



Non-fatal strangulation: Section 315A review

Investigating, prosecuting and defending
non-fatal strangulation in Queensland:
The experiences of police and lawyers

Research report 2

July 2025



Published by:

Queensland Law Reform Commission

Postal address: PO Box 13312, George Street Post Shop, Brisbane, QLD 4003

Telephone: (07) 3564 7777

Email: LawReform.Commission@justice.qld.gov.au

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

© State of Queensland (Queensland Law Reform Commission) 2025

ISBN 978-1-923274-90-7

Content warning

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

Red Rose Foundation: (07) 3065 9043

1800RESPECT: 1800 737 732

DV Connect:

Women's line: 1800 811 811

Men's line: 1300 789 978

13YARN: 13 92 76

Lifeline: 13 11 14

Beyond Blue: 1300 224 636

Rainbow SDFV Helpline: 1800 497 212

Acknowledgments

Queensland Centre for Domestic and Family Violence Research

We thank the Queensland Centre for Domestic and Family Violence Research for its contribution to our research. In particular, we thank Dr Amanda-Jane George and Dr Vicki Lowik, who coded de-identified transcripts of the interviews and focus groups with research participants and assisted in identifying preliminary themes.

Research participants

We also thank those who took part in the interviews and focus groups, and the following organisations who assisted in identifying appropriate members or staff to which to speak:

- the Aboriginal and Torres Strait Islander Legal Service ('ATSILS')
- the Bar Association of Queensland
- Legal Aid Queensland ('LAQ')
- the Office of the Director of Public Prosecutions ('ODPP')
- the Queensland Police Service ('QPS').

Glossary

Term	What it means
assault	Application of force to another person without their consent. An assault can include touching, pushing, hitting or, sometimes, a threat.
assault occasioning bodily harm	An assault that results in an injury amounting to bodily harm (but not as serious as grievous bodily harm).
bail	A written promise to return to court after being released from custody while waiting for criminal charges to be dealt with. People on bail must follow bail conditions or rules, and not break the law, otherwise they can be arrested and may be remanded in custody.
barrister	A type of lawyer who specialises in arguing in court, usually superior courts (District or Supreme Courts).
common assault	An assault that does not result in bodily harm.
counsel	Barristers at the private Bar or employed in-house at organisations, such as LAQ.
defence lawyers	Lawyers who appear for the perpetrator. They may be private lawyers (who the perpetrator pays for representation). Those who cannot afford private representation may be eligible for government-funded legal representation, which can be lawyers from ATSILS or from or funded by LAQ.
ex-officio indictment	An indictment presented by the prosecution in a superior court without a charge having been committed by a Magistrate. For further information about the committal process and ex-officio indictments, see [42] to [45].
indictment	An indictment is the document presented by the prosecution in a superior court for prosecution of an offence (presented after a charge has proceeded from the Magistrates Court to a superior court).
ODPP prosecutors	Prosecutors employed by the ODPP who appear for the State in criminal matters, usually in the superior courts (although they can appear in Magistrates Courts in limited circumstances).
police prosecutors	Prosecutors employed by the QPS (the Police Prosecution Corps) to appear for the State in Magistrates and Childrens Courts (Magistrates level). These prosecutors can either be sworn police officers who have completed the Prosecutor's Training Course or civilian lawyers.
prosecutor	The person who appears in court to prove the perpetrator's guilt.
QP9	The document that police prepare detailing the offence and providing a summary of the facts.
remand (held on remand/remanded in custody)	An order to be kept in custody while waiting for criminal charges to be dealt with.

Contents

Contents	5
Introduction	6
Our review	6
Guiding principles	7
Method	8
Limitations	9
Language used in this report	9
Queensland criminal justice process	10
Police response, investigation and charge	11
Court process	13
Findings	15
Uncertainty about the meaning of some non-fatal strangulation offence elements can lead to contest	15
The domestic setting element in the non-fatal strangulation offence may not be fit for purpose	20
Victim-survivor reluctance is a key factor in discontinued or unsuccessful prosecutions	23
The requirement to proceed to a superior court is the biggest factor in the time to finalise non-fatal strangulation charges	25
Although perpetrators charged with non-fatal strangulation largely plead guilty, trials do occur	27
Police and prosecutors' decisions about non-fatal strangulation vary across Queensland	29
The reasons for over-representation of Aboriginal peoples and Torres Strait Islander peoples in non-fatal strangulation matters are complex and multi-faceted	37
Discussion and conclusion	39
Appendix A: Method	42
Limitations	43
References	44

Introduction

1. This report presents the results of research conducted for our non-fatal strangulation review about the experiences of police and lawyers.
2. The report provides information from some police and lawyers about how non-fatal strangulation perpetrated in Queensland proceeds through the criminal justice system once police become involved. It explores how non-fatal strangulation is responded to, investigated, charged and how it proceeds through the courts, including how it is prosecuted and defended. The report focuses on information relevant to our [terms of reference](#).
3. Understanding stakeholder experiences can help to improve relevant laws, practices and procedures. The information in this report helped us to formulate the proposals and questions in our [consultation paper](#).¹
4. In this report, we use the term 'non-fatal strangulation offence' or 'non-fatal strangulation charge' to refer to the offence of 'Choking, suffocation or strangulation in a domestic setting' in section 315A of the Criminal Code. We use 'non-fatal strangulation' to refer to particular conduct that may or may not meet the requirements of the non-fatal strangulation offence.
5. We identified seven key themes from this research:
 - Uncertainty about the meaning of some non-fatal strangulation offence elements can lead to contest.
 - The domestic setting element in the non-fatal strangulation offence may not be fit for purpose.
 - Victim-survivor reluctance is a key factor in discontinued or unsuccessful prosecutions.
 - The requirement to proceed to a superior court is the biggest factor in the time to finalise non-fatal strangulation charges.
 - Although perpetrators charged with non-fatal strangulation largely plead guilty, trials do occur.
 - Police and prosecutors' decisions about non-fatal strangulation vary across Queensland.
 - The reasons for over-representation of Aboriginal peoples and Torres Strait Islander peoples in non-fatal strangulation matters are complex and multi-faceted.
6. We discuss each of these themes below.

Our review

7. The former Attorney-General Yvette D'Ath asked us to examine and make recommendations about the non-fatal strangulation offence and applicable procedural rules and practices.
8. Our [terms of reference](#) ask us to consider five specific issues, namely whether:
 - the terms 'chokes', 'suffocates' and 'strangles' should be defined and, if so, how
 - the requirement that the non-fatal strangulation offence be committed 'without consent' be removed or amended
 - the domestic setting scope of the offence should be expanded
 - the maximum penalty of seven years imprisonment reflects the gravity of the conduct

- the offence should be able to be finalised in the Magistrates Court.
9. The background to the terms of reference also noted concerns about complainant participation and related barriers to prosecution and conviction.²
 10. For a fuller picture of the practical operation of the non-fatal strangulation offence, the results in this report should be read together with our other reports and papers.
 11. A [background paper](#) and supporting resources are available on our [website](#). These publications explain the current law, the background to the review, our terms of reference and our review process.
 12. We published our first [research report](#), “I just want to be heard”: The voices of strangulation victim-survivors’ on 8 April 2025. That report platformed the voices of strangulation victim-survivors and their experiences of the Queensland criminal justice system.
 13. We released a [consultation paper](#) on 11 April 2025. Submissions closed on 6 June 2025.

Guiding principles

14. Five principles guide our review. They are outlined in Figure 1. We discuss these in detail in our [background paper](#).
15. This report supports our second principle and adds to existing research.³ It shares the experiences of police and lawyers involved in responding to, charging, investigating, prosecuting and defending non-fatal strangulation in the Queensland criminal justice system.

Figure 1: Our guiding principles



Method

- 16. Our research aimed to investigate patterns in the progress of matters involving non-fatal strangulation through the criminal justice process, focusing on the issues raised in our terms of reference.
- 17. We conducted 20 semi-structured interviews and 8 focus groups with 42 participants who had experience in either policing, prosecuting or defending non-fatal strangulation in Queensland. Participants came from various locations statewide. This is shown in Figure 2.

Figure 2: Locations of research participants across Queensland



- 18. The interviews and focus groups took place over Microsoft Teams from December 2024 to mid-February 2025. Interviews spanned between 40 and 70 minutes. Focus groups had two to four participants and took between 80 and 125 minutes. All were audio-visually recorded. Table 1 provides further detail about participant numbers, their roles and the de-identified prefixes used to refer to participants in this report.
- 19. **Appendix A** contains further details about the method we used to conduct this research.

Table 1: Interview and focus group participants

De-identified prefix	Role	Number of participants
C	Counsel: Counsel from the private Bar and in-house counsel from LAQ.	6
DL	Defence lawyer: Legal Officers from ATSILS and LAQ.	10

P	Prosecutor: Acting Crown Prosecutors, Crown Prosecutors, Senior Crown Prosecutors, Principal Crown Prosecutors and Consultant Crown Prosecutors from the ODPP.	8
PO	Police officer: General Duties officers and specialist officers from the Criminal Investigation Branch ('CIB') and Vulnerable Persons Unit ('VPU') of the QPS.	13
PP	Police Prosecutor: Prosecutors from the QPS Police Prosecution Corps.	5

Limitations

20. Our research was restricted to a small sample of participants who were not randomly selected. Further details about the limitations of our research are available in **Appendix A**.
21. This research is not intended to stand alone but supplements other research we have done.⁴ It is also consistent with the findings from other research.⁵ For example, in relation to police responses to domestic and family violence ('DFV') generally, the Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence noted that many previous reviews and reports, both external and internal to the QPS, 'have repeatedly identified multiple shortcomings with the QPS response.'⁶

Language used in this report

22. We understand there are different views about the appropriate language for some concepts discussed in this report. Like C4, some readers may be 'very concerned about the tone and language used', particularly in a criminal justice context where the process starts from a presumption of innocence.⁷ Where interviewees used particular language to describe the terms below, we have retained their language choice. Otherwise, we chose the following language to use in this report.
23. We use the term **victim-survivor** when referring to a person who has experienced non-fatal strangulation. We acknowledge that a few participants criticised this choice of language.⁸ For example, C6 said, 'they're complainants until someone's found guilty by jury of that offence ... They're not victim-survivors.' However, we do not confine the term victim-survivor in that way. We chose to use this term:
 - because our review is looking at the issue holistically from a social policy perspective, rather than solely a legal standpoint.
 - for consistency, given different language may be used to describe people who have experienced non-fatal strangulation at different points in the justice process, for example:
 - a person alleged to have experienced strangulation (when police initially respond to an incident)
 - a complainant (once police charge and the prosecution starts)
 - a victim (once the perpetrator is convicted, at least for the purposes of making a victim impact statement)
 - an applicant (in civil domestic violence processes, which are sometimes linked to criminal justice processes for non-fatal strangulation offending).
 - because it recognises that the non-fatal strangulation offence is currently restricted to domestic settings and as such adopts the language used in the Queensland Government's Domestic and Family Violence: Common Risk and Safety Framework.⁹

24. We recognise that not all those who have experienced strangulation identify as victims and/or survivors. However, we chose to use this language because it acknowledges the harm this conduct causes and victim-survivors' efforts to protect themselves from violence.
25. We use the term **perpetrator** in this report to describe the person who used non-fatal strangulation, regardless of whether they were charged with an offence (when the term 'defendant' is sometimes used), convicted (when often they are called an 'offender') or subject to a civil domestic violence process (when they may be termed the 'respondent').

Queensland criminal justice process

26. In this section we explain how non-fatal strangulation matters can proceed through the criminal justice process. We detail the possible process following police involvement, from response and investigation to charge. This is summarised in Figure 3. We then discuss the criminal justice process once a charge has been laid. This is summarised in Figure 4. Throughout this section, we provide further detail about the roles of the various criminal justice stakeholders who participated in this research.
27. At different points, different people act as gatekeepers to whether non-fatal strangulation will proceed to or through the criminal justice process. These people include the victim-survivor, police, police prosecutors, ODPP prosecutors and the judiciary.
28. The first gatekeepers may be victim-survivors. Decisions that victim-survivors make can affect whether non-fatal strangulation comes to police attention. The under-reporting of DFV and sexual violence is well-known.¹⁰ As non-fatal strangulation often occurs in these contexts, it may also be under-reported.
29. A number of pathways may follow non-fatal strangulation, for example:¹¹

The victim-survivor may not access any support.

Victim-survivors may not know that certain conduct is illegal or dangerous and so not seek support. Alternatively, they may not know where to go for support or they may not access support because:¹²

- they choose not to do so
- the perpetrator prevents them from doing so
- they experience cultural or other barriers, including their own sense of shame or embarrassment
- they have had prior poor experiences with services (such as police, health or other support services)
- they are concerned about potential repercussions associated with accessing services, such as consequential involvement with the justice system (which may involve re-traumatisation), notifications to child safety or visa investigations.

Police may be called to the scene of an incident, either because the victim-survivor, the perpetrator or another concerned citizen called.

Some police participants mentioned that calls for service were a method of becoming aware of non-fatal strangulation.¹³

The victim-survivor may attend a police station for assistance.

This may be shortly after an incident or at a later date. A few police participants told us they became aware of non-fatal strangulation in this way.¹⁴

The victim-survivor may present to support services, such as medical centres, hospitals, ambulances, sexual assault services or DFV services.

Those services may link victim-survivors with police either shortly after the incident or at a later date. Some police participants said they had experience of non-fatal strangulation matters that were referred from these services.¹⁵

Police response, investigation and charge

30. Once police are made aware of non-fatal strangulation, they have a gatekeeping role. Often, the first police officers to become aware of non-fatal strangulation will be General Duties police officers.¹⁶
31. We heard that if a General Duties officer classifies a matter as involving choking, suffocation or strangulation in a domestic setting, they are required to refer the matter to specialist units, such as the CIB, the Child Protection Investigation Unit ('CPIU') or sometimes VPU for advice and/or investigation.¹⁷ This occurred in many districts statewide.
32. There are three possible outcomes following specialist unit investigation. First, officers may decide that there is sufficient evidence to charge non-fatal strangulation. Second, officers may decide there is evidence to charge an offence other than non-fatal strangulation, such as common assault or assault occasioning bodily harm. Third, officers may decide that there is insufficient evidence to charge any offence, in which case the criminal justice process will stop. However, civil action may still be taken under the Domestic and Family Violence Protection Act 2012.
33. Sometimes, a General Duties officer will not classify a matter as choking, suffocation or strangulation in a domestic setting (for example, because the officer does not consider that the perpetrator was in a relevant relationship with the person they choked, suffocated or strangled). In such circumstances, assuming the officer is not considering a more serious offence, the officer may investigate without referring the matter to specialist units and decide either to charge a less serious offence than non-fatal strangulation or not to charge an offence at all.
34. Any charge laid, regardless of who lays it, must first be lodged in the Magistrates Court.
35. The Operational Procedures Manual, extracted below, guides police officers in how to identify and adequately investigate non-fatal strangulation matters and provides for further oversight of that work.

Extract from Operational Procedures Manual:

Choking, suffocation or strangulation in a domestic setting¹⁸

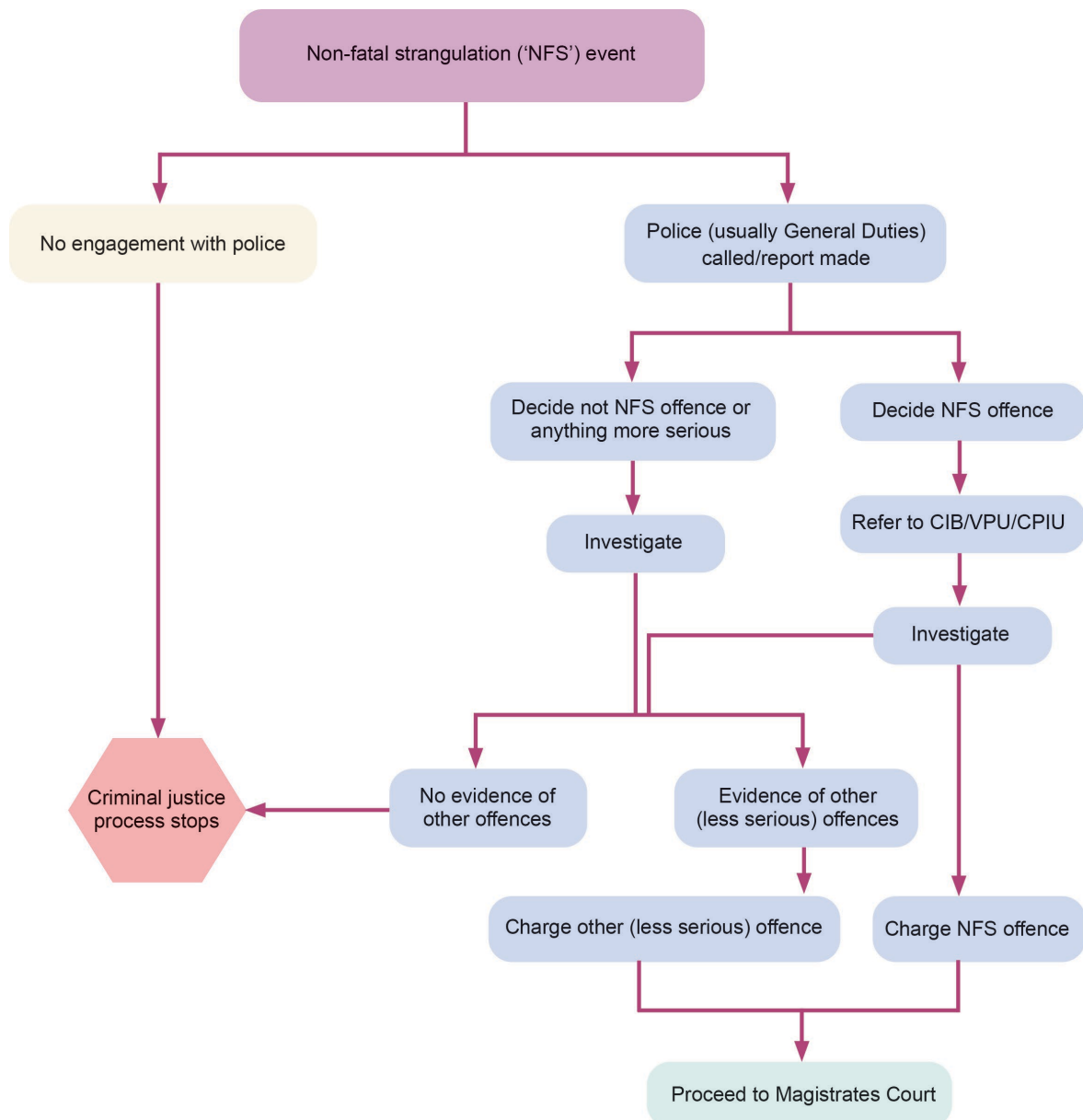
Officers responding to a DFV incident and who have identified there is evidence of choking, suffocation or strangulation are to commence a holistic investigation, and if appropriate, commence criminal proceedings ... and any other action under the [Domestic and Family Violence Protection Act] against the respondent to immediately protect the victim from DFV ...

All [DFV] occurrences that involve an allegation of choking, suffocation or strangulation are to be reviewed by a specialist DFV officer [an officer designated as a Domestic Violence Liaison Officer, a Domestic Family Violence Officer, a Domestic and Family Violence Coordinator or a member of a District Domestic and Family Violence and VPU].

When a specialist DFV officer reviews a matter that involves an allegation of choking, suffocation or strangulation, the officer is to:

- (i) ensure the allegation(s) has been investigated; and
- (ii) consider if the matter should be referred to the relevant QPS high risk team ('HRT') for it to be assessed for a referral into the multi-agency HRT.

Figure 3: How non-fatal strangulation proceeds from event through to criminal charge



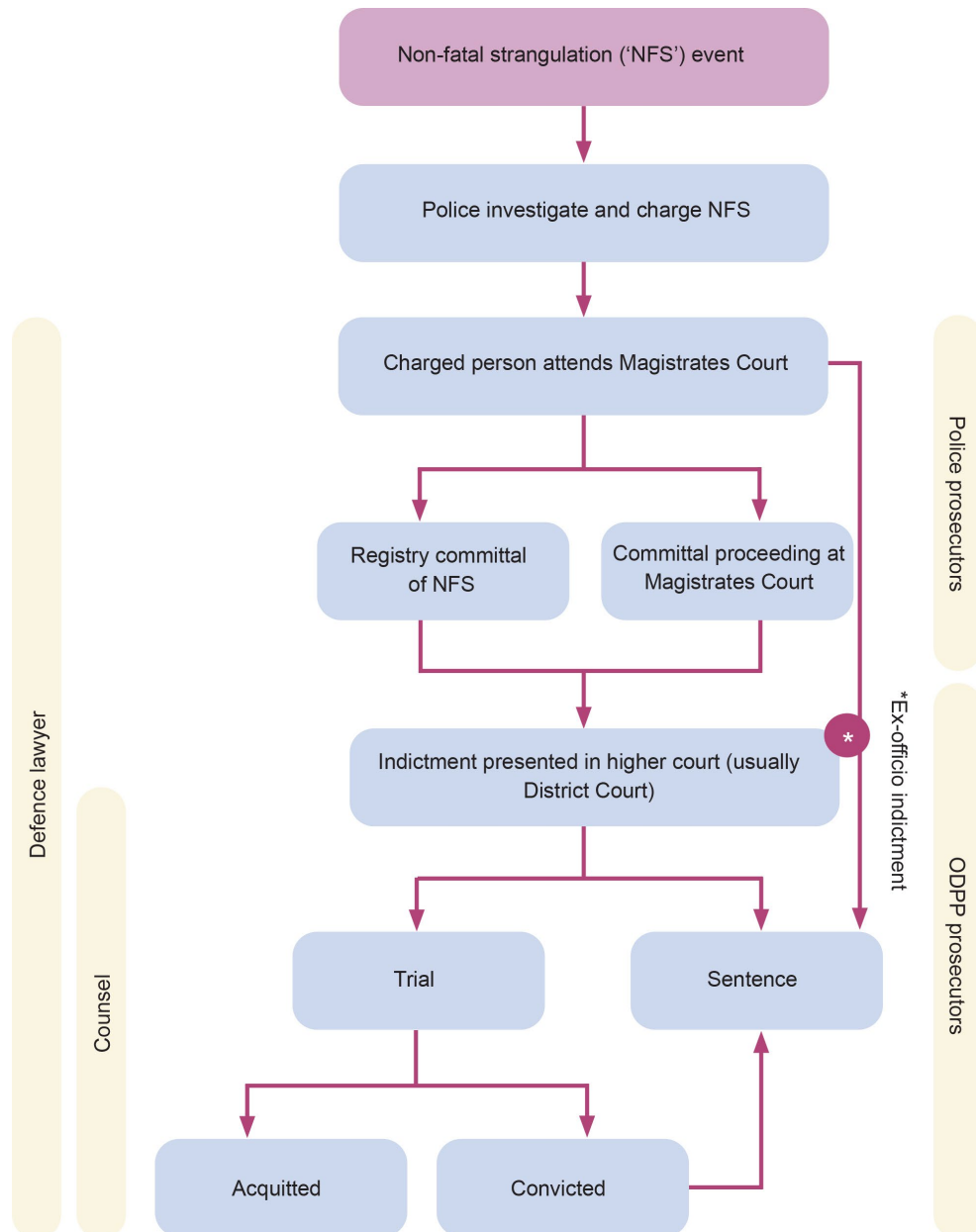
Court process

36. As discussed above, once a perpetrator is charged with non-fatal strangulation, the charge is lodged in the Magistrates Court and the perpetrator will be required to appear.
37. A perpetrator may appear in the Magistrates Court in custody after being remanded by police, or they may appear in court after being granted police bail or being given a notice to appear. Often, once the perpetrator initially appears in court the case may be adjourned for a defence lawyer to take instructions, request material from police and potentially make submissions.
38. Submissions may suggest the non-fatal strangulation offence be withdrawn completely or replaced with a different charge that can be finalised in the Magistrates Court, such as common assault or assault occasioning bodily harm. Sometimes the defence may wait to make submissions until after the prosecution has provided them with a brief of evidence.
39. At this stage in the process, police prosecutors are the gatekeepers. They usually prosecute the case and make decisions, except in Ipswich and Brisbane where the ODPP are involved earlier.
40. If the non-fatal strangulation offence is withdrawn completely, the criminal justice process stops. If the offence is replaced with a charge that can be finalised in the Magistrates Court, the charge may proceed in that court as a trial or sentence.
41. If the non-fatal strangulation charge is not withdrawn or replaced with a different charge, it must proceed to a superior court, either by registry committal (in certain circumstances) or a committal proceeding.
42. A registry committal is an administrative process that the registrar or clerk of the court completes, which replaces the need for a committal hearing in the Magistrates Court.¹⁹ To proceed this way, a perpetrator must be legally represented and accept that they do not require the court to consider whether there is sufficient evidence to proceed to a superior court.²⁰
43. Alternatively, in a committal proceeding, the magistrate is required to consider whether there is sufficient evidence to commit the matter to a superior court (unless conceded by the perpetrator).²¹ A committal proceeding requires the prosecution to present evidence.²²
44. Evidence at committal is usually presented in the form of written statements.²³ However, the prosecution may consent or the magistrate may direct the prosecution to have a witness give oral evidence or be available for cross-examination if satisfied that it is in the interests of justice to do so.²⁴ At the committal stage, the magistrate acts as a gatekeeper — they may decide to commit or not commit the non-fatal strangulation offence, or they may choose to commit a different offence that is available on the evidence. If the matter is not committed at all, the perpetrator is discharged and the criminal justice process stops.
45. The committal process can be bypassed if, while at the Magistrates Court level, the perpetrator or their legal representative requests an ex-officio indictment. However, to do so the perpetrator must indicate that they will plead guilty and the ODPP must consent.²⁵
46. The relevant superior court for an offence of non-fatal strangulation committed by an adult is usually the District Court. If an offence is committed to a superior court, the ODPP takes over any prosecution and becomes the gatekeeper. The ODPP has six months after committal to present an indictment for any offence.²⁶ The defence may submit that the offence of non-fatal strangulation should not be indicted, or a different offence should be indicted.
47. Once an indictment is presented in a superior court, there may be adjournments to obtain further disclosure or to allow submissions to be made and considered. The perpetrator will

indicate whether they will plead guilty (and so be sentenced by a judge in the District Court) or whether they will plead not guilty and proceed to trial. Defence lawyers often engage counsel in the superior courts to make submissions and appear in court for trial and/or sentence.

48. When a matter proceeds to trial, there may be pre-trial hearings about various issues. Eventually a trial date will be set. The ODPP can continue to accept submissions from the defence until the perpetrator is convicted. If submissions are not accepted and the matter proceeds to trial, the perpetrator will be sentenced if found guilty. If they are found not guilty, they will be acquitted.

Figure 4: The criminal justice process for non-fatal strangulation offences in Queensland



Findings

Uncertainty about the meaning of some non-fatal strangulation offence elements can lead to contest

49. The non-fatal strangulation offence has three core elements:
- a person was unlawfully choked, suffocated or strangled
 - without their consent
 - in a domestic setting context.²⁷
50. We heard that there is still uncertainty about the meaning of ‘chokes’, ‘suffocates’ and ‘strangles’ and this can lead to contest. While the without consent element was not usually contested, it was raised as an issue in some circumstances, particularly where strangulation occurred in sexual contexts.

Definition of chokes, suffocates and strangles

51. Initially, the terms ‘chokes’, ‘suffocates’ and ‘strangles’ were not defined in the Criminal Code for the purposes of the non-fatal strangulation offence. This created confusion about their meaning, particularly as to what results were required.²⁸ For example, as both PP4 and PP5 noted, a District Court decision held that strangulation required the airway to be completely restricted.²⁹ A year later, in *R v HBZ*, the Court of Appeal clarified that choking did not require proof that the breath was completely stopped.³⁰ However, prior to this decision ‘there [were] a lot of strangulation offences which weren’t committed’.³¹
52. P2 explained the confusion about the meaning of ‘chokes’, ‘suffocates’ and ‘strangles’ in the absence of a legislative definition:
- In the early days, pre-HBZ, this was a shambles. It not being defined in the legislation was a huge problem for us for the 2.5 to 3 years it took us to get a Court of Appeal decision giving us a definition. Different judges directed in different ways. Different judges had different ideas about whether you should be putting chokes or suffocates or strangles on the indictment and whether that would ultimately affect their directions ... whether it had to be a complete loss of breath, whether a hindrance of breath was enough, whether you needed any impact on the breath, does that take into account compression of the arteries, where maybe someone can still breathe but they’re losing consciousness?
53. A few participants commented that while initially the lack of legislative definition for the terms created confusion, since the Court of Appeal considered the definition, it no longer presents a problem.³²
54. However, in *R v WCA* the definition of these terms was again challenged.³³ In that case, the perpetrator argued that the pressure he applied to the victim-survivor’s neck was designed to impact blood flow, not breath.³⁴ The Court of Appeal considered there was evidence of restricted breathing and as such it was unnecessary to consider if the definition extended to hindering blood circulation.³⁵
55. In 2024, a non-exhaustive definition was inserted into the non-fatal strangulation offence.³⁶ This clarified that, without limiting the offence, ‘chokes’, ‘suffocates’ and ‘strangles’ could

extend to application of pressure to the 'neck, that completely or partially restricts the other person's respiration or blood circulation, or both.'³⁷

56. Perhaps because that section has only been introduced recently, there was a focus on breath (rather than any reference to blood flow) in the cases that participants discussed.³⁸ This may be problematic if blood flow is not considered more carefully in the future. For example, some participants referred to non-fatal strangulation charges being withdrawn or replaced by the prosecution on the basis that breath alone had not been restricted,³⁹ for instance, because the victim-survivor could still talk.⁴⁰ This is despite the fact that talking does not seem to have any bearing on whether blood flow was restricted.
57. A few participants agreed that a 'legislative definition of what constitutes choking, strangulation and suffocation would be helpful'.⁴¹ P3 explained:
- I think there's significant value in defining those terms, if it is the intention of the legislature that non-fatal strangulation should refer to the external application of pressure. Because I think there are ... some flaws in the judgment of HBZ ... in defining what choke, suffocate and strangle means.
58. Our research revealed inconsistencies in police charging practices related to the terms, further demonstrating the potential uncertainty about their meaning. DL10 noted that police often do not choose which term to use for the charge:
- I know that in the QP9s, they're charged as just [choked/suffocated/strangled] and it's not regularly specified as to what they are alleging.
59. PP2 and PP5 suggested that police should be particularising the specific term — either 'chokes', 'suffocates' or 'strangles'. A few police officers noted they would specify the term.⁴² PP2 expressed that police may just default to 'strangled' while PP4's experience was that police usually selected the term 'choked'.
60. Once the matter proceeds to the ODPP, the practice is often to particularise one term.⁴³ Some participants expressed that this was because they thought it was wrong in law not to:⁴⁴
- [T]here's some different views about whether you can even do that. I mean, I would think that it's almost an abuse of process myself.
61. Many ODPP prosecutor participants had similar understandings of the difference between choking, suffocation and strangulation.⁴⁵ As P1 explained:
- We sort of adopted, choking is something in the throat, suffocation is covering their mouth and nose, and strangulation is ... external pressure to the neck. So that's how we identified it and split it up and we would change the wording of the indictment ... identifying which one it was.
62. However, P3 expressed that some differences of approach were still clear in the ODPP:
- There is a now very senior prosecutor who has held [the] view from the start that we should be particularising ... charges based on the way the medical profession defines it, that is, external application of pressure, notwithstanding that choking might be a term of art that is used in common parlance to refer to the verb ... we should be particularising strangulation. There are other quite senior prosecutors who take the view that, because of HBZ, given the court defined the word 'choke' the way [it] did, if ... hindrance of breath is on the evidence, we should particularise choke.
63. Other participants noted that the terms 'chokes' and 'strangles' were often used interchangeably or believed that others thought there was little difference between those terms.⁴⁶ P4 also noted that sometimes victim-survivors used different terminology:

It's sometime quite hard to talk to complainants about defining it, because they view it as choking, whereas we might call it strangling, but I don't think that's really caused any charges to fail, in my experience.

64. Despite any confusion about the meaning of terms, some counsel expressed that in practice the choice of term used on the indictment was not problematic as the specific conduct, such as 'placed his hands around the neck and squeezed', was still particularised. They considered that if a challenge was made regarding the correct choice of word, the indictment could be amended.⁴⁷
65. However, some prosecutors warned that defence lawyers could potentially take advantage of the confusion about terms used.⁴⁸
66. In terms of the conduct, some participants described situations of non-fatal strangulation which involved application of pressure to the neck or throat.⁴⁹ Occasionally, people were charged with non-fatal strangulation for putting something over another person's mouth or nose.⁵⁰
67. It was rare for non-fatal strangulation charges to be laid where pressure was applied to the chest,⁵¹ even though such conduct can result in restriction of respiration. P4 stated that sometimes it could be difficult to decide what approach was appropriate in this type of situation:
- Someone ... had that recently. It was a kind of combination of pressure to the face, but not on the mouth, and pressure to the chest, and it was hard to work out whether it was a suffocation or what it was, because obviously it's not external pressure to the throat or internal, but the pressure to the chest, similar with the suffocation, is the inability to draw breath.
68. However, there were exceptions. For example, C6 described a case where a man who picked his partner up in a bear hug was charged with suffocation because 'he restricted her breath with the pressure he put around her chest'.
69. PP4 thought that it would be beneficial to expand the definition to include pressure to the chest or torso:
- If you know what you're doing, it's extremely effective, a much stronger man can definitely deprive the ability to breathe through compression of the diaphragm.
70. C4 thought that the original legislative intent of the offence was directed at 'blokes who intimidate and bully their wives by choking them and threatening to kill them because of the fact that that's a known precursor to homicide'. As such:⁵²
- It should be intentional cutting off of the breath or, you know, choking, suffocation, strangling, which would deal with the situation where a person puts a ligature around their neck, puts the hands around their neck, puts in a headlock intending not to restrain them but to cut off the breath. It would deal with the situation in which a person puts a pillow on someone's face, or a plastic bag on the head. But it would exclude circumstances in which, for example, you know, a bloke is defending himself or a woman is defending herself from a man and puts him in a headlock, just to restrain him but incidentally cuts off the breath without intending to ... There are other offences, there are other charges like assault [occasioning] bodily harm or common assault, that could adequately punish that type of behaviour.
71. C4 and C6 did not think that incidental and unintentional obstruction of the airway, such as where someone is grabbed by a necklace or the back of a hoodie in the course of defending themselves, should be charged as an offence of non-fatal strangulation. They noted that they

had some success with prosecutors exercising their discretion in those circumstances to have the charge replaced with assault.⁵³

Contesting restriction of breath

72. The continued uncertainty about the meaning of 'chokes', 'suffocates' and 'strangles' has led to contest. Participants told us that the most contested element of the definitions was the requirement for a particular result to occur, namely, restriction of breathing.⁵⁴ As DL3 explained:

Notwithstanding the clarity of the definition now after HBZ, there's still a lot of 'she was talking, she was still able to breathe, it's not really a choke because it didn't completely prevent her from talking' ... it doesn't stop us receiving instructions about contesting that element of the offence.

73. However, as DL1 stated, 'that is something that will be resolved long before the matter's listed for trial.'

74. Participants cited a lack of information about breath being restricted as:

- the basis for successfully making no case submissions at committal.⁵⁵
- the reason to negotiate withdrawal of a non-fatal strangulation charge and replacement with a different charge.⁵⁶ If this element (or others) was in issue, the most common charges presented instead were assault occasioning bodily harm or common assault.⁵⁷
- the reason for withdrawing a non-fatal strangulation charge altogether.⁵⁸
- sometimes resulting in acquittal at trial.⁵⁹

'It's pretty common to try and negotiate a choking charge if the evidence is a little bit skinny on restriction of breathing.'

C1

-
75. However, a few lawyers suggested that these issues were challenged less often now than in the past.⁶⁰ DL4 noted:

I've noticed that a few years ago, statements from police didn't have as much detail about the breath being restricted. It would just be, 'he put his hands on my neck' or 'she put her hands on my neck' and then it was a bit easier to case conference. But now they make sure to put in things like, 'well, how do you know that you couldn't breathe?'

76. P6 was not as positive, stating:

I still do find that the statement just doesn't address the element of restriction or loss of breath or consciousness and when we clarify that we'll be told ... by the victim, 'oh yeah, that didn't happen' and then we're back to the start and the charge probably should have never been laid.

77. A few participants noted that the restriction of breath element created problems, especially without medical evidence, as the victim-survivor's statement would be needed to prove this aspect of the case.⁶¹ PO5 explained:

We've even had it captured on CCTV where it appeared that she was being strangled. But in this particular one that I'm referring to, she was subjected to multiple assaults within the time frame that it happened and she just doesn't

remember that particular act happening, and even though it was caught on CCTV, without her being able to particularise that impediment to her breath, we just had to go with common assault.

Without consent requirement

78. Some participants said that the without consent element had not usually arisen as an issue in their experience of non-fatal strangulation matters.⁶² Where consent was an issue, it was most often raised where the non-fatal strangulation was in a sexual context.⁶³

79. A number of participants had generally not seen non-fatal strangulation offences charged or prosecuted in a sexual context,⁶⁴ particularly not in a consensual sexual context.⁶⁵ Rather, their experience with non-fatal strangulation conduct had mostly been outside sexual contexts in the context of a domestic disturbance or confrontation,⁶⁶ sometimes in the context of the relationship breakdown.⁶⁷ As P8 explained:

I've never had ones that are occurring in the context of a sexual relationship or when they are having sex together ... where consent would definitely probably be one of the biggest things that they'd raise. I haven't had to cover that. But I can see how that would be one of the main issues for sure. ... when they're withdrawing their consent as express or implied especially, I think that would raise a few issues if [the non-fatal strangulation offence] was to be expanded.

80. Some participants had experience with non-fatal strangulation in sexual contexts.⁶⁸ P5 explained an example where:

[t]here is an ongoing domestic relationship the argument is made of 'we would engage in rough sex and in the midst of that rough sex, I would choke her. So I did choke her on that night, but not in the way that she described. I choked her because we were having sex and she said choke me.' ... So although they are strictly guilty of the restriction of breath, they say that the Crown case fails because we haven't been able to prove without the other person's consent.

81. A few participants referred to matters where consent was given to certain conduct within sexual contexts but not the particular result.⁶⁹ For example, PO1 noted a complex matter where the victim-survivor had given permission for a level of BDSM (bondage, discipline, dominance and submission, sadomasochism) but said she did not consent to being choked to the point of unconsciousness, which occurred on multiple occasions.

82. Police participants recognised that it would be unusual for sexual strangulation to be reported where it is done as part of consensual sexual activity.⁷⁰ However, it was not unheard of, particularly after there had been some subsequent disagreement in the relationship.⁷¹ Others noted the difficulties determining whether sexual strangulation was actually consensual, especially in relationships characterised by coercive control:⁷²

There would definitely have been occasions that I can think of where people have said they had sex and as part of that there was some strangulation, but whether that was actually consensual or not, that's a whole other story that'd be worth unpacking, especially if we're talking in a coercively controlling relationship.

83. Police participants also referred to the prevalence of sexual strangulation among young people.⁷³ PO5 said that in those circumstances 'we don't investigate it because consent has been given'. However, PO10 raised concerns about consent in that context:

I was seeing it a fair bit, I guess during just normal sexual experimentation where teenagers were starting to get involved in sexual activity and then one party would decide to act out, especially the ones that were more interested in pornography. We were seeing a lot of juveniles, both boys and girls, acting out

strangulation and when we did speak to them ... it wasn't that it was non-consensual, they just thought it was part of the act. They've seen it online and they wanted to give it a go. ... when we actually spoke to both parties, both parties weren't enjoying it, but they thought it was still something that was completely normal in that kind of sexual experimentation space.

84. A few participants did recognise instances where a suggestion of consent to strangulation during sex resulted in either a charge being withdrawn following a submission, a hung jury or an acquittal in front of a jury.⁷⁴ For example, C6 noted that in the only matter they had where there was an allegation of choking during sex, they had a submission accepted because:
- it had all been recorded ... and there [were] multiple videos of her being choked, to the point of unconsciousness actually, in certain videos.
85. C1's client was acquitted on the facts that:
- [i]t was the classic, no complaint made, a month later break up, see [the] partner with ... the new partner. Two days later, off to the police station, choking complaints. But there were dozens of text messages ... in the days that followed the complaint, showing that it was part and parcel of their sex life ... and he was found not guilty pretty swiftly after the text messages made it into evidence.
86. Some police and police prosecutors did say that the requirement for lack of consent at times undermined their ability to charge, even outside sexual contexts.⁷⁵ For example, PO5 said:
- A witness may see something, but we need [the victim-survivor's version to confirm that there was no consent] to be able to support that charge. ... strangulation, unfortunately, where it sits at the moment, very much relies on the victim to be able to articulate what's happened.

The domestic setting element in the non-fatal strangulation offence may not be fit for purpose

87. While some participants said that the domestic setting element was rarely contested, others discussed issues with its scope, interpretation and application, indicating the element may not be fit for purpose.
88. Some participants indicated that the question of whether the non-fatal strangulation offence was committed in a domestic setting was rarely raised.⁷⁶ A few believed this was because the definition of domestic setting — which refers to a 'domestic relationship' or 'associated domestic violence' under the Domestic and Family Violence Protection Act 2012 — was broad and police were generally competent at identifying such relationships.⁷⁷
89. C2 noted:
- I haven't had an instance from the defence perspective where it's not been in the context of a domestic relationship or associated domestic violence. I think the prosecution's [ODPP's] fairly adept at not indicting it ... I certainly haven't had one where I could argue that it wasn't in the context of a domestic relationship.
90. However, a number of participants identified potential problems with how the domestic setting element is being interpreted and applied.⁷⁸ For example, a few participants were concerned about continued misunderstandings of how the element applies in contexts where parents strangle their children or vice versa.⁷⁹ PP4 noted:
- So generally, there's two fail points. The police officer doesn't recognise that it's a domestic relationship and [the Police Prosecution Corps] fix it. And then the other

fail point is sometimes lawyers on the other side go well you couldn't get an order, so this can't possibly be strangulation.

91. Sometimes non-fatal strangulation charges did not proceed in particular situations, such as dating relationships, casual sexual encounters,⁸⁰ and for children, young people and some other vulnerable groups.⁸¹ For example, DL4 referred to a case where the people:

met online, they'd arranged to sleep together. They did that the next morning ... they'd argued about something and then he grabbed her around the neck. But prosecution accepted straight away that's not a relationship. ... they'd met probably 12 hours before that, so they just made it an assault.

92. C4 thought this restriction was appropriate:

in the sense that a person goes out and meets someone and on the first date, you know, in the first sexual encounter on the first night, there's some slight pressure applied to the neck, leaving all of the other things aside, they're not in a domestic relationship. And once again, that's not what this is designed to stop. This is designed to stop the coercive control and controlling and terrifying aspect within relationships that is a precursor or an indicator of homicide later on in that same relationship.

93. P1, however, thought this was a gap in the law and explained their frustration:

We definitely get files in where people have been choked, but it's not a domestic setting so they're charged with common assault or AOBH [assault occasioning bodily harm] or something like that. And we've definitely had ones where we're just like, ... they're just getting ... a common assault for what is really serious conduct in itself but it's just not [DFV], so there's no charge for it.

94. The limits of the scope of a 'domestic relationship' were exemplified in a case that PO3 experienced:

[T]his lady had actually reported a strangulation. It was off the back of a welfare check, but when we went back a few months earlier she had attended a station and reported a strangulation by a fellow she had just started seeing. It wasn't recorded as a strangulation at the time because they couldn't establish enough of a relevant relationship. ... Now, four months later, we've got more information and it's obviously a longer time period so we can establish a relevant relationship, but at the time we couldn't. They'd only been on a couple of dates ... but he had strangled her ... it wasn't recorded as a strangulation because of that ... it was actually put on as a common assault for investigation rather than a strangulation.

95. C5 discussed the benefit of expanding the domestic setting scope of the offence in such contexts:

You might actually achieve more by criminalising this sort of behaviour in the fledgling stages, where a proper domestic relationship was not formed. So, for example, a bloke who'd been casually dating the same woman a couple of times, but they weren't yet, you know, in a de facto type relationship or a committed relationship, yet is still vulnerable to this type of behaviour.

96. A number of participants had not seen many children charged with non-fatal strangulation.⁸² For those participants who had experience of children charged with non-fatal strangulation, it was most often in the context of what was suggested to be an intimate partner (couple) relationship.⁸³ For example, DL1 explained that:

it will have been a long-term relationship, and there might have been some police involvement already ... [Sometimes] police feel like they've done what they can with referrals to support services or diversionary options, to educate the kids, or it

might be a really big incident and it's serious enough that police decide to charge the young person responsible. But it's not as rare as you think. I've had a couple.

97. However, a few participants suggested that intimate partner (couple) relationships might be difficult to prove in circumstances involving children, and alternative charges were sometimes negotiated.⁸⁴ For example, DL4 gave an example of a relationship that did not amount to an intimate partner (couple) relationship:

It was like a schoolyard type relationship, so you know they'd been going out for a couple of weeks and the boy had a really disadvantaged background and had seen [DFV] within the family and when things didn't go right ... with his girlfriend he choked her. But police accepted ... they're 15 years old, it's not really a relationship, they're not living together, they don't share any finances or anything like that.

98. DL2 referred to a case where a magistrate questioned whether a relationship between children amounted to a domestic relationship. DL2 explained that in that case:

I think they'd been four or five months or something, so not overly long, and they were kids, but he was staying with her. ... I think it might be a borderline, a line ball call. I don't think police prosecutions will withdraw it but I think ... the [O]DPP might. ... the [O]DPP will probably ... reduce it down to a common assault potentially.

99. PO9 described recent incidents in which the domestic relationship threshold was not met because of homelessness.

100. C4 raised concerns that non-fatal strangulation could be charged in the context of relationships that were not the original target of the legislation. Therefore, the defence of provocation, which would otherwise be available for an assault charge, could be unfairly excluded. C4 noted:

I'm sure there are many examples of this being used for relationships that, although they're caught by the Domestic Violence Family Protection Act, were not the target of the offence and could have been more appropriately charged as an assault [occasioning] bodily harm ... it was never intended to cover the enormous range of domestic relationships, male on male, grandson-grandfather and vice versa, father-son, brother-brother, brother-uncle, that are all caught by the Domestic Violence Family Protection Act. You know those offences should just be charged as assault [occasioning] bodily harm ... or common assault... they can be adequately punished as such. ... the particular vice that this section was aimed towards was the danger to women in intimate domestic relationships from the intimate partners strangling them to exercise control over them and yet it's been misused.

101. Participants discussed non-fatal strangulation in domestic settings, but many police participants also discussed non-fatal strangulation in contexts beyond, such as in street fights or educational contexts.⁸⁵ For example, PO12 said:

I've dealt with assaults with two random people and one person decided that he was going to strangle the other, it seems to be a common thing now for people to go straight to strangulation, whether that's an easy way of hurting someone, you don't need a weapon ... your hands are right there.

102. PO10 had experience with a teacher who put four primary school children in a chokehold, cutting off their airways. In that situation, the officer could only charge common assault because of the nature of the relationship. PO10 said that charge 'didn't really reflect the seriousness of what [the teacher] was actually doing'.

Victim-survivor reluctance is a key factor in discontinued or unsuccessful prosecutions

103. Previous research has found that victim-survivor reluctance to proceed or disengagement from criminal justice processes is a significant challenge to the successful prosecution of domestic violence offences, including non-fatal strangulation.⁸⁶ Our research — which found that victim-survivor reluctance impacts both charging and prosecutorial decisions about non-fatal strangulation — aligns with previous findings.
- ‘[T]hey do withdraw fairly often’**
PO1
104. We heard from participants that victim-survivor reluctance to proceed is one of the most common reasons that police may not lay non-fatal strangulation charges.⁸⁷ PO11 explained:
- [Police] downstream their decision making. They get right to the end and go; this is going to fall over in court before they even [investigate] in the first place ...
105. In 2005, the Crime and Misconduct Commission explained that:⁸⁸
- [v]ictims’ reluctance to proceed further strengthens prosecutors’ expectation that victims will ... be unwilling to participate. This perpetuates a negative cycle in which police often do not proceed with criminal charges against an offender because they believe that the victim will not remain committed to the prosecution process.
106. PO2 and PO5 noted that when there is no cooperation from victim-survivors to charge non-fatal strangulation, charges of contravention of a domestic violence order are sometimes preferred.
107. We also heard from participants that victim-survivor disengagement impacts prosecution decisions to withdraw non-fatal strangulation charges entirely or to replace non-fatal strangulation charges with another charge.⁸⁹ Our court data research showed that, in the period examined, there was a high rate of charges dismissed or withdrawn in all relevant courts: 16.7% of charges in the Magistrates Courts, 34.1% in the Childrens Court (Magistrates), 37.9% in the District Court and 31.3% in the Childrens Court of Queensland.⁹⁰
108. However, participants told us that the Police Prosecution Corps (particularly in certain parts of the state) was much less likely to withdraw or negotiate a non-fatal strangulation charge due to victim-survivor reluctance.⁹¹ PP4 explained that, in their district, the reason they put less reliance on victim-survivor engagement was because of the:
- philosophy [that] ... we don’t victimise the victim again ... right now, particularly with domestic violence matters, and particularly with Indigenous people, the aggrieved, the family and the defendant would think it was entirely the aggrieved’s fault that the matter was proceeding and that would put immense pressure on them to not cooperate. But if we instead have a much more resilient approach to it and will insist on proceeding and tell the aggrieved, it’s not up to you, it’s up to us, it’s our charge and this behaviour is just not acceptable, we’re not going to tolerate it, so you need to come to court, we’ll get a warrant if we have to because we’re just not going to accept that this sort of behaviour should ever be tolerated. You shouldn’t tolerate it. The community shouldn’t tolerate it. So my approach is no, we’re proceeding. If we have to declare you hostile, then we’ll do that ... if we don’t take that resilient approach, the family and the defendant are right, it’s up to the complainant or the aggrieved as to whether it proceeds and we just can’t have that because that puts a great deal of pressure on

her and is significant incentive for the defendant and family to put pressure on her.

109. A number of counsel disagreed that non-fatal strangulation charges were withdrawn on the basis of victim-survivor reluctance. C4 explained:

It's possible that it's going on in the background such that a person gets committed or goes through a committal project where the [O]DPP are involved and we just don't see them. But it's not my experience. Once it's charged, particularly once it's committed, every single one of them except one ... has gone to trial.

110. C5 agreed:

[O]f course, once the complaint's made, they're forced to proceed with the complaint, even if the complainant wants to withdraw. ... They're not withdrawn because they're forced to appear because they've provided that body worn camera statement, or they've done it via actual statement. So even if the complainants want to withdraw the complaint, it's not happening. They're forced to come. But that's my experience anyway. It's no longer like it used to be.

111. C6 said:

I've got three matters ... at the moment where complainants have indicated in writing that they're not willing to participate in the proceeding and [the matters] are still on foot because they rely on the body worn camera footage which is admissible now or can be admissible depending on the manner in which it's taken.

112. A few participants thought that one way of avoiding failed prosecutions because of victim-survivor reluctance was to take video-recorded statements from victim-survivors and admit them as evidence.⁹² PO8 explained the benefits:

[W]e should be able to take video-recorded statements for any sexual assaults and strangulations. That would be a huge, huge bonus because you don't have to get the person to come back to a station ... you can take it on the body worn [camera] in a quiet place or at another location. You can do it then and there while they are engaged. You don't have to get back to a station in three days' time ... If we could move away from typed statements for those victim-survivors, that would increase our prosecution rate, under the same provisions of the VRE [video-recorded evidence pilot] — that they still have to go to court, be available for cross-examination, but you know they don't have to give the evidence-in-chief again.

113. Consistent with the literature regarding withdrawal from prosecution in DFV matters more generally,⁹³ and for non-fatal strangulation offences in particular,⁹⁴ participants thought that victim-survivors did not proceed or withdrew for many reasons, including:

- their immediate interest was their safety and they had no intention of going further.⁹⁵
- being subjected to pressure from the perpetrator and/or their family.⁹⁶ Participants told us about the prevalence of recordings of calls from prisons (Arunta recordings) in which the perpetrator tried to influence the victim-survivor to withdraw.⁹⁷ Sometimes this behaviour led to prosecutors preferring a charge of attempt to pervert the course of justice as a way of achieving some level of accountability.⁹⁸
- delay in proceedings or a desire to move on with their lives.⁹⁹
- not wanting to go to court.¹⁰⁰
- considerations about children, practical realities and their relationship with the perpetrator.¹⁰¹

- lack of understanding about the criminal justice system and proceedings.¹⁰² DL4 noted that:

A lot of people don't follow through with their complaint or don't show up later because they haven't appreciated what the process is going to look like ... it's a shame that complainants aren't really properly educated about the process.

Our research with strangulation victim-survivors found that many participants were not kept informed at any stage in the criminal justice process.¹⁰³

114. PP5 explained many of those reasons:

The longer a matter goes for, the more likely your complainants are to withdraw their assistance. And there's probably a lot of reasons for that. Sometimes I think that complainants might just have a gut full of it. It just goes on for so long. They're sick of it. The distance between when the event starts [and] getting to the point [of committal], or you're going to go to a hearing, it's been 12 or 18 months before the courts. At the time when the event happened it was terrifying and because it was terrifying, it was motivating for them to make the complaint. Eighteen months down the track ... the reason for making the complaint is sort of dissipated, because there's distance between the event and now. And of course, there's no doubt there's a degree of interference that happens with complainants that we don't ever know about.

115. A few participants also raised the possibility that complaints of non-fatal strangulation were made in circumstances which may imply a motive to lie, such as in the context of a family law or other ongoing pre-existing dispute.¹⁰⁴ This may also explain why some complaints were subsequently withdrawn.

116. PP1 recognised that the QPS needed to do better at engaging with victim-survivors the whole way through the criminal justice process and remarked that this would now be part of the VPU's responsibilities. PP1 explained:

We can ... be better as a service where we most probably keep engaging with the victim ... I think we're very good at sometimes the initial investigation but then all of a sudden we get caught up with these other investigations we're on and we essentially forget about that person from earlier on ... through the court process.

117. PP3 told us about their efforts in keeping a single point of contact for victim-survivors as a better method of service delivery.

118. Once victim-survivors have disengaged, PP4 recognised that with appropriately trained staff:

60-80% of the time we can get them back on board, but ... it takes time. You have to conference them. They have to be not so disengaged that we can't find them, and have to agree to come in.

The requirement to proceed to a superior court is the biggest factor in the time to finalise non-fatal strangulation charges

119. As explained above from [36], all non-fatal strangulation offences must be finalised in a superior court, usually the District Court, whether or not the perpetrator pleads guilty. The only non-fatal strangulation charges that do not proceed to a superior court are matters that

are withdrawn or dismissed at the Magistrates Court level, where the police and magistrates are the gatekeepers.

120. We have previously reported that, for non-fatal strangulation charges finalised in 2023-24, the average time from lodgement in the Magistrates Court to finalisation in the District Court was:¹⁰⁵
- 14 months if the perpetrator pleaded guilty
 - 18 months if the matter was dismissed
 - 24 months if the matter went to trial.
121. If charges were dismissed in the Magistrates Court, the average finalisation time was seven months.¹⁰⁶
122. Participants indicated that the numerous steps required to proceed from charge in the Magistrates Court to finalisation in a superior court is the main reason for the length of time required to complete non-fatal strangulation offence matters.¹⁰⁷ A number of participants suggested that the delay to finalise non-fatal strangulation offences is not unique to the offence and similarly occurs with other matters that must be finalised in superior courts.¹⁰⁸ For example, C3 stated:
- I don't know that I think that they are delayed any longer than other matters. I guess there might be a delay because matters are being listed for trial and there's just delay associated with waiting for a trial. I think there's delay on circuit, but I think those are delays that are experienced by all defendants. It's not something that's specific to non-fatal strangulation charges.
123. Defence lawyers and counsel sometimes suggested that delay was due to the time police and prosecutions take to disclose material, assemble briefs and for the ODPP to present an indictment.¹⁰⁹ One prosecutor in superior courts recognised the delay associated with briefs but could not explain it as they do not have control over anything that occurs pre-committal.¹¹⁰
124. Some prosecutors attributed the delay to defence requests to adjourn to make submissions and obtain funding, and said that sometimes this may have been a tactical decision, particularly when the defendant was on bail.¹¹¹ P1 and P5 also suggested that delay may have resulted from the requirement for double handling between police at the Magistrates Court level and the ODPP in the superior courts.¹¹² Both prosecution and defence participants suggested that delay also resulted from any applications to cross-examine at committal and the difficulty in getting a court date in an over-burdened Magistrates Court and in some District Court jurisdictions.¹¹³
125. If there was any delay specific to the non-fatal strangulation offence, participants thought it could be time taken to gain cooperation from unwilling victim-survivors or to gather evidence, such as obtaining medical records or forensic evidence, or obtaining data from phones and other devices.¹¹⁴ DL8 said the additional evidentiary steps and processes with DFV and sexual matters contributes to the time that is required for a matter.
126. As noted above, delay affects victim-survivors' decisions to engage in the prosecution of non-fatal strangulation charges. We were also told that delay affects perpetrators' decisions to plead guilty.
127. The non-fatal strangulation offence requires perpetrators to show cause as to why they should be permitted to get bail.¹¹⁵ This means that a high proportion of perpetrators are remanded in custody. The requirement to finalise non-fatal strangulation charges in a superior court affects the time perpetrators spend in pre-sentence custody and often results in guilty pleas as a 'commercial decision' or plea of convenience.¹¹⁶ C6 explained:

Last year I would have had 30 plus matters of these that went to sentence in some way, shape or form, either in a partial resolution, a complete resolution, or a plea to the charge as is, and a lot of them were commercial decisions. They'd [perpetrators had] spent a sufficient amount of time in custody that they just couldn't be bothered fighting it after two or so years. Some had even reconciled with the complainant at that point in time and just wanted to get on with their lives.

128. According to defence lawyers and counsel, this was one of the most common reasons that perpetrators gave for pleading guilty.¹¹⁷ As DL4 said:

The sentence range really for strangulation can go as low as two years and for a plea of guilty you're only expected to serve a third before you can be released. So by the time an indictment is presented in the District Court, nine times out of ten, the client has already served what would be their one third. And so by the time the indictment is presented, and they say 'If I plead guilty, will I get out?' and you say, 'yes', they plead guilty.

129. One potential way to avoid some delay inherent in proceeding to superior courts could be the use of ex-officio indictments. We were told that ex-officio indictments are not frequently requested for non-fatal strangulation matters.¹¹⁸ P5 commented that 'ex-officio indictments ... have fallen drastically and each year we get less and less requests'.
130. While some prosecutors suggested that ex-officio indictments could significantly reduce the length of time until finalisation,¹¹⁹ some defence lawyers indicated a number of reasons that such requests were not being made. Reasons included:
- concern about proceeding to a plea on the basis of potentially unreliable QP9s, without seeing a brief¹²⁰
 - a perception that requests for ex-officio indictments will be denied¹²¹
 - a belief that turnaround times for ex-officio indictments in some jurisdictions do not significantly reduce time to finalisation.¹²²

Although perpetrators charged with non-fatal strangulation largely plead guilty, trials do occur

131. We have previously reported that around 50% of non-fatal strangulation charges laid in 2022-23 to 2023-24 resulted in a guilty plea.¹²³ Consistent with those findings, a few participants indicated that perpetrators charged with non-fatal strangulation largely plead guilty.¹²⁴
132. Participants told us of a number of reasons why perpetrators plead guilty to non-fatal strangulation. For example, perpetrators may plead guilty to get out of custody on time served (discussed above at [127]).
133. Other reasons included because the perpetrator did it or was remorseful, or to negotiate in relation to other charges.¹²⁵ C2 explained that perpetrators may also plead guilty where there is a strong prosecution case:
- ... a good complainant witness statement, some other supportive evidence, whether that be eyewitnesses or injuries or whatever, but where there's some sort of scope, I suppose also to get the benefit of a plea of guilty.
134. In 2022-23 to 2023-24, we found that 7% of non-fatal strangulation charges indicted in the District Court and 18.7% of non-fatal strangulation charges indicted in the Childrens Court of Queensland went to trial.¹²⁶ According to defence lawyer and counsel participants, the most

common reason that matters went to trial was because the perpetrator claimed the offence did not happen.¹²⁷ C6 explained:

[T]here's not too many of these offences that seem to occur in isolation. There's normally some background family law dispute or some sort of ongoing pre-existing dispute that might open up an avenue for a motive to lie ... to be raised at trial.

135. C4 expressed that:

when there's inconsistent statements about various things and a motive to lie, then most of these people simply don't want to plead because they didn't do it and don't want the stigma of it on a criminal record.

136. C6 further said that some of the matters they had go to trial involved a perpetrator on bail willing to challenge the case.

137. From a prosecution perspective, P6 said:

The attacks come on credibility of our victims ...

I can think of cases where the police have been called by the neighbours and they've literally had to pull the bloke off, so he was always pleading guilty because the evidence there was tip top. Whereas ... [with] cross orders [and] long criminal history of the complainant as well they feel like they've got something to work with and those are the cases that are more probably likely to be contested to the end.

And then as prosecutors, we have the fallacy of domestic violence, as we do with sex crimes. And that's why it can be important to have medical evidence to say, 'hey, you don't need injuries or stuff like that'. ... the common man and woman on the street might see some young woman come along who looks fine, looks fine the next day in the photos, and we're trying to show these photos going, 'oh, you can sort of see a mark there'. And they're going, 'oh, she looks fine to me. What's going on here?' So yeah, it's important to dispel some of the fallacies in domestic violence, I think, just like sex crimes.

'You win and lose ... in these choking/strangulation trials on credit, rather than on the prosecution not being able to satisfy an element of the charge.'

C1

138. As alluded to above, a few participants indicated that where trials do occur, the focus is on undermining the victim-survivor's version of events and questioning their credibility and reliability.¹²⁸ This is because 'a lot of these ... are really a word verse word situation, and a lot of time with no other evidence surrounding it'.¹²⁹ DL5 expressed that where it was purely a credit matter, that came down to him versus her, they would use the 'usual tactics'. This might include, for example, interrogating the veracity of the witness' evidence, demonstrating inconsistencies or late complaints.¹³⁰

139. Sometimes at trial the defence challenged whether the restriction of breath element had been met (discussed above at [74]) or raised defences, such as self-defence, defence of property or dwelling, or mistake of fact as to consent.¹³¹

140. DL6 thought that self-defence would be a difficult argument to run because the conduct of non-fatal strangulation could be considered beyond any reasonable response that was required:

[A]t times clients say things like, 'oh, she had mental health problems and she was acting out and she was having an episode and I bear hugged her and she mistook the bear hug for me strangling her from behind' ... but in those sort of circumstances, I think most times when you look plainly at what's being presented it's just non-sensical.

141. Despite this, C3 told us about a perpetrator who was acquitted on the basis of self-defence when he claimed that he had been attacked by the victim-survivor and had put his hand around her throat to subdue her. However, C3 did reflect that the victim-survivor's credibility was also in question in that case because she was not distressed when police attended after she made the complaint.

Police and prosecutors' decisions about non-fatal strangulation vary across Queensland

142. As discussed above from [30], police and prosecutors act as gatekeepers at various points in the criminal justice process for non-fatal strangulation. While we identified common themes in decisions made by police and prosecutors about non-fatal strangulation, we also found that their decisions vary across Queensland. Because of this, further training for police and prosecutors may be necessary.

Police decisions

143. Police decisions about non-fatal strangulation determine if the matter 'enters the criminal justice system'.¹³² Police make decisions when they respond to allegations of non-fatal strangulation and throughout the investigation, which determine whether they charge the perpetrator. Decisions may be made by different officers, including General Duties officers or officers from specialist units, such as the CIB, CPIU or VPU.
144. Usually, General Duties officers respond to non-fatal strangulation. They must decide how to classify the matter and their decision may affect how the matter proceeds.
145. As discussed at [31], participants told us that, in districts across the State, if a General Duties officer classifies a matter as involving choking, suffocation or strangulation in a domestic setting, they generally refer the matter to specialist units for advice and/or investigation.¹³³ PP1 explained that this was appropriate to ensure 'that we've got the right people in the right place to be able to investigate that matter to the best of their ability'. However, we found that there is some variation across the State in respect of who is responsible for investigating and charging.
146. In some districts, specialist units do all investigations of offences that meet a certain threshold, which includes a non-fatal strangulation offence.¹³⁴ In other districts, we heard that specialist units will make an interim assessment and provide advice. They will refer the matter back to General Duties officers to continue the investigation if they determine that the matter does not meet the offence elements, is towards the lower end of seriousness, or if the unit does not have capacity.¹³⁵ As PO2 explained:

I can pretty much guarantee there [are] a lot of strangulation charges done by our uniformed officers, purely because there's that many of them, that with the hindrance of breath being the threshold the CIB as a whole could not take on

every single strangulation. We still review them and still overview them, but as far as the charging officer of that, it's really hard to get involved in every single one.

147. When asked about the factors the CIB would consider in deciding whether it would take on investigation of non-fatal strangulation or whether such matters would remain with General Duties officers, PO4 stated:

It'll be the surrounding circumstances and the risk to the aggrieved. So, if the offender is a violent offender or a high-risk offender, if there's other serious offences that have coincided with that strangulation incident or even other serious outstanding offences that aren't related, those will take priority over a sort of spontaneous first offence, being strangulation. If they've got little criminal history, little propensity for violence, if he's sort of somewhat cooperative, or the response officers have conducted [the] majority of that investigation, then they'd most likely be left to take carriage of that investigation and to finalise that.

148. PO2 explained that a problem with relying on General Duties officers where specialist units do not have capacity is that:

a lot of them will be hesitant because it has to [go] up to the District Court and it's an automatic brief ... with those lower level [officers] that could be a thing that stops them from actually commencing proceedings on strangulation, if they're not quite sure, 50/50, they might take the easy route.

149. In some districts, 'the first response officer can charge [non-fatal strangulation], but it is recommended that it gets referred to CIB'.¹³⁶

150. Assuming the event does not involve another offence that would be referred to the CIB, such as rape or grievous bodily harm, if General Duties officers do not classify a matter as involving choking, suffocation or strangulation in a domestic setting, they usually do not refer the matter to a specialist unit but instead are responsible for investigating and charging.¹³⁷ General Duties officers may not classify a matter as a non-fatal strangulation offence because they may be unaware or decide that conduct does not meet the elements of the offence,¹³⁸ for example, because they determine that the victim-survivor consented to the conduct or the conduct perpetrated does not amount to choking, suffocation or strangulation.

151. As outlined in the OPM extract above at [35], there is a safety net which aims to ensure non-fatal strangulation offences are investigated by police. Regardless, this process might be problematic where the matter is not appropriately recorded on the Queensland Police Records Information Management Exchange ('QPRIME') as involving strangulation. PO3 explained how they use the record-keeping system to inform their work:

VPU run a strangulation search every single day to find out what strangulations have been recorded in the last 24 hours because then we do more engagement with the victim and refer them into our high-risk team.

152. However, PO2 noted that the wording of the classification for strangulation on QPRIME for reporting purposes does not match the legislation — even threats of strangulation contained in a police protection notice would get recorded as strangulation.

153. Further, some matters are not recorded as strangulation, for example, because they are investigated as common assault. PO4 emphasised that where matters, such as

Domestic Violence Protective Assessment Framework – an assessment tool that officers use to assess the protective needs of victims of DFV. One of the risk factors considered is if there is evidence that the perpetrator has attempted to strangle or suffocate the victim-survivor now or in the past.¹³⁹

common assaults, are not correctly recorded on QPRIME as being DFV-related they can ‘fall through the cracks.’

154. To avoid missing strangulation matters, the VPU in some districts are not just running searches of strangulation as a crime class, but are also running a search of the Domestic Violence Protective Assessment Framework indicators:¹⁴⁰

just because we found that some were slipping through because the criminal stats hadn't been added, for whatever reason. The crew may have just been run off their feet or forgotten it, or it just might not have dropped in yet.

155. In sum, while specialist units may investigate many non-fatal strangulation matters, there will be some that are investigated by officers who may have less expertise.

Prosecutorial decisions

156. Once a charge has been laid, prosecutors are responsible for making many decisions about how non-fatal strangulation is to proceed, including whether to indict the perpetrator for non-fatal strangulation, to withdraw a non-fatal strangulation charge and replace it with another charge, or to withdraw a non-fatal strangulation charge altogether. Decisions may be made by police prosecutors or ODPP prosecutors. We found that prosecutors' decisions vary across the State.

157. From what we heard, generally police prosecutors are less amenable than the ODPP to negotiate facts, agree to alternative charges or withdraw non-fatal strangulation charges entirely.¹⁴¹

‘The ODPP, they’re happy to take the fall, for want of a better word, but police prosecutions, they very seldom will make that call themselves’.

PO7

158. Some police prosecutors said they would never replace a non-fatal strangulation charge with an alternative charge.¹⁴² A few participants considered that this could be because the nature and seriousness of the charge was beyond that which police would generally withdraw and required particular levels of authorisation.¹⁴³ PP4 explained that:

I would have a very strong push back against substituting anything. I think there's something to this argument about ... you could perhaps incorporate it into an offence, a bodily harm, a 7-year offence where you were absolutely positive it wasn't going to go anywhere upstairs. But I'm never going to put a common assault in there ... [as] there is no way to get ... an appropriate sentence as a consequence of a common assault.

159. As non-fatal strangulation involves DFV, some participants considered that there is a stigma attached which affects prosecutors' decisions.¹⁴⁴ PP3 explained that this may influence police prosecutors' reluctance to negotiate charges:

Police are understaffed and tend to lean towards being risk averse and in courts of law, particularly coroner's court and other areas we're ... often criticised for our decisions. Due to our position within the judicial system, we would prefer the ODPP to make the final decision.

160. Police in some districts told us that their Police Prosecution Corps was firm on proceeding as far as possible once a perpetrator was charged with non-fatal strangulation.¹⁴⁵

161. Some defence lawyers agreed that the Police Prosecution Corps was generally reluctant to negotiate or withdraw non-fatal strangulation charges.¹⁴⁶ For example, DL1 said:
- It's really rare to have that charge withdrawn by prosecutions, in my experience, and particularly in this jurisdiction [location redacted] ... I don't even know if I could name one where recently they have decided to completely withdraw a charge. Instead, in the superior courts it's more common.
162. DL10 stated:
- PPC [Police Prosecution Corps] just won't enter into any negotiations with you at all, so in [location redacted] it's not even worth talking to them about any kind of negotiations, factual or otherwise. They'll say it's got to go, it's the [O]DPP's problem, we're not touching it, just get it up.
163. In some districts, ODPP prosecutors thought that police prosecutors took a very strong stance in pushing through committals, leaving the decision to withdraw to the ODPP.¹⁴⁷ P2 recognised that while police prosecutors would sometimes withdraw, at other times it 'definitely does also get kicked ... down the road.'
164. In other districts, we heard from police prosecutors that they had less issue with negotiating non-fatal strangulation charges.¹⁴⁸ PP5 noted that they were aware that some Police Prosecution Corps 'are rather inflexible and they won't do any case conferencing with matters that have to proceed on indictment ... [but their Police Prosecution Corps] have no issues with doing that.' A few defence lawyers similarly noted that in some locations they had successfully made submissions to the Police Prosecution Corps to replace non-fatal strangulation charges.¹⁴⁹
165. PO1 noticed a trend in some locations that the Police Prosecution Corps were more likely to change a non-fatal strangulation charge to something that was able to be dealt with summarily.
166. In jurisdictions where the ODPP has responsibility for committals, DL7 explained that the ODPP would sometimes replace non-fatal strangulation charges with alternatives, such as common assault or assault occasioning bodily harm, where restriction of breath was an issue. Alternatively, they would potentially withdraw non-fatal strangulation charges completely where a victim-survivor did not appear to give evidence at committal.¹⁵⁰
167. DL6 thought there was a fervour around charging and prosecuting DFV matters 'and a lack of willingness to negotiate or [to offer no evidence] or drop the charges.' DL6 explained that was particularly so for the non-fatal strangulation offence because it is at the upper end of DFV. DL6 went on to say that:
- The ability or willingness of the prosecution to resolve the matter is significantly lessened because of the pressure, I think, of community at the moment to prosecute these matters and come down heavily on them.
168. In terms of how non-fatal strangulation charges proceeded from the Magistrates Court to superior courts, police prosecutors agreed that most non-fatal strangulation matters proceeded via registry committal (discussed above at [42]).¹⁵¹ A number of defence lawyers had not run a committal proceeding for non-fatal strangulation.¹⁵²

'... if there's an engaged complainant and you've got the statement, then 9 times out of 10 I think you can successfully make your points in your written response that ultimately ends in a registry committal.'

PP2

169. It was rare for the Police Prosecution Corps to agree to cross-examination at committal and for magistrates to permit cross-examination.¹⁵³ C1 explained that:
- I've applied to cross-examine complainants at committal hearing. Not very often ... You're going to have to have a very, very, very compelling argument before a magistrate lets you cross-examine a complainant in a case like choking or strangulation ... You've really got to have a pretty obvious basis, other than I want to check credibility ... I think I've applied, maybe half a dozen times to cross-examine a complainant. ... And in those half dozen times, I think I've been allowed to do it twice even though there was solid argument on the other ones ... you're going to have to have a very, very, very solid reason to do it.
170. There is, however, some regional variation. For example, DL1 provided examples of cases in which they had made successful applications to cross-examine the victim-survivor. In those cases, DL1 was confident that the victim-survivor's version had changed and the elements of the offence would not be met on this new version:
- I've had ... quite a few of these where, for example, one girl ... came and she said, 'I was really drug affected at the time and I didn't want to give a statement, but I felt pressured into doing so later. I don't agree with what I said then'.
171. Counsel participants appeared to have more success in making applications to and cross-examining victim-survivors to explore credit issues and inconsistencies.¹⁵⁴ C4 explained that:
- The big issue that leads to cross-examination is that the police now know that most people aren't going to apply for committals and the less they put in the statement, the better. And so, you now have statements that are of substantially poorer quality than we used to see back in the days before committal hearings were abolished, because at that time they knew you'd be able to cross-examine, so they knew they had to dot their I's and cross their T's in providing a full and comprehensive statement ... the trend since the abolition of committals, in my experience, has been that statements are getting poorer and poorer and don't contain sufficient detail.

The need for training

172. The varied approaches to investigating and prosecuting non-fatal strangulation across Queensland suggest that further training for police and prosecutors may be necessary. Specifically, police and prosecutors may need further training on non-fatal strangulation and trauma-informed practice to ensure statewide consistency in conducting effective non-fatal strangulation investigations and prosecutions. Such training may also improve victim-survivor experiences and reduce disengagement from the process (discussed above at [103]).
173. A number of defence lawyers and counsel recognised that police had improved in obtaining relevant evidence.¹⁵⁵ For example, in a discussion about the common reasons that the prosecution might withdraw a non-fatal strangulation charge and replace it with another charge, C3 initially observed it would be where 'the complainant hadn't given evidence of restricted breath'. However, C3 went on to note:
- that's less and less common these days. I think police are fully aware now that that's something that they need to cover when they're taking a witness statement from a complainant.
174. DL2 also noted that normally 'police will be careful to try and make sure the elements of the offence are met.'
175. Although some defence lawyer and counsel participants thought that police had improved their evidence collection practices in non-fatal strangulation cases, a few prosecutors, both in

the Police Prosecution Corps and at the ODPP, were critical of the initial police investigation.¹⁵⁶ This may be because, as P2 stated, the prosecution is 'reliant on the quality of the police statement that's been taken, which can vary for a lot of reasons, including experience of police, but also when it's taken in relation to the incident.' PP4 noted that they were:

constantly having to direct [the police officer] to go and get a formal statement because, of course, the defence interpret a notebook statement in a brief of evidence as a sign that [the victim-survivor] was unwilling to do a formal statement.

176. The evidence uncovered in a thorough police investigation impacts the outcomes of these matters. Some defence lawyers and counsel noted that non-fatal strangulation perpetrators were more likely to plead guilty when there was evidence of injury,¹⁵⁷ good preliminary complaint evidence or other witnesses,¹⁵⁸ or if there was significant relationship evidence.¹⁵⁹

'If there's photographs or injuries that will almost always be a plea of guilty.'

DL10

177. DL3 emphasised that, from a legal perspective, there does not need to be evidence of injury to the victim-survivor's throat or neck to prove the offence. However, this was something that community members (including perpetrators) struggled to accept:

My clients often say, 'well ... how can they prove that ... If I'd done that, she would have marks around her neck and you know, there's nothing wrong with her'.

178. While C1 noted that 'more often than not you don't see injuries', DL7 indicated that:

It's not great for your client if ... the complainant's gone to the hospital and the doctor has been able to actually see signs of an injury That's going to make your client's position more difficult to defend.

179. In light of the above, it is important that police are well trained about what evidence to collect in non-fatal strangulation cases.

180. Further training for prosecutors may also be necessary. For example, PO4 expressed that police prosecutors who:

don't have a great deal of training or experience, especially the investigative experience, [try] to tell you how to make investigative decisions or what evidence you'll need.

181. Specifically, PO4 noted that police prosecutors often question the reliability of victim-survivors who appear scattered, seemingly unaware of the effects of trauma on victim-survivors' recollection. PO2 agreed:

I think there needs to be more, 'training' is probably not the right word, but investigative understanding about the reliability of our victims and why they might be scattered and why there might be some unreliability in their versions.

182. PP4 also thought that this limited understanding extended to medical practitioners and magistrates:

There is limited understanding ... that if you strangle someone unconscious and you hold them unconscious for a few seconds, that wipes the hard drive and they lose memory and the longer you do it, the potentially more memory they lose.

183. Prosecutors from the ODPP were not asked about the training they had received. However, P5 did offer that not long after the offence of non-fatal strangulation was introduced, a very senior prosecutor provided training at the ODPP, including a fundamental overview of non-fatal strangulation and the legislation. Given the limited information available, further inquiries

with the ODPP are necessary to confirm the past and current training available to prosecutors regarding non-fatal strangulation specifically and trauma-informed practice generally.

184. Numerous recommendations regarding assessment of, and improvements to, training about DFV generally within the QPS, legal profession, health and other community support service sectors have been made in the past, including from relevant Taskforces,¹⁶⁰ Coroners¹⁶¹ and the Domestic and Family Violence Death Review Board.¹⁶² Many of these recommendations have purportedly been implemented.¹⁶³
185. The Women's Safety and Justice Taskforce ('WSJT') did recommend that the ODPP 'require all legal staff to participate in regular training on the nature and impact of domestic and family violence, as well as on the relevant law.'¹⁶⁴ In its 2023-24 annual report, the ODPP noted that 'legal and non-legal staff have received training in four of an eight-module series focused on ... recent legislative amendments.'¹⁶⁵ In response to the WSJT recommendations, the ODPP's training targeted DFV, sexual violence and gendered issues.¹⁶⁶ While there was no specific mention of training or developing guidance around the trauma-informed treatment of victim-survivors of DFV, the annual report noted that significant work had been done in this regard to provide prosecutors and the QPS 'with an understanding of trauma-informed and culturally safe treatment of victim-survivors of sexual violence.'¹⁶⁷
186. A recent review by the Commission of Inquiry into Queensland Police Responses to Domestic and Family Violence detailed the existing training for police in various roles and identified a number of gaps.¹⁶⁸ One recommendation arising from that inquiry was for the QPS to 'improve its training in relation to domestic and family violence by ensuring all relevant programs address victim-centric, trauma-informed, approaches to responding to and investigating domestic and family violence'.¹⁶⁹
187. The Women's Safety and Justice Reform Priorities 2023-24 to 2024-25 noted that since the release of the Government responses to the Commission of Inquiry and the WSJT recommendations, further specialist DFV training had been delivered to frontline police officers.¹⁷⁰ In May 2024, the Women's Safety and Justice Reform, Second Annual Report (2023-24) noted that QPS was continuing to deliver evidence-based DFV training and stated that almost 85% of QPS members had completed the 3-day 'Domestic and Family Violence: The Holistic Approach' course, which includes discussion of victim-centric, trauma-informed policing practices.¹⁷¹ A further 2% had completed either a 5-day specialist DFV course or a 5-day DFV leadership course.¹⁷²

Specific non-fatal strangulation training for police

188. While some police officers thought they had received adequate training about non-fatal strangulation, others felt that more was required.
189. PO2, who facilitated a number of the DFV training programs and who had done extra training with the Red Rose Foundation, a Queensland-based not-for-profit organisation that provides counselling and advocacy for women who have experienced strangulation, noted:

'I think police are recognising strangulation and really do understand how dangerous it is [and] what the statistics say about it being a precursor to homicide.'

PO3

I think there's definitely enough training out there that everyone's very well aware of what they're looking for and how to report it. ... [I'm] pretty sure the Academy will be pushing it through now as well. So [when] people are coming out they've got it, and then they have first year training days where they get it, and they have

to go to the compulsory [DFV] training days, like everybody else up to commissioned officers ... So yeah, I think everybody's all over what they're looking for.

190. Similarly, PO8 explained that:

The training that the QPS has received, the amount of training in [DFV], which includes strangulation, has been phenomenal over the last couple of years. I think the capability of our workforce has certainly increased and officers also realise now the lethality of strangulation. But when strangulation first came out, there was no training given to anybody.

191. PO3 noted that the 3-day training course, which was provided to officers from recruits up to inspector level, incorporated a session on non-fatal strangulation. PO3 thought that 'every officer in our district at this point, unless anyone's been on leave ... for a long time, has done that strangulation training. So, they're quite good at recognising it.'

192. Other officers recalled that the 3-day and 5-day courses referred to non-fatal strangulation but did not remember it being much of a focus. For example, PO12 could not recall specifically but said:

I'm sure there's something in there, maybe briefly, but I don't think it's actually delved into ... like the delayed injuries and things to look for ... I don't think there's enough education around that. However, we do have like a little indicator card somewhere around here that shows all the injuries for strangulation. But not everybody has those or uses them.

193. PO13, who had done the 3-day course, agreed that 'they do touch base on it, but it's not enough'. PO6 also said that it was touched on but not extensive.

194. A few police officers explained that they had also received strangulation specific training during ISACURE training (Investigating Sexual Assault — Corroborating and Understanding Relationship Evidence) or as part of detective training.¹⁷³ However, this training is not undertaken by all officers.¹⁷⁴ PO7 thought that 'in terms of compulsory training, I don't think there's been a great deal in my experience. I've done other courses at my request but not everyone's done those courses.'

195. PP4 reflected on police officers' potential lack of understanding about non-fatal strangulation and noted that there was:

little understanding that strangulation is actually the restriction of blood flow and you only have to restrict that by a few percentile, I think it's about 10%, and you'll render them unconscious very quickly.

Trauma-informed practice training for police

196. While knowledge about trauma-informed practice has improved among police, there is still room for improvement.

197. Although police were not asked specifically about trauma-informed practice, it appears that training for police about victim-centric and trauma-informed approaches is delivered, including through the QPS 3-day and 5-day DFV training courses.¹⁷⁵

**'... more so than we used to,
we take in that trauma-
informed training that ...
some of us have had'**

PO7

198. Trauma-informed approaches are also a focus of related courses, such as ISACURE.¹⁷⁶

199. Despite training for police on trauma-informed approaches, our research with victim-survivors found that some had particularly poor experiences with General Duties police and front counter staff.¹⁷⁷ PO8 noted that this was not confined to non-fatal strangulation matters:
- In respect to the front counter, that's a common criticism of the QPS across any response, but particularly anything to do with a traumatised victim-survivor. The QPS is trying to address that our response at the front counters is not or hasn't been adequate in the past.
200. PO7 explained:
- I think that's largely due to lack of training of the General Duties, front counter people and not just the sworn staff, but the civilian staff as well ... I think the front counter people need some kind of training certainly on what it means to be victim-centric ... and how trauma actually can present.
201. PP1 agreed that, in the past, police have fallen down a lot of the time with counter officers, but thought that there had been improvements:
- Sometimes I think there's due criticism to some of our practices, or the way that matters are reported or responded to. But a lot of the time as well people aren't telling some person they've never met before what's going on. They want to actually speak to a police officer about that in private.
- ... We don't leave someone like that sitting there with the 35 other people that are out there as well. We try to take them into somewhere a little bit more comfortable. Here now, like a lot of police stations, they've got [DFV] safe rooms... I think they're a really good initiative.
202. PO9 also told us about historical problems where administrative staff would tell a victim-survivor to come back later as there was no police officer available and, sometimes, victim-survivors would not come back. To rectify this, the station PO9 worked at implemented a system of logging a job so that a crew could follow up with the victim-survivor later.
203. PO10 recognised the tensions of taking a trauma-informed approach:
- We're taught so many things ... be victim-centric. But if you're victim-centric sometimes by charging someone, you're actually putting [the victim] in a worse situation than what they're already in now. They have to go home and front that partner and then they're both there, they're trying to split legal bills to try and protect their partner or they know that if they go home, it's going to get so much worse because a piece of paper isn't going to do much in that situation.

The reasons for over-representation of Aboriginal peoples and Torres Strait Islander peoples in non-fatal strangulation matters are complex and multi-faceted

204. In our consultation paper, we acknowledge that Aboriginal peoples and Torres Strait Islander peoples are over-represented as perpetrators and victim-survivors of non-fatal strangulation.¹⁷⁸
205. A number of participants thought that the over-representation of Aboriginal peoples and Torres Strait Islander peoples as perpetrators and victim-survivors of non-fatal strangulation

related to over-representation in the criminal justice system more generally, particularly for DFV offences.¹⁷⁹

206. DL10 agreed that the over-representation of Aboriginal peoples and Torres Strait Islander peoples in non-fatal strangulation cases was:

[t]ied to the same reason why Aboriginal and Torres Strait Islander people are over-represented in every element of our criminal justice system ... intergenerational trauma and socio-economic inequalities. ... the socioeconomic inequalities ... and remoteness ... can make it more difficult to get bail, so someone with a big surety and really stable residence and who's gainfully employed might find it easier to get bail than someone who we're asking to be bailed to a remote community [which is] a plane flight away from the courthouse. And I think that then has a flow on effect of people just pleading guilty to get out of jail.

207. Participants gave many reasons for the over-representation of Aboriginal peoples and Torres Strait Islander peoples in the criminal justice system more generally, including:

- socioeconomic factors, systemic disadvantage and remoteness, and the associated lack of access to well-funded lawyers.¹⁸⁰ For example, the over-representation of Aboriginal peoples and Torres Strait Islander peoples on remand for non-fatal strangulation offending was thought to partly be due to the difficulties people from remote communities have in getting bail (for any offence), especially given the offence puts a person in a show cause position.¹⁸¹ This may be consistent with our court data findings that Aboriginal peoples and Torres Strait Islander peoples were more likely to be held on remand for non-fatal strangulation offending and less likely to be granted bail than non-Indigenous people.¹⁸²
- more reports of criminal offending as there is often increased police presence in community or offending can happen in small communities in very public places or even in over-populated private homes where there are comparatively more potential witnesses.¹⁸³
- exposure to violence and lack of education about healthy relationships.¹⁸⁴
- cultural factors, such as gratuitous concurrence (which means that Aboriginal peoples and Torres Strait Islander peoples are more likely to agree with persons in authority).¹⁸⁵ These factors may be consistent with our court data findings that Aboriginal peoples and Torres Strait Islander peoples were more likely to plead guilty.¹⁸⁶

208. However, not all participants considered that Aboriginal peoples and Torres Strait Islander peoples are over-represented as non-fatal strangulation perpetrators and victim-survivors comparatively to other charges.¹⁸⁷ A few thought other offences, such as those involving woundings or assaults, were more prevalent for Aboriginal perpetrators and Torres Strait Islander perpetrators than non-fatal strangulation.¹⁸⁸

209. A few participants noted reasons, particularly cultural reasons, why it was sometimes challenging to proceed with non-fatal strangulation matters involving Aboriginal peoples and Torres Strait Islander peoples:

- In some areas, witnesses could be unwilling to provide a statement to police, particularly if the parties involved are family.¹⁸⁹ P2 explained:

Something we see is ... there's a barney at a party, a big family gathering and everyone's there. [But] nobody sees anything, nobody else will give a statement. [There are] family on all sides, everyone's there ... 50 people at the party and you get three statements.

- Victim-survivors may choose not to report to police because, for example, of a distrust of police (including concerns about misidentification as perpetrators) or implications of cultural sensitivities about what is considered private and not to be discussed (particularly beyond gender lines).¹⁹⁰
210. A few participants identified that the wide interpretation of 'domestic relationship' has the potential to unfairly impact Aboriginal peoples and Torres Strait Islander peoples when it comes to charging non-fatal strangulation.¹⁹¹
211. The non-fatal strangulation offence currently applies in 'domestic relationships' or where it is 'associated domestic violence' under the Domestic and Family Violence Protection Act 2012. The definition of domestic relationship includes intimate personal relationships, informal care relationships and family relationships. The definition of family relationship extends to relatives, which can include 'a person whom the first person regards or regarded as a relative or a person who regards themselves as a relative of the first person'.¹⁹² Aboriginal peoples and Torres Strait Islander peoples are specifically included in the legislation as examples of those who might have a wider concept of relative.
212. C3 told us:
- Potentially the definition of domestic relationship means that there are a greater number of Aboriginal and Torres Strait Islander people charged because of that extended meaning of 'family' within those First Nations communities ... I think I've seen a lot more choking and strangulation offences in [location redacted], where it's a different type of relationship to an intimate relationship, so it might be a father and child, or sisters, uncle and nephew, all sorts of relationships covered and they don't need to be blood relatives.
213. However, we were told that police and prosecutors generally do not exceed fair limits. For example, D1 expressed that usually the relationships they had seen alleged for non-fatal strangulation between Aboriginal peoples and Torres Strait Islander peoples were intimate partners. C3 also told us, 'When I think about the relationships that I've seen on those indictments, I just can't think of anyone that has felt like it's too far.'

Discussion and conclusion

214. Some research has examined how non-fatal strangulation is responded to, investigated and charged, and how it proceeds through the courts (including how it is prosecuted and defended) in Queensland,¹⁹³ in Australia more broadly,¹⁹⁴ and in foreign jurisdictions.¹⁹⁵
215. Queensland-based research has involved documentary analysis, including:
- analysing a sample of 210 ODPP case files, finalised between 2017 and 2020, that involved one or more non-fatal strangulation charges¹⁹⁶
 - an in-depth case study analysis of five prosecution case files drawn from the above sample¹⁹⁷
 - examination of 656 court files dealing with cross-applications in Brisbane and Beenleigh Magistrates Courts from 2008-09 to 2009-10.¹⁹⁸
216. Various participants in the Queensland criminal justice process have also been interviewed, including victim-survivors,¹⁹⁹ prosecutors from the ODPP and defence lawyers.²⁰⁰
217. Our research builds on earlier research by:
- providing updated information from a further 24 Queensland lawyers (from the ODPP and defence)

- adding perspectives of other important stakeholders in the criminal justice process, namely, 13 police officers and 5 police prosecutors
 - gathering in-depth information specific to our terms of reference.
218. Participants from each stakeholder group expressed that the continued uncertainty about the meaning of 'chokes', 'suffocates' and 'strangles' could result in confusion and ultimately contest. In particular, participants recognised that of the three elements of the offence (the definition of 'choke', 'suffocate' and 'strangle', lack of consent, and the domestic setting element), the most contested area was the definition. Specifically, participants noted that in their experience, lack of information about breath being restricted had been raised at various points of the criminal justice process, often resulting in a non-fatal strangulation charge not being laid or not successfully prosecuted.
219. While participants told us consent was not an issue that was contested often, when it was it was most often raised in sexual contexts. However, a number of participants told us that they did not have experience of non-fatal strangulation in sexual contexts at all. Although consent was not often contested, participants did raise concerns about consent in relationships characterised by coercive control, for young people and where consent was originally given but potentially withdrawn.
220. Similarly, although participants considered that the domestic setting element was not often contested, they raised issues about its scope, interpretation and application. Participants expressed concerns that the current scope of the element potentially excludes some groups who should not be excluded, such as young people, other vulnerable groups and those in more casual relationships. However, not all participants thought that such relationships should be included and a few thought that the current scope was too broad given the original legislative intent was to restrict the offence to intimate partners.
221. Douglas and Fitzgerald's earlier research with ODPP prosecutors and defence lawyers highlighted that victim-survivors of non-fatal strangulation 'were more likely to try to retract or change their statement so that their intimate partner was not implicated compared to other types of domestic violence-related offences.'²⁰¹ Their ODPP case file research also found evidence of high numbers of victim-survivors withdrawing from prosecution.²⁰² Consistent with this previous research, we were told that victim-survivor reluctance is a key reason why non-fatal strangulation charges are not laid or successfully prosecuted, and that improvements are needed in this area.
222. Participants indicated that the biggest factor in the time to finalise non-fatal strangulation charges was the requirement to proceed to superior courts. However, all matters that must proceed to superior courts require numerous steps and most participants thought that there was nothing specific about the non-fatal strangulation offence over and above this requirement that led to delay. We heard that delay impacted victim-survivors' engagement and perpetrators' decision-making.
223. Participants told us that most perpetrators of non-fatal strangulation plead guilty, but trials do occur. Consistent with Douglas and Fitzgerald's research,²⁰³ we heard that trials often focused on undermining victim-survivor credibility and that the existence of injury and/or third party or other corroborative evidence contributed to decisions not to proceed to trial.
224. Our research revealed that police and prosecutors' decisions about non-fatal strangulation matters vary across Queensland. We heard how police decisions can impact whether a matter is investigated, charged or prosecuted as non-fatal strangulation. We also heard that there were different approaches to decision-making both between regions and between Police Prosecution Corps and ODPP prosecutors. Although there have been moves to increase

training on DFV more generally, there are still gaps in knowledge specific to non-fatal strangulation.

225. Not all participants thought that Aboriginal peoples and Torres Strait Islander peoples were over-represented in non-fatal strangulation matters comparatively to other offences. Rather, any over-representation was thought to align with the reasons for over-representation in the criminal justice system more generally. However, concerns were raised about the potential for the expanded definition of domestic relationship, as it applies to Aboriginal peoples and Torres Strait Islander peoples, to result in unfair impacts.
226. This research demonstrated the often-contrasting views of different stakeholders in the criminal justice system. However, hearing from participants involved at each stage of the criminal justice process allowed us to gain a comprehensive and nuanced picture of how non-fatal strangulation is dealt with in the Queensland criminal justice system. Along with findings from our other research projects,²⁰⁴ the rich information we obtained through this research project will inform the recommendations made in the review.

Appendix A: Method

1. Our research aimed to investigate patterns in the progress of matters involving non-fatal strangulation through the criminal justice process, focusing on the issues raised in our terms of reference.
2. We conducted 20 semi-structured interviews and 8 focus groups with 42 participants who had experience in either policing, prosecuting or defending non-fatal strangulation in Queensland.
3. We contacted the QPS, the ODPP, LAQ, ATSILS and the Bar Association of Queensland seeking potential research participants. Names of those interested in participating were passed on to us. We provided potential participants with the participant information sheet and participant consent form which explained the research, its risks and benefits, and consent procedures.
4. Those who consented to participate were invited to select a suitable time for the interview or focus group to take place. Interviews and focus groups occurred over Microsoft Teams from December 2024 to mid-February 2025.
5. To ensure consistency, the same member of our Secretariat review team conducted all interviews and focus groups using guidebooks. We developed five separate guidebooks — one each for police, police prosecutors, ODPP prosecutors, defence lawyers and counsel. The questions were provided to participants in advance.
6. Guidebook questions were adapted to explore the varied experiences related to participants' respective roles in the criminal justice system. For example, police were asked about their experiences responding to, investigating and charging non-fatal strangulation matters in Queensland. Police prosecutors were asked about their experiences prosecuting non-fatal strangulation matters at the Magistrates Court level. ODPP prosecutors were also asked about their experiences prosecuting non-fatal strangulation matters, but questions largely related to prosecuting in superior courts. Defence lawyers were asked about their experiences representing clients charged with non-fatal strangulation in Queensland. Counsel were also asked about their experiences with non-fatal strangulation matters, which mostly involved advocacy in superior courts.
7. Interviews, which involved one participant, took between 40 and 70 minutes. Focus groups, which had two to four participants, took between 80 and 125 minutes. All were audio-visually recorded. We transcribed the recordings, de-identified the transcripts and then deleted the recordings.
8. We gave participants the opportunity to review their transcript and any direct quotes used in this report.
9. Academics from the Queensland Centre for Domestic and Family Violence Research coded the transcripts following a codebook developed by the Secretariat review team. A single person coded all defence lawyer transcripts and all but one counsel transcript. A different person coded all police, police prosecutor and ODPP prosecutor transcripts.
10. We thematically analysed the transcripts,²⁰⁵ using NVivo qualitative analysis software. We conducted the analysis using a deductive approach guided by the review's key research questions which were developed based on issues raised in our terms of reference.²⁰⁶ Codes were clustered into themes which, after careful reading and re-reading of the data, were refined to generate final themes.

Limitations

11. Our research had a number of limitations.
12. The research participants represented a small sample who were not randomly selected. This means their experiences cannot be generalised to the many stakeholders in the criminal justice process. For example, the defence lawyers we interviewed were all from LAQ or ATSILS, not private firms. It may be that the education, culture and available resources within different institutions affects the decisions of those lawyers.
13. Further, while we aimed to account for geographical anomalies by recruiting participants from throughout Queensland, the experiences of our participating police officers cannot be generalised to all Queensland police. Additionally, the experiences of police participants cannot be generalised to other stakeholders in the Queensland criminal justice system. The results of this research demonstrate differences in approach within the same institution across distinct locations, as well as contrasting approaches between institutions.
14. Last, participants were required to report their experiences to us. There are limitations to self-report research, including the potential for social desirability bias (participants might answer questions in a way that will be viewed favourably by society) or inaccurate recall of events.
15. Despite these limitations, this research generates a fuller picture of the operation of the non-fatal strangulation offence, particularly in relation to the issues raised by our terms of reference. By investigating the experiences of different actors within the criminal justice system, different perspectives could be compared to verify information and distil common trends and themes.
16. This research is not intended to stand alone. It accompanies research we did to understand the experiences of strangulation victim-survivors of the criminal justice system and supplements our quantitative court data research by providing insights as to decisions made by police and lawyers at various points in the court process.

References

- 1 Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025).
- 2 Terms of Reference Background.
- 3 See, eg, Heather Douglas and Robin Fitzgerald, 'Prosecuting Strangulation Offences: Understanding Complainant Withdrawal Using a Social Entrapment Lens' (2024) 31(1) Current Issues in Criminal Justice 1; Robin Fitzgerald et al, The Prosecution of Non-Fatal Strangulation Cases: An Examination of Finalised Prosecution Cases in Queensland, 2017 – 2020 (Report, 2022); Heather Douglas and Robin Fitzgerald, 'Proving Non-Fatal Strangulation in Family Violence Cases: A Case Study on the Criminalisation of Family Violence' (2021) 25(4) The International Journal of Evidence & Proof 350.
- 4 Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) 12–14; Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - 'I Just Want to Be Heard': The Voices of Strangulation Victim-Survivors (Research Report No 1, April 2025).
- 5 See, eg, Robin Fitzgerald et al, The Prosecution of Non-Fatal Strangulation Cases: An Examination of Finalised Prosecution Cases in Queensland, 2017 – 2020 (Report, 2022).
- 6 A Call for Change: Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence (Report, 2022) 41; Crime and Misconduct Commission, Policing Domestic Violence in Queensland: Meeting the Challenges (Report, March 2005); Special Taskforce on Domestic and Family Violence in Queensland, Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland (Report, February 2015); Women's Safety and Justice Taskforce, Hear Her Voice - Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland (Report, 2021).
- 7 C4.
- 8 C4, C6.
- 9 Queensland Government, Domestic and Family Violence Common Risk and Safety Framework - Version 2 (Report, 12 December 2022) 4.
- 10 For domestic violence see, eg, Crime and Misconduct Commission, Policing Domestic Violence in Queensland: Meeting the Challenges (Report, March 2005) 15. For sexual violence see, eg, Australian Law Reform Commission, Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence (Report No 143, January 2025) 106.
- 11 See further A Call for Change: Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence (Report, 2022) 52.
- 12 See, eg, Australian Law Reform Commission, Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence (Report No 143, January 2025) 113–22; Crime and Misconduct Commission, Policing Domestic Violence in Queensland: Meeting the Challenges (Report, March 2005) 15.
- 13 PO6, PO9, PO10, PO11, PO12, PO13.
- 14 PO2, PO9, PO11.
- 15 PO1, PO5, PO9, PO10, PO13.
- 16 Eg, PO6, PO9, PP1, PP5.
- 17 PO1, PO2, PO3, PO4, PO5, PO6, PO8, PO9, PO11, PO12, PO13, PP1, PP3, PP5.
- 18 Queensland Police Service, Operational Procedures Manual (Issue No 105.1 Public Edition, 1 May 2025) 766.
- 19 For further information about registry committals, see Queensland Courts, 'Registry Committals' (Web Page, 18 April 2024) <<https://www.courts.qld.gov.au/services/do-it-online/registry-committals>>.
- 20 Justices Act 1886 (Qld) s 114.
- 21 Justices Act 1886 (Qld) s 104.
- 22 Justices Act 1886 (Qld) s 104(2).
- 23 Justices Act 1886 (Qld) s 110A.

Justices Act 1886 (Qld) ss 110B(1), (3).
Criminal Code (Qld) s 561; Office of the Director of Public Prosecutions, Director's Guidelines (Guidelines, 30 June 2016) 11–12.
Criminal Code (Qld) s 590(1).
Criminal Code (Qld) s 315A.
Eg, DL8, P1, P2, P3, P6, PO8, PP4, PP5.
The case they were referring to may have been R v AJB [2019] QDC 169.
R v HBZ (2020) 4 QR 171, 187 [57].
PP5.
Eg, PO6, PP4.
R v WCA [2023] QCA 265.
R v WCA [2023] QCA 265 [75]–[76].
R v WCA [2023] QCA 265 [82]–[87].
Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Act 2024 (Qld) s 9A.
Criminal Code (Qld) s 315A(1A).
Eg, C1, DL10, P2, PP2.
Eg, DL2, P1, P4, PP1, PP2.
PP1, PP2.
DL10, P1, P2, P3, P6, P7, PO2.
PO8, PO9.
Eg, C4, DL10, P1, P6, P7, P8. However, DL8 had a different perspective based on their experience.
P6. Also P7.
P1, P3, P4, P5, P6.
Eg, C4, P4, P6, P8, PO6, PO7.
Eg, C4, C5.
P6, P7.
Eg, C1, C2, C3, C4, DL2, DL4, DL6, DL8, DL10, P1, P3, P7, P8, PO2, PO6, PO7, PO8, PO10, PP2, PP3, PP4.
Eg, DL7, DL10, P1, P2, P6, P7.
A number of participants had never had these matters or noted it was rare: C2, DL8, DL10, P1, P2, P3, P5, P6, P7.
C4.
C4, C6.
Eg, C1, C2, C3, DL4, DL7, DL9, P1, P2, P4, P6, P7, PP1, PP2.
Eg, C4, DL1.
Eg, C1, DL2, DL4, DL9, DL10, P1, P2, P4, P7, P8, PP2.
Eg, C1, C5, C6, DL4, DL9, DL10, P1, P2, P4, PO1, PO5, PO8, PP1, PP2, PP5.
C1.
P2.
C3, DL4, DL8, DL10.
P2, P3, PO1, PO7.
C3, DL1, DL2, DL3, DL4, DL8, DL9, DL10, P1, P2, PO2, PO6, PO8, PO9.
C1, C2, C5, DL5, DL6, DL7, P4, P5, P7, PO1, PO5, PO7, PO10, PO12.
C4, C6, DL1, DL3, DL8, DL9, P2, PO6, PP1, PP2, PP5.
DL10, P1, P2, PO2, PO3, PO4, PO8, PO9, PP1, PP2, PP3, PP5.
Eg, C4, C6, DL1, DL9, P7, PO6, PO12, PP2, PP4, PP5.
C4, C6.
C1, C2, C5, DL5, DL6, P5, P7, PO1, PO5, PO7, PO10, PO12.

69 Eg, PO1, PO7.
70 PO1, PO2, PO4, PO6, PP1, PP4.
71 Eg, C1, PO12.
72 PO11. Also, PO5, PO8.
73 Eg, PO1, PO5, PP4.
74 Eg, C1, C2, C6, DL5, DL6.
75 PO5, PO8, PO9, PP5.
76 Eg, C1, C2, DL1, DL2, DL5, DL6, DL7, DL8, DL9, DL10, P1, P2, P6, P7, P8, PP1, PP2, PP3, PP5.
77 C1, DL1, DL2, DL7, DL10, P1.
78 Eg, C4, C6, DL4, DL10, P2, P3, P4, P8, PO3, PP4.
79 DL10, PP4.
80 Eg, C4, DL4, P2, P3, P4, PO3.
81 Eg, P2, PO9.
82 C4, C5, C6, DL2, DL3, DL4, DL5, DL6, P2, P6, P7, P8, PO8, PO9, PP1, PP2, PP5.
83 DL1, DL2, DL4, DL8, DL10, P1, P3, P4, P5, PO1, PO2, PP1, PP2, PP4, PP5.
84 DL2, DL4 (note that in the case that DL4 referred to it was negotiated to a lesser charge due to a number of factors, including the question of whether it was a relationship, but public interest was also a factor).
85 PO2, PO4, PO5, PO6, PO7, PO9, PO10, PO11, PO12, PO13, PP3.
86 Heather Douglas and Robin Fitzgerald, 'Prosecuting Strangulation Offences: Understanding Complainant Withdrawal Using a Social Entrapment Lens' (2024) 31(1) Current Issues in Criminal Justice 1; Heather Douglas and Robin Fitzgerald, 'Proving Non-Fatal Strangulation in Family Violence Cases: A Case Study on the Criminalisation of Family Violence' (2021) 25(4) The International Journal of Evidence & Proof 350.
87 PO5, PO8, PO9, PO10, PO11.
88 Crime and Misconduct Commission, Policing Domestic Violence in Queensland: Meeting the Challenges (Report, March 2005) 15.
89 C1, C2, C3, DL1, DL3, DL4, DL5, DL6, DL7, DL8, DL9, DL10, P1, P2, P3, P4, P5, P7, P8, PO1, PO8, PP1, PP2, PP5. See, also, Heather Douglas and Robin Fitzgerald, 'Proving Non-Fatal Strangulation in Family Violence Cases: A Case Study on the Criminalisation of Family Violence' (2021) 25(4) The International Journal of Evidence & Proof 350.
90 Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) 13.
91 Eg, DL1, P1, P2, P3, P7, PO5, PO8, PP3, PP4.
92 Eg, P4, PO8, PO13.
93 See, eg, Heather Douglas and Robin Fitzgerald, 'Prosecuting Strangulation Offences: Understanding Complainant Withdrawal Using a Social Entrapment Lens' (2024) 31(1) Current Issues in Criminal Justice 1, 3.
94 See, eg, Heather Douglas and Robin Fitzgerald, 'Proving Non-Fatal Strangulation in Family Violence Cases: A Case Study on the Criminalisation of Family Violence' (2021) 25(4) The International Journal of Evidence & Proof 350, 361–5.
95 P2, P3, PO1.
96 Eg, P1, P2, P3, PO1, PO6, PP5.
97 Eg, PO5, PP4.
98 Eg, PO5, PP5.
99 Eg, P1, P2, P3, P6, P8, PO2, PO3, PO8, PP1, PP5.
100 P1, P2, P3, P6, P8, PO2, PO3, PO8, PP1, PP5.
101 C2, P1, P2, PO5, PO6, PO10.
102 P1, PP1.
103 Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - 'I Just Want to Be Heard': The Voices of Strangulation Victim-Survivors (Research Report No 1, April 2025) 21–23.

C4, C6.

Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) 14.

Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) 14.

C3, C5, DL1, DL2, DL6, DL7, P1, P2, P8, PO2, PO9, PP2.

C1, C2, C3, C4, C6, DL5, DL6, DL7, P1, P2, P8, PO5, PO6, PO7, PP3.

Eg, C4, C6, DL1, DL2, DL3, DL5, DL6, DL7.

P7.

Eg, P3, P4, P5, P6, P8.

P1, P5.

Eg, C4, C5, DL4, DL7, DL8, P3, P4, P5, PP2.

C3, DL5, DL8, DL9, DL10, P8.

Bail Act 1980 (Qld) ss 16(3)(g), 16(6)(a).

C4, C6, DL1, DL2, DL4, DL6, DL7, DL8, DL9, DL10.

C4, C6, DL1, DL2, DL4, DL6, DL7, DL8, DL9, DL10.

DL1, DL7, DL9, P1, P3, P5, P6, P7.

P2, P5.

DL1, DL2, DL8.

DL2, DL4, DL5, DL7, DL8, DL10.

Eg, DL3, DL10.

Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) 12–13.

Eg, DL4, DL5, DL8, DL10, P1.

Eg, C2, C4, DL1, DL4, DL7.

Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) 12–13.

C1, C4, C6, DL1, DL8, DL10.

C1, C3, DL5, DL8, DL10, P1, P6.

DL10.

Eg, C2.

C1, C4, C5, C6, DL8, DL10.

Crime and Misconduct Commission, Policing Domestic Violence in Queensland: Meeting the Challenges (Report, March 2005) 3.

PO1, PO2, PO3, PO5, PO6, PO9, PO11, PO12, PO13, PP1, PP5.

PO5, PO10, PO12, PO13.

PO2, PO3, PO4.

PO1.

PO3, PO5.

Eg, PO3.

For further information about the domestic violence protective assessment framework see Queensland Police Service, Operational Procedures Manual (Issue No 105.1 Public Edition, 1 May 2025) [9.4.2] and Appendix 9.1.

PO3.

DL1, DL2, DL6, DL7, DL8, DL9, DL10, P3, P7. For further information about the considerations, process and authorisations required for police to withdraw a matter from prosecution see Queensland Police Service, Operational Procedures Manual (Issue No 105.1 Public Edition, 1 May 2025) [3.4.4].

PP3, PP4.

143 DL1, PP3.
 144 Eg, C6, DL2, DL6, DL8, PP3.
 145 PO5, PO8.
 146 DL1, DL2, DL6, DL8, DL10.
 147 P1, P7.
 148 PP2, PP5.
 149 DL2, DL3, DL4.
 150 DL7.
 151 PP1, PP2, PP3, PP4, PP5.
 152 Eg, DL3, DL5, DL8, DL9.
 153 C1, C4, DL2, DL3, DL4, DL8, PP2, PP4 (although police prosecutions noted different approaches of different Magistrates).
 154 C1, C4, C5, C6.
 155 C3, DL2, DL8, DL10.
 156 P6, PP4.
 157 C1, C2, C3, C5, DL10.
 158 C1, C2, C3, DL3, DL10.
 159 C5.
 160 Special Taskforce on Domestic and Family Violence in Queensland, Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland (Report, February 2015) 26–7, 29, 37, 43; Women’s Safety and Justice Taskforce, Hear Her Voice - Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland (Report, 2021) liii–lv, lx, lxiii, lxiv, lxvi, lxix, lxxii.
 161 See, eg, Jane Bentley, Inquest into the Death of Hannah Ashlie Clarke, Aaliyah Anne Baxter, Laianah Grace Baxter, Trey Rowan Charles Baxter, and Rowan Charles Baxter (Coroner’s Court of Queensland Findings of Inquest, 29 June 2022) 162 [548].
 162 See, eg, Domestic and Family Violence Death Review and Advisory Board, Domestic and Family Violence Death Review and Advisory Board: 2016–17 Annual Report (Annual Report, 2017) 13–14; Domestic and Family Violence Death Review and Advisory Board, Domestic and Family Violence Death Review and Advisory Board: 2017–18 Annual Report (Annual Report, 2018) 11–12.
 163 Office of the Independent Implementation Supervisor, Women’s Safety and Justice Taskforce Reforms: Biannual Progress Report 4 (Report, 10 May 2024) 23; Office of the Independent Implementation Supervisor, Women’s Safety and Justice Taskforce Reforms: Biannual Progress Report 5 (Report, 8 November 2024) 66–76; Queensland Government, Implementation Updates to Recommendations Arising From the Domestic and Family Violence Death Review and Advisory Board 2016–2017 Annual Report (Update, 2020) 3–6; Queensland Government, Implementation Updates to Recommendations Arising From the Domestic and Family Violence Death Review and Advisory Board 2017–2018 Annual Report (Update, 2022).
 164 Women’s Safety and Justice Taskforce, Hear Her Voice - Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland (Report, 2021) lxiii, recommendation 41.
 165 Office of the Director of Public Prosecutions, Annual Report 2023–2024 (Report, 2024) 42.
 166 Office of the Director of Public Prosecutions, Annual Report 2023–2024 (Report, 2024) 42.
 167 Office of the Director of Public Prosecutions, Annual Report 2023–2024 (Report, 2024) 43.
 168 A Call for Change: Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence (Report, 2022) 126.
 169 A Call for Change: Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence (Report, 2022) 135–6 (recommendation 16).
 170 Queensland Government, Women’s Safety and Justice Reform Priorities 2023–24 to 2024–25 (Report, 14 December 2023) 3.
 171 Queensland Government, Women’s Safety and Justice Reform: Second Annual Report 2023–24 (Report, May 2024) 9.

Queensland Government, Women's Safety and Justice Reform: Second Annual Report 2023-24 (Report, May 2024) 9.

PO6, PO7. PO1 also mentioned this training in detective training, but noted that because of the length of time in that position they had not received the strangulation specific training as part of that course.

See further discussion of training in A Call for Change: Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence (Report, 2022) 125.

PO5.

PO4, PO7.

Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - 'I Just Want to Be Heard': The Voices of Strangulation Victim-Survivors (Research Report No 1, April 2025) 12–13.

Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) [68].

C1, C2, C6, DL5, DL7, DL10, P3, P6, PO3, PO5, PP4.

C2, C3, C5, C6, DL1, DL2, DL3, DL5, DL6, DL10, P1, P2, P3, P5, P6, PO5, PO6.

Eg, C2, C3, C4, C6, DL5, DL10.

Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) 22.

DL2, DL3, DL4, DL6, DL7, P1, P3.

C4, DL3, DL4, DL6, PO1, PO5.

C6, DL1, DL2, DL5.

Queensland Law Reform Commission, Non-Fatal Strangulation: Section 315A Review - A Holistic Review of the Non-Fatal Strangulation Offence (Consultation Paper, April 2025) 21–3.

DL5, PO2, PO3, PO4, PO6, PO7, PP1, PP5.

C4, C5, C6, PP5.

DL3, P2.

DL3, DL10, PO1, PO4, PO5, PP1.

C2, C3, DL1.

Domestic and Family Violence Protection Act 2012 (Qld) s 19(4).

See, eg, Heather Douglas and Robin Fitzgerald, 'Proving Non-Fatal Strangulation in Family Violence Cases: A Case Study on the Criminalisation of Family Violence' (2021) 25(4) *The International Journal of Evidence and Proof* 350; Robin Fitzgerald et al, *The Prosecution of Non-Fatal Strangulation Cases: An Examination of Finalised Prosecution Cases in Queensland, 2017–2020* (Report, 2022); Heather Douglas and Robin Fitzgerald, 'Prosecuting Strangulation Offences: Understanding Complainant Withdrawal Using a Social Entrapment Lens' (2024) 31(1) *Current Issues in Criminal Justice* 1.

See, eg, Susan SM Edwards and Heather Douglas, 'The Criminalisation of a Dangerous Form of Coercive Control: Non-Fatal Strangulation in England and Wales and Australia' (2021) 8(1) *Journal of International and Comparative Law* 87; Sarah Kendall, 'A Trauma-Informed Non-Fatal Strangulation Trial: Victim-Witnesses, Brain Injury and PTSD' (PhD Thesis, The University of Queensland, 2024).

See, eg, Gael Strack, George McClane and Dean Hawley, 'A Review of 300 Attempted Strangulation Cases Part 1: Criminal Legal Issues' (2001) 21(3) *The Journal of Emergency Medicine* 303; Susan SM Edwards and Heather Douglas, 'The Criminalisation of a Dangerous Form of Coercive Control: Non-Fatal Strangulation in England and Wales and Australia' (2021) 8(1) *Journal of International and Comparative Law* 87; Sarah Kendall, 'Prosecution and Defence Strategies in Non-fatal Strangulation Cases: Are They Influenced by Victim Brain Injury and PTSD' (2021) 45 *Criminal Law Journal* 297.

Robin Fitzgerald et al, *The Prosecution of Non-Fatal Strangulation Cases: An Examination of Finalised Prosecution Cases in Queensland, 2017–2020* (Report, 2022) 6.

Heather Douglas and Robin Fitzgerald, 'Prosecuting Strangulation Offences: Understanding Complainant Withdrawal Using a Social Entrapment Lens' (2024) 31(1) *Current Issues in Criminal Justice* 1.

Heather Douglas and Robin Fitzgerald, 'Strangulation, Domestic Violence and the Legal Response' (2014) 36 *Sydney Law Review* 231.

-
- 199 Heather Douglas and Robin Fitzgerald, 'Women's Stories of Non-Fatal Strangulation: Informing the Criminal Justice Response' (2022) 22(2) *Criminology and Criminal Justice* 270, 275; Queensland Law Reform Commission, *Non-Fatal Strangulation: Section 315A Review - 'I Just Want to Be Heard': The Voices of Strangulation Victim-Survivors* (Research Report No 1, April 2025); Heather Lovatt, Vicki Lowik and Nicola Cheyne, 'The Voices of Women Impacts by Non-Fatal Strangulation' (Summary Report, Queensland Centre for Domestic and Family Violence Research, 2022).
- 200 Heather Douglas and Robin Fitzgerald, 'Proving Non-Fatal Strangulation in Family Violence Cases: A Case Study on the Criminalisation of Family Violence' (2021) 25(4) *The International Journal of Evidence and Proof* 350, 355.
- 201 Heather Douglas and Robin Fitzgerald, 'Proving Non-Fatal Strangulation in Family Violence Cases: A Case Study on the Criminalisation of Family Violence' (2021) 25(4) *The International Journal of Evidence and Proof* 350, 364.
- 202 Robin Fitzgerald et al, *The Prosecution of Non-Fatal Strangulation Cases: An Examination of Finalised Prosecution Cases in Queensland, 2017 – 2020* (Report, 2022) 22.
- 203 Heather Douglas and Robin Fitzgerald, 'Proving Non-Fatal Strangulation in Family Violence Cases: A Case Study on the Criminalisation of Family Violence' (2021) 25(4) *The International Journal of Evidence and Proof* 350.
- 204 Queensland Law Reform Commission, 'I Just Want to Be Heard': The Voices of Strangulation Victim-Survivors (Research Report No 1, April 2025). In addition to the research we have completed with strangulation victim-survivors, we are finalising a court data research project.
- 205 Virginia Braun and Victoria Clarke, 'Thematic Analysis' in Harris Cooper et al (eds), *APA Handbook of Research Methods in Psychology: Research Designs: Quantitative, Qualitative, Neuropsychological, and Biological* (American Psychological Association, 2nd ed, 2023) 65, 65, 67–8.
- 206 Virginia Braun and Victoria Clarke, 'Thematic Analysis' in Harris Cooper et al (eds), *APA Handbook of Research Methods in Psychology: Research Designs: Quantitative, Qualitative, Neuropsychological, and Biological* (American Psychological Association, 2nd ed, 2023) 65, 69.



Queensland Law Reform Commission
Level 30, 400 George Street, Brisbane QLD 4000
PO Box 13312, George Street Post Shop, Brisbane QLD 4003
P: (07) 3564 7777 | E: LawReform.Commission@justice.qld.gov.au
www.qlrc.qld.gov.au
