of DFV

280. We identified three potential reforms to facilitate the admission of evidence of the nature and impact of DFV and help dispel common myths and misconceptions about DFV:




281. Stakeholders generally confirmed the need for safeguards to ensure jury decision-making is informed by cogent, expert evidence and supported the proposal to establish a DFV expert evidence panel,[350] providing helpful practical suggestions about the potential composition of any panel.[351] Women's Legal Service Queensland commented:

> While we note the observation that most community members don't blame victim-survivors for their abuse or have attitudes which minimise DFV, this does not necessarily mean that they are able to

> adequately conceptualise the subjective experiences of victim-survivors or appreciate the complex responses to trauma.[352]

282. Most stakeholders supported legislative reform to make certain DFV jury directions mandatory,[353] although a few stakeholders preferred maintaining judicial discretion.[354] There was mixed support for proposed reforms to limit the admissibility of 'victim-blaming' evidence at trial.[355]

283. Some stakeholders noted the difficulties in giving evidence of DFV that accurately captures the victim-survivor's experience of 'slow-burn' or threat escalation.[356] When asked about difficulties accessing experts on DFV issues, one defence counsel reported:

> It's a nightmare…There's no one [that] will do them on Legal Aid rates because the rates Legal Aid pays are so poor and so it's often solicitors that will do research and sort of beg, plead and hope that somebody will take it on.[357]

284. Legal professionals expressed mixed views in interviews about whether juries were able to adequately understand the evidence of DFV and the nature of jury directions that are necessary to assist them.[358] Queensland Council for Civil Liberties noted that 'considerable' resources would be required to support legally aided accused to undertake the required 'documentation', making it an access to justice issue.[359]

285. Some stakeholders proposed evidential reforms, including:

- A holistic, rather than a narrow, incident-based approach that requires provision of the full history of DFV to support the jury to understand the context of the offending.[360] Dioso-Villa and Nash cited their research findings that 'when women are given the opportunity to present the full context of abuse – including the long-term impact of coercive control and violence – they are more likely to be found not guilty'.[361]
- Application of a gender perspective to the analysis of evidence, to reflect the dynamics of gender-based violence.[362]

286. Others noted the need to monitor recent amendments to the Evidence Act 1977 in response to recommendations of the Women's Safety and Justice Taskforce before further changes are made.[363]

## Access to justice for Aboriginal peoples and Torres Strait Islander peoples

287. We identified three potential reforms to improve access to justice for Aboriginal peoples and Torres Strait Islander peoples:

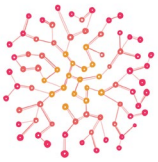

288. Stakeholders' acknowledgement of the difficulties faced by Aboriginal and Torres Strait Islander women in the context of DFV offending and strong support for improving access to justice for Aboriginal peoples and Torres Strait Islander peoples were strong themes of the feedback. Submissions, consultations and interviews – with Aboriginal peoples and Torres Strait Islander peoples and organisations and with other stakeholders – reflected broad

consensus of the need to address barriers to justice that limits Aboriginal peoples and Torres Strait Islander peoples, particularly female DFV victim-survivors, from accessing the defences available under criminal law.[364]

289. We heard from stakeholders in many of our consultations, particularly those in rural and remote areas of Queensland, of the importance of the legal system recognising cultural lore. The way in which the interface between law and lore is navigated significantly impacts both the experience of the criminal justice system and the outcomes for Aboriginal peoples and Torres Strait Islander peoples.

290. Most stakeholders expressed support for the potential reforms we identified.[365] They noted training and resources considerations relevant to these reforms:

- **Increased funding for community justice groups to prepare cultural reports:** Many consultation participants discussed the value of cultural reports in supporting understanding of lore and influencing sentencing outcomes. Some legal stakeholders said that, due to the value of cultural reports in supporting just outcomes, they should be adopted in higher courts. Stakeholders noted that increased funding could alleviate pressure on community Elders who undertake preparation of the reports in an unfunded capacity in the absence of an appropriate alternative.[366]



**200**

different insights shared in **58** consultations about improving justice for Aboriginal peoples and Torres Strait Islander peoples

- **Increased funding to support systems improvements:** Stakeholders noted the need to support appropriate legal advice and representation for vulnerable clients by addressing restrictions on physical access to clients and limitations on videoconferencing facilities.[367]
- **Relevant training and education for legal practitioners:** Many stakeholders spoke of the need for increased cultural capability training for legal practitioners, including on the intersection of race, gender, and trauma and on traditional laws and customs.[368]
- **Cultural capability training for law enforcers:** Stakeholders noted the value in a consistent and informed approach that respects the rights of Aboriginal and Torres Strait Islander families, builds trust and confidence and supports culturally safe and informed practices.[369] The need for cultural capacity training was noted as particularly pressing in regional and remote areas. One consultation participant suggested pairing young police officers with a more experienced partner, or Aboriginal or Torres Strait Islander partner where possible, but also noted that training 'is not something that should only occur in the field … Discrete Indigenous communities are complex places that require specific training'. Another emphasised that this training should address systemic bias and racism; be place-based, co-designed and led by Aboriginal and Torres Strait Islander communities; and be provided in the context of DFV to decrease misidentification of the person most in need of protection at DFV incidents.[370]
- **Increased funding for the legal support sector:** Stakeholders noted the need to increase culturally competent and appropriate legal representation through specialist providers.[371] Consultation participants and a legal professional we interviewed expressed concerns about the insufficient time allocated for duty lawyers to build rapport, use culturally appropriate communication strategies and properly support clients through the court process and the potential for conflicts of interest to leave clients with no available representative.[372]

- **Increased funding for support services and programs:** Stakeholders noted the need for increased resourcing for support services, particularly in rural and remote locations, including social workers, probation and parole officers and behavioural change programs.

### Majority verdicts in murder and manslaughter cases

291. A few stakeholders considered whether reform to majority verdicts is needed, given the risks associated with the possibility of compromise verdicts of manslaughter where there is a hung jury. They generally did not support reform.[373] The Queensland Council for Civil Liberties took a different view, supporting amendments to require a unanimous verdict of 'not guilty' to murder before a charge of manslaughter can be considered.[374]

## Contextual factors

292. We heard about significant issues impacting peoples experiences of the criminal justice system as accused, victim, witness, family member, support person, advocate, law enforcer and professional. Stakeholders shared research and their experiences – both lived and professional – of a range of issues that impact the operations of the laws we are reviewing.

293. The scope of these issues extends beyond the bounds of our review. However, they provide vital context for developing our reforms and exploring their potential consequences.

294. A key contextual factor is the significant – and increasing – over-representation of Aboriginal peoples and Torres Strait Islander peoples in our criminal justice system. We acknowledged this concern in our consultation paper and feedback overwhelmingly confirmed it.[375]

295. Consultation participants shared their perception that many Aboriginal peoples and Torres Strait Islander peoples lack trust in the legal system. We heard many consistent accounts of the difficulties Aboriginal peoples and Torres Strait Islander peoples, particularly women DFV victim-survivors, experience in interacting with the criminal justice system that limit or disincentivise their involvement and result in manifestly unjust outcomes. Key reasons given include shame, cultural lore, family loyalty, fear of future harm, fear of authority, fear of the removal of children, fear of incarceration of their partner (particularly where the family is reliant on the partner's income), lack of support and communication barriers.

296. One consultation participant stated:

> The justice system is not broken, [it's] working as intended – to lock First Nations people up – but the question is how we amend [the] framework so it doesn't do that anymore.

297. Discussing a decision by a client about whether to plead guilty to manslaughter or proceed to trial relying on self-defence as a complete defence to murder, one defence counsel stated:

> [I]t's a fact of life that white juries in Brisbane are less sympathetic to First Nations defendants.[376]

298. The Queensland Council of Social Service stated:

> The ongoing effects of colonisation, including systemic bias against Aboriginal and Torres Strait Islander Peoples in the criminal justice system, has led to the overcriminalisation of First Nations Australians. Therefore, continued efforts must be made to continuously improve our current systems. This includes for DFV victims.[377]

299. Key access to justice issues identified through consultations, submissions and interviews include:

- the vulnerability and disadvantage of persons involved in the criminal justice system, including experiences of intellectual disability, mental health conditions,

neurodevelopmental disorders, substance use disorders, memory and adaptive functioning impairments, illiteracy or innumeracy and intersectional disadvantage

- barriers to accessing bail, resulting in long periods on remand and 'pragmatic pleas' to resolve the matter quickly despite the availability of a defence
- language barriers and cross-cultural miscommunication issues
- racial profiling, stereotyping and over-policing of Aboriginal peoples and Torres Strait Islander peoples and their communities
- lack of cultural competency in the QPS and criminal justice system generally
- distrust and fear of the police by Aboriginal peoples and Torres Strait Islander peoples and their communities
- lack of emphasis on prevention and deterrence measures, as well as restorative justice and mediation, in favour of an emphasis on punitive approaches
- lack of culturally appropriate legal assistance
- lack of access to support services, particularly for Aboriginal and Torres Strait Islander women experiencing DFV
- difficulties providing evidence of DFV.

300. In our consultation paper, we also recognised the significance of delay in the criminal justice system. We acknowledged the considerable distress this causes for the victim's family as well as for the person accused of the offence. We noted significant consequences of this delay including impacting decisions to plead guilty or to continue with a criminal trial and the recollection of witnesses.[378]

301. Stakeholders provided insight into the impacts and implications of delay from the perspective of the accused and victims and their families.

302. Legal professionals we interviewed noted that the prospect or experience of lengthy delays awaiting trial can increase the likelihood of pragmatic pleas of guilty, particularly where significant time in custody has already been served.[379] Delay can also impact witnesses, particularly DFV victim-survivors and Aboriginal peoples and Torres Strait Islander peoples.

303. Participants at DFV support and community roundtables noted that delay can cause victims to withdraw from cases, particularly where there is significant delay at the investigation stage or where they lack support. One legal professional we interviewed explained:

> I see the family members all the way through from the first mention through to the verdict. And you see the strain on them through the years. And it is years, it always seems to be years that it's taking now... I'm seeing these family members who are just right on their last legs and that are remarkably distraught and traumatised and imprinted with this secondary victim mentality for such a long period of time as well.[380]

304. The Office of the Victims' Commissioner reflected on the following impacts of delays in the context of considering the impact of the mandatory penalty:

> Such delays cause a significant ongoing burden which manifest in financial, legal and personal costs to victim-survivors of domestic and family violence who have resorted to lethal violence, children who have been directly affected, and deceased persons' families and friends, who can wait years before achieving any sense of closure and be retraumatised by the process.[381]

305. The Queensland Homicide Victims' Support Group did not agree that systems delays bring emotional costs for victims and emphasised that victims' families seek a more just outcome rather than a timely resolution. They stated:

> Our experience is that families would rather see a suitable sentence outcome that takes time than short time frames that lead to inadequate sentencing which does not meet expectations. We wish that the QLRC had asked this direct question to those directly impacted.[382]

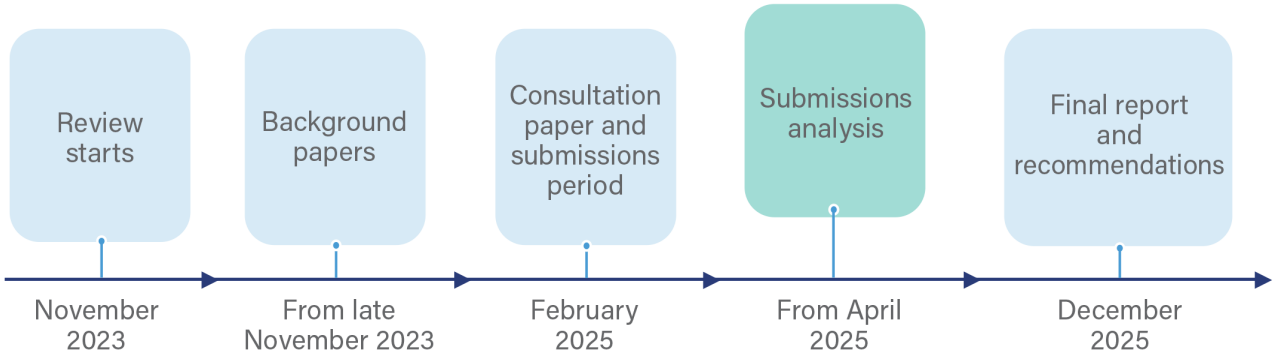
# Our next steps

306. We are continuing to meet with interested stakeholders to progress our understanding of key issues for the review. We will hold further forums and roundtables to support input into specific issues of contention.

307. All feedback received will inform the development of our final report and recommendations, which we will give to the Attorney-General by 1 December 2025. Figure 9 shows the timeline for our review.

308. Where there is consensus or strong support for proposals, our focus will be on developing the necessary details to support effective implementation of proposed reforms. Where the appropriateness of proposals is contested, we will undertake further work to decide whether to progress them. We will engage with a broad range of stakeholders to inform this process.

**Figure 9: Timeline of our review**



# Appendix A: List of consultations

| Consultation type | Frequency |
|---|---|
| One-on-one individual | 10 |
| One-on-one organisation | 46 |
| Group consultation | 37 |
| Public information session | 6 |
| Roundtable | 4 |
| **Total** | **103** |

# Appendix B: List of submissions

## Written submissions

1. Andrew Hemming
2. PeakCare
3. Jillian van Turnhout
4. The Public Advocate
5. Scott Sier
6. Sally Holland
7. Anne Hollonds, National Children's Commissioner
8. Parenting and Family Support Centre, The University of Queensland
9. CONFIDENTIAL
10. Queensland Corrective Services
11. Queensland Network of Alcohol and Other Drug Agencies Ltd
12. Kelley Burton
13. Queensland Catholic Education Commission
14. Respect Inc
15. LGBTI Legal Service
16. Australian National University Law Reform and Social Justice Research Hub
17. End Physical Punishment of Australian Children, The University of Melbourne
18. Department of Families, Seniors and Disability Services
19. Divna Haslam and the Consortium
20. Veronika Drago
21. Queensland College of Teachers
22. Joseph Lelliott and Rebecca Wallis
23. CONFIDENTIAL
24. Queensland Teachers' Union
25. Aboriginal and Torres Strait Islander Legal Service
26. Queensland Sexual Assault Network
27. Queensland Aboriginal and Torres Strait Islander Child Protection Peak
28. Queensland Council of Social Service
29. Zoe Rathus
30. Queensland Law Society
31. Legal Aid Queensland
32. Office of the Victims' Commissioner
33. Red Rose Foundation

34. Queensland Homicide Victims' Support Group
35. Queensland Council for Civil Liberties
36. Eliana (child)
37. Women's Legal Services Queensland
38. Rachel Dioso-Villa and Caitlin Nash
39. Department of Education
40. Michael Hurtado
41. Queensland Human Rights Commission
42. Bar Association of Queensland
43. Ben Mathews
44. James Duffy

# Appendix C: Interviews with legal professionals

| Position | Frequency |
|---|---|
| Supreme Court Judge | 7 |
| District Court Judge | 7 |
| Magistrate | 3 |
| Coroner | 1 |
| Defence Counsel | 7 |
| Crown Prosecutor | 7 |
| **Total** | **32** |

# References

1 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.

2 'Chatham House Rule', Chatham House (Web Page, 23 October 2024) <https://www.chathamhouse.org/about-us/chatham-house-rule>.

3 As at 30 June 2024: Bar Association of Queensland, Annual Report 2023–2024 (Report, 27 October 2023) 10.

4 As at 30 June 2024: Queensland Law Society, Annual Report 2023–2024 (Report, 5 September 2024) 8.

5 Queensland Aboriginal and Torres Strait Islander Child Protection Peak (Web Page, 25 June 2025) <https://www.qatsicpp.com.au/about-us/>.

6 Queensland Homicide Victims' Support Group, Submission 34.

7 PeakCare, Submission 2.

8 Queensland Network of Alcohol and other Drug Agencies, Submission 11.

9 Queensland Catholic Education Commission, Submission 13.

10 Haslam and the Consortium, Submission 19.

11 Queensland Teachers' Union (Web Page, 25 June 2025) <https://www.qtu.asn.au/about-us>.

12 Our proposals are set out in our Consultation Paper, available on our website: QLRC, Review of particular criminal defences (Consultation Paper, February 2025).

13 A further proposed limitation related to lawful conduct, which is not canvassed in this paper due to limited feedback specific to this aspect of proposal 1.

14 Kelley Burton, Submission 12; Australian National University Law Reform and Social Justice Research Hub, Submission 16; Department of Families, Seniors and Disability Services, Submission 18; Joseph Lelliott and Rebecca Wallis, Submission 22; Queensland Council of Social Service, Submission 28; Zoe Rathus, Submission 29; Legal Aid Queensland, Submission 31; Red Rose Foundation, Submission 33; Queensland Council for Civil Liberties, Submission 35, Rachel Dioso-Villa and Caitlin Nash, Submission 38; Queensland Human Rights Commission, Submission 41; Bar Association of Queensland, Submission 42; Crown Prosecutor, Interview 1.

15 Queensland Law Society, Submission 30.

16 District Court Judge, Interview 2; District Court Judge, Interview 3; District Court Judge, Interview 5; District Court Judge, Interview 6; Defence Counsel, Interview 1; Defence Counsel, Interview 2; Crown Prosecutor, Interview 3; Crown Prosecutor, Interview 6; Crown Prosecutor, Interview 9; Supreme Court Judge, Interview 1; Supreme Court Judge, Interview 2.

17 District Court Judge, Interview 6.

18 District Court Judge, Interview 2; District Court Judge, Interview 3; District Court Judge, Interview 5; District Court Judge, Interview 6; Defence Counsel, Interview 2; Defence Counsel, Interview 9; Magistrate, Interview 1; Magistrate, Interview 3; Crown Prosecutor, Interview 1; Crown Prosecutor, Interview 2; Crown Prosecutor, Interview 3; Crown Prosecutor, Interview 6; Crown Prosecutor, Interview 9; Supreme Court Judge, Interview 1; Supreme Court Judge, Interview 2.

19 Australian National University Law Reform and Social Justice Research Hub, Submission 16.

20 See, eg, Australian National University Law Reform and Social Justice Research Hub, Submission 16; Joseph Lelliott and Rebecca Wallis, Submission 22; Zoe Rathus, Submission 29; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Queensland Human Rights Commission, Submission 41; Bar Association of Queensland, Submission 42.

21 Queensland Council of Social Service, Submission 28.

22 Respect Inc, Submission 14; LGBTI Legal Service, Submission 15; Queensland Human Rights Commission, Submission 41.

23 Queensland Law Society, Submission 30.

[24] See also Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

[25] Andrew Hemming, Submission 1.

[26] Andrew Hemming, Submission 1; Queensland Law Society, Submission 30.

[27] Australian National University Law Reform and Social Justice Research Hub, Submission 16; Joseph Lelliott and Rebecca Wallis, Submission 22; Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35.

[28] Queensland Sexual Assault Network, Submission 26; Zoe Rathus, Submission 29; Red Rose Foundation, Submission 33; Queensland Council for Civil Liberties, Submission 35 (tentative), Bar Association of Queensland, Submission 42.

[29] Zoe Rathus, Submission 29 (implied); Queensland Law Society, Submission 30; Office of the Victims' Commissioner, Submission 32 (implied); Red Rose Foundation, Submission 33 (implied).

[30] See, eg, Bar Association of Queensland, Submission 42.

[31] Kelley Burton, Submission 12; Joseph Lelliott and Rebecca Wallis, Submission 22; Legal Aid Queensland, Submission 31.

[32] Kelley Burton, Submission 12; Joseph Lelliott and Rebecca Wallis, Submission 22; Legal Aid Queensland, Submission 31.

[33] Bar Association of Queensland, Submission 42.

[34] Queensland Sexual Assault Network, Submission 26; Red Rose Foundation, Submission 33.

[35] Queensland Law Society, Submission 30.

[36] Joseph Lelliott and Rebecca Wallis, Submission 22;

[37] Australian National University Law Reform and Social Justice Research Hub; Joseph Lelliott and Rebecca Wallis, Submission 22.

[38] Australian National University Law Reform and Social Justice Research Hub.

[39] Zoe Rathus, Submission 29.

[40] Andrew Hemming, Submission 1; Kelley Burton, Submission 12; Queensland College of Teachers, Submission 21; Queensland Sexual Assault Network, Submission 26; Red Rose Foundation, Submission 33; Bar Association of Queensland, Submission 42.

[41] Andrew Hemming, Submission 1.

[42] Andrew Hemming, Submission 1; Kelley Burton, Submission 12; Queensland Sexual Assault Network, Submission 26; Red Rose Foundation, Submission 33.

[43] Queensland Sexual Assault Network, Submission 26; Zoe Rathus, Submission 29; Red Rose Foundation, Submission 33.

[44] Queensland Sexual Assault Network, Submission 26; Red Rose Foundation, Submission 33.

[45] Joseph Lelliott and Rebecca Wallis, Submission 22; Zoe Rathus, Submission 29; Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31.

[46] Legal Aid Queensland, Submission 31.

[47] As defined in section 103CA Evidence Act 1977 (Qld).

[48] Respect Inc, Submission 14; Australian National University Law Reform and Social Justice Research Hub, Submission 16; Queensland Sexual Assault Network, Submission 26; Queensland Council of Social Service, Submission 28; Legal Aid Queensland, Submission 31; Office of the Victims' Commissioner, Submission 32; Red Rose Foundation, Submission 33; Women's Legal Service Queensland, Submission 37; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Queensland Human Rights Commission, Submission 41.

[49] Department of Families, Seniors, Disability Services, Submission 18; Queensland Council of Social Service, Submission 28; Red Rose Foundation, Submission 33; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

[50] Rachel Dioso-Villa and Caitlin Nash, Submission 38.

[51] Queensland Human Rights Commission, Submission 41.

[52] Respect Inc, Submission 14; Australian National University Law Reform and Social Justice Research Hub, Submission 16; Queensland Sexual Assault Network, Submission 26; Queensland Council of Social Service,

Submission 28; Legal Aid Queensland, Submission 31; Office of the Victims' Commissioner, Submission 32; Red Rose Foundation, Submission 33; Women's Legal Service Queensland, Submission 37; Dioso-Villa and Caitlin Nash, Submission 38; Queensland Human Rights Commission, Submission 41.

53 Office of the Victims' Commissioner, Submission 32.

54 Respect Inc, Submission 14.

55 Australian National University Law Reform and Social Justice Research Hub, Submission 16.

56 Australian National University Law Reform and Social Justice Research Hub, Submission 16; Joseph Lelliott and Rebecca Wallis, Submission 22; Red Rose Foundation, Submission 33; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

57 Joseph Lelliott and Rebecca Wallis, Submission 22; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

58 Queensland Law Society, Submission 30.

59 Bar Association of Queensland, Submission 42.

60 Supreme Court Judge, Interview 2.

61 Bar Association of Queensland, Submission 42.

62 Andrew Hemming, Submission 1; Queensland Homicide Victims' Support Group, Submission 34. See also Queensland Network of Alcohol and other Drug Agencies, Submission 11, Kelley Burton, Submission 12.

63 Queensland Network of Alcohol and other Drug Agencies, Submission 11; Joseph Lelliott and Rebecca Wallis, Submission 22; Queensland Council of Social Service, Submission 28; Queensland Council for Civil Liberties, Submission 35; Women's Legal Service Queensland, Submission 37; Bar Association of Queensland, Submission 42.

64 Bar Association of Queensland, Submission 42.

65 Queensland Network of Alcohol and other Drug Agencies, Submission 11.

66 See eg, Joseph Lelliott and Rebecca Wallis, Submission 22; Women's Legal Service Queensland, Submission 37; Bar Association of Queensland, Submission 42.

67 Queensland Sexual Assault Network, Submission 26; Queensland Council of Social Service, Submission 28; Zoe Rathus, Submission 29; Legal Aid Queensland, Submission 31; Office of the Victims' Commissioner, Submission 32; Red Rose Foundation, Submission 33; Bar Association of Queensland, Submission 42. Defence Counsel, Interview 2; Defence Counsel, Interview 3.

68 Legal Aid Queensland, Submission 31.

69 Joseph Lelliott and Rebecca Wallis, Submission 22; Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42; Crown Prosecutor, Interview 1.

70 Joseph Lelliott and Rebecca Wallis, Submission 22.

71 Joseph Lelliott and Rebecca Wallis, Submission 22; Zoe Rathus, Submission 29 (qualified).

72 Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

73 Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

74 Andrew Hemming, Submission 1; Joseph Lelliott and Rebecca Wallis, Submission 22; Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Red Rose Foundation, Submission 33; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Bar Association of Queensland, Submission 42.

75 Bar Association of Queensland, Submission 42.

76 Legal Aid Queensland, Submission 31.

77 Zoe Rathus, Submission 29; Red Rose Foundation, Submission 33.

78 Joseph Lelliott and Rebecca Wallis, Submission 22; Zoe Rathus, Submission 29; Queensland Law Society, Submission 30 (divergence of views); Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42; Magistrate, Interview 3.

79 Bar Association of Queensland, Submission 42.

80 Bar Association of Queensland, Submission 42; Cf Red Rose Foundation, Submission 33.

81 Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Office of the Victims' Commissioner, Submission 32; Bar Association of Queensland, Submission 42.

82 Joseph Lelliott and Rebecca Wallis, Submission 22.

83 Supreme Court Judge, Interview 4.

84 Queensland Homicide Victims' Support Group, Submission 34.

85 Queensland Homicide Victims' Support Group, Submission 34.

86 QLRC, Transcript of launch event (Web Page, 25 June 2025) <https://www.qlrc.qld.gov.au/__data/assets/pdf_file/0008/794402/Launch-event-transcript.pdf>.

87 Australian National University Law Reform and Social Justice Research Hub, Submission 16; District Court Judge, Interview 2.

88 Supreme Court Judge, Interview 3.

89 Veronika Drago, Submission 20.

90 Australian National University Law Reform and Social Justice Research Hub, Submission 16. See also Queensland Council of Social Service, Submission 28.

91 Queensland Law Society, Submission 30.

92 Legal Aid Queensland, Submission 31.

93 Joseph Lelliott and Rebecca Wallis, Submission 22.

94 Australian National University Law Reform and Social Justice Research Hub, Submission 16.

95 Queensland Human Rights Commission, Submission 41.

96 Queensland Human Rights Commission, Submission 41.

97 Queensland Council of Social Service, Submission 28; Queensland Human Rights Commission, Submission 41. See also QLRC, Mandatory penalty for murder: Key research insights (Research Report 2, June 2025).

98 Queensland Homicide Victims' Support Group, Submission 34.

99 Supreme Court Judge, Interview 2.

100 Joseph Lelliott and Rebecca Wallis, Submission 22; Office of the Victims' Commissioner, Submission 32; Bar Association of Queensland, Submission 42.

101 Joseph Lelliott and Rebecca Wallis, Submission 22; Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35.

102 Legal Aid Queensland, Submission 31.

103 Veronika Drago, Submission 20.

104 Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42; District Court Judge, Interview 2.

105 Legal Aid Queensland, Submission 31; Red Rose Foundation, Submission 33.

106 Queensland Law Society, Submission 30; Red Rose Foundation, Submission 33.

107 Legal Aid Queensland, Submission 31.

108 Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Office of the Victims' Commissioner, Submission 32; Women's Legal Service Queensland, Submission 37.

109 Office of the Victims' Commissioner, Submission 32.

110 Joseph Lelliott and Rebecca Wallis, Submission 22; Queensland Sexual Assault Network, Submission 26; Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

111 Queensland Sexual Assault Network, Submission 26; Queensland Council of Social Service, Submission 28; Red Rose Foundation, Submission 33.

112 Rachel Dioso-Villa and Caitlin Nash, Submission 38.

113 Australian National University Law Reform and Social Justice Research Hub, Submission 16; Joseph Lelliott and Rebecca Wallis, Submission 22; Queensland Sexual Assault Network, Submission 26; Zoe Rathus, Submission 29; Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Women's

Legal Service Queensland, Submission 37; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Bar Association of Queensland, Submission 42.

114 Aboriginal and Torres Strait Islander Legal Service, Submission 25; Queensland Sexual Assault Network, Submission 26; Queensland Council of Social Service, Submission 28; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Queensland Human Rights Commission, Submission 41.

115 Red Rose Foundation, Submission 33; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

116 Red Rose Foundation, Submission 33.

117 Legal Aid Queensland, Submission 31.

118 Aboriginal and Torres Strait Islander Legal Service, Submission 25; Red Rose Foundation, Submission 33.

119 Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

120 Bar Association of Queensland, Submission 42.

121 See eg, Australian National University Law Reform and Social Justice Research Hub, Submission 16; Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

122 See, eg, Andrew Hemming, Submission 1; Australian National University Law Reform and Social Justice Research Hub, Submission 16; Red Rose Foundation, Submission 33; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Bar Association of Queensland, Submission 42.

123 Legal Aid Queensland, Submission 31.

124 Bar Association of Queensland, Submission 42.

125 Rachel Dioso-Villa and Caitlin Nash, Submission 38. See also, Women's Legal Service Queensland, Submission 37; Supreme Court Judge, Interview 6.

126 Rachel Dioso-Villa and Caitlin Nash, Submission 38.

127 Queensland Human Rights Commission, Submission 41.

128 Bar Association of Queensland, Submission 42.

129 Andrew Hemming, Submission 1.

130 Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

131 Rachel Dioso-Villa and Caitlin Nash, Submission 38.

132 Australian National University Law Reform and Social Justice Research Hub, Submission 16.

133 Defence Counsel, Interview 8.

134 Defence Counsel, Interview 2; Defence Counsel, Interview 8.

135 Australian National University Law Reform and Social Justice Research Hub, Submission 16; Legal Aid Queensland, Submission 31.

136 Legal Aid Queensland, Submission 31.

137 Andrew Hemming, Submission 1.

138 Joseph Lelliot and Rebecca Wallis, Submission 22. See also, Andrew Hemming, Submission 1; Australian National University Law Reform and Social Justice Research Hub, Submission 16.

139 Australian National University Law Reform and Social Justice Research Hub, Submission 16; Bar Association of Queensland, Submission 42.

140 Women's Legal Service Queensland, Submission 37.

141 Australian National University Law Reform and Social Justice Research Hub, Submission 16; Joseph Lelliot and Rebecca Wallis, Submission 22; Red Rose Foundation, Submission 33; Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

142 Red Rose Foundation, Submission 33; Bar Association of Queensland, Submission 42.

143 Australian National University Law Reform and Social Justice Research Hub, Submission 16; Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31 (respectively).

144 Joseph Lelliot and Rebecca Wallis, Submission 22; Women's Legal Service Queensland, Submission 37.

145 Joseph Lelliot and Rebecca Wallis, Submission 22; Zoe Rathus, Submission 29.

146 Defence Counsel, Interview 3; Defence Counsel, Interview 8.

147 Queensland Human Rights Commission, Submission 41.

148 Red Rose Foundation, Submission 33; Defence Counsel, Interview 3.

149 Andrew Hemming, Submission 1.

150 Women's Legal Service Queensland, Submission 37.

151 Legal Aid Queensland, Submission 31.

152 Queensland Council of Social Service, Submission 28; Red Rose Foundation, Submission 33; Queensland Human Rights Commission, Submission 41.

153 Red Rose Foundation, Submission 33.

154 Australian National University Law Reform and Social Justice Research Hub, Submission 16 (referencing the cases of R v Auberson [1996] QCA 321, R v Schubring; Ex parte Attorney-General (Qld) [2005] 1 Qd R 515, and R v Sebo; Ex parte Attorney-General (Qld) (2007) 179 A Crim R 24); Red Rose Foundation, Submission 33 (referencing Peniamina v The Queen (2020) 95 ALJR 85).

155 Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

156 Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42; Magistrate, Interview 2; Defence Counsel, Interview 8.

157 Bar Association of Queensland, Submission 42; District Court Judge, Interview 1.

158 James Duffy, Submission 44.

159 Queensland Law Society, Submission 30. See also, Rachel Dioso-Villa and Caitlin Nash, Submission 38.

160 Bar Association of Queensland, Submission 42.

161 Bar Association of Queensland, Submission 42.

162 Queensland Law Society, Submission 30.

163 Bar Association of Queensland, Submission 42.

164 Legal Aid Queensland, Submission 31.

165 Bar Association of Queensland, Submission 42.

166 Legal Aid Queensland, Submission 31.

167 Andrew Hemming, Submission 1.

168 Australian National University Law Reform and Social Justice Research Hub, Submission 16.

169 Respect Inc, Submission 14; Australian National University Law Reform and Social Justice Research Hub, Submission 16; Queensland Council of Social Service, Submission 28.

170 Lesbian, gay, bisexual, transgender, queer, intersex, asexual and other identities.

171 Zoe Rathus, Submission 29. See also, LGBTI Legal Service, Submission 15; Queensland Law Society, Submission 30.

172 Queensland Human Rights Commission, Submission 41.

173 Andrew Hemming, Submission 1; Australian National University Law Reform and Social Justice Research Hub, Submission 16.

174 Supreme Court Judge, Interview 6.

175 Crown Prosecutor, Interview 5.

176 Defence Counsel, Interview 3; Magistrate, Interview 3; Crown Prosecutor, Interview 1; Supreme Court Judge, Interview 3.

177 Queensland Sexual Assault Network, Submission 26; Red Rose Foundation, Submission 33.

178 Queensland Sexual Assault Network, Submission 26.

179 Red Rose Foundation, Submission 33.

180 Bar Association of Queensland, Submission 42.

181 Joseph Lelliot and Rebbecca Wallis, Submission 22.

182 Rachel Dioso-Villa and Caitlin Nash, Submission 38.

183 Red Rose Foundation, Submission 33.

184 Andrew Hemming, Submission 1; Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

185 Queensland Law Society, Submission 30.

186 Legal Aid Queensland, Submission 31.

187 Respect Inc, Submission 14.

188 Red Rose Foundation, Submission 33.

189 Andrew Hemming, Submission 1.

190 Bar Association of Queensland, Submission 42.

191 Bar Association of Queensland, Submission 42.

192 Red Rose Foundation, Submission 33.

193 Bar Association of Queensland, Submission 42.

194 Legal Aid Queensland, Submission 31.

195 Red Rose Foundation, Submission 33.

196 Bar Association of Queensland, Submission 42.

197 Andrew Hemming, Submission 1.

198 Queensland Sexual Assault Network, Submission 26.

199 Red Rose Foundation, Submission 33.

200 Respect Inc, Submission 14; Zoe Rathus, Submission 29; Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35; Bar Association of Queensland, Submission 42.

201 As defined in section 1 of the Criminal Code.

202 As defined in section 1 of the Criminal Code.

203 Kelley Burton, Submission 12; Joseph Lelliott and Rebecca Wallis, Submission 22; Queensland Human Rights Commission, Submission 41; James Duffy, Submission 44.

204 Joseph Lelliott and Rebecca Wallis, Submission 22.

205 James Duffy, Submission 44.

206 Joseph Lelliott and Rebecca Wallis, Submission 22.

207 Queensland Human Rights Commission, Submission 41.

208 Bar Association of Queensland, Submission 42.

209 Red Rose Foundation, Submission 33; Women's Legal Service Queensland, Submission 37; Queensland Human Rights Commission, Submission 41.

210 Women's Legal Service Queensland, Submission 37.

211 Red Rose Foundation, Submission 33.

212 Red Rose Foundation, Submission 33.

213 Queensland Human Rights Commission, Submission 41.

214 Australian National University Law Reform and Social Justice Research Hub, Submission 16.

215 Red Rose Foundation, Submission 33.

216 Aboriginal and Torres Strait Islander Legal Service, Submission 25; Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

217 Aboriginal and Torres Strait Islander Legal Service, Submission 25.

218 Bar Association of Queensland, Submission 42.

219 Legal Aid Queensland, Submission 31.

220 Aboriginal and Torres Strait Islander Legal Service, Submission 25; Queensland Law Society, Submission 30.

221 Queensland Law Society, Submission 30.

222 Aboriginal and Torres Strait Islander Legal Service, Submission 25.

223 Aboriginal and Torres Strait Islander Legal Service, Submission 25.

224 Joseph Lelliott and Rebecca Wallis, Submission 22; Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35; Bar Association of Queensland, Submission 42 (expressed support for the defences to operate more broadly); Queensland Law Society, Submission 30; Red Rose Foundation, Submission 33 (expressed a preference for the defences to remain limited to offences for which assault is an element).

225 Queensland College of Teachers, Submission 21. They noted the nature of the teacher-student relationship, teachers' role, training and responsibilities and the availability of self-defence for teachers who act reasonably to defend themselves.

226 Queensland Human Rights Commission, Submission 41.

227 Crown Prosecutor, Interview 9.

228 James Duffy, Submission 44.

229 Aboriginal and Torres Strait Islander Legal Service, Submission 25; Queensland Council of Social Service, Submission 28; Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

230 Aboriginal and Torres Strait Islander Legal Service, Submission 25.

231 Bar Association of Queensland, Submission 42.

232 Queensland Council of Social Services, Submission 28.

233 Andrew Hemming, Submission 1.

234 Legal Aid Queensland, Submission 31.

235 Queensland Human Rights Commission, Submission 41.

236 LGBTI Legal Service, Submission 15; Bar Association of Queensland, Submission 42.

237 LGBTI Legal Service, Submission 15; Red Rose Foundation, Submission 33.

238 Jillian van Turnhout, Submission 3; Haslam and the Consortium, Submission 19; Queensland Human Rights Commission, Submission 41; Ben Mathews, Submission 43.

239 PeakCare, Submission 2; Jillian van Turnhout, Submission 3; Anne Hollonds, National Children's Commissioner, Submission 7; Parenting and Family Support Centre, The University of Queensland, Submission 8; End Physical Punishment of Australian Children, Submission 17; Haslam and the Consortium, Submission 19; Queensland Human Rights Commission, Submission 41; Ben Mathews, Submission 43.

240 Queensland Human Rights Commission, Submission 41.

241 PeakCare, Submission 2; Jillian van Turnhout, Submission 3; Anne Hollonds, National Children's Commissioner, Submission 7; Parenting and Family Support Centre, The University of Queensland, Submission 8; Australian National University Law Reform and Social Justice Research Hub, Submission 16; End Physical Punishment of Australian Children, Submission 17; Haslam and the Consortium, Submission 19; Queensland Council of Social Service, Submission 28; Office of the Victims' Commissioner, Submission 32; Queensland Human Rights Commission, Submission 41.

242 PeakCare, Submission 2; Parenting and Family Support Centre, The University of Queensland, Submission 8; Queensland Council of Social Service, Submission 28; Office of the Victims' Commissioner, Submission 32.

243 Haslam and the Consortium, Submission 19.

244 PeakCare, Submission 2.

245 Parenting and Family Support Centre, The University of Queensland, Submission 8.

246 Eliana, Submission 36.

247 Haslam and the Consortium, Submission 19; Office of the Victims' Commissioner, Submission 32.

248 Office of the Victims' Commissioner, Submission 32.

249 Jillian van Turnhout, Submission 3; Sally Holland, Submission 6; Parenting and Family Support Centre, The University of Queensland, Submission 8; Haslam and the Consortium, Submission 19; Queensland Human Rights Commission, Submission 41; Ben Mathews, Submission 43.

250 Parenting and Family Support Centre, The University of Queensland, Submission 8; Aboriginal and Torres Strait Islander Legal Service, Submission 25; Bar Association of Queensland, Submission 42.

251 Parenting and Family Support Centre, The University of Queensland, Submission 8.

252 PeakCare, Submission 2; Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited, Submission 27.

253 Parenting and Family Support Centre, The University of Queensland, Submission 8; Haslam and the Consortium, Submission 19; Bar Association of Queensland, Submission 42.

254 Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited, Submission 27.

255 Anne Hollonds, National Children's Commissioner, Submission 7; Parenting and Family Support Centre, The University of Queensland, Submission 8; Haslam and the Consortium, Submission 19; Office of the Victims' Commissioner, Submission 32; Bar Association of Queensland, Submission 42.

256 Queensland Law Society, Submission 30.

257 Aboriginal and Torres Strait Islander Legal Service, Submission 25.

258 Confidential, Submission 9.

259 See eg, Queensland Human Rights Commission, Submission 41.

260 See eg, Aboriginal and Torres Strait Islander Legal Service, Submission 25.

261 Queensland Teachers' Union, Submission 24.

262 Queensland Catholic Education Commission, Submission 13.

263 Office of the Victims' Commissioner, Submission 32.

264 Bar Association of Queensland, Submission 42; Ben Mathews, Submission 43.

265 Bar Association of Queensland, Submission 42.

266 Aboriginal and Torres Strait Islander Legal Service, Submission 25; Office of the Victims' Commissioner, Submission 32; Queensland Human Rights Commission, Submission 41.

267 Aboriginal and Torres Strait Islander Legal Service, Submission 25.

268 Queensland Council of Social Service, Submission 28.

269 The term 'lore' was used by some people we consulted with. We understand this to be a reference to traditional customary law.

270 PeakCare, Submission 2; Haslam and the Consortium, Submission 19; Queensland Human Rights Commission, Submission 41; Bar Association of Queensland, Submission 42.

271 Jillian van Turnhout, Submission 3; Sally Holland, Submission 6.

272 Ben Mathews, Submission 43.

273 Queensland Human Rights Commission, Submission 41.

274 Queensland Catholic Education Commission, Submission 13.

275 Bar Association of Queensland, Submission 42.

276 Defence Counsel, Interview 8.

277 Bar Association of Queensland, Submission 42; Ben Mathews, Submission 43.

278 Andrew Hemming, Submission 1; Legal Aid Queensland, Submission 31.

279 Legal Aid Queensland, Submission 31.

280 Legal Aid Queensland, Submission 31.

281 Ben Mathews, Submission 43.

282 Aboriginal and Torres Strait Islander Legal Service, Submission 25.

283 Ben Mathews, Submission 43.

284 See eg, PeakCare, Submission 2; Parenting and Family Support Centre, The University of Queensland, Submission 8; Haslam and the Consortium, Submission 19.

285 See eg, Bar Association of Queensland, Submission 42; Ben Mathews, Submission 43

286 See eg, Andrew Hemming, Submission 1; Legal Aid Queensland, Submission 31.

287 Queensland Human Rights Commission, Submission 41.

288 See eg, PeakCare, Submission 2; Anne Hollonds, National Children's Commissioner, Submission 7; Parenting and Family Support Centre, The University of Queensland, Submission 8; Haslam and the Consortium, Submission 19; Office of the Victims' Commissioner, Submission 32; Bar Association of Queensland, Submission 42; Ben Mathews, Submission 43.

289 PeakCare, Submission 2; Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited, Submission 27; Queensland Council of Social Service, Submission 28.

290 Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited, Submission 27; Queensland Council of Social Service, Submission 28.

291 PeakCare, Submission 2; Parenting and Family Support Centre, The University of Queensland, Submission 8; Haslam and the Consortium, Submission 19.

292 Queensland Human Rights Commission, Submission 41.

293 Haslam and the Consortium, Submission 19.

294 Ben Mathews, Submission 43.

295 End Physical Punishment of Australian Children, Submission 17.

296 Office of the Victims' Commissioner, Submission 32.

297 PeakCare, Submission 2; Haslam and the Consortium, Submission 19; Aboriginal and Torres Strait Islander Legal Service, Submission 25; Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited, Submission 27; Ben Mathews, Submission 43.

298 Andrew Hemming, Submission 1; Queensland Human Rights Commission, Submission 41.

299 Queensland Human Rights Commission, Submission 41.

300 Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited, Submission 27.

301 Parenting and Family Support Centre, The University of Queensland, Submission 8; Haslam and the Consortium, Submission 19; Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited, Submission 27; Legal Aid Queensland, Submission 31; Office of the Victims' Commissioner, Submission 32; Queensland Human Rights Commission, Submission 41; Bar Association of Queensland, Submission 42; Ben Mathews, Submission 43.

302 Anne Hollonds, National Children's Commissioner, Submission 7.

303 Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited, Submission 27.

304 Haslam and the Consortium, Submission 19.

305 Legal Aid Queensland, Submission 31.

306 Queensland Catholic Education Commission, Submission 13.

307 Queensland Teachers' Union, Submission 24.

308 Parenting and Family Support Centre, The University of Queensland, Submission 8; Office of the Victims' Commissioner, Submission 32.

309 Office of the Victims' Commissioner, Submission 32.

310 Bar Association of Queensland, Submission 42.

311 Anne Hollonds, National Children's Commissioner, Submission 7.

312 Haslam and the Consortium, Submission 19; Ben Mathews, Submission 43.

313 Queensland Council of Social Service, Submission 28.

314 Haslam and the Consortium, Submission 19.

315 The first proposal was supported by Queensland Sexual Assault Network, Submission 26; Legal Aid Queensland, Submission 31; Red Rose Foundation, Submission 33; Queensland Human Rights Commission,

Submission 41; Bar Association of Queensland, Submission 42. The second proposal was supported by Queensland Sexual Assault Network, Submission 26; Legal Aid Queensland, Submission 31; Office of the Victims' Commissioner, Submission 32; Red Rose Foundation, Submission 33; Queensland Council for Civil Liberties, Submission 35. The third proposal was supported by Legal Aid Queensland, Submission 31; Office of the Victims' Commissioner, Submission 32; Queensland Council for Civil Liberties, Submission 35; Bar Association of Queensland, Submission 42. The fourth proposal was supported by Queensland Sexual Assault Network, Submission 26; Women's Legal Service Queensland, Submission 37; Rachel Dioso-Villa and Caitlin Nash, Submission 38. The fifth proposal was supported by Queensland Sexual Assault Network, Submission 26; Zoe Rathus, Submission 29; Office of the Victims' Commissioner, Submission 32; Red Rose Foundation, Submission 33; Queensland Council for Civil Liberties, Submission 35; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

316 Legal Aid Queensland, Submission 31.

317 Office of the Victims' Commissioner, Submission 32.

318 Office of the Victims' Commissioner, Submission 32; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

319 Legal Aid Queensland, Submission 31; Red Rose Foundation, Submission 33; Bar Association of Queensland, Submission 42.

320 Queensland Sexual Assault Network, Submission 26; Red Rose Foundation, Submission 33.

321 Legal Aid Queensland, Submission 31; Women's Legal Service Queensland, Submission 37; Bar Association of Queensland, Submission 42.

322 Queensland Council of Social Service, Submission 28.

323 Legal Aid Queensland, Submission 31.

324 Red Rose Foundation, Submission 33.

325 Legal Aid Queensland, Submission 31.

326 Queensland Council for Civil Liberties, 35.

327 Queensland Council for Civil Liberties, 35.

328 Legal Aid Queensland, Submission 31.

329 Queensland Council for Civil Liberties, 35.

330 Legal Aid Queensland, Submission 31.

331 Office of the Victims' Commissioner, Submission 32.

332 Queensland Law Society, Submission 30; Legal Aid Queensland, Submission 31.

333 LGBTI Legal Service, Submission 15; Office of the Victims' Commissioner, Submission 32; Red Rose Foundation, Submission 33.

334 Office of the Victims' Commissioner, Submission 32; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

335 The first proposal was supported by Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35; Bar Association of Queensland, Submission 42. The second proposal was generally not supported, with Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35; and Bar Association of Queensland, Submission 42 citing reasons against it. The third proposal was generally not supported, with Legal Aid Queensland, Submission 31 and Bar Association of Queensland, Submission 42 raising concerns and Queensland Council for Civil Liberties, Submission 35 noting the need for further comparative research. The fourth proposal was generally not supported, with Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35; and Bar Association of Queensland, Submission 42 raising concerns. The fifth proposal was generally not supported, with Legal Aid Queensland, Submission 31 expressing concerns. The sixth proposal was supported by Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Bar Association of Queensland, Submission 42.

336 Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

337 Queensland Council for Civil Liberties, Submission 35.

338 Legal Aid Queensland, Submission 31.

339 Bar Association of Queensland, Submission 42.

340 Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

341 Queensland Council for Civil Liberties, Submission 35.

342 Legal Aid Queensland, Submission 31; Bar Association of Queensland, Submission 42.

343 Queensland Council for Civil Liberties, Submission 35.

344 Legal Aid Queensland, Submission 31.

345 Bar Association of Queensland, Submission 42.

346 Supreme Court Judge, Interview 1.

347 Queensland Council for Civil Liberties, Submission 35.

348 Queensland Council for Civil Liberties, Submission 35; Bar Association of Queensland, Submission 42.

349 Bar Association of Queensland, Submission 42.

350 Australian National University Law Reform and Social Justice Research Hub, Submission 16; Queensland Sexual Assault Network, Submission 26; Queensland Council of Social Service, Submission 28; Red Rose Foundation, Submission 33; Women's Legal Service Queensland, Submission 37.

351 Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35.

352 Women's Legal Service Queensland, Submission 37.

353 Queensland Sexual Assault Network, Submission 26; Red Rose Foundation, Submission 33; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Bar Association of Queensland, Submission 42.

354 Legal Aid Queensland, Submission 31.

355 Queensland Sexual Assault Network, Submission 26; Red Rose Foundation, Submission 33 and Queensland Council for Civil Liberties, Submission 35 generally supported this. Legal Aid Queensland, Submission 31 and Bar Association of Queensland, Submission 42 raised concerns.

356 Australian National University Law Reform and Social Justice Research Hub, Submission 16.

357 Defence Counsel, Interview 2.

358 District Court Judge, Interview 1; District Court Judge, Interview 3; District Court Judge, Interview 5; Defence Counsel, Interview 1; Defence Counsel, Interview 2; Supreme Court Judge, Interview 6.

359 Queensland Council for Civil Liberties, Submission 35 (formatting and emphasis in original; footnotes omitted).

360 Queensland Sexual Assault Network, Submission 26; Zoe Rathus, Submission 29; Red Rose Foundation, Submission 33; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

361 Rachel Dioso-Villa and Caitlin Nash, Submission 38.

362 Queensland Human Rights Commission, Submission 41.

363 Zoe Rathus, Submission 29; Queensland Law Society, Submission 30; Office of the Victims' Commissioner, Submission 32.

364 Department of Families, Seniors and Disability Services, Submission 18; Queensland Council of Social Service, Submission 28; Legal Aid Queensland, Submission 31; Rachel Dioso-Villa and Caitlin Nash, Submission 38; Queensland Human Rights Commission, Submission 41.

365 The first proposal (to support admissibility of evidence of traditional laws and customs) was supported by Queensland Council of Social Service, Submission 28; Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35. The second proposal (to increase accessibility of cultural reports for Aboriginal and Torres Strait Islander defendants) was supported by Scott Sier, Submission 5; Queensland Council of Social Service, Submission 28; Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35. The third proposal (to increase culture capability training for relevant services in regional and remote areas) was supported by the Aboriginal and Torres Strait Islander Legal Service, Submission 25; Queensland Council of Social Service, Submission 28; Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35; Bar Association of Queensland, Submission 42.

366 Aboriginal and Torres Strait Islander Legal Service, Submission 25; Queensland Council of Social Service, Submission 28; Zoe Rathus, Submission 29; Legal Aid Queensland, Submission 31; Queensland Council for Civil Liberties, Submission 35; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

367 Legal Aid Queensland, Submission 31.

368 Zoe Rathus, Submission 29; Rachel Dioso-Villa and Caitlin Nash, Submission 38.

369 Queensland Aboriginal and Torres Strait Islander Child Protection Peak, Submission 27; Queensland Council of Social Service, Submission 28; Zoe Rathus, Submission 29; Rachel Dioso-Villa and Caitlin Nash, Submission 38. A similar sentiment was expressed by Defence Counsel, Interview 3.

370 Queensland Council of Social Service, Submission 28.

371 Office of the Victims' Commissioner, Submission 32; Rachel Dioso-Villa and Caitlin Nash, Submission 38. Legal Aid Queensland, Submission 31 noted this in the context of supporting training for QPS officers undertaking interviews.

372 Defence Counsel, Interview 4.

373 Legal Aid Queensland, Submission 31; Red Rose Foundation, Submission 33; Bar Association of Queensland, Submission 42.

374 Queensland Council for Civil Liberties, Submission 35.

375 Haslam and the Consortium, Submission 19; Queensland Aboriginal and Torres Strait Islander Child Protection Peak, Submission 27; Queensland Council of Social Service, Submission 28; Bar Association of Queensland, Submission 42.

376 Defence Counsel, Interview 1.

377 Queensland Council of Social Service, Submission 28.

378 QLRC, Review of particular criminal defences (Consultation Paper, February 2025) 13.

379 Supreme Court Judge, Interview 3; Magistrate, Interview 1.

380 Defence Counsel, Interview 9.

381 Office of the Victims' Commissioner, Submission 32.

382 Queensland Homicide Victims' Support Group, Submission 34.

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