



Annual Report

2019-20

August 2020

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The State of Queensland (Queensland Law Reform Commission) Annual Report 2019–2020.

ISSN 1327-6603 (print)
ISSN 2201-1889 (online)

Queensland Law Reform Commission

**Annual Report
2019–20**

August 2020

Commission members¹

| | |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chairperson: | The Hon Justice David Jackson² |
| Part-time members: | His Honour Judge Brian Devereaux SC³ The Hon Margaret Wilson QC Ms Penelope White Dr Nigel Stobbs Ms Ruth O’Gorman |

Secretariat

| | |
|--------------------------|-------------------------------------------------------------------------------------------------------------------|
| Director: | Mr David Groth |
| Assistant Director: | Mrs Cathy Green |
| Commission Secretary: | Mrs Jenny Manthey |
| Senior Legal Officers: | Ms Paula Rogers Ms Anita Galeazzi Mrs Elise Ho Mrs Nicolee Dixon⁴ |
| Administrative Officers: | Ms Kahren Giles Mrs Brie Henri |

Consent laws review team

| | |
|---------------------------------|----------------------------------------------------------------------------------------|
| Consultants: | Mr David Nardone Ms Victoria Trafford-Walker Ms Anita Sweet |
| Research Officers: ⁵ | Mr Sam Harvey Ms Rose Leonforte Ms Ruby Chester |

-
- ¹ On 15 September 2017, the Hon Justice David Jackson (Chairperson) and the Hon Margaret Wilson QC were re-appointed (after initially being appointed on 1 August 2014). The following new members were appointed: Ms Penelope White, Dr Nigel Stobbs and Ms Ruth O’Gorman.
- ² The Hon Justice David Jackson (Chair) resigned – effective 30 June 2020. On 31 July 2020, the Hon Justice Peter Applegarth AM was appointed as Chairperson.
- ³ Appointed for the period 6 September 2019 to 30 June 2020.
- ⁴ For the period 2 March 2020 to 30 June 2020.
- ⁵ The role of research officer was successively filled by Mr Sam Harvey (14 November 2019–20 January 2020); Ms Rose Leonforte (20 January 2020–28 February 2020); Ms Ruby Chester (23 March 2020–30 June 2020).

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24 August 2020

The Honourable Yvette D'Ath MP
Attorney-General and Minister for Justice
Leader of the House
1 William Street
BRISBANE QLD 4000

Dear Attorney

I am pleased to submit for tabling in Parliament the *Queensland Law Reform Commission Annual Report 2019-20*.

I wish to acknowledge the significant contributions to the work of the Commission made by former part-time members of the Commission, the Honourable Justice David Jackson and His Honour Judge Brian Devereaux SC — whose service to the Commission ended on 30 June 2020. In particular, I wish to pay tribute to my predecessor, David Jackson. His Honour served with distinction as Chair of the Commission from 1 August 2014 until 30 June 2020 when his resignation became effective. He has made an outstanding contribution during this period to law reform in Queensland, which has included important recommendations for changes to the law following law reform reviews on sexual consent laws and the excuse of mistake of fact, civil surveillance and the protection of privacy, termination of pregnancy, expunging historical gay sex convictions, child protection mandatory reporting and neighbourhood disputes involving fences and trees.

The reporting period ending 30 June 2020 covers work undertaken by the Commission, or key milestones that occurred, in respect of several reviews you have referred to the Commission under section 10(3) of the *Law Reform Commission Act 1968*.

The Commission's review of Queensland's laws relating to civil surveillance and the protection of privacy in the context of current and emerging technologies concluded with the delivery to you, on 28 February 2020, of the Commission's Report No 77 (together with its draft Surveillance Devices Bill 2020). On 29 June 2020, the Commission's Report No 77 was tabled in Parliament.

On 2 September 2019, you gave the Commission terms of reference to conduct a review and investigation into the definition of consent in section 348 in Chapter 32 of the Criminal Code and the operation of the excuse of mistake of fact under section 24 of the Criminal Code as it applies to Chapter 32. On 20 December 2019, the Commission released a Consultation Paper (WP No 78) inviting written submissions. On 30 June 2020, the Commission submitted to you its Report No 78, together with its draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020. The Commission's Report No 78 was tabled in Parliament on 31 July 2020.

On 21 May 2020, the Acting Attorney-General, Minister for Justice and Leader of the House, gave the Commission terms of reference to develop an appropriate legislative scheme for voluntary assisted dying for Queensland and to prepare draft legislation to

give effect to its recommendations. As required by the terms of reference, the Commission commenced this review on 1 July 2020.

The other members of the Commission and I look forward to continuing the Commission's important contribution to law reform in this State.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'POT Applegarth', written in a cursive style.

Justice Peter Applegarth AM
Chair

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Overview of the Commission

Constitution

The Queensland Law Reform Commission is an independent statutory body constituted under the *Law Reform Commission Act 1968* (the ‘Law Reform Commission Act’).

Function

The function of the Commission, as provided in section 10(1) of the Law Reform Commission Act, is to review the law applicable to Queensland with a view to its systematic development and reform, including, in particular:

- (a) codifying laws;
- (b) eliminating anomalies;
- (c) repealing obsolete and unnecessary enactments;
- (d) reducing the number of separate enactments; and
- (e) generally, simplifying and modernising the law.

Statutory duties

The Commission’s key statutory duties, as provided in section 10(3) of the Law Reform Commission Act, include duties to:

- undertake law reform reviews referred to it from time to time by the Attorney-General;⁶
- prepare and submit to the Attorney-General for review and approval a proposed program of law reform reviews, in order of priority;⁷ and
- undertake any approved program of law reform reviews, subject to any variations made by the Attorney-General in terms of the proposed reviews or their order of priority.⁸

⁶ *Law Reform Commission Act 1968* (Qld) s 10(3)(b) and (e).

⁷ *Law Reform Commission Act 1968* (Qld) s 10(3)(c).

⁸ *Law Reform Commission Act 1968* (Qld) ss 10(3)(d) and 10(4).

Organisational objectives

The Commission aims to meet the needs of the Queensland community by reviewing areas of the law in need of reform and by making recommendations for reform. These recommendations are based on extensive research, public consultation and the principles of impartiality, equity and social justice. They are published in its final reports, which are presented to the Attorney-General for tabling in Parliament in accordance with the requirements of section 16 of the Law Reform Commission Act.

Members and staff

Commission Members

Members of the Commission are appointed by the Governor in Council on the advice of the Attorney-General. The Law Reform Commission Act provides that the Commission must consist of at least three members, who may be full-time or part-time members.⁹

Each person appointed to be a Commission member must be a person appearing to the Governor in Council to be suitably qualified by the holding of judicial office or by experience as a barrister or as a solicitor or as a teacher of law in a University.¹⁰

As currently constituted, the Commission has five part-time members, including the Chair.

Commission Secretariat

The Secretariat of the Commission comprises the Director, the Assistant Director, three senior legal officers, a part-time Commission Secretary and a part-time administrative officer. Secretariat staff are employed by the Department of Justice and Attorney-General under the *Public Service Act 2008* (Qld).

The staff of the Secretariat have the day-to-day responsibility for the carriage of the Commission's reviews, including undertaking research and consultation. The Secretariat also provides the Commission with administrative and secretarial support. This includes the management of corporate governance, human resources and financial matters relating to the Commission and the staff of the Secretariat.

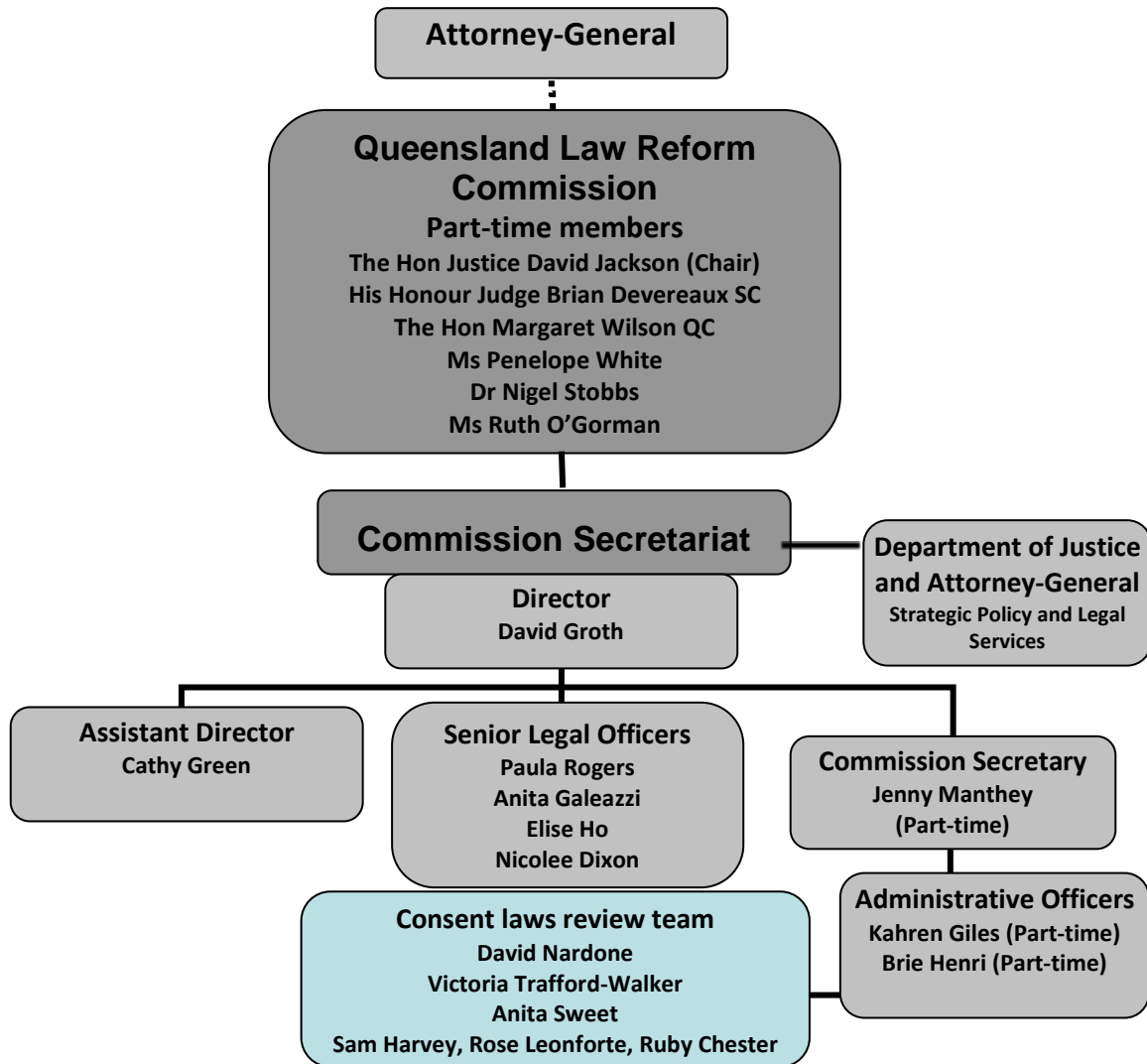
Section 9 of the Law Reform Commission Act provides that the Commission may engage, on a temporary basis, any person who has technical or specialist knowledge or who is experienced in a particular branch of the law.¹¹

⁹ *Law Reform Commission Act 1968* (Qld) s 3(2).

¹⁰ *Law Reform Commission Act 1968* (Qld) s 4(1)(a).

¹¹ For example, for its consent laws review, the Commission engaged a small team of experts with criminal law experience to assist it in undertaking the review. This small team of experts comprised two senior legal practitioners with extensive criminal law experience in criminal prosecutions and criminal defence work.

Organisational chart



Meetings of the Commission

During the reporting period, the Commission held 17 Commission meetings.

Remuneration of Commission Members

Part-time members of the Commission are remunerated in accordance with the Queensland Government policy, *Remuneration procedures for Part-time Chairs and Members of Queensland Government Bodies*.¹²

The total remuneration paid to part-time members for work performed in 2019—20 was \$49,822.50.¹³

Right to Information Act 2009

In accordance with the requirements of the *Right to Information Act 2009* (Qld), the Commission's website includes a Publication Scheme. That scheme describes and categorises information routinely available from the Commission and the terms on which the information will be made available.

Public Sector Ethics Act 1994

Section 10(1) of the *Public Sector Ethics Act 1994* (Qld) (the 'Public Sector Ethics Act') provides that 'in recognition of the ethics principles and values for public service agencies, public sector entities and public officials, codes of conduct are to apply to those agencies, entities and officials in performing their official functions'.

Section 10(2) of the Public Sector Ethics Act provides that the purpose of a code of conduct is to provide standards of conduct for public service agencies, public sector entities and public officials consistent with the ethics principles and values.

Commission Members

The Commission, as a public sector entity, has an approved code of conduct¹⁴ that applies to the members of the Commission in their capacity as public officials. The Commission's code of conduct is available on the Commission's website.

Commission Secretariat

The staff of the Commission Secretariat, as employees of the Department of Justice and Attorney-General, are covered by the *Code of Conduct for the Queensland Government Public Service*.

¹² By virtue of s 13 of the *Law Reform Commission Act 1968* (Qld), judicial officers do not receive any remuneration for performing duties as a part-time member of the Commission.

¹³ See *Appendix 1*.

¹⁴ The *Queensland Law Reform Commission Code of Conduct* was approved on 2 September 2015 by the then Attorney-General and Minister for Justice and Minister for Training and Skills, the Hon Yvette D'Ath MP.

Section 12K of the Public Sector Ethics Act requires public officials of a public service agency to be given access, including at regular intervals during their employment, to appropriate education and training about public sector ethics covering:

- the operation of the Public Sector Ethics Act;
- the application of ethics principles and obligations to the public officials;
- the contents of the approved code of conduct for public service agencies; and
- any approved standard of practice.

During the reporting period, all officers of the Secretariat undertook annual ‘Workplace Ethics’ refresher training from the Department of Justice and Attorney-General.

The work of the Commission¹⁵

Law reform reviews referred to the Commission by the Attorney-General

The reporting period covers work undertaken by the Commission or key milestones that occurred in respect of several reviews referred to it by the Attorney-General under section 10(3) of the Law Reform Commission Act.

Review of Queensland’s laws relating to civil surveillance and the protection of privacy in the context of current and emerging technologies

On 24 July 2018, the Commission received terms of reference from the Attorney-General asking it to conduct a review and recommend whether Queensland should consider legislation to appropriately protect the privacy of individuals in the context of civil surveillance technologies. The Commission was required to report on the outcomes of the review, and to provide draft legislation based on its recommendations, by 28 February 2020.¹⁶

The Commission’s terms of reference required it to ‘recommend whether Queensland should consider legislation to appropriately protect the privacy of individuals in the context of civil surveillance technologies, including to:

1. regulate the use of surveillance devices (such as listening devices, optical surveillance devices, tracking devices and data surveillance devices) and the use of emerging surveillance device technologies (including remotely piloted aircraft (or ‘drones’) fitted with surveillance devices) to appropriately protect the privacy of individuals;

¹⁵ The Commission prepares its own annual reports pursuant to s 15(2) of the *Law Reform Commission Act 1968*. Section 15(1) of the Act also requires that the annual report of the Department of Justice and Attorney-General ‘must include a report about the operations of this Act during the year’.

¹⁶ The terms of reference for the review are set out in full in Appendix A of Report No 77, *Review of Queensland’s laws relating to civil surveillance and the protection of privacy in the context of current and emerging technologies*, available on the Commission’s website at <<https://www.qjrc.qld.gov.au/publications>>

2. regulate the communication or publication of information derived from surveillance devices;
3. provide for offences relating to the unlawful use of surveillance devices and the unlawful communication or publication of information derived from a surveillance device;
4. provide appropriate regulatory powers and enforcement mechanisms in relation to the use of surveillance devices;
5. provide appropriate penalties and remedies; and
6. otherwise appropriately protect the privacy of individuals in relation to the use of surveillance devices’.

The terms of reference for the review excluded Queensland’s existing law regulating the use of surveillance devices for state law enforcement purposes.¹⁷

The issue of whether there should be a legislative framework to regulate the surveillance of workers by employers using surveillance devices was also excluded from the review.¹⁸ This issue has been referred to the Commission for review under separate terms of reference.¹⁹

The Commission received 47 written submissions from respondents, including Queensland Government departments, local governments, the Office of the Information Commissioner (Queensland) and other statutory bodies, legal professional bodies, industry representative bodies, academics and members of the public.

The Commission was also assisted by the provision of information on matters relating to surveillance technologies and practices from organisations and individuals, including the Queensland Police Service and other Queensland Government departments, the Office of Fair Trading (Queensland), a number of approved security industry associations and the Civil Aviation Safety Authority.

On 28 February 2020, the Commission’s final report for this review, Report No 77, *Review of Queensland’s laws relating to civil surveillance and the protection of privacy in the context of current and emerging technologies* (together with its draft Surveillance Devices Bill 2020) was provided to the Attorney-General.

On 29 June 2020, the Commission’s Report No 77 was tabled in Parliament.

In its report, the Commission recommended the introduction of new legislation to protect the privacy of individuals from unjustified interference from the use of surveillance devices, and the communication or publication of information obtained from such use.

¹⁷ See terms of reference, para E.

¹⁸ See terms of reference, para F.

¹⁹ The terms of reference for the review of Queensland’s laws relating to workplace surveillance are available on the Commission’s website at <<https://www.qirc.qld.gov.au/current-reviews>>

The Commission identified gaps and uncertainties in the current laws in Queensland that regulate the use of surveillance devices. The *Invasion of Privacy Act 1971* (Qld) regulates the use of listening devices to overhear, listen to, monitor or record private conversations, and the communication or publication of information obtained from such use. However, it does not cover other types of surveillance devices. In most other Australian jurisdictions, surveillance devices legislation regulates the use of listening devices, optical surveillance devices, tracking devices and, in some jurisdictions, data surveillance devices.

Other laws, including privacy legislation, the criminal law and some civil causes of action, offer only piecemeal and limited privacy protections.

In addition, surveillance devices legislation in Queensland and other Australian jurisdictions does not provide a civil law response to an unjustified interference with an individual's privacy caused by using a surveillance device.

Surveillance devices are more sophisticated, accessible and affordable than they used to be. The increasing use and intrusive nature of modern surveillance device technologies, their potential to infringe and intrude upon an individual's privacy and the growing significance of these issues in an individual's life require an appropriate regulatory response.

There is a need for more comprehensive legislation to protect the privacy of individuals from unjustified interference from the use, and the communication or publication of information obtained from the use, of surveillance devices in civil society.

The Commission's proposed legislative scheme:

- applies to a wider range of surveillance devices than the existing legislation—in addition to applying to listening devices, it also applies to optical surveillance devices, tracking devices and data surveillance devices;
- regulates the use of surveillance devices, and the communication or publication of information obtained from such use, through criminal prohibitions;
- imposes new civil law obligations not to use a surveillance device, or to communicate or publish information obtained from such use, if that would interfere with an individual's surveillance privacy (that is, where the individual has a reasonable expectation of surveillance privacy and has not consented to the use, communication or publication);
- provides for complaints about contraventions of the civil law obligations to be made and resolved by mediation or, if unresolved, heard and decided by QCAT; and
- establishes an independent regulator—the Surveillance Devices Commissioner—to carry out the functions of complaints handling, research, advice and monitoring, compliance monitoring and the provision of guidance, including, promoting understanding of and compliance with the civil obligations and the operation of the legislation.

The laws regulating the use of surveillance devices for State law enforcement purposes are not affected by the Commission's proposed legislation.

On 29 June 2020, the Government announced it would consult with stakeholders on the Commission's recommendations before it introduces stronger privacy laws to protect Queenslanders in the age of surveillance.²⁰

Review of Queensland's laws relating to workplace surveillance

On 24 July 2018, the Attorney-General referred to the Commission for review 'the issue of privacy protections for workers in the context of current and emerging surveillance devices in workplaces'.²¹

The Commission's terms of reference require it to 'recommend whether Queensland should consider legislation to appropriately protect the privacy of workers in the context of current and emerging surveillance device technologies in workplaces, including to:

1. regulate the surveillance of workers by employers using surveillance devices (such as optical surveillance devices, tracking devices, listening devices and data surveillance devices);
2. regulate the communication or publication of information derived from surveillance devices;
3. provide for offences relating to the unlawful use of surveillance devices and the unlawful communication or publication of information derived from a surveillance device;
4. provide appropriate regulatory powers and enforcement mechanisms in relation to the use of surveillance devices;
5. provide appropriate penalties and remedies; and
6. otherwise appropriately protect the privacy of workers in relation to the use of surveillance devices'.

Surveillance devices in workplaces most commonly include optical surveillance in and around workplaces, data surveillance devices to monitor computer and internet use by employees and tracking devices to monitor the location of employees. Employers use these devices for a number of legitimate reasons, including to protect property and detect possible fraud, monitor employee performance and to ensure employee health and safety. The use of surveillance devices in workplaces must, however, be balanced against an employee's reasonable expectations of privacy.

The terms of reference require the Commission to provide its final report by 30 April 2021 and to prepare draft legislation based on its recommendations.

²⁰ Premier and Minister for Trade, the Hon Anastacia Palaszczuk MP, and Attorney-General and Minister for Justice, the Hon Yvette D'Ath MP, 'Premier promises stronger privacy laws to protect Queenslanders in age of surveillance' (Ministerial Media Statement, 29 June 2020) <<http://statements.qld.gov.au/Statement/2020/6/29/premier-promises-stronger-privacy-laws-to-protect-queenslanders-in-age-of-surveillance>>

²¹ The terms of reference for this review are available on the Commission's website at <<https://www qlrc.qld.gov.au/current-reviews>>

Review of consent laws and the excuse of mistake of fact

On 2 September 2019, the Attorney-General referred to the Commission for review and investigation:²²

the definition of consent in section 348 (Meaning of consent) in Chapter 32 (Rape and sexual assaults) of the Criminal Code and the operation of the excuse of mistake of fact under section 24 (Mistake of fact) as it applies to Chapter 32.

The terms of reference required the Commission to examine the operation and practical application of those provisions and to make recommendations on:²³

(a) whether there is a need for reform of:

(i) the definition of consent in section 348;

(ii) the excuse of mistake of fact in section 24 as it applies to rape and sexual assaults in Chapter 32 of the Criminal Code; and

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

In making its recommendations, the Commission was required to have regard to:²⁴

(a) the need to ensure Queensland's criminal law reflects contemporary community standards;

(b) existing legal principles in relation to criminal responsibility;

(c) the need for Queensland's criminal law to ensure just outcomes by balancing the interests of victims and accused persons;

(d) the experiences of sexual assault victims and survivors in the criminal justice system;

(e) the views and research of relevant experts;

(f) recent developments, legislative reform, and research in other Australian and international jurisdictions; and

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

The terms of reference asked the Commission to prepare, if relevant, draft legislation based on its recommendations.

²² Terms of reference, para 1. The terms of reference are set out in full in Appendix A of Report No 78, *Review of consent laws and the excuse of mistake of fact*, available on the Commission's website at <<https://www qlrc.qld.gov.au/publications>>

²³ Ibid para 3.

²⁴ Ibid para 5.

To assist with the preparation of its Consultation Paper, the Commission invited preliminary submissions on the issues raised in the review from the judiciary, legal stakeholders, academics and organisations representing the interests of victims and survivors. Some members of the public also provided the Commission with their preliminary views.²⁵

On 20 December 2019, the Commission released a Consultation Paper (WP No 78), outlining the legal issues in the review and inviting written submissions in response to the questions posed in the paper.

The Commission received 87 submissions from respondents including legal professional bodies, community legal centres, academics, individuals who had experienced sexual violence, organisations that support and represent victims and survivors of sexual violence, and members of the public.²⁶

In addition, the Commission held a consultation workshop with representatives from organisations that support and represent victims and survivors of sexual violence, as well as victims and survivors who wished to attend.

The Commission examined a large number of rape and sexual assault trials and appeals in Queensland for the purpose of achieving an evidence-based analysis of how the laws to be reviewed are operating in practice.

First, the Commission undertook a detailed quantitative and qualitative analysis of transcripts of all criminal trials of rape or sexual assault completed in the 2018 calendar year (excluding trials that involved a complainant under 12 years of age)—a total of 135 trials (the ‘2018 Trials’). This examination of transcripts involved the collection of information about the conduct of the trials (including lines of defence and whether mistake of fact was left to the jury) as well as matters given in evidence and trial outcomes. The findings have provided valuable information about the operation of the definition of consent and the excuse of mistake of fact as it applies to rape and sexual assault in Queensland. They are detailed in Chapter 3.

Second, the Commission undertook a qualitative analysis of relevant Queensland Court of Appeal decisions in rape and sexual assault matters principally between 2000 and 2019. Those appeal decisions have informed the Commission’s consideration of the issues in the review.

Third, the Commission also undertook a qualitative review of the transcripts of a further 76 trials in which consent or mistake of fact was raised, referred to the Commission, at its invitation, by the judiciary, the Office of the Director of Public Prosecutions, Legal Aid Queensland and the Bar Association of Queensland. That examination sought to identify, but did not reveal, any significant issues with the operation of the law which were not highlighted by the analysis of the 2018 Trials.

²⁵ At the Commission’s request, the Attorney-General also provided the Commission with consultation undertaken by the Government with legal stakeholders in respect of Queensland’s consent laws.

²⁶ See the list of respondents and consultees in Appendix B of Report No 78, *Review of consent laws and the excuse of mistake of fact*, available on the Commission’s website at <https://www qlrc qld gov au/publications>

On 30 June 2020, the Commission provided its final report for the review, Report No 78, *Review of consent laws and the excuse of mistake of fact* (together with its draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020) to the Attorney-General.

On 31 July 2020, the Commission's Report 78 (and draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020) was tabled in Parliament.

Overall, the Commission did not recommend extensive changes to the existing law regarding consent for the offences of rape or sexual assault or the excuse of mistake of fact in relation to those offences. Its detailed review of the operation of the existing law did not support the conclusion that there should be extensive changes.

The Commission concluded there should be some amendments that clarify, reinforce and update the current operation of the law. It made five recommendations for amendments to the Criminal Code.

The key features of the Commission's draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020 (the 'draft Bill'), which implements the Commission's recommendations, are:

- Inserting a new subsection in section 348 to provide that a person is not to be taken to give consent to an act only because at or before the time of the act the person does not say or do anything to communicate that the person does not consent to the act.²⁷
- Applying the definition of 'consent' in section 348 to the offences provided for under sections 351(1) (assault with intent to commit rape) and 352(1)(a) (sexual assault).²⁸
- Inserting a new subsection in section 348 to provide that, if an act is done or continues after consent to the act is withdrawn by words or conduct, then the act is done or continues without consent.²⁹
- Inserting a new subsection in section 348 to provide that, for offences in Chapter 32, in deciding under section 24 whether a defendant did an act under an honest and reasonable, but mistaken, belief that the complainant gave consent to the act, regard may be had to anything the defendant said or did to ascertain whether the other person was giving consent to the act.³⁰
- Inserting a new subsection in section 348 to provide that, for offences in Chapter 32, in deciding under section 24 whether a defendant did an act under an honest and reasonable, but mistaken, belief that the complainant gave consent to the act, regard may not be had, in deciding whether a belief was reasonable, to the voluntary intoxication of

²⁷ See Rec 5-1, and draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020 cl 5, inserting new s 348(3).

²⁸ See Rec 5-2, and draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020 cll 3, 4, inserting new definition of 'assault' for ch 32.

²⁹ See Rec 5-3, and draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020 cl 5, inserting new s 348(4)

³⁰ See Rec 7-1, and draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020 cl 6, inserting new s 348A(1)–(2).

the defendant by alcohol, a drug or another substance.³¹

Review of voluntary assisted dying

On 21 May 2020, the Acting Attorney-General gave the Commission terms of reference to develop an appropriate legislative scheme for voluntary assisted dying for Queensland and to prepare draft legislation to give effect to its recommendations.³²

The Commission commenced the review, in accordance with the terms of reference, on 1 July 2020. It is required to provide its final report and draft legislation to the Attorney-General by 1 March 2021.

Commission publications

A list of the Commission's Reports, Working Papers and Miscellaneous Papers is available on its website at <[http://www.qlrc.qld.gov.au/publications](http://www qlrc qld gov au/publications)>. Copies of the Commission's recent publications, and most of its older publications, are also available on its website. The Commission's website also details legislative action taken on Commission reports.

Who's who at the Commission

Commission Members

The Hon Justice D S Jackson, Chair

1 August 2014—30 June 2020

Justice Jackson was appointed a Judge of the Trial Division of the Supreme Court of Queensland on 8 October 2012 and is a Commercial List Judge.

He was admitted to the Queensland Bar in 1977 and was appointed as Queen's Counsel for the State of Queensland in 1990. He was a member of the Council of the Bar Association of Queensland and the Supreme Court Library Committee.

He is a member of the Australian Academy of Law.

His Honour was appointed Chair of the Commission on 1 August 2014 and was re-appointed on 15 September 2017. Justice Jackson tendered his resignation which became effective on 30 June 2020.

³¹ See Rec 7-2, and draft Criminal Code (Consent and Mistake of Fact) Amendment Bill 2020 cl 6, inserting new s 348A(1), (3).

³² The terms of reference for this review are available on the Commission's website at <<https://www.qlrc.qld.gov.au/current-reviews>>

His Honour Judge B Devereaux SC

6 September 2019—30 June 2020

His Honour was appointed a Judge of the District Court of Queensland and a Judge of the Childrens Court of Queensland on 17 July 2009.

Judge Devereaux is a graduate of The University of Queensland—Bachelor of Arts (1981) and Bachelor of Laws (1985).

After employment at the Public Defender's Office from 1985 to 1988, Judge Devereaux was admitted as a barrister of the Supreme Court of Queensland in 1988. His Honour practised as a barrister in Queensland from 1988 to 1994. His Honour was then appointed counsel (criminal) of the Aboriginal Legal Service of Western Australia (1994–98).

Judge Devereaux was appointed counsel at Legal Aid Queensland in 1998 and was the Public Defender at Legal Aid Queensland between 1999–2009.

His Honour was appointed Senior Counsel in 2005.

Judge Devereaux served as an acting judge of the District Court of Queensland from 12 September 2008 to 31 December 2008, and later was appointed a judge of the District Court of Queensland in 2009.

The Hon M A Wilson QC BA LLB (Hons)

1 August 2014—Current

Ms Wilson is a graduate of The University of Queensland.

She completed articles of clerkship with Feez Ruthning and Co, Solicitors and was admitted as a solicitor in 1978. She was admitted as a barrister in March 1979 and became a Queen's Counsel in 1992. She practised at the Queensland Bar continuously from her admission until her appointment to the Bench.

Ms Wilson served as a Judge of the Trial Division of the Supreme Court of Queensland between August 1998 and April 2014, when she sat on a wide range of criminal and civil trials and appeals. She was the Judge constituting the Mental Health Court for three years, a Commercial List Judge for two years, and an Additional Judge of Appeal in 2011—2012. She was a member of the Rules Committee appointed under the *Supreme Court of Queensland Act 1991* between 1999 and 2012 and a member of the Judges' Building Committee between 2006 and 2012.

Ms Wilson is a Justice of the Court of Appeal of Solomon Islands.

She was the Commissioner of the Barrett Adolescent Centre Commission of Inquiry from September 2015 to June 2016.

She is presently a part-time PhD candidate in the Melbourne Law School, researching *Sub Judice Contempt and the Internet*.

Dr Nigel Stobbs BA, Dip Ed, MA (UQ), LLB (Hons) (QUT), PhD (Bond)

15 September 2017—Current

Dr Stobbs is a senior lecturer and Director of the Compassion Informed Law Research program at the Queensland University of Technology Faculty of Law. Prior to undertaking a full-time academic career, he practised as a criminal defence barrister at the Queensland Bar between 2001 and 2008.

He has been involved in research and development work in specialist sentencing courts in Australia and the US – particularly drug and alcohol diversion courts and Indigenous sentencing courts. His main area of research is within the field of Therapeutic Jurisprudence and he is the Australian representative on the Board of Trustees of the International Society of Therapeutic Jurisprudence. His book *Method and Practice of Therapeutic Jurisprudence* was published by Carolina Academic Press in April 2019. He is the co-author of *Principles of Sentencing* (published by the Federation Press), of *Professional Responsibility and Ethics for Qld Lawyers* (published by Thomson Reuters) and the author of the Therapeutic Jurisprudence chapters and updates in the *Oxford Encyclopedia of International Criminology*.

Dr Stobbs is currently working with colleagues from Swinburne University of Technology on projects related to the use of predictive algorithms and machine learning to generate augmented decision making tools for sentencing judges. Stobbs, N., Bagaric, M., & Hunter, D. (2017), 'Can sentencing be enhanced by the use of artificial intelligence?', *Criminal Law Journal*, 41(5), 261-277.

In recent years he has presented on research into sentencing, criminal law and Therapeutic Jurisprudence at international conferences and public lectures in Vienna, London, New York, Amsterdam, Shanghai, Rome, Prague and Washington DC. His other main area of research is the Chinese legal system. In 2017 he was a visiting researcher at Harvard Law School, translating legal documents of the Tang and Qing Dynasties held in the Harvard-Yenching Library.

Ms Penelope White BBus LLB

15 September 2017—Current

Ms White was admitted as a solicitor of the Supreme Court of Queensland in 2000. She has 17 years' post admission experience as a criminal defence solicitor. She has been a Queensland Law Society Accredited Specialist in Criminal Law since 2006. She was a member of the Queensland Law Society Criminal Law Specialist Accreditation Committee from 2008 to 2010.

She has appeared extensively in all jurisdictions in Queensland as well as representing clients in the High Court of Australia.

Ms White was appointed as Counsel Assisting the Commission of Inquiry into Organised Crime in Queensland in 2015.

She was admitted as a barrister of the Supreme Court of Queensland in 2018.

Ms Ruth O’Gorman LLB

15 September 2017—Current

Ms O’Gorman was admitted as a solicitor of the Supreme Court of Queensland in 2006. She was admitted as a barrister of the Supreme Court of Queensland in 2009.

Her principal areas of practice include the criminal law and regulatory prosecutions.

Ms O’Gorman was a member of the Council of the Queensland Bar Association from 2013 to 2015. She has been a member of the Bar Association’s Criminal Law Committee and Pro Bono Committee since 2014.

Commission Secretariat**David Groth BA LLB, Director**

Mr Groth graduated with a Bachelor of Laws degree from The University of Queensland in 1990. He was admitted as a barrister of the Supreme Court of Queensland in 1992. He also holds a Bachelor of Arts degree from The University of Queensland.

He has performed previous senior roles including Director of Legal Services Coordination in the Department of Justice and Attorney-General, Secretary of the Bundaberg Hospitals Commission of Inquiry/Queensland Public Hospitals Commission of Inquiry, Court Administrator of the Supreme and District Courts, and Research Director of the Parliamentary Criminal Justice Committee.

Mr Groth has performed senior policy roles in both the Department of the Premier and Cabinet and the Department of Justice and Attorney-General.

He has previously worked in various roles at the Office of the Director of Public Prosecutions including Manager of the Sentencing Unit.

Mr Groth commenced work at the Commission in April 2014.

Cathy Green BSc LLB, Assistant Director

Mrs Green graduated with a Bachelor of Laws degree from the Queensland University of Technology in 1996. She was admitted to practice as a barrister of the Supreme Court of Queensland in 1996. Mrs Green also holds a Bachelor of Science degree from The University of Queensland.

Mrs Green served two periods of secondment at the Commission before being appointed as a legal officer on a permanent basis in 2002. In 2005, she was appointed as the Commission’s Principal Legal Officer and in 2008, as the Commission’s Assistant Director. She is the Commission’s Right to Information and Information Privacy Officer.

Mrs Green has previously worked as a legal officer in the Office of the Director of Public Prosecutions, as a legal officer at the Guardianship and Administration Tribunal, as a policy officer at the Office of Fair Trading, as a research officer at the Queensland Parliamentary Library and as a research scientist at the Queensland Institute of Medical Research.

Paula Rogers BA LLB (Hons), Senior Legal Officer

Ms Rogers graduated with First Class Honours in Law from Griffith University in 2003, having been awarded the University Medal and the Arts Medal, and was admitted as a legal practitioner of the Supreme Court of Queensland in January 2005.

Ms Rogers worked as a judge's associate at the Supreme Court of Queensland in 2003. She completed her articles of clerkship at Allens Arthur Robinson during 2004. Ms Rogers has also worked as a senior legal officer in Strategic Policy in the Department of Justice and Attorney-General.

Ms Rogers commenced work as a legal officer at the Commission in February 2005. She was appointed as a senior legal officer on 21 August 2017.

Anita Galeazzi BA LLB (Hons) GradDipLegalPrac, Senior Legal Officer

Ms Galeazzi graduated with Honours in Law from The University of Queensland in 2006. She completed a Graduate Diploma in Legal Practice through the Australian National University and was admitted to the legal profession in Queensland as a lawyer in 2010.

Ms Galeazzi worked as a research officer at the Supreme Court of Queensland Library.

Ms Galeazzi commenced work as a legal officer at the Commission in January 2011. She was appointed as a senior legal officer on 21 August 2017.

Elise Ho BJur LLB GradDipLegalPrac LLM, Senior Legal Officer

Mrs Ho graduated with a Bachelor of Laws degree from the Queensland University of Technology in 2008. She also holds a Bachelor of Justice degree from the Queensland University of Technology.

Mrs Ho was admitted as a legal practitioner of the Supreme Court of Queensland in September 2009. She completed her Master of Laws (Health Law) in 2012.

Mrs Ho has worked as a research assistant at the Queensland University of Technology, as a legal officer at the Office of the Director of Public Prosecutions and as a senior legal officer with the Office of the Public Advocate.

Mrs Ho commenced work at the Commission as a legal officer in February 2015. She was appointed as a senior legal officer on 21 August 2017.

Nicolee Dixon LLM BA LLB (Hons), Acting Senior Legal Officer

Mrs Dixon graduated with Honours in Law and a Bachelor of Arts degree from the Australian National University in 1988. She obtained a Masters in Law at the Queensland University of Technology in 1996. Mrs Dixon is admitted as a solicitor of the Supreme Court of Queensland, a barrister and solicitor of the Australian Capital Territory Supreme Court and is on the Register of Practitioners of the High Court of Australia.

After working as an associate to a deputy president of the Administrative Appeals Tribunal in 1989, Mrs Dixon worked as a solicitor in personal injuries litigation before becoming a lecturer in Constitutional and Administrative Law at the Queensland University of Technology in 1991. After seven years in academia, Mrs Dixon worked at the Queensland Office of the Information Commissioner until February 2000, then at the Queensland Parliamentary Library in various research roles until early 2018. From June 2018, Mrs Dixon worked as a legal officer in Strategic Policy, then as a principal policy officer in the Courts Innovation Program at the Department of Justice and Attorney-General.

Mrs Dixon was engaged as an acting senior legal officer at the Commission in March 2020.

Jenny Manthey BSc (Hons) Cert III Bus (Office Admin), Commission Secretary

Mrs Manthey graduated with a Bachelor of Science from The University of Queensland in 1993. She worked as a Scientific Technician from 1992 to 1995 at CSIRO Long Pocket Laboratories and completed her Honours degree in 1998.

After gaining qualifications in Office Administration in 2000, Mrs Manthey was employed in a variety of administrative roles before commencing work at the Commission in January 2004.

Kahren Giles BA, Administrative Officer

Brie Henri, Administrative Officer

Ms Giles and Mrs Henri are responsible for a wide range of secretarial and administrative functions within the Commission.

Ms Giles commenced work at the Commission in October 2007. Mrs Henri commenced work at the Commission in January 2020.

Appendix 1: Members, meetings and remuneration³³

| Position | Name | Meetings / sessions attendance | Approved annual, sessional or daily fee ³⁴ | Approved sub-committee fees if applicable | Actual fees received ³⁵ |
|----------------------------------------|-------------------------------------|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|------------------------------------|
| Chair | Hon Justice David Jackson | 16 | Nil | N/A | Nil |
| Part-time Members ³⁶ | His Honour Judge Brian Devereaux SC | 13 | Nil | N/A | Nil |
| | Hon Margaret Wilson QC | 17 | <ul style="list-style-type: none"> • Meeting (4 hrs or less): \$250 • Meeting (more than 4hrs): \$500 • Additional work (4 hrs or less): \$250 • Additional work (more than 4hrs): \$500 | N/A | \$14,508.75 |
| | Ms Penny White | 16 | As above | N/A | \$14,235.00 |
| | Dr Nigel Stobbs | 13 | As above | N/A | \$12,045.00 |
| | Ms Ruth O’Gorman | 13 | As above | N/A | \$9,033.75 |
| | | | | Total fees paid | \$49,822.50 |
| No. scheduled meetings/sessions | 17 | | | | |
| Total out of pocket expenses | Nil | | | | |

³³ The Commission is not a ‘statutory body’ within the meaning of s 9 of the *Financial Accountability Act 2009* as it is ‘a part of a department’ within the meaning of s 8(3) of that Act (given the source of its funding).

³⁴ By virtue of s 13 of the *Law Reform Commission Act 1968* (Qld), a judicial member does not receive any salary or fees for performing the duties of a member of the Commission.

³⁵ These fees are inclusive of superannuation.

³⁶ On 6 September 2019, His Honour Judge Brian Devereaux SC was appointed as a part-time member of the Commission.