

MEDIA STATEMENT - 25 May 2021

Queensland Sexual Assault Network Inc

New legislation effective from the 5 July 2021 will now require every adult in Queensland to report information relating to child sexual offences committed in relation to a child under 16 years of age to the Queensland Police Service. Failure to do so is punishable by 3 years in prison.

The Queensland Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020 received assent in Parliament on the 14 September 2020 and will commence in Queensland from the 5 July 2021. The 'failure to report' offence outlined in Section 229BC of the Queensland Criminal Code goes beyond the recommendations of the Criminal Justice Report released by the Royal Commission into Institutional Responses to Child Sexual Abuse, which limits the mandatory reporting obligations to those adults associated with institutions.

Whilst Queensland Sexual Assault Services Inc (QSAN) recognise the policy intent behind this legislation to protect Queensland children and young people from sexual abuse and harm, we foresee that there will be significant unintended consequences of this legislation as it impacts on vulnerable, marginalised, and disadvantaged communities. There is a concerning lack of clarity about the legislative requirements to 'report a belief' on 'reasonable grounds' and the complex role and responsibility now required of all adults in Queensland to report information relating to child sexual offences to the Queensland Police Service when they may have limited knowledge of the nature, dynamics, and impacts of child sexual abuse. It is also unclear how the Queensland Government plans to advise all people in Queensland of the new legislative requirements to report information to the Queensland Police Service from the 5 July 2021.

QSAN and specialist community legal services in Queensland are concerned that Section 299BC of the Queensland Criminal Code will criminalise women experiencing domestic and family violence, First Nations communities, culturally and linguistically diverse (CaLD) communities, people with disabilities, people living in rural communities, and other people who face multiple barriers in reporting child sexual offences, and who may have a reasonable distrust of Police responses as a result of negative police interactions and reporting experiences.

Child sexual offences continues to have the lowest rates of reporting, investigation, prosecution, and conviction of any violent crime in Australia, making it difficult to statistically measure the prevalence of child sexual offences within the community. Data indicates that sexual violence is endemic with *one in three young women experiencing some form of sexual violence before the age of 18 yearsⁱ*. Evidence suggest that most victims/survivors of child sexual offences do not report these crime to the police.

There are significant barriers for victims/survivors in disclosing and reporting experiences of sexual violence and rates of disclosure are even lower in situations where there is domestic and family violence. For example, women experiencing domestic and family violence may not report suspected child sexual

offences to Police due to safety concerns and fear of further violence; lack of family or community support; and lack of confidence in Police and/or judicial responsesⁱⁱ. Children and young people face additional barriers in disclosing and reporting sexual offences and accessing appropriate, free, and confidential support services due to a range of factors including their age, level of knowledge of support services available, ability to travel, difficulties obtaining parental consent, safety concerns, reasonable distrust of the Police or Child Safety, and poor perceptions of the criminal justice system being observed as the primary deterrents for child and adolescent victims of sexual offencesⁱⁱⁱ.

QSAN and specialist community legal services in Queensland are also concerned that there are very few exceptions under Section 299BC of the Queensland Criminal Code for not reporting information relating to child sexual offences to the Queensland Police Service. In Victoria and the Australian Capital Territory there are exceptions to mandatory reporting that includes legal privilege and communications privilege such as 'sexual assault counselling communications privilege' that provides protection to registered medical practitioners and specialist sexual assault counsellors from criminal liability when they are providing services to a victim or alleged victim of a sexual offence. These protections enable children, young people and adults who have experienced sexual violence to confidently access specialist sexual assault counselling services and other specialist community legal services knowing that information they share is confidential, and victims/survivors can choose whether or not they report these offences to the Police, and when and how a report to the Police is made. Without this protection, we are concerned that many children, young people, and adults will not seek essential sexual assault counselling and support services as workers will be required to report information to the Queensland Police Service.

We request an urgent review of Section 229BC of the Queensland Criminal Code to further consider the adverse impacts and unintended consequences this legislation will likely have on vulnerable, marginalised, and disadvantaged communities; and for victims / survivors of sexual violence and their engagement with specialist sexual assault services and specialist community legal services in Queensland.

Contacts:

1. QSAN Secretariat secretariat@qsan.org.au or 07 3808 3299
2. Stephanie Anne manager@zigzag.org.au or 07 3843 1823
3. Julie Sarkozi jsarkozi@wlsq.org.au or 07 3392 0644

References

ⁱ Astbury, J. (2006). *Services for victims/survivors of sexual assault – Identifying needs, interventions and provision of services in Australia*. Issues Paper no. 6, Australian Centre for the Study of Sexual Assault, Canberra.

ⁱⁱ Lievore, D. (2003), *Non-Reporting and Hidden Recording of Sexual Assault: An International Literature Review*, Australian Institute of Criminology, Canberra: 8.

ⁱⁱⁱ Lievore, D. (2003), *Non-Reporting and Hidden Recording of Sexual Assault: An International Literature Review*, Australian Institute of Criminology, Canberra: 8.